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CHAPTER 274
H.P. 711 - L.D. 1036

An Act To Amend the Education Laws Regarding the State Board of Education's Degree-granting Authority, the Telecommunications Education Access Fund and Certain Definitions and Programs

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1999, c. 489, §1, is further amended to read:

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave; or

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered~~; or~~.

~~(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.~~

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. 2. 20-A MRSA §1, sub-§13, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 3. 20-A MRSA §1, sub-§16, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 4. 20-A MRSA §1, sub-§35, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 5. 20-A MRSA §1, sub-§37, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 6. 20-A MRSA §202, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 7. 20-A MRSA §256, sub-§1, as amended by PL 2001, c. 454, §5, is further amended to read:

1. Report to Governor and Legislature. The commissioner shall prepare and deliver to the Governor and Legislature an annual report on the status of public education in the State regarding the implementation of the system of learning results as established in section 6209, including any suggestions and recommendations to improve public education ~~and including the reporting requirements of section 13506, subsection 3-A~~. This annual report must also include a description of the activities and accomplishments of the state board.

The commissioner shall include in the annual report a listing of requests by school districts for affirmative action workshops and an assessment of the department's ability to meet past and projected demand for in-service training related to affirmative action or gender equity.

The commissioner may be invited by the Speaker of the House of Representatives and the President of the Senate annually, in January, to appear before a joint session of the Legislature to address the Legislature on the status of public education in the State and such related matters as the commissioner desires to bring to the Legislature's attention.

Sec. 8. 20-A MRSA §256, sub-§10 is enacted to read:

10. Telecommunications education access fund. The commissioner or the State Librarian may enter into contracts or order services on behalf of schools and libraries in connection with the telecommunications education access fund pursuant to Title 35-A, section 7104-B. The commissioner or the State Librarian may take advantage of any discounts available pursuant to the federal Telecommunications Act of 1996.

Sec. 9. 20-A MRSA §5804, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

Tuition charged for elementary school students ~~shall~~ including students who attend public preschool programs must be as follows:

Sec. 10. 20-A MRSA §10701, sub-§2, as amended by PL 2007, c. 572, Pt. A, §7, is further amended to read:

2. Degree. "Degree" means a document of achievement at the associate level or higher conferred by a postsecondary educational institution authorized

to confer that degree in its home state. It includes educational, academic, literary and professional degrees. It also includes associate, baccalaureate, master's, first professional and doctoral degrees and certificates of advanced graduate studies.

Sec. 11. 20-A MRSA §10705, as amended by PL 2007, c. 572, Pt. A, §11, is further amended to read:

§10705. Courses for credit

An educational institution may offer courses or programs for academic credit leading to degree-completion requirements only if:

1. Authority. It has been authorized under sections 10704 and 10704-A to grant degrees;

2. State board authority. It has been given temporary authority by the state board to use the name "community college," "college" or "university"; ~~or~~

3. Out-of-state institution. It is:

A. Located outside the State; and

B. Authorized by the state board to offer courses for academic credit leading to degree-completion requirements.~~;~~ or

4. Coordinated programs. It is offering courses or programs in coordination with an educational institution in the State that is authorized to grant degrees and the state board has approved the coordination.

Sec. 12. 20-A MRSA §10708, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Prior to September 18, 1981. ~~Have specific degree-granting authority granted to them by the Legislature~~ Had been authorized by the Legislature or the state board to grant undergraduate or graduate degrees prior to September 18, 1981 and are offering additional or different degrees at the same level;

Sec. 13. 20-A MRSA §10712, sub-§4, as enacted by PL 1991, c. 563, §4, is amended to read:

4. Merger; consolidation; reorganization. The merger or consolidation of the educational institution with ~~any other~~ an external entity, or the reorganization of the educational institution, including, but not limited to, reorganization in bankruptcy. This subsection does not apply and authority to confer degrees is not terminated if degree programs are consolidated or reorganized within an educational institution and are at the same level as those authorized by the Legislature or the state board prior to the consolidation or reorganization.

Sec. 14. 20-A MRSA c. 506, as amended, is repealed.

Sec. 15. 20-A MRSA §15001, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2005, c. 397, Pt. D, §3, is repealed.

Sec. 16. 20-A MRSA c. 612, as amended, is repealed.

Sec. 17. 27 MRSA §40, sub-§3 is enacted to read:

3. Telecommunications education access fund. The State Librarian or the Commissioner of Education may enter into contracts or order services on behalf of schools and libraries in connection with the telecommunications education access fund pursuant to Title 35-A, section 7104-B. The State Librarian or the Commissioner of Education may take advantage of any discounts available pursuant to the federal Telecommunications Act of 1996.

Sec. 18. 35-A MRSA §7104-B, sub-§4-A is enacted to read:

4-A. State Librarian; Commissioner of Education. The State Librarian or the Commissioner of Education may enter into contracts or order services on behalf of qualified schools and qualified libraries in connection with the fund and may take advantage of any discounts available pursuant to the federal Telecommunications Act of 1996.

See title page for effective date.

CHAPTER 275

S.P. 417 - L.D. 1126

An Act To Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation

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

Sec. 1. 20-A MRSA §15689-C, sub-§1, as enacted by PL 2005, c. 2, Pt. D, §61 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

1. Annual recommendation. Prior to December 15th of each year, the commissioner, with the approval of the state board, shall recommend to the Governor and the Department of Administrative and Financial Services, Bureau of the Budget the funding levels that the commissioner recommends for the purposes of this chapter. Beginning with the recommendations due in 2009, the commissioner's annual recommendations must be in the form and manner described in subsection 4.

Sec. 2. 20-A MRSA §15689-C, sub-§4 is enacted to read:

4. Guidelines for updating adjustments and miscellaneous costs. The commissioner's recommendations regarding the adjustments and miscellaneous costs components as set forth in subsection 2 also must delineate each amount that is recommended for each subsection and paragraph under sections 15689 and 15689-A and the purposes for each cost in these sections. For each amount shown in the commissioner's recommendations, the commissioner's recommendation must also show the amount for the same component or purpose that is included in the most recently approved state budget, the differences between the amounts in the most recently approved state budget and the commissioner's recommendations and the reasons for the changes.

Sec. 3. 20-A MRSA §15689-D, as amended by PL 2007, c. 240, Pt. C, §7, is repealed and the following enacted in its place:

§15689-D. Governor's recommendation for funding levels

1. Annual recommendations. The Department of Administrative and Financial Services, Bureau of the Budget shall annually certify to the Legislature the funding levels that the Governor recommends under sections 15683, 15683-A, 15689 and 15689-A. The Governor's recommendations must be transmitted to the Legislature within the time schedules set forth in Title 5, section 1666 and in the form and manner described in subsection 2. The commissioner may adjust, consistent with the Governor's recommendation for funding levels, per-pupil amounts not related to staffing pursuant to section 15680 and targeted funds pursuant to section 15681.

2. Funding level computations. The Governor's recommendations under subsection 1 must specify the amounts that are recommended for the total operating allocation pursuant to section 15683, the total of other subsidizable costs pursuant to section 15681-A, the total debt service allocation pursuant to section 15683-A, the total adjustments pursuant to section 15689, the total miscellaneous costs pursuant to section 15689-A, the amount for any other components of the total cost of funding public education from kindergarten to grade 12 and the total cost of funding public education from kindergarten to grade 12 pursuant to this chapter. The Governor's recommendations regarding the adjustments and miscellaneous costs components also must delineate each amount that is recommended for each subsection and paragraph under sections 15689 and 15689-A and the purposes for each cost in these sections. For each amount shown in the Governor's recommendations, the Governor's recommendations must also show the amount for the same component or purpose that is included in the most recently approved state budget, the differences between the amounts in the most recently approved state budget and the Governor's recommendations and the reasons for the changes.

See title page for effective date.

CHAPTER 276

S.P. 101 - L.D. 337

An Act Regarding Emergency Involuntary Admission of a Participant in the Department of Health and Human Services' Progressive Treatment Program to a State Mental Institute

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

Sec. 1. 34-B MRSA §3863, sub-§8, as enacted by PL 2005, c. 519, Pt. BBBB, §8 and affected by §20, is amended to read:

8. Rehospitalization from progressive treatment program. The assertive community treatment team physician ~~or~~, psychologist, certified psychiatric clinical nurse specialist or nurse practitioner may make a written application under this section to admit to a state mental health institute a person who fails to fully participate in the progressive treatment program in accordance with section 3873, subsection 5. The provisions of this section apply to that application, except that the standard for admission is governed by section 3873, subsection 5, paragraph B.

Sec. 2. 34-B MRSA §3873, sub-§5, ¶A, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

A. If the person does not fully participate in the program and follow the individualized treatment plan and if the assertive community treatment team physician ~~or~~, psychologist, certified psychiatric clinical nurse specialist or nurse practitioner determines, based on clinical findings, that as a result of failure to fully participate or follow the individualized treatment plan the person's mental health has deteriorated so that hospitalization is in the person's best interest and the person poses a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D, the assertive community treatment team physician ~~or~~, psychologist, certified psychiatric clinical nurse specialist or nurse practitioner shall complete a certificate stating that the person requires hospitalization and the grounds for that belief. The person

may agree to hospitalization or may be subject to an application for readmission under paragraph B.

See title page for effective date.

CHAPTER 277

H.P. 717 - L.D. 1042

An Act To Continue To Reduce Mercury Use and Emissions

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

Sec. 1. 38 MRSA §1661, sub-§4, as repealed and replaced by PL 2003, c. 221, §2, is amended to read:

4. Mercury switch. "Mercury switch" means a mercury-added product or device ~~that opens or closes an electrical circuit or gas valve~~ for measuring, controlling or regulating the flow of gas, other fluids or electricity. "Mercury switch" includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature ~~and~~, mercury flame sensors and mercury connectors for making, breaking or changing the connection in an electrical circuit. "Mercury switch" does not include a mercury-added thermostat as defined in section 1665-B, subsection 1, paragraph B.

Sec. 2. 38 MRSA §1661-C, sub-§5, as amended by PL 2003, c. 221, §3, is repealed.

Sec. 3. 38 MRSA §1665-A, sub-§5, as amended by PL 2005, c. 561, §9, is further amended to read:

5. Motor vehicle manufacturer responsibility. Manufacturers of motor vehicles sold in this State that contain mercury switches or mercury headlamps shall, individually or collectively, do the following:

A. ~~By January 1, 2003, establish and maintain consolidation facilities geographically located to serve all areas of the State to which mercury switches removed pursuant to this section may be transported by the persons performing the removal. A consolidation facility may not be a facility that is licensed in the State as a new or used automobile dealership;~~ Establish a system to collect and recycle mercury switches removed pursuant to subsection 3. The system may consist of consolidation facilities geographically located to serve all areas of the State to which the switches may be transported by the persons performing the removal or any other collection methodology approved by the department. The system must be convenient to use, must accept the switches free of charge and may not provide for collection of the switches at an automobile dealership;

B. Pay for each mercury switch brought to the consolidation facilities as partial compensation for the removal, storage and transport of the switches a minimum of $4 if the vehicle identification number of the source vehicle is provided. If the vehicle identification number of the source vehicle is not provided, no payment is required;

C. Ensure that mercury switches ~~redeemed at the consolidation centers~~ collected pursuant to paragraph A are managed in accordance with the universal waste rules adopted by the board under subsection 8; and

D. Provide the department and persons who remove motor vehicle components under this section with information, training and other technical assistance required to facilitate removal and recycling of the components in accordance with the universal waste rules adopted by the board under subsection 8, including, but not limited to, information identifying the motor vehicle models that contain or may contain mercury switches or mercury headlamps.

The goal of this collection and recycling effort is to ~~collect and recycle at least 90 pounds of mercury per year from~~ minimize mercury emissions to the environment by ensuring that all mercury switches are removed from motor vehicles for recycling before the vehicles are flattened, baled or crushed. ~~By September 30, 2002, motor vehicle manufacturers shall provide the department with a plan as to how they intend to comply with the requirements of this subsection.~~

In complying with the requirements of this subsection, manufacturers of motor vehicles shall establish a system that does not require a person who removes a mercury switch to segregate switches separately according to each manufacturer of motor vehicles from which the switches are removed.

Sec. 4. 38 MRSA §1665-B, sub-§1, as enacted by PL 2005, c. 558, §1, is repealed and the following enacted in its place:

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who owns or owned a brand of mercury-added thermostats sold in the State before January 1, 2006.

B. "Mercury-added thermostat" or "mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air conditioning equipment. "Mercury-added thermostat" or "mercury thermo-

stat" includes a thermostat used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process.

C. "Retailer" means a person who sells thermostats of any kind directly to homeowners or other nonprofessionals through any selling or distribution mechanism, including, but not limited to, sales using the Internet or catalogues.

D. "Wholesaler" means a business that the department determines is primarily engaged in the distribution and selling of electrical supplies or large quantities of heating, ventilation and air conditioning components to contractors that install electrical or heating, ventilation and air conditioning components.

Sec. 5. 38 MRSA §1665-B, sub-§1-A is enacted to read:

1-A. Prohibitions. The following prohibitions apply to the sale or distribution of mercury thermostats in the State.

A. A person may not sell or offer to sell or distribute for promotional purposes a mercury thermostat.

B. A manufacturer not in compliance with this section is prohibited from offering any thermostat for sale in the State. A manufacturer not in compliance with this section shall provide the necessary support to retailers to ensure the manufacturer's thermostats are not offered for sale in this State.

C. A wholesaler or retailer may not offer for sale in this State any thermostat of a manufacturer that is not in compliance with this section.

Sec. 6. 38 MRSA §1665-B, sub-§2, ¶A, as enacted by PL 2005, c. 558, §1, is amended to read:

A. Establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. The collection and recycling program must be designed and implemented to ensure that:

(1) A maximum rate of collection of mercury-added thermostats is achieved;

(2) Handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with section 1663, with other provisions of this chapter and with the universal waste rules adopted by the board pursuant to section 1319-O;

(3) Authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed $25 to all heating, ventilation and air conditioning supply, electrical supply and plumbing supply distributor locations that sell thermostats and to all retailers who volunteer to participate in the program; and

(4) By January 1, 2007, authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed $25 to municipalities and regions requesting bins for mercury-added thermostat collection at universal waste collection sites or at periodic household hazardous waste collection events, as long as the collection sites or events are approved by the department for mercury-added thermostat collections;

Sec. 7. 38 MRSA §1665-B, sub-§2, ¶F, as enacted by PL 2005, c. 558, §1, is amended to read:

F. Within 3 months after the department develops phase 2 of the plan required by subsection 4, provide a financial incentive with a minimum value of $5 for the return of each mercury-added thermostat by a homeowner to an established recycling collection point; ~~and~~

Sec. 8. 38 MRSA §1665-B, sub-§2, ¶G, as enacted by PL 2005, c. 558, §1, is amended to read:

G. Beginning in 2008, submit an annual report to the department by January 30th of each year ~~that includes~~. The report must be submitted on a form provided by the department and must include at a minimum:

(1) The number of mercury-added thermostats collected and recycled by that manufacturer pursuant to this section during the previous calendar year;

(2) The estimated total amount of mercury contained in the thermostat components collected by that manufacturer pursuant to this section;

(3) An evaluation of the effectiveness of the manufacturer's collection and recycling program and the financial incentive provided pursuant to paragraphs E and F; ~~and~~

(4) An accounting of the administrative costs incurred in the course of administering the collection and recycling program and the financial incentive plan developed pursuant to subsection 4~~.~~;

(5) A description of the education and outreach strategies employed during the previous calendar year to increase participation and collection rates and examples of education and outreach materials used; and

(6) Modifications that the manufacturer is proposing to make in its collection and recycling program; and

Sec. 9. 38 MRSA §1665-B, sub-§2, ¶H is enacted to read:

H. Beginning January 1, 2010, submit a quarterly report to the department within 30 days after the end of each quarter that, for each shipment of thermostats received by the manufacturer or manufacturer's agent for recycling during the quarter, provides:

(1) The collection location that shipped the thermostats;

(2) The date the manufacturer received the shipment;

(3) The number of mercury thermostats; and

(4) The total amount of mercury collected.

Sec. 10. 38 MRSA §1665-B, sub-§2-A is enacted to read:

2-A. Wholesaler responsibility. A wholesaler shall post in a prominent location open to public view a notice about the financial incentive plan developed pursuant to subsection 4. The notice must be approved by the department and supplied by the manufacturer at no cost to the wholesaler.

Sec. 11. 38 MRSA §1665-B, sub-§2-B is enacted to read:

2-B. Termination of retailer participation. A manufacturer may terminate a retailer's participation in the collection program under subsection 2, paragraph A only after complying with the provisions of this subsection.

A. The manufacturer must notify the retailer, in writing, of noncompliance with program policies and procedures and provide the retailer an opportunity to comply.

B. If the retailer continues to send in significant ineligible materials through the collection program after 2 written notices of noncompliance, the manufacturer may terminate the retailer's participation.

C. For termination to occur under this subsection, the manufacturer must notify the retailer and the department in writing.

Sec. 12. 38 MRSA §1665-B, sub-§3, as enacted by PL 2005, c. 558, §1, is repealed.

See title page for effective date.

CHAPTER 278

H.P. 646 - L.D. 943

An Act To Reduce Lung Cancer Rates in Maine

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

Sec. 1. 14 MRSA §6030-D is enacted to read:

§6030-D. Radon testing

1. Testing. By 2012 and every 10 years thereafter, a landlord or other lessor of a residential building shall have the air of the residential building tested for the presence of radon. A test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

2. Notification. A landlord or other lessor of a residential building shall provide written notice to a tenant or potential tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, and the risk associated with radon. The department shall prepare a standard disclosure statement form for landlords and other lessors of real property to use to disclose to a tenant or potential tenant information concerning radon. The form must include an acknowledgment that the tenant or potential tenant has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

3. Mitigation. When the test of a residential building under subsection 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other lessor of that building shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. If a landlord or other lessor of a residential building is required to obtain a permit under a local or municipal ordinance, mitigation must occur within 6 months after obtaining any necessary permit. Mitigation services must be provided by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After mitigation has been performed pursuant to this subsection to reduce the level of radon, the landlord or other lessor of the residential building shall provide written notice to tenants that radon levels have been mitigated.

4. Penalty. A person who violates this section commits a civil violation for which a fine of not more than $250 per violation may be assessed.

Sec. 2. 22 MRSA §778, as corrected by RR 1991, c. 2, §75, is amended to read:

§778. Reports

A person registered under section 774 or 775 shall, within 45 days of the date the services are provided, notify the department in writing of the street address and zip code of the client and the results of any tests performed. The department may, by rule, specify an alternative notification procedure and notification period and any additional data required in the report.

See title page for effective date.

CHAPTER 279

H.P. 745 - L.D. 1078

An Act To Strengthen Sustainable Long-term Supportive Services for Maine Citizens

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

Sec. 1. 22 MRSA §50 is enacted to read:

§50. Planning for long-term care services

By January 15, 2012 and every 4 years thereafter the department, after input from interested parties, shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the current allocation of resources for long-term care and the goals for allocation of those resources during the next 4 years. The report must be based on current and projected demographic data, current and projected consumer needs and recent or anticipated changes in methods of delivery of long-term care services and must include any action taken by the department to further these goals and any recommendations for action by the Legislature.

Sec. 2. 22 MRSA §7301, as enacted by PL 1981, c. 511, §1, is amended to read:

§7301. Legislative intent

1. Findings. The Legislature finds that:

A. In-home and community support services have not been sufficiently available to many adults with long-term care needs;

B. Many adults with long-term care needs are at risk of being or already have been placed in institutional settings, because in-home and community support services or funds to pay for these services have not been available to them;

C. In some instances placement of adults with long-term care needs in institutional settings can result in emotional and social problems for these adults and their families; ~~and~~

D. For many adults with long-term care needs, it is less costly for the State to provide in-home and community support services than it is to provide care in institutional settings.~~.~~;

E. The majority of adults with long-term care needs have indicated a preference to remain in their own homes and in community settings rather than having their needs met in institutional settings;

F. For many adults with long-term care needs and their families, the process to identify and secure appropriate services may be confusing and difficult to navigate; and

G. A sustainable system of long-term care to meet the needs of citizens must emphasize in-home and community support services that capitalize upon personal and family responsibility.

2. Policy. The Legislature declares that it is the policy of this State, with regard to in-home and community support services:

A. To increase the availability of ~~in-home and community support services~~ long-term care services that are consumer-driven, optimize individual choice and autonomy and maximize physical health, mental health, functional well-being and independence for adults with long-term care needs through high-quality services and supports in settings that reflect the needs and choices of consumers and that are delivered in the most flexible, innovative and cost-effective manner;

B. That the priority recipients of in-home and community support services, pursuant to this subtitle, ~~shall~~ must be ~~the elderly and disabled~~ adults with long-term care needs who are at the greatest risk ~~of being, or who already have been, placed inappropriately in an institutional setting~~ without needed in-home and community support services; ~~and~~

C. That a variety of agencies, facilities and individuals ~~shall~~ must be encouraged to provide in-home and community support services and to increase the percentages of adults with long-term care needs receiving in-home and community support services.~~.~~;

D. To promote and encourage public and private partnerships among a variety of agencies, facilities and individuals;

E. To support the roles of family caregivers and a qualified workforce in the effort to streamline and facilitate access to high-quality services in the least restrictive and most integrated settings; and

F. To establish the most efficient and cost-effective system for delivering a broad array of long-term care services.

Sec. 3. 22 MRSA §7302, as amended by PL 2001, c. 596, Pt. B, §10 and affected by §25 and amended by PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

§7302. Definitions

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

1. Adults with long-term care needs. "Adults with long-term care needs" means adults who have physical or mental limitations which restrict their ability to carry out activities of daily living and impede their ability to live independently, or who are at risk of being, or who already have been, placed inappropriately in an institutional setting.

1-A. Activities of daily living. "Activities of daily living" means activities as defined in federal and state rules including those essential to a person's daily living including: eating and drinking; bathing and hygiene; dressing, including putting on and removing prostheses and clothing; toileting, including toilet or bedpan use, ostomy or catheter care, clothing changes and cleaning related to toileting; locomotion or moving between locations within a room or other areas, including with the use of a walker or wheelchair; transfers or moving to and from a bed, chair, couch, wheelchair or standing position; and bed mobility or positioning a person's body while in bed, including turning from side to side.

2. Agreement. "Agreement" means a contract, grant or other method of payment.

3. Commissioner. "Commissioner" means the Commissioner of Health and Human Services.

3-A. Consumer. "Consumer" means a person eligible for services under this subtitle.

3-B. Consumer assessment. "Consumer assessment" means an evaluation of the functional capacity of an individual to live independently given appropriate supports with activities of daily living and instrumental activities of daily living or through the provision of information about service options that are available to meet the individual's needs.

4. Department. "Department" means the Department of Health and Human Services.

5. In-home and community support services. "In-home and community support services" means health and social services and other assistance required to enable adults with long-term care needs to remain in their places of residence. These services include, but are not limited to, self-directed care services; medical and diagnostic services; professional nursing; physical, occupational and speech therapy; dietary and nutrition services; home health aide services; personal care assistance services; companion and attendant services; handyman, chore and homemaker services; respite care; counseling services; transportation; small rent subsidies; various devices ~~which~~ that lessen the effects of disabilities; and other appropriate and necessary social services.

6. Institutional settings. "Institutional settings" means residential care facilities, licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and units and hospitals, licensed pursuant to chapter 405; and state institutions for individuals who are mentally ill or mentally retarded or who have related conditions.

6-A. Instrumental activities of daily living. "Instrumental activities of daily living" means the activities as defined in federal and state rules including those essential, nonmedical tasks that enable the consumer to live independently in the community, including light housework, preparing meals, taking medications, shopping for groceries or clothes, using the telephone, managing money and other similar activities.

7. Personal care assistance services. "Personal care assistance services" means services ~~which are~~ required by an adult with long-term care needs to achieve greater physical independence, which may be ~~consumer directed~~ self-directed and ~~which~~ include, but are not limited to:

A. Routine bodily functions, such as bowel or bladder care;

B. Dressing;

C. Preparation and consumption of food;

D. Moving in and out of bed;

E. Routine bathing;

F. Ambulation; and

G. ~~Any other similar activity~~ Activities of daily living and instrumental activities of daily living.

8. Personal care assistant. "Personal care assistant" means an individual who has completed a training course of at least 40 hours, which includes, but is not limited to, instruction in basic personal care procedures, such as those listed in subsection 7, first aid and handling of emergencies; or an individual who meets competency requirements, as determined by the department or its designee; or, if providing service to a consumer receiving self-directed attendant services under chapter 1622, a person approved by the consumer or the consumer's surrogate as being able to competently assist in the fulfillment of the personal care assistance services outlined in the consumer's plan of care. Nothing in Title 32, chapter 31, may be interpreted to require that a personal care assistant be licensed under that chapter or supervised by a person licensed under that chapter.

9. Provider. "Provider" means any entity, agency, facility or individual who offers or plans to offer any in-home or community support services or institutionally based long-term care services.

9-A. Qualified providers. "Qualified providers" means community-based agencies or a network of agencies with the organizational and administrative capacity to administer and monitor an array of in-home and community support services that will promote choice and portability with an emphasis on coordinating and implementing the services in the consumer's plan of care.

9-B. Self-directed care services. "Self-directed care services" means services procured and directed by the consumer or the consumer's surrogate that allow the consumer to reenter or remain in the community and to maximize independent living opportunities. "Self-directed care services" includes the hiring, firing, training and supervision of personal care assistants to assist with activities of daily living and instrumental activities of daily living.

10. Severe disability. "Severe disability" means a disability ~~which~~ that results in persons having severe, chronic physical, sensory or cognitive limitations ~~which~~ that restrict their ability to carry out ~~the normal~~ activities of daily living and to live independently.

11. Surrogate. "Surrogate" means an unpaid agent of a consumer designated to assist with the management of the tasks associated with in-home and community support services.

Sec. 4. 22 MRSA c. 1622 is enacted to read:

CHAPTER 1622

COORDINATED IN-HOME AND COMMUNITY SUPPORT SERVICES FOR THE ELDERLY AND ADULTS WITH DISABILITIES

§7311. Program established

By July 1, 2010, the department shall establish a coordinated program, referred to in this chapter as "the program," of in-home and community support services that are available under state-funded and MaineCare-funded programs for adults with long-term care needs who are eligible for services from qualified providers pursuant to this subtitle. The program must have a unified system for intake and eligibility determination for all consumers, regardless of diagnosis, type of disability or demographic factors, including age, using the multidisciplinary teams pursuant to section 7323, consumer assessment and the development of plans of care that take into consideration the consumer's living arrangement, informal supports and services provided by other public or private funding sources to ensure nonduplication of services for consumers.

§7312. Rules

The department shall adopt rules as necessary for the effective administration of the program pursuant to this chapter, in accordance with the Maine Administrative Procedure Act. In the development of such rules, the department shall consult with consumers, representatives of consumers and providers. Rules adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 5. Plan for consolidated services. The Commissioner of Health and Human Services shall convene a work group of persons representing all of the significant parties, including consumers, interested in the issue of efficient and effective long-term care in the State. The purpose of the work group is to analyze the long-term care service system and to make recommendations that will assist the commissioner in designing the system that promotes consumer choice, transparency, portability and flexibility. The work group shall employ a disciplined improvement analysis and implementation approach and methodology in its work. In this process, personal care services will be reviewed to determine the extent to which the following principles are currently being met:

1. Consumers know about and have access to a full range of personal care service options;

2. Access to personal care services is expeditious;

3. Personal care services are delivered efficiently and in a manner that promotes maximum consumer choice;

4. Personal care services are transparent so that the services are easily understood by consumers and their families;

5. Personal care services are portable from one provider to another;

6. Personal care services are flexible to meet the needs of the consumer; and

7. Provider rates and worker wages are standardized to promote overall efficiency and ensure a sufficient number and quality of direct-care workers.

The work group must meet at least 3 times and provide a report to the Joint Standing Committee on Health and Human Services by January 15, 2010. The report must contain the work group's recommendations for improvements in the long-term care system in the State. These recommendations must address intake and eligibility determination, consumer assessment, development of plans of care, the definition of qualified providers and the means to standardize rates and wages within the system.

Sec. 6. State plan amendment or waivers. The Department of Health and Human Services shall submit to the federal Department of Health and Human Services, Centers for Medicare and Medicaid

Services any amendments or waivers needed to establish any part of a consolidated program, including a program of consumer-directed care described in the Maine Revised Statutes, Title 22, chapter 1622.

See title page for effective date.

CHAPTER 280

H.P. 649 - L.D. 946

An Act To Reverse the Effects of Grant v. Central Maine Power, Inc. on Workers' Compensation

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

Sec. 1. 39-A MRSA §205, sub-§9, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11 , is amended to read:

B. In all circumstances other than the return to work or increase in pay of the employee under paragraph A, if the employer, insurer or group self-insurer determines that the employee is not eligible for compensation under this Act, the employer, insurer or group self-insurer may discontinue or reduce benefits only in accordance with this paragraph.

(1) If no order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer may discontinue or reduce benefits by sending a certificate by certified mail to the employee and to the board, together with any information on which the employer, insurer or group self-insurer relied to support the discontinuance or reduction. The employer may discontinue or reduce benefits no earlier than 21 days from the date the certificate was mailed to the employee, except that benefits paid pursuant to section 212, subsection 1 or section 213, subsection 1 may be discontinued or reduced based on the amount of actual documented earnings paid to the employee during the 21-day period if the employer files with the board the documentation or evidence that substantiates the earnings and the employer only reduces or discontinues benefits for any week for which it possesses evidence of such earning. The certificate must advise the employee of the date when the employee's benefits will be discontinued or reduced, as well as other information as prescribed by the board, including the employee's appeal rights.

(2) If an order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer shall petition the board for an order to reduce or discontinue benefits and may not reduce or discontinue benefits until the matter has been finally resolved through the dispute resolution procedures of this Act, any appeal proceedings have been completed and an order of reduction or discontinuance has been entered by the board. Upon the filing of a petition, the employer may discontinue or reduce the weekly benefits being paid pursuant to section 212, subsection 1 or section 213, subsection 1 based on the amount of actual documented earnings paid to the employee after filing the petition. The employer shall file with the board the documentation or evidence that substantiates the earnings and the employer may discontinue or reduce weekly benefits only for weeks for which the employer possesses evidence of such earnings.

Sec. 2. Retroactivity. This Act applies retroactively to all injuries including pending cases and cases on appeal.

See title page for effective date.

CHAPTER 281

S.P. 224 - L.D. 609

An Act To Amend the Laws Governing Involuntary Hospitalization Procedures

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

Sec. 1. 15 MRSA §2211-A, sub-§3-A is enacted to read:

3-A. Authorization of hospitalization. When a person who is hospitalized in a psychiatric hospital under the provisions of Title 34-B, chapter 3 is sentenced to serve a straight term of imprisonment or a split sentence in a county jail, the person must remain hospitalized as long as continued hospitalization is appropriate under Title 34-B, chapter 3. The sheriff shall promptly process the person to initiate execution of the sentence in a manner that disrupts the person's hospitalization as little as possible. The provisions of this section apply as if the person had been transferred to the hospital after beginning serving the sentence at the county jail.

Sec. 2. 34-B MRSA §3861-A is enacted to read:

§3861-A. Notification of hospitalization

When a person who is hospitalized in a psychiatric hospital under the provisions of this chapter is sen-

tenced to serve a straight term of imprisonment or a split sentence in a county jail, the chief administrative officer of the hospital shall notify the sheriff of the county jail so that, in accordance with the provisions of Title 15, section 2211-A, the sheriff may process the person to serve the sentence while hospitalized and the person may remain in the hospital until ready for discharge.

Sec. 3. 34-B MRSA §3864, sub-§5, ¶A, as amended by PL 2005, c. 519, Pt. BBBB, §9 and affected by §20, is further amended to read:

A. The District Court shall hold a hearing on the application not later than 14 days from the date of the application. The District Court may separate the hearing on commitment from the hearing on involuntary treatment.

(1) On a motion by any party, the hearing on commitment may be continued for cause for a period not to exceed 10 additional days.

(1-A) On a motion by any party or by the court on its own motion, the hearing on involuntary treatment may be continued for cause for a period not to exceed 21 days from the date of entry of the order on the application for commitment.

(2) If the hearing on commitment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application and order the person discharged forthwith.

(2-A) If the hearing on involuntary treatment is not held within the time specified, or within the specified continuance period, the court shall dismiss the application for involuntary treatment.

(3) In computing the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply.

Sec. 4. 34-B MRSA §3871, sub-§3-A is enacted to read:

3-A. Discharge limited. A psychiatric hospital may not discharge a person committed under section 3864 solely because the person is placed in execution of a sentence in a county jail.

See title page for effective date.

CHAPTER 282

H.P. 246 - L.D. 310

An Act Regarding Indirect Lobbying

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

Sec. 1. 3 MRSA §312-A, sub-§7-B is enacted to read:

7-B. Indirect lobbying. "Indirect lobbying" means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

A. A broadcast, cable or satellite transmission;

B. A communication delivered by print media; or

C. A letter or other written communication delivered by mail or by comparable delivery service. E-mail is not considered a letter for the purposes of this paragraph.

Sec. 2. 3 MRSA §312-A, sub-§11-A, as amended by PL 2007, c. 630, §8, is further amended to read:

11-A. Original source. "Original source" means any person who contributes or pays $1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect lobbying, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered contributions by an original source.

Sec. 3. 3 MRSA §312-A, sub-§14-A is enacted to read:

14-A. Solicit. "Solicit" means to entreat, implore, urge or ask.

Sec. 4. 3 MRSA §317, sub-§1, ¶E-1 is enacted to read:

E-1. When expenditures for the purposes of indirect lobbying exceed $15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients;

Sec. 5. 3 MRSA §317, sub-§1, ¶J, as amended by PL 2007, c. 630, §14, is further amended to read:

J. A list of all of the employer's original sources ~~who have contributed or paid $1,000 or more during the lobbying year directly or indirectly to the~~

~~employer for purposes of lobbying~~ and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Provides funds to modify the commission's lobbyist system and public disclosure website.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$10,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$10,000	$0

See title page for effective date.

CHAPTER 283
H.P. 109 - L.D. 345

An Act To Regulate the Rockweed Harvest in Cobscook Bay

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 sustainability of the harvesting practices used to harvest rockweed in Cobscook Bay has been questioned; and

Whereas, additional regulation of rockweed harvesting in Cobscook Bay is necessary to ensure the conservation and long-term health of rockweed in the bay; and

Whereas, this legislation must take effect immediately in order to apply to the harvest of rockweed in Cobscook Bay this spring; and

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

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

Sec. 1. 12 MRSA §6803-A is enacted to read:

§6803-A. Seaweed buyer's license

1. License required. A seaweed buyer's license is required for a person who purchases more than 10 wet tons annually directly from seaweed harvesters holding a permit under section 6803. A person may not engage in the activities authorized under this section without a current seaweed buyer's license.

2. Licensed activity. The holder of a seaweed buyer's license may buy, possess, ship, transport or sell seaweed.

3. Fees. The fee for a seaweed buyer's license is:

A. Two hundred dollars for a resident seaweed buyer's license; and

B. Five hundred dollars for a nonresident seaweed buyer's license.

4. Disposition of fees. Fees collected under this section accrue to the Seaweed Management Fund established in section 6806.

5. Violation. A person who violates this section commits a civil violation for which a fine of not less than $100 or more than $500 may be adjudged.

Sec. 2. 12 MRSA §6803-B is enacted to read:

§6803-B. Seaweed buyer's surcharge

A person licensed under section 6803-A shall pay an annual surcharge, which must be deposited in the Seaweed Management Fund established under section 6806. The commissioner shall establish the surcharge by rule, but the surcharge may not exceed $5 per wet ton. The commissioner may refuse to renew a license under this Part or exclude a person from participating in harvest plans under section 6803-C, subsection 4 for failing to pay the surcharge under this section.

Sec. 3. 12 MRSA §6803-C is enacted to read:

§6803-C. Cobscook Bay Rockweed Management Area

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

A. "Cobscook Bay Rockweed Management Area" means the area of Cobscook Bay westward and within a line between the southernmost tip of Estes Head due east to the Canadian border and south along the border to the Franklin D. Roosevelt International Memorial Bridge.

B. "Rockweed" means Ascophyllum nodosum.

2. Designation of areas closed to harvesting. The commissioner shall identify areas within the Cobscook Bay Rockweed Management Area that are closed to the commercial harvest of rockweed, including, but not limited to, areas around public and private conservation areas, state parks and federally owned lands and lobster nursery areas. The commissioner shall identify and close to the commercial harvest of rockweed up to 30 acres within Cobscook Bay for the purpose of research.

3. Harvest management sectors. The commissioner shall divide the Cobscook Bay Rockweed Management Area into at least 14 harvest management sectors to:

A. Evenly distribute harvest effort;

B. Allow easy identification of the harvest management sectors from land or on the water; and

C. Facilitate enforcement.

The department shall post the harvest management sectors on the department's publicly accessible website with the coordinates of closed areas.

4. Harvest plan. Except as provided in section 6803, subsection 2, paragraph C, a person harvesting rockweed for commercial purposes shall participate in an annual harvest plan approved by the department.

5. Eligibility for harvest plan. To be eligible to submit an annual harvest plan to harvest rockweed within the Cobscook Bay Rockweed Management Area, a harvester or that harvester's representative must notify the commissioner of that person's intent to harvest within the area before January 1st of the proposed year of harvest.

6. Allocation of sectors. Prior to submitting an annual harvest plan, eligible harvesters or their representatives must meet as needed to allocate harvest management sectors.

7. Annual harvest plan. An annual harvest plan must include, but is not limited to, the following:

A. The name and telephone number of the person or entity responsible for the harvest management sector;

B. Identification of harvest management sectors proposed for harvest;

C. Total rockweed biomass contained in the harvest management sector based on a survey conducted within the previous 3 years;

D. The biomass amount proposed to be harvested;

E. A description of the methods of harvest;

F. A description of how marine organisms harvested with the rockweed will be managed; and

G. A description of harvester training.

8. Annual harvest plans. Eligible harvesters or their representatives shall submit their annual harvest plans to the commissioner no later than March 1st. The annual harvest plans must be made available to the public on that date.

9. Biomass harvest limit. The total biomass removed in a harvest management sector may not exceed 17% of the harvestable biomass that is eligible to be harvested annually. A harvester must report to the commissioner the total biomass removed by that harvester within a sector annually. Beginning January 1, 2010, the harvest report must be verified by an independent 3rd party.

10. Bycatch. A person harvesting rockweed must make a reasonable effort to remove marine organisms harvested with the rockweed from the harvested rockweed and return those marine organisms alive back into Cobscook Bay as soon as practicable.

11. Penalties. A person that violates this section commits a Class E crime for which a fine of not less than $1,000 must be adjudged. Each day a person violates this section constitutes a separate violation.

Sec. 4. Report on seaweed research plan and on seaweed harvest activities. The Commissioner of Marine Resources shall report to the Joint Standing Committee on Marine Resources by January 15, 2010 the following:

1. Recommendations on a research plan for the seaweed resource in Cobscook Bay; and

2. A report on the 2009 seaweed harvest in Cobscook Bay that includes, but is not limited to, harvester compliance with regulations and the Quoddy Regional Land Trust voluntary no-harvest registry.

The Joint Standing Committee on Marine Resources may submit legislation to the Second Regular Session of the 124th Legislature regarding this report.

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

Effective June 8, 2009.

CHAPTER 284

H.P. 546 - L.D. 797

An Act To Fully Implement the Legislative Intent in Prohibiting Offensive Place Names

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

Sec. 1. 1 MRSA §1101, sub-§1, as amended by PL 2001, c. 471, Pt. D, §3, is further amended to read:

1. Offensive name. "Offensive name" means a name of a place that includes:

A. The designation "nigger" or "squaw" or any derivation of "squaw" as a separate word or as part of a word or phrase; or

B. The designation "squa" or any derivation of "squa" as a separate word or as a separate syllable in a word.

See title page for effective date.

CHAPTER 285

S.P. 223 - L.D. 608

An Act To Protect Electricity Consumers in Northern Maine

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

Sec. 1. 35-A MRSA §3132, sub-§14 is enacted to read:

14. Customer cost impact. Notwithstanding any other provision of this section, the commission may not issue a certificate of public convenience and necessity that has the effect of eliminating the independent system administrator for northern Maine or eliminating or materially modifying the scope of responsibilities of the independent system administrator for northern Maine unless the certificate is subject to a requirement for the full compensation for the net adverse effects on ratepayers as determined by the commission. The determination of the net adverse effects must include, but is not limited to, known and measurable transmission cost effects. Compensation required by this section must be provided to affected ratepayers through a rebate, reduction in rates or other appropriate compensation mechanism benefiting affected ratepayers in the area of the State in which the retail electricity market is administered by the independent system administrator for northern Maine. Compensation required by this section must be calculated for and provided to affected ratepayers over a period of not more than 10 years.

See title page for effective date.

CHAPTER 286

S.P. 445 - L.D. 1197

An Act To Improve the Maine Clean Election Act

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

Sec. 1. 1 MRSA §1015, sub-§3, ¶B, as amended by PL 2005, c. 301, §3, is further amended to read:

B. The Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate or employer during any period of time in which the Legislature is convened before final adjournment, except for a qualifying contribution as defined under Title 21-A, section 1122, subsection 7. A lobbyist, lobbyist associate or employer may not intentionally give, offer or promise a contribution, other than a qualifying contribution, to the Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer during any time in which the Legislature is convened before final adjournment. These prohibitions apply to ~~direct and indirect solicitation, acceptance, giving, offering and promising, whether through a political action committee, political committee, political party or otherwise~~ contributions directly and indirectly solicited or accepted by, or given, offered and promised to a political action committee, ballot question committee or party committee of which the Governor, a member of the Legislature, a constitutional officer or the staff or agent of these officials is a treasurer, officer or primary fund-raiser or decision maker.

Sec. 2. 21-A MRSA §1015, sub-§1, as amended by PL 2007, c. 443, Pt. A, §10, is further amended to read:

1. Individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than ~~$500~~ $750 in any election for a gubernatorial candidate or more than ~~$250~~ $350 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by $25. The commission shall post the current contribution limit

and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

Sec. 3. 21-A MRSA §1015, sub-§2, as amended by PL 2007, c. 443, Pt. A, §11, is further amended to read:

2. Committees; corporations; associations. A political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than ~~$500~~ $750 in any election for a gubernatorial candidate or more than ~~$250~~ $350 in any election for any other candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by $25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

Sec. 4. 21-A MRSA §1122, sub-§7, ¶A, as amended by PL 2009, c. 190, Pt. B, §1, is further amended to read:

A. Of $5 or more in the form of a check or a money order payable to the fund and signed by the contributor in support of a candidate or made over the Internet in support of a candidate according to the procedure established by the commission;

Sec. 5. 21-A MRSA §1122, sub-§8, ¶B, as amended by PL 2001, c. 465, §3, is further amended to read:

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April ~~15th~~ 20th of that election year ~~unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year~~ or the next business day following April 20th if the office of the commission is closed on April 20th.

Sec. 6. 21-A MRSA §1125, sub-§3, ¶B, as enacted by IB 1995, c. 1, §17, is amended to read:

B. For a candidate for the State Senate, at least ~~150~~ 175 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or

Sec. 7. 21-A MRSA §1125, sub-§3, ¶C, as enacted by IB 1995, c. 1, §17, is amended to read:

C. For a candidate for the State House of Representatives, at least ~~50~~ 60 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

Sec. 8. 21-A MRSA §1125, sub-§8, ¶D, as amended by PL 2003, c. 453, §1, is further amended to read:

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is ~~40%~~ 33% of the amount distributed to a participating candidate in a contested general election.

Sec. 9. 21-A MRSA §1125, sub-§12-C is enacted to read:

12-C. Payments to political committees. If a certified candidate makes a payment of fund revenues to a political action committee or party committee, the candidate shall include in reports required under this section a detailed explanation of the goods or services purchased according to forms and procedures developed by the commission that is sufficient to demonstrate that the payment was made solely to promote the candidate's election.

Sec. 10. Commission to adopt rules regarding general election contributions during primary election cycle. No later than December 1, 2009, the Commission on Governmental Ethics and Election Practices shall adopt rules that authorize candidates to accept contributions to be used for a general election campaign during the primary election period. The rules must require that contributions be segregated and declared as primary or general election contributions and that general election campaign contributions may not be borrowed to support a primary election campaign. Rules adopted in accordance with this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 287

H.P. 818 - L.D. 1179

An Act To Create a Post-judgment Mechanism To Provide Relief for a Person Whose Identity Has Been Stolen and Falsely Used in Court Proceedings

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

Sec. 1. 15 MRSA c. 308 is enacted to read:

CHAPTER 308

POST-JUDGMENT MOTION WHEN PERSON'S IDENTITY HAS BEEN STOLEN AND USED IN A CRIMINAL, CIVIL VIOLATION OR TRAFFIC INFRACTION PROCEEDING

§2181. Application

This chapter is not intended to and may not be used to provide relief to a person who has stolen another person's identity and falsely used the identity in a criminal, civil violation or traffic infraction proceeding.

§2182. Post-judgment motion for determination of factual innocence and correction of record

1. Motion; persons who may file. A person who reasonably believes that the person's identity has been stolen and falsely used by another in a criminal, civil violation or traffic infraction proceeding in which a final judgment has been entered may file a written motion in the underlying criminal, civil violation or traffic infraction proceeding seeking a court determination of factual innocence and correction of the court records and related criminal justice agency records. The same motion may also be filed on behalf of such a person by an attorney for the State or by the court.

2. Time for filing. A motion for determination of factual innocence and correction of record must be filed:

A. By June 1, 2010 for a criminal, civil violation or traffic infraction proceeding finalized prior to the effective date of this section in which the person is aware that the person's identity had been stolen and falsely used by another; and

B. One year from the date the person becomes aware that the person's identity has been stolen and falsely used by another in a criminal, civil violation or traffic infraction proceeding finalized after the effective date of this section.

§2183. Motion and hearing; process

1. Filing motion. A motion filed pursuant to section 2182 must be filed in the underlying criminal, civil violation or traffic infraction proceeding. The appropriate chief judge or justice shall specially assign the motion. The judge or justice to whom the motion is assigned shall determine upon whom and how service of the motion is to be made and enter an order in this regard.

2. Counsel. In cases involving a criminal conviction, if the court finds that the person who files the motion under section 2182 or on whose behalf the motion is filed is indigent, the court may appoint counsel for the person at any time during the proceedings under this chapter.

3. Representation of the State. The prosecutorial office that represented the State in the underlying criminal, civil violation or traffic infraction proceeding shall represent the State for purposes of this chapter. If the underlying criminal, civil violation or traffic infraction proceeding was disposed of without the appearance of an attorney for the State, the office of the District Attorney in whose district the crime, civil violation or traffic infraction was committed shall represent the State for purposes of this chapter. On a case-by-case basis, a different prosecutorial office may represent the State on agreement between the 2 prosecutorial offices.

4. Evidence. The Maine Rules of Evidence do not apply to the hearing on the motion under this section, and evidence presented at the hearing by the participants may include testimony, affidavits and other reliable hearsay evidence as permitted by the court.

5. Hearing; certification of results. The judge or justice to whom the motion was assigned pursuant to subsection 1 shall hold a hearing on the motion under this section. At the conclusion of the hearing, if the court finds that the person who filed the motion under section 2182 has established by clear and convincing evidence relative to a criminal proceeding or by a preponderance of the evidence relative to a civil violation or traffic infraction proceeding that the person is not the person who committed the crime, civil violation or traffic infraction, the court shall find the person factually innocent of that crime, civil violation or traffic infraction and shall issue a written order certifying this determination. If at the conclusion of the hearing the court finds otherwise as to the motion, the court shall deny the motion and shall issue a written order certifying this determination. The order must contain written findings of fact supporting the court's decision granting or denying the motion. A copy of the court's written order granting or denying the motion must be provided to the person.

6. Correction of the record. If the court grants the motion following the hearing in subsection 5, it shall additionally determine what court records and related criminal justice records require correction and shall enter a written order specifying the corrections to be made in the court records and the records of each of the appropriate criminal justice agencies.

7. Subsequent discovery of fraud or misrepresentation. If the court that has issued an order certifying a determination of factual innocence pursuant to subsection 5 subsequently discovers that the motion or information submitted in support of the motion may contain material misrepresentation or fraud, the court may, after giving notice to the participants, hold a hearing. At the conclusion of the hearing, if the court finds by a preponderance of the evidence the existence of material misrepresentation or fraud, it may, by written order, vacate its earlier order certifying a determi-

nation of factual innocence and modify accordingly any record correction earlier made pursuant to subsection 6. The written order must contain findings of fact supporting its decision to vacate or not to vacate.

§2184. Review of determination of factual innocence; review of subsequent vacating of determination

A final judgment entered under section 2183, subsection 5 or 7 may be reviewed by the Supreme Judicial Court sitting as the Law Court.

1. Appeal by the person. A person aggrieved by the final judgment under section 2183, subsection 5 or 7 may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

2. Appeal by the State. If the State is aggrieved by the final judgment under section 2183, subsection 5 or 7, it may appeal as of right, and a certificate of approval by the Attorney General is not required. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

See title page for effective date.

CHAPTER 288

S.P. 487 - L.D. 1352

An Act To Exempt from Taxation Biodiesel Fuel Produced for Personal Use

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

Sec. 1. 36 MRSA §3204-A, sub-§7, as amended by PL 2003, c. 588, §13, is further amended to read:

7. Kerosene for retail sale. Kerosene prepackaged for home use or delivered into a separate tank for retail sale, in which case the excise tax must be remitted by licensed users pursuant to section 3207, rather than by the supplier; ~~and~~

Sec. 2. 36 MRSA §3204-A, sub-§8, as enacted by PL 1997, c. 738, §11, is amended to read:

8. Dyed fuel. Dyed fuel~~.~~; and

Sec. 3. 36 MRSA §3204-A, sub-§9 is enacted to read:

9. Self-produced biodiesel fuel. Biodiesel fuel that is produced by an individual and used by that same individual or a member of that individual's immediate family.

Sec. 4. Application. This Act applies to sales made on or after October 1, 2009.

See title page for effective date.

CHAPTER 289

H.P. 964 - L.D. 1374

An Act To Ensure the Effectiveness of Critical Incident Stress Management Teams

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

Sec. 1. 25 MRSA Pt. 11 is enacted to read:

PART 11

CRITICAL INCIDENTS

CHAPTER 501

CRITICAL INCIDENT STRESS MANAGEMENT TEAMS

§4201. Definitions

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

1. Critical incident. "Critical incident" means a work-related incident that causes or has the potential to cause a law enforcement officer to experience emotional or physical stress. "Critical incident" includes, but is not limited to, use-of-force encounters that may result in the death of or serious injury to another person or an officer, fatal motor vehicle accidents, child abuse investigations and death investigations.

2. Critical incident stress management team. "Critical incident stress management team" means a team composed of members of a state, county or municipal law enforcement agency that is trained, in accordance with standards established by rule by the Commissioner of Public Safety, to assist and provide support to any person employed by the team's own agency or another law enforcement agency who has been involved in a critical incident that may affect, or has affected, the person's work performance or general well-being. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§4202. Critical incident stress management teams

1. Information confidential. Except as provided in subsection 2, all proceedings, communications and records, including, but not limited to, information concerning the identity of a person seeking or being furnished assistance, connected in any way with the work of a critical incident stress management team are con-

fidential and are not subject to compulsory legal process or otherwise discoverable or admissible in evidence in any civil action unless the confidentiality is waived by the affected person. Statistical data not identifying a person seeking the assistance of a critical incident stress management team must be made available for statistical evaluation and may not be made available for any other purpose.

2. Mandatory disclosure of information. Unless protected by a privilege of law recognized by this State, a member of a critical incident stress management team must disclose to appropriate federal, state or local government agencies or law enforcement agencies the following types of information:

A. An admission by a person seeking the assistance of the critical incident stress management team that the person has committed a crime;

B. A disclosure of information by a person seeking the assistance of a critical incident stress management team that must be reported pursuant to any applicable law; or

C. A disclosure of information by a person seeking the assistance of a critical incident stress management team that would lead one to reasonably think that the person seeking assistance is a danger to that person or to another person.

Information disclosed under this subsection is no longer confidential unless it is otherwise designated confidential by statute.

See title page for effective date.

CHAPTER 290

S.P. 543 - L.D. 1459

An Act To Modify Child Support Enforcement Procedures and Requirements

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

Sec. 1. 19-A MRSA §1501, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 2. 19-A MRSA §1501, sub-§4-A is enacted to read:

4-A. Medical support. "Medical support" means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

Sec. 3. 19-A MRSA §1501, sub-§4-B is enacted to read:

4-B. Private health insurance. "Private health insurance" means fee-for-service, health maintenance organization, preferred provider organization and other types of coverage available to either parent under which medical services could be provided to a child. "Private health insurance" does not include insurance that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.

Sec. 4. 19-A MRSA §1501, sub-§4-C is enacted to read:

4-C. Reasonable cost. "Reasonable cost" means the cost of private health insurance to the parent responsible for providing medical support that does not exceed amounts adopted by the Department of Health and Human Services in a rule implementing a cost-reasonableness standard. "Cost of private health insurance" means the cost of adding the child to existing coverage or the difference between self-only and family coverage, unless that cost is determined to be unjust by a court or the Department of Health and Human Services.

Sec. 5. 19-A MRSA §1604, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§1604. Service

Service of a notice under section 1605 must be made by personal service ~~in hand and may be made by an authorized representative of the commissioner or by a person authorized~~ as provided for personal service of summons by the Maine Rules of Civil Procedure, Rule 4(d). Personal service within the State of a notice under section 1605 may be made by an authorized representative of the commissioner. Personal service outside the State of a notice under section 1605 may be made in the manner provided for personal service of summons outside the State by the Maine Rules of Civil Procedure, Rule 4(e).

Sec. 6. 19-A MRSA §1653, sub-§8, ¶C, as amended by PL 2005, c. 323, §12, is further amended to read:

C. The court may require the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring at least one parent to obtain and maintain private health insurance ~~coverage~~ for ~~medical, hospitalization and dental expenses~~ the child, if ~~reasonable cost~~ private health insurance for the child is available ~~to that parent~~ at reasonable cost. The court order must also require the parent providing insurance to furnish proof of coverage to the other parent within 15 days of receipt of a copy of the court order. If ~~reasonable cost~~ private health insurance for the child is not available at reasonable cost at

the time of the hearing, the court order must ~~establish the obligation to provide~~ include a provision requiring at least one parent to obtain and maintain private health insurance ~~on the part of at least one parent,~~ for the child that must be effective immediately upon ~~reasonable cost~~ private health insurance for the child being available at reasonable cost.

Sec. 7. 19-A MRSA §2001, sub-§5, ¶E, as amended by PL 2003, c. 123, §1, is further amended to read:

E. Gross income of an obligor does not include the amount of a preexisting spousal ~~maintenance~~ support obligation to a former spouse who is not the parent of the child for whom support is being determined ~~or~~, a preexisting child support obligation ~~actually paid~~ pursuant to court or administrative order, or an appropriate amount of preexisting child support being voluntarily paid by a party who has a legal obligation to support that child.

Sec. 8. 19-A MRSA §2001, sub-§5-A, as enacted by PL 2007, c. 448, §1, is repealed.

Sec. 9. 19-A MRSA §2001, sub-§5-B, as enacted by PL 2007, c. 448, §2, is repealed.

Sec. 10. 19-A MRSA §2001, sub-§5-C, as enacted by PL 2007, c. 448, §3, is repealed.

Sec. 11. 19-A MRSA §2006, sub-§3, ¶C, as amended by PL 2003, c. 415, §7, is further amended to read:

C. If ~~a party is paying health insurance premiums~~ private health insurance for the child is available at reasonable cost, the ~~sums actually being expended for~~ cost of private health insurance ~~premiums for the child or children for whom support is being ordered~~ must be added to the basic support entitlement to determine the total basic support obligation. ~~The court shall determine the pro rata share of the health insurance premium actually expended that is attributable to each child.~~ For the purposes of this paragraph, "the cost of private health insurance" is the cost of adding the child to existing coverage or the difference between self-only and family coverage.

Sec. 12. 19-A MRSA §2006, sub-§5, ¶B, as amended by PL 2001, c. 264, §4, is further amended to read:

B. When the parties' combined annual gross income exceeds ~~$240,000~~ $400,000, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of ~~$240,000~~ $400,000.

Sec. 13. 19-A MRSA §2006, sub-§5, ¶C, as amended by PL 2001, c. 554, §10, is further amended to read:

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of the nonprimary care provider is less than the federal poverty guideline, the nonprimary care provider's weekly parental support obligation for each child for whom a support award is being established or modified may not exceed 10% of the nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income. The child support table includes a self-support reserve for obligors earning ~~less than $12,600~~ $22,800 or less per year. If, within an age category, the nonprimary care provider's annual gross income, without adjustments, is in the self-support reserve~~,~~ for the total number of children for whom support is being determined, the amount listed in the ~~table for the number of children is~~ self-support reserve multiplied by the number of children in the age category is the nonprimary care provider's ~~basic~~ support obligation for the children in that age category, regardless of the parties' combined annual gross income. The nonprimary care provider's proportional share of childcare, health insurance premiums and extraordinary medical expenses are added to this basic support obligation. This paragraph does not apply if its application would result in a greater support obligation than a support obligation determined without application of this paragraph.

Sec. 14. 19-A MRSA §2006, sub-§8, ¶F, as amended by PL 2005, c. 352, §4, is further amended to read:

F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 2007, the written findings of the court or hearing officer in support of the deviation; ~~and~~

Sec. 15. 19-A MRSA §2006, sub-§8, ¶G, as enacted by PL 2005, c. 352, §5, is amended to read:

G. With regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified upon the events listed in subparagraphs (1) to (4), that the order be automatically modified pursuant to this paragraph to address any of the following events:

(1) Any child reaches 18 years of age and has graduated from secondary school;

(2) Any child reaches 19 years of age without having graduated from secondary school;

(3) Any child obtains an order of emancipation; or

(4) Any child dies.

As of the date of an event listed in subparagraphs (1) to (4), the total child support amount stated in the order must be decreased by the child support amount assigned to that child in the worksheets accompanying the child support order or as set forth in the order.; and

Sec. 16. 19-A MRSA §2006, sub-§8, ¶H is enacted to read:

H. A requirement that private health insurance must be provided for the benefit of the child, if private health insurance for the child is available at reasonable cost. If private health insurance for the child is not available at reasonable cost at the time of the hearing, a requirement that private health insurance for the child must be provided effective immediately upon being available at reasonable cost.

Sec. 17. 19-A MRSA §2009, sub-§1-A is enacted to read:

1-A. Motion to modify by department. When a parent receives public assistance for the benefit of a dependent child, the department may file a motion to modify support regardless of whether the parent has been allocated the primary residential care of the dependent child pursuant to chapter 55.

Sec. 18. 19-A MRSA §2009, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 19. 19-A MRSA §2009, sub-§4-A is enacted to read:

4-A. Service. Except as otherwise provided in this subsection, service of a motion to modify support must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For the purpose of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. When the department is providing child support services, personal service within the State of a motion to modify support may be made by authorized representatives of the commissioner. Service of the motion must be accompanied by:

A. A notice that the court may enter an order without hearing if the party does not request a hearing;

B. A notice of the right to request a hearing;

C. A notice of the requirement of mediation prior to a hearing;

D. The income affidavit of the moving party or the party receiving the assistance of the department, as well as the responding party's affidavit, if available;

E. A proposed order, incorporating the child support worksheet; and

F. Any stipulation entered into by the parties.

Sec. 20. 19-A MRSA §2106, sub-§1, as amended by PL 2001, c. 554, §12, is further amended to read:

1. Enrollment of dependent children in employer health plans. If a parent is required by a support order to provide ~~health care coverage~~ private health insurance for a child and the parent is eligible for ~~family health care coverage~~ health insurance through an employer doing business in the State then, upon application by either parent or notice from the court or the department, the employer or plan administrator shall enroll the child, if otherwise eligible, in the employer health plan without regard to any enrollment season restrictions, except as provided by subsection 2. If the employer offers more than one plan, the employer or plan administrator shall enroll the child in the plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, if the plan's services are available where the child resides. If the services of the employee's plan or the least costly plan are not available where the child resides, the employer or plan administrator shall enroll the child in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be without regard to open season restrictions. The court or the department ~~shall order health care coverage using the~~ may issue to a parent's employer or other payor of income a medical support notice to enforce a parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the parent. The format of the medical support notice must be the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

Sec. 21. 19-A MRSA §2106, sub-§4, as amended by PL 2001, c. 554, §13, is further amended to read:

4. Answer. The employer shall respond within 20 days to a parent who requests enrollment or, if a

medical support notice has been issued, to the court or the department within 20 days and confirm:

A. That the child has been enrolled in the employer's health plan;

B. The date when the child will be enrolled, if enrollment is pending; or

C. That coverage can not be provided, stating the reasons why coverage can not be provided.

Sec. 22. 19-A MRSA §2201, sub-§1, as amended by PL 2005, c. 352, §8, is further amended to read:

1. Notice. The department may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the department's intention to submit the obligor's name to the appropriate board as a licensee who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may request an administrative hearing to contest the issue of compliance;

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to a board for noncompliance with an order of support pending a decision after hearing;

D. If the obligor does not request a hearing within 20 days of service and is not in compliance with an order of support, the department shall certify the obligor to the appropriate board for noncompliance with an order of support;

E. If the department certifies the obligor to a board for noncompliance with an order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a written confirmation of compliance from the department that states the obligor is in compliance with the obligor's order of support. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002;

F. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to a board for noncompliance with an order of support; and

G. The obligor can comply with an order of support by:

(1) Paying current support;

(2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. Service of the notice must be made ~~by certified mail, return receipt requested, by service in hand, or as specified~~ in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this ~~section~~ subsection, this must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of the notice described in this subsection may be made by an authorized ~~representatives~~ representative of the commissioner ~~may serve the notice~~.

Sec. 23. 19-A MRSA §2202, sub-§2, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

2. Notice. The commissioner may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the commissioner's intention to certify the obligor to the Secretary of State as an individual who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may contest the issue of compliance at an administrative hearing;

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to the Secretary of State for noncompliance with an order of support pending a decision after hearing;

D. If the obligor does not timely request a hearing to contest the issue of compliance and does not obtain a written confirmation of compliance from the department, the commissioner shall certify the obligor to the Secretary of State for noncompliance with an order of support;

E. If the commissioner certifies the obligor to the Secretary of State, the Secretary of State must

suspend any motor vehicle operator's licenses that the obligor holds and the obligor's right to apply for or obtain a motor vehicle operator's license;

F. If the obligor requests a hearing, the obligor shall direct the request to the department's support enforcement office that is responsible for handling the obligor's case;

G. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to the Secretary of State for noncompliance with an order of support; and

H. The obligor can comply with an order of support by:

(1) Paying current support;

(2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need for the obligor to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. The notice must be ~~served by certified mail, return receipt requested, by service in hand, or as specified~~ made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this ~~section~~ subsection, this notice must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of the notice described in this subsection may be made by an authorized representative of the commissioner ~~may serve the notice~~.

Sec. 24. 19-A MRSA §2203, sub-§5, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

5. Sheriff or levying officer. An order to seize and sell may be sent by the department to a county sheriff or levying officer. ~~When the order is issued, the department shall serve a copy of the order on all persons other than the obligor who the department knows have an ownership interest in the property identified in the order. If personal service is unsuccessful, the department shall mail the order to the person's last known address by regular mail.~~ Upon receipt of the order, the sheriff or levying officer shall proceed to execute the order in the same manner as prescribed for execution of a judgment. A sheriff or levying officer shall return the order, along with any funds collected, to the department within 90 days of the receipt of the order. Funds resulting from execution of the order must first be applied to the sheriff's or levying officer's costs, then to any superior liens and then to the support lien or other money obligation and any inferior liens of which the department has notice. Any amounts in excess of this distribution must be paid to the obligor. If the order is returned not fully satisfied, the department has the same remedies to collect the deficiency as are available for any civil judgment.

Sec. 25. 19-A MRSA §2203, sub-§6, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

6. Right to hearing. ~~Before~~ At least 20 calendar days before the sale, the department shall serve a copy of the order on the obligor and all other persons that the department knows have an ownership interest in the property identified in the order. Service of an order under this subsection must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a copy of the order may be made by an authorized representative of the commissioner. The obligor and any other persons who claim an ownership interest in the property seized under an order to seize and sell have a right to an administrative hearing to contest the seizure and sale of the property and to establish the value of their relative interest in the property. A request for a hearing must be in writing and must be received by the department within 10 calendar days of ~~the seizure~~ service of a copy of the order. Upon receiving a request for a hearing, the department shall notify all persons who the department has reason to believe have an ownership interest in the property of the time, place and nature of the hearing.

A. Anyone requesting a hearing has the right to a preliminary hearing within 5 business days of the hearing request. At the preliminary hearing, if the hearing officer determines that there is reasonable ground to believe the seizure was lawful and that the obligor owes a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall require the seizure to remain in force and schedule a final hearing, allowing all parties reasonable time to collect evidence and prepare for the final hearing. If the hearing officer determines that the seizure was not lawful or that the obligor does not owe a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall declare the order to seize and sell void.

B. The department shall notify any person who the department has reason to believe has an ownership interest in the seized property of the time and place of the final hearing. At the final hearing, the hearing officer shall determine:

(1) Whether the obligor owes a support debt;

(2) Whether the support debt could be satisfied in whole or in part by the property seized;

(3) The percentage share of ownership of all persons claiming an ownership interest in the property;

(4) The amount of the debtor's interest in the property that is exempt; and

(5) The value of the interest in the property owned by nonobligor parties with an interest superior to that of the department.

Sec. 26. 19-A MRSA §2253, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 27. 19-A MRSA §2254, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2254. Service

Service of a notice, order or lien described in this article ~~may~~ must be ~~by certified mail, return receipt requested, by service in hand as specified in civil actions or by publication as specified in civil actions~~ made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For ~~the~~ purposes of this ~~article only,~~ section, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a notice, order or lien described in this article may be made by an authorized ~~representatives~~ representative of the commissioner ~~may serve a notice or lien described in this article~~.

~~**1. Date of service.** Service is completed when the certified mail is received or refused, or when specified in civil actions for service in hand or by publication.~~

~~**2. Branch banks.** Service on a bank or other financial institution maintaining branch offices is only effective as to the accounts, credits or other personal property of the responsible parent in the particular branch on which service is made.~~

Sec. 28. 19-A MRSA §2308, sub-§1, as amended by PL 2001, c. 554, §14, is further amended to read:

1. Issuance of notice. The department, on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent, may issue to a ~~responsible~~ parent's employer or other payor of income a medical support notice to enforce a ~~responsible~~ parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the ~~responsible~~ parent. The medical support notice must be in the format of the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.

Sec. 29. 19-A MRSA §2308, sub-§6, as amended by PL 2001, c. 554, §14, is further amended to read:

6. Mistake of fact; affirmative defenses. A ~~responsible~~ parent may claim a mistake of fact or assert affirmative defenses to contest the issuance of a medical support notice. The department shall establish by rule an administrative process for reviewing claims of mistake and investigating affirmative defenses.

Sec. 30. 19-A MRSA §2308, sub-§14, as amended by PL 2001, c. 554, §14, is further amended to read:

14. Employee protected. An employer who discharges, refuses to employ or takes disciplinary action against a ~~responsible~~ parent, or who otherwise discriminates against ~~that~~ a parent because of the existence of the medical support notice or the obligation the medical support notice imposes upon the employer, is subject to a civil penalty of not more than $5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the ~~responsible~~ parent for compensatory and punitive damages, plus attorney's fees and court costs.

Sec. 31. 19-A MRSA §2308, sub-§15, as amended by PL 2001, c. 554, §14, is further amended to read:

15. Service. A medical support notice must be served on the ~~responsible~~ parent's employer or other payor of earnings. Service ~~may be by certified mail, return receipt requested, by an authorized representative of the commissioner, by personal service as permitted~~ must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4 ~~or as otherwise permitted by sections 2253 and 2254~~. For purposes of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a copy of the notice may be made by an authorized representative of the commissioner. The department

shall send a copy of the medical support notice to the ~~responsible~~ parent at the ~~responsible~~ parent's most recent address of record.

Sec. 32. 19-A MRSA §2361, sub-§1, as amended by PL 1997, c. 466, §23 and affected by §28, is further amended to read:

1. Order. The commissioner may commence an action under Title 14, chapter 502 by directing a responsible parent to appear before the department to disclose under oath information that relates to the responsible parent's ability to pay child support. The commissioner may require a responsible parent who is directed to appear to provide documents, papers and other evidence about the responsible parent's income and assets for the purpose of enforcing a support order. ~~An~~ Notwithstanding section 2254, an order to appear and disclose must be served on the responsible parent by personal service as provided for personal service of summons by the Maine Rules of Civil Procedure, Rule 4(d). Personal service within the State of an order to appear and disclose may be made by an authorized representative of the commissioner. Personal service outside the State of an order to appear and disclose may be made in the manner provided for personal service of summons outside the State by the Maine Rules of Civil Procedure, Rule 4(e).

Sec. 33. 19-A MRSA §2658, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

§2658. Service of process

Service under this subchapter ~~may~~ must be ~~by certified mail or in accordance with the requirements of~~ made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. ~~The department may serve an income withholding order as provided in section 2254.~~ For purposes of this section, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. When the department is providing child support services, personal service within the State of an income withholding order may be made by an authorized representative of the commissioner.

Sec. 34. 19-A MRSA §2670, sub-§1, as enacted by PL 1997, c. 537, §51 and affected by §62, is amended to read:

1. Use of this State's income withholding law. When a payor receives an income withholding order issued by another state for an obligor whose principal place of employment is in this State, the payor shall apply the ~~income withholding law of the state of the obligor's principal place of employment~~ provisions of this subchapter when determining:

A. The payor's fee for processing an income withholding order;

B. The maximum amount permitted to be withheld from the obligor's income;

C. The time in which the payor must implement the income withholding order and forward the child support payment;

D. The priorities for withholding and allocating income withheld for multiple child support obligees; and

E. Any withholding terms or conditions not specified in the order.

Sec. 35. 19-A MRSA §2674 is enacted to read:

§2674. Maximum amount permitted to be withheld

The maximum amount permitted to be withheld from the obligor's income must be determined in accordance with section 2356.

Sec. 36. 19-A MRSA §2675 is enacted to read:

§2675. Allocating income withheld for multiple child support obligees

A payor of earnings that receives 2 or more withholding orders for the purpose of enforcing or paying a child support obligation with respect to the earnings of the same obligor shall withhold the full amount of all current support obligations before withholding the obligor's support arrears. If the payor is prohibited by section 2356 from withholding the full amount of current support obligations, the payor satisfies the terms of the orders if the payor withholds a pro rata amount of current support pursuant to each order. If the payor is prohibited by this section or section 2356 from withholding the full amount of support arrears, the payor satisfies the terms of the orders if the payor withholds a pro rata amount of support arrears pursuant to each order.

Sec. 37. Rules. The Department of Health and Human Services shall adopt rules regarding reasonable cost as described in the Maine Revised Statutes, Title 19-A, section 1501, subsection 4-C. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 291

H.P. 992 - L.D. 1416

An Act To Update Terms and Make Changes in Child Care and Transportation Benefits under the Temporary Assistance for Needy Families Program

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

Sec. 1. 5 MRSA §1585, sub-§1, as amended by PL 1999, c. 731, Pt. BB, §1, is further amended to read:

1. Transfer procedures. Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purpose named in such appropriations or subdivision, may be transferred at any time prior to the closing of the books to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial orders describing such transfers must be submitted by the Bureau of the Budget to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. Positions, or funding for those positions, that are currently funded with federal or other funds may not be transferred by financial order to the General Fund. Financial orders proposing to transfer 4th or 3rd quarter allotments to the 3rd, 2nd or 1st quarters that result from trends that will cause financial commitments to exceed current appropriations or allocations are subject to the provisions of this section. The Department of Health and Human Services is authorized to transfer funds within the TANF program account to the ASPIRE-TANF program account as often as necessary in order to support and assist participants in obtaining or retaining employment during the fiscal year. In making a transfer of TANF program funds to the ASPIRE-TANF program account, the department does not need to submit a financial order to the committee in advance of the transfer. For purposes of this subsection, "TANF" and "ASPIRE-TANF program" have the same meaning as in Title 22, section 3762, subsection 1, paragraph E and Title 22, section 3781-A, subsection 1, respectively.

Sec. 2. 22 MRSA §3104, as amended by PL 2001, c. 598, §1, is further amended to read:

§3104. Statewide food supplement program

1. Program required. The department shall:

A. Administer a statewide program in accordance with the related requirements and regulations of the United States ~~Departments of Agriculture and Health, Education and Welfare~~ Department of Agriculture, the United States Department of Health and Human Services and the United States Department of Education; and

B. Cooperate with and participate in the administration of food distribution programs in conformity with regulations promulgated by the United States Department of Agriculture.

~~**3. Authorization of emergency food stamp benefits prior to full verification.** Whenever an applicant for food stamps states to the department that he is in need of immediate food assistance, the department shall, pending verification, issue and mail a card authorizing the applicant to purchase food stamps at the time of the department's initial interview with the applicant or within one working day of the interview, provided that all of the following conditions are met:~~

~~A. As a result of the initial interview with the applicant, the department shall have determined that the household of the applicant will probably be eligible for food stamps after full verification is completed;~~

~~B. Where possible, the applicant shall submit to the department, at the time of the initial interview, the adequate documentation to verify that he is in need of immediate food assistance;~~

~~C. When adequate documentation is not available at the time of the initial interview, the department shall contact at least one other person for the purpose of obtaining information to confirm the applicant's statements about his need for immediate food assistance; and~~

~~D. In no case:~~

~~(1) Shall the authorization to purchase food stamps under this section exceed 30 days from the date that the applicant receives the authorizing card; and~~

~~(2) Shall there be further food stamp issuance to the applicant's household until full verification has been obtained which confirms the eligibility of the household.~~

3-A. Authorization of emergency food supplement benefits prior to full verification. Whenever an applicant for benefits under the food supplement program states to the department that the applicant is in need of immediate food assistance, the department shall, pending verification, issue and mail an electronic benefits transfer card authorizing the applicant to purchase food at the time of the department's initial

interview with the applicant or within one working day of the interview, as long as all of the following conditions are met.

A. As a result of the initial interview with the applicant, the department must have determined that the household of the applicant will probably be eligible for food supplement program benefits after full verification is completed.

B. When possible, the applicant shall submit to the department, at the time of the initial interview, adequate documentation to verify that the applicant is in need of immediate food assistance.

C. When adequate documentation is not available at the time of the initial interview, the department shall contact at least one other person for the purpose of obtaining information to confirm the applicant's statements about the applicant's need for immediate food assistance.

The authorization to receive food supplement program benefits under this section may not exceed 30 days from the date that the applicant receives the authorizing card. Additional food supplement program benefits may not be issued to the applicant's household until full verification has been obtained that confirms the eligibility of the household.

~~**4. Mail issuance of coupons.** The department shall institute a system of mail issuance of food stamp allotments through a direct coupon mailing system as authorized by and in conformity with regulations promulgated by the United States Department of Agriculture.~~

~~In those areas of the State where the department can document evidence of significant diminution of client demand or of loss of significant numbers of coupons, the department may, after notice and hearing, establish an alternative system of food stamp issuance.~~

4-A. Electronic benefits transfer system. The department shall operate a system of issuance of food allotments through an electronic benefits transfer system as authorized by and in conformity with regulations promulgated by the United States Department of Agriculture.

5. Outreach. It is the intent of the Legislature that the department fully carry out all outreach activities established by federal regulation to encourage the participation of all eligible households.

In carrying out its outreach activities, the department shall insure that all applicants and recipients are informed of their right to have the requirement for a face-to-face interview waived as provided by federal regulations.

~~**6. Bilingual requirements.** The department shall print and distribute brochures or pamphlets concerning the food stamp program in other languages as it deems necessary. The department shall prepare public service announcements in French for distribution to appropriate newspapers and radio and television stations.~~

7. Verification of information. The department shall establish and implement uniform verification procedures that will be applied to all applicants and recipients.

8. Certification periods. Households ~~shall~~ must be certified for a ~~6-month~~ 12-month period unless there is a likelihood of change in income or household status. ~~Households consisting of elderly or disabled persons with stable incomes shall be certified for 12 months.~~

9. Information on notice to recipients. All notices of denial, reduction of benefits, termination of benefits, fraud claims, nonfraud claims or other actions ~~shall~~ must contain information on the appeal procedure, and the availability of free legal representation in the geographic area and ~~shall~~ must include, at a minimum, the address and telephone number for these services.

10. Supplemental monthly issuance. Whenever a household receiving ~~food stamps~~ benefits through the food supplement program informs the department of a change in circumstances that will result in an increase in its food ~~stamp allotment~~ supplement benefit, the department shall issue a supplemental ~~food stamp~~ allotment to that household for the month in which the change is reported. The supplemental allotment must represent the difference between the amount for which the household was originally certified in that month and the amount for which it is actually eligible as a result of its reported change in circumstances.

The department shall ~~mail~~ issue that supplemental allotment within 5 working days of the date that the change in circumstances was reported.

11. Food supplement program overpayment recovery. Any money recovered by the department as a result of the overpayment of food ~~stamps~~ supplement benefits must be deposited to the General Fund, including any money up to a maximum of $81,475 recovered prior to ~~the effective date of this subsection~~ March 14, 1991.

12. Penalty. The unauthorized issuance, redemption, use, transfer, acquisition, alteration or possession of coupons or other program access device, including an electronic benefits transfer card, may subject an individual, partnership, corporation or other legal entity to prosecution by the State in accordance with Sections 15 (b) and 15 (c) of the federal Food Stamp Act of 1977 and the federal Food and Nutrition Act of 2008. Penalties are in accordance with those outlined in federal law or regulations.

13. Categorical eligibility. The department shall adopt rules that maximize access to the food ~~stamp~~

supplement program for households in which there is a child who would be a dependent child under the Temporary Assistance for Needy Families program but that do not receive a monthly cash assistance grant from the Temporary Assistance for Needy Families program. Under rules adopted pursuant to this subsection, certain of these families must be authorized to receive referral services provided through the Temporary Assistance to Needy Families block grant and be categorically eligible for the food ~~stamps~~ supplement program in accordance with federal law. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

14. Prohibition against denial of assistance based on drug conviction. A person who is otherwise eligible to receive food assistance under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2011 to 2036 and under the federal Food and Nutrition Act of 2008 may not be denied assistance because the person has been convicted of a drug-related felony as described in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 115, 110 Stat. 2105.

Sec. 3. 22 MRSA §3104-A, as amended by PL 1999, c. 401, Pt. S, §2, is further amended to read:

§3104-A. Food supplement program for legal aliens

1. Food assistance. The department shall provide food assistance to households that would be eligible for assistance under the federal Food Stamp Act of 1977, 7 United States Code, Section 2011~~,~~ et seq.~~,~~ and under the federal Food and Nutrition Act of 2008 but for provisions of Sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

2. Amount of assistance. The total amount of food assistance provided under this section must equal the amount that the household would be eligible to receive under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2014 and 2017~~,~~ and under the federal Food and Nutrition Act of 2008 if the household were eligible for ~~that program~~ either of those programs.

3. Administration. The department shall provide assistance under this section to eligible households on a monthly basis through ~~a system of direct mail of coupons or electronic benefit issuance. The department is authorized to negotiate with the United States Department of Agriculture to arrange for the purchase of federal food stamps or produce its own food coupons to be used by eligible households for transactions with vendors under this program~~ an electronic benefit transfer system.

Sec. 4. 22 MRSA §3762, sub-§1, ¶B-1 is enacted to read:

B-1. "DRA" means the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.

Sec. 5. 22 MRSA §3762, sub-§3, as amended by PL 2007, c. 539, Pt. XX, §1, is further amended to read:

3. Administration. The department may administer and operate a program of aid to needy dependent children, called "Temporary Assistance for Needy Families" or "TANF," who are deprived of support or care due to the death, continued absence, physical or mental incapacity of a parent or the unemployment or underemployment of the principal wage earner in accordance with the United States Social Security Act, as amended by PRWORA and DRA, and this Title.

A. The department shall adopt rules as necessary to implement and administer the program. The rules must include eligibility criteria, budgeting process, benefit calculation and confidentiality. The confidentiality rules must ensure that confidentiality is maintained for TANF recipients at least to the same extent that confidentiality was maintained for families in the Aid to Families with Dependent Children program unless otherwise required by federal law or regulation.

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

(1) To continue the pass-through of the first $50 per month of current child support collections and the exclusion of the $50 pass-through from the budget tests and benefit calculations;

(2) To provide financial and medical assistance to certain noncitizens legally admitted to the United States. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF or Medicaid programs but for their status as aliens under PRWORA. Eligibility for the TANF and Medicaid programs for these categories of noncitizens must be determined using the criteria applicable to other recipients of assistance from these programs;

(3) To provide benefits to certain 2-parent families whose deprivation is based on physical or mental incapacity;

(4) To provide an assistance program for needy children, 19 to 21 years of age, who are

in full-time attendance in secondary school. The program is operated for those individuals who qualify for TANF under the United States Social Security Act, except that they fail to meet the age requirement, and is also operated for the parent or caretaker relative of those individuals. Except for the age requirement, all provisions of TANF, including the standard of need and the amount of assistance, apply to the program established pursuant to this subparagraph;

(5) To provide assistance for a pregnant woman who is otherwise eligible for assistance under this chapter, except that she has no dependents under 19 years of age. An individual is eligible for the monthly benefit for one eligible person if the medically substantiated expected date of the birth of her child is not more than 90 days following the date the benefit is received;

(6) To provide a special housing allowance for TANF families whose shelter expenses for rent, mortgage or similar payments, homeowners insurance and property taxes equal or exceed 75% of their monthly income. The special housing allowance is limited to $100 per month for each family. For purposes of this subparagraph, "monthly income" means the total of the TANF monthly benefit and all income countable under the TANF program, plus child support received by the family, excluding the $50 pass-through payment;

(7) In determining benefit levels for TANF recipients who have earnings from employment, the department shall disregard from monthly earnings the following:

(a) One hundred and eight dollars;

(b) Fifty percent of the remaining earnings that are less than the federal poverty level; and

(c) All actual child care costs necessary for work, except that the department may limit the child care disregard to $175 per month per child or $200 per month per child under 2 years of age or with special needs;

(8) In cases when the TANF recipient has no child care cost, the monthly TANF benefit is the maximum payment level or the difference between the countable earnings and the standard of need established by rule adopted by the department, whichever is lower;

(9) In cases when the TANF recipient has child care costs, the department shall determine a total benefit package, including TANF cash assistance, determined in accordance with subparagraph (7) and additional child care assistance, as provided by rule, necessary to cover the TANF recipient's actual child care costs up to the maximum amount specified in section 3782-A, subsection 5. The benefit amount must be paid as provided in this subparagraph.

(a) Before the first month in which child care assistance is available to an ASPIRE-TANF recipient under this paragraph and periodically thereafter, the department shall notify the recipient of the total benefit package and the following options of the recipient: to receive the total benefit package directly; or to have the department pay the recipient's child care assistance directly to the designated child care provider for the recipient and pay the balance of the total benefit package to the recipient.

(b) If an ASPIRE-TANF recipient notifies the department that the recipient chooses to receive the child care assistance directly, the department shall pay the total benefit package to the recipient.

(c) If an ASPIRE-TANF recipient does not respond or notifies the department of the choice to have the child care assistance paid directly to the child care provider from the total benefit package, the department shall pay the child care assistance directly to the designated child care provider for the recipient. The department shall pay the balance of the total benefit package to the recipient;

(10) Child care assistance under this paragraph must be paid by the department in a prompt manner that permits an ASPIRE-TANF recipient to access child care necessary for work; and

(11) The department shall adopt rules pursuant to Title 5, chapter 375 to implement this subsection. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 22 MRSA §3762, sub-§8, as amended by PL 2007, c. 539, Pt. XX, §2, is further amended to read:

8. Transitional support services. The department shall administer a program of transitional support services in accordance with PRWORA, DRA and this subsection.

A. The department shall administer a program of transitional Medicaid to families receiving benefits under Section 1931 of the federal Social Security Act in accordance with this paragraph.

(1) The department shall provide transitional Medicaid to families whose average gross monthly earnings, less costs to the family for child care necessary for employment, do not exceed 185% of the federal poverty guidelines in accordance with PRWORA and this subsection. In order to receive transitional Medicaid as the result of increased earnings or number of hours worked, a family must have received Medicaid assistance for at least 3 of the last 6 months, except as provided in subparagraph (2).

(2) The department shall provide transitional Medicaid for families whose eligibility for Medicaid assistance terminated due to employment obtained through work search activities pursuant to this chapter, in which case the family must have received Medicaid assistance for at least one of the last 3 months.

(3) To continue to receive transitional Medicaid assistance following the first 6 months of coverage, a family entering the transitional Medicaid program with income above 133% of the federal poverty guidelines must pay premiums in accordance with rules adopted by the department.

(5) The department shall provide transitional Medicaid for 4 months to families whose eligibility for Medicaid assistance terminated due to an increase in the amount of child support received by the family.

(6) The department shall require reporting of income or circumstances for the purpose of determining eligibility and premium payments, copayments or other methods of cost sharing for benefits under this paragraph in accordance with rules adopted by the department.

(7) The scope of services provided under this paragraph must be the same as the scope of services provided when a family received Medicaid assistance.

B. The department shall provide limited transitional transportation benefits to meet employment-related costs to ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment. Benefits ~~must~~ may be provided for ~~90 days~~ up to 12 months following loss of TANF eligibility. The department may adopt rules that impose a weekly limit on available transitional transportation benefits and that require a contribution from each participant toward the cost of transportation.

C. The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked ~~and whose gross income is equal to or less than 85% of the State's median income for a family of comparable size~~. The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked and whose gross income is equal to or less than 250% of the federal poverty guidelines. The department may also make transitional child care services available to families in which one or both adults are working and who, although they remain financially eligible for TANF benefits, request that their benefits be terminated. The family shall pay a premium of 2% to 10% of gross income, based on the family's gross income compared to the federal poverty level in accordance with rules adopted by the department. ~~The department shall establish maximum rates for child care that are at least equal to the 75th percentile of local market rates for various categories of child care and higher rates for children with special needs.~~ Parents must have a choice of child care within the rate established by the department.

D. The department shall provide limited transitional food benefits to meet needs of ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment on or after July 1, 2008. Benefits must be provided for 3 years following loss of TANF eligibility and may not exceed $100 per month per family for the first year, $75 per month per family for the 2nd year and $50 per month per family for the 3rd year.

E. Beginning October 1, 2011, the department shall establish maximum rates for child care that are at least equal to the 75th percentile of local market rates for various categories of child care and higher rates for children with special needs.

Sec. 7. 22 MRSA §3769-C, sub-§2, as enacted by PL 1999, c. 461, §1, is repealed.

Sec. 8. 22 MRSA §3788, sub-§4-A, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

4-A. Family contract amendment. To the extent that sufficient funds, training sites and employment opportunities are reasonably available, the department and a participant in the program shall enter into an amended family contract that must include both the department's and the participant's activities and the support services necessary for the individual to participate in accordance with the assessment ~~and~~, the

federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105 and the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.

Sec. 9. 22 MRSA §3788, sub-§6, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

6. Education, training and employment services. The ASPIRE-TANF program must make available a broad range of education, training and employment services in accordance with section 3781-A, subsection 3 and the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law, 104-193, 110 Stat. 2105 and the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4. These services and activities must include all of those services and activities offered by the Additional Support for People in Retraining and Employment Program on October 1, 1989, except in 2-year and 4-year postsecondary education and except as provided in chapter 1054-B. This section does not prohibit the department from purchasing equivalent services from providers other than those from whom those services were purchased on October 1, 1989. When a particular approved education or training service is available at comparable quality and cost, including the cost of support services, and the implementation of the family contract would not be unreasonably delayed, the program participant may choose to enroll for that service with the provider of that person's preference. If this decision is not mutually agreed to by the participant and the case manager, the decision must be reviewed by the case manager's supervisor. These services do not include reimbursement for the cost of tuition or mandatory fees for postsecondary education unless:

A. The participant is unable to secure other educational funding needed to complete the participant's family contract due to:

(1) Poor credit as determined by the educational funding source; or

(2) The consideration by the educational funding source of resources from past years that are not actually available to the participant;

B. In the determination of the department, failure to pay the tuition or fee would result in higher ASPIRE-TANF program costs to achieve the participant's approved goal; or

C. The participant meets an exception specified in rules adopted by the department.

When a substantially similar postsecondary education or training program of comparable quality is available at both a public and private institution, within a reasonable commuting distance for the participant, the department may choose to approve the program offered at the public institution if the participant's program can be completed at less cost at the institution.

Sec. 10. 22 MRSA §3788, sub-§10, as amended by PL 2005, c. 480, §1, is further amended to read:

10. Program design. The department shall operate the ASPIRE-TANF program ~~under which individual participation is required for a minimum of 20 hours per week in time-limited components that include job search, work evaluation, education, training and treatment and workforce-MaineServe~~ in accordance with the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.

A. Individuals who are ready for jobs may participate in job search at any time. Up-front job search must focus on new recipients who are ready for jobs who are eligible for TANF based on underemployment of the primary wage earner and new single-parent recipients who are ready for jobs and whose children are 5 years of age or older.

B. Work evaluation consists of all activities related to orientation, assessment and initial family contract formulation. Work evaluation is limited to a maximum of 90 days, unless extended by the commissioner or the designee of the commissioner. If an ASPIRE-TANF participant is determined by the department to be job ready, the participant may access the workforce-MaineServe component directly from work evaluation.

C. Except for participants who are accepted into the Parents as Scholars Program established under section 3790, education, training and treatment is limited to a maximum of 24 months, starting with the first day of participation in any allowable and approved job skills or occupational skills training activity. The 24-month period may be extended by the commissioner or the designee of the commissioner for good cause shown.

The department may approve a job skills or occupational training activity longer than 24 months provided the participant agrees to perform a minimum of 20 hours a week of work site experience by no later than the end of the 24-month period. Qualifying work site experience may include, but is not limited to, paid employment, workforce-MaineServe, ASPIRE-Plus, work study, training-related practicums or any other such work site approved by the department. The 24-month period does not include periods of nonactivity in which good cause has been determined.

For individuals who are satisfactorily participating in an education or training program prior to the work evaluation, the department must determine

the acceptability of the activity for purposes of meeting the participation requirements of this chapter using the same criteria as is used for any individual in the ASPIRE-TANF program.

D. Workforce-MaineServe consists of paid employment, subsidized employment, apprenticeships or other mandatory work activities, which may continue until the participant is ineligible for TANF benefits.

Sec. 11. Change of food stamp program to food supplement program. The Department of Health and Human Services shall submit to the Second Regular Session of the 124th Legislature, no later than December 15, 2009, legislation to amend the Maine Revised Statutes to reflect the change in the name of the statewide food stamp program under Title 22, section 3104 to the food supplement program and the name change of the benefits under that program in accordance with this Act.

See title page for effective date.

CHAPTER 292

S.P. 507 - L.D. 1404

An Act To Enact the Maine Uniform Power of Attorney Act

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

Sec. 1. 18-A MRSA Art. 5, Pt. 5, as amended, is repealed.

Sec. 2. 18-A MRSA Art. 5, Pt. 9 is enacted to read:

PART 9

MAINE UNIFORM POWER OF ATTORNEY ACT

SUBPART 1

GENERAL PROVISIONS AND DEFINITIONS

§5-901. Short title

This Part may be known and cited as "the Maine Uniform Power of Attorney Act."

§5-902. Definitions

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

(a). "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise. The term includes an original agent, coagent, successor agent and a person to which an agent's authority is delegated.

(b). "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(c). "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(d). "Good faith" means honesty in fact.

(e). "Incapacity" means inability of an individual to effectively manage property or business affairs because the individual:

(1). Is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause to the extent that the individual lacks sufficient understanding, capacity or ability to receive and evaluate information or make or communicate decisions regarding the individual's property or business affairs; or

(2). Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

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

(g). "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used.

(h). "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(i). "Principal" means an individual who grants authority to an agent in a power of attorney.

(j). "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

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

(l). "Registered domestic partner" means an individual registered as a domestic partner under Title 22, section 2710, subsection 3.

(m). "Sign" means, with present intent to authenticate or adopt a record:

(1). To execute or adopt a tangible symbol; or

(2). To attach to or logically associate with the record an electronic sound, symbol or process.

(n). "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(o). "Stocks and bonds" means stocks, bonds, mutual funds and all other types of securities and financial instruments, whether held directly, indirectly or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

§5-903. Applicability

This Part applies to all powers of attorney except:

(a). A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(b). A power to make health care decisions;

(c). A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(d). A power created on a form prescribed by a government or governmental subdivision, agency or instrumentality for a governmental purpose.

§5-904. Power of attorney is durable

A power of attorney created under this Part is durable unless it expressly provides that it is terminated by the incapacity of the principal.

§5-905. Execution of power of attorney; notices

(a). A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments. A power of attorney under this Part is not valid unless it is acknowledged before a notary public or other individual authorized by law to take acknowledgments.

(b). A durable power of attorney under this Part is not valid unless it contains the following notices substantially in the following form:

"Notice to the Principal: As the "Principal" you are using this power of attorney to grant power to another person (called the Agent) to make decisions about your property and to use your property on your behalf. Under this power of attorney you give your Agent broad and sweeping powers to sell or otherwise dispose of your property without notice to you. Under this document your Agent will continue to have these powers after you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Uniform Power of Attorney Act, Maine Revised Statutes, Title 18-A, Article 5, Part 9. You have the right to revoke this power of attorney at any time as long as you are not incapacitated. If there is anything about this power of attorney that you do not understand you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" you are given power under this power of attorney to make decisions about the property belonging to the Principal and to dispose of the Principal's property on the Principal's behalf in accordance with the terms of this power of attorney. This power of attorney is valid only if the Principal is of sound mind when the Principal signs it. When you accept the authority granted under this power of attorney a special legal relationship is created between you and the Principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. The duties are more fully explained in the Maine Uniform Power of Attorney Act, Maine Revised Statutes, Title 18-A, Article 5, Part 9 and Title 18-B, sections 802 to 807 and Title 18-B, chapter 9. As the Agent, you are generally not entitled to use the Principal's property for your own benefit or to make gifts to yourself or others unless the power of attorney gives you such authority. If you violate your duty under this power of attorney you may be liable for damages and may be subject to criminal prosecution. You must stop acting on behalf of the Principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events of termination are more fully explained in the Maine Uniform Power of Attorney Act and include, but are not limited to, revocation of your authority or of the power of attorney by the Principal, the death of the Principal or the commencement of divorce proceedings between you and the Principal. If there is anything about this power of attorney or your duties under it that you do not understand you should ask a lawyer to explain it to you."

§5-906. Validity of power of attorney

(a). A power of attorney executed in this State on or after July 1, 2010 is valid if its execution complies with section 5-905.

(b). A power of attorney executed in this State before July 1, 2010 is valid if its execution complied with the law of this State as it existed at the time of execution.

(c). A power of attorney executed other than in this State is valid in this State if, when the power of attorney was executed, the execution complied with:

(1). The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 5-907; or

(2). The requirements for a military power of attorney pursuant to 10 United States Code, Section 1044b, as amended.

(d). Except as otherwise provided by statute other than this Part, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

§5-907. Meaning and effect of power of attorney

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

§5-908. Nomination of conservator or guardian; relation of agent to court-appointed fiduciary

(a). In a power of attorney, a principal may nominate a conservator of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b). If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended or terminated by the court.

§5-909. When power of attorney effective

(a). A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b). If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c). If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1). A physician that the principal is incapacitated within the meaning of section 5-902, subsection (e), paragraph (1); or

(2). An attorney at law, a judge or an appropriate governmental official that the principal is incapacitated within the meaning of section 5-902, subsection (e), paragraph (2).

(d). A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, 42 United States Code, Section 1320d, et seq., as amended, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

§5-910. Termination of power of attorney or agent's authority

(a). A power of attorney terminates when:

(1). The principal dies;

(2). The principal becomes incapacitated, if the power of attorney is not durable;

(3). The principal revokes the power of attorney;

(4). The power of attorney provides that it terminates;

(5). The purpose of the power of attorney is accomplished; or

(6). The principal revokes the agent's authority or the agent dies, becomes incapacitated or resigns and the power of attorney does not provide for another agent to act under the power of attorney.

(b). An agent's authority terminates:

(1). When the principal revokes the authority;

(2). When the agent dies, becomes incapacitated or resigns;

(3). When an action is filed for the termination or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides;

(4). Upon the sooner to occur of either the marriage of the principal to a person other than the agent if upon or after execution of the power of attorney the principal and the agent are or became registered domestic partners, the filing with the domestic partner registry, in accordance with Title 22, section 2710, subsection 4, of a notice consenting to the termination of a registered domestic partnership of the principal and the agent or upon service, in accordance with Title 22, section 2710, subsection 4, of a notice of intent to terminate the registered domestic partnership of the principal and the agent; or

(5). The power of attorney terminates.

(c). Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b), notwithstanding a lapse of time since the execution of the power of attorney.

(d). Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(e). Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(f). The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

§5-911. Coagents and successor agents

(a). A principal may designate 2 or more persons to act as coagents. Unless the power of attorney otherwise provides, each coagent may exercise its authority independently.

(b). A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office or function. Unless the power of attorney otherwise provides, a successor agent:

(1). Has the same authority as that granted to the original agent; and

(2). May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve or have declined to serve.

(c). Except as otherwise provided in the power of attorney and subsection (d), an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(d). An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's interests. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

§5-912. Reimbursement and compensation of agent

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances. The factors set forth in section 3-721, subsection (b) should be considered as guides in determining the reasonableness of compensation under this section.

§5-913. Agent's acceptance

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

§5-914. Agent's duties

(a). Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(1). Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise act as a fiduciary under the standards of care applicable to trustees as described under Title 18-B, sections 802 to 807 and Title 18-B, chapter 9;

(2). Act in good faith; and

(3). Act only within the scope of authority granted in the power of attorney.

(b). Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(1). Act loyally for the principal's benefit;

(2). Act so as not to create a conflict of interest that impairs the agent's ability to act impartially;

(3). Act with the care, competence and diligence ordinarily exercised by agents in similar circumstances;

(4). Keep a record of all receipts, disbursements and transactions made on behalf of the principal;

(5). Cooperate with a person that has authority to make health care decisions for the principal to carry out such decisions; and

(6). Attempt to preserve the principal's estate plan, to the extent actually known by the agent, based on all relevant factors, including:

(i) The value and nature of the principal's property;

(ii) The principal's foreseeable obligations and need for maintenance;

(iii) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes; and

(iv) Eligibility for a benefit, a program or assistance under a statute, rule or regulation.

(c). An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(d). An agent that acts with care, competence and diligence for the sole interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(e). If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence and diligence under the circumstances.

(f). Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(g). An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment or default of that person if the agent exercises care, competence and diligence in selecting and monitoring the person.

(h). Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

§5-915. Exoneration of agent

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(a). Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive or with reckless indifference to the purposes of the power of attorney; or

(b). Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

§5-916. Judicial relief

(a). The following persons may petition the Probate Court or the Superior Court for the county in which either the principal or the agent resides to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(1). The principal or the agent;

(2). A guardian, conservator or other fiduciary acting for the principal;

(3). A person authorized to make health care decisions for the principal;

(4). The principal's spouse, registered domestic partner, parent or descendant;

(5). An individual who would qualify as a presumptive heir of the principal;

(6). A person named as a beneficiary to receive any property, benefit or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(7). A governmental agency having regulatory authority to protect the welfare of the principal;

(8). The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(9). A person asked to accept the power of attorney.

(b). Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

§5-917. Agent's liability

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(a). Restore the value of the principal's property to what it would have been had the violation not occurred; and

(b). Reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf.

§5-918. Agent's resignation; notice

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(a). To the conservator or guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(b). If there is no person described in subsection (a), to:

(1). The principal's caregiver;

(2). Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(3). A governmental agency having authority to protect the welfare of the principal.

§5-919. Acceptance of and reliance upon acknowledged power of attorney

(a). For purposes of this section and section 5-920, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b). A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 5-905 that the signature is genuine.

(c). A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid or terminated, that the purported agent's authority is void, invalid or terminated or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect and the agent had not exceeded and had properly exercised the authority.

(d). A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(1). An agent's certification under penalty of perjury of any factual matter concerning the principal, agent or power of attorney;

(2). An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(3). An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(e). An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than 7 business days after the power of attorney is presented for acceptance.

(f). For purposes of this section and section 5-920, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

§5-920. Liability for refusal to accept acknowledged power of attorney

(a). Except as otherwise provided in subsection (b):

(1). A person shall either accept an acknowledged power of attorney or request a certification, a translation or an opinion of counsel under section 5-919, subsection (d) no later than 7 business days after presentation of the power of attorney for acceptance;

(2). If a person requests a certification, a translation or an opinion of counsel under section 5-919, subsection (d), the person shall accept the power of attorney no later than 5 business days after receipt of the certification, translation or opinion of counsel; and

(3). A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(b). A person is not required to accept an acknowledged power of attorney if:

(1). The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2). Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(3). The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(4). A request for a certification, a translation or an opinion of counsel under section 5-919, subsection (d) is refused;

(5). The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation or an opinion of counsel under section 5-919, subsection (d) has been requested or provided; or

(6). The person has a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation or abandonment by the agent or a person acting for or with the agent and the person makes, or has actual knowledge that another person has made, a report to the Department of Health and Human Services regarding such beliefs.

(c). A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(1). A court order mandating acceptance of the power of attorney; and

(2). Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

§5-921. Principles of law and equity

Unless displaced by a provision of this Part, the principles of law and equity supplement this Part.

§5-922. Laws applicable to financial institutions and entities

This Part does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this Part.

§5-923. Remedies under other law

The remedies under this Part are not exclusive and do not abrogate any right or remedy under the law of this State other than this Part.

SUBPART 2

AUTHORITY

§5-931. Authority that requires specific grant; grant of general authority

(a). An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(1). Create, amend, revoke or terminate an inter vivos trust;

(2). Make a gift;

(3). Create or change rights of survivorship;

(4). Create or change a beneficiary designation;

(5). Delegate authority granted under the power of attorney;

(6). Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7). Exercise fiduciary powers that the principal has authority to delegate; or

(8). Disclaim property, including a power of appointment.

(b). Notwithstanding a grant of authority to do an act described in subsection (a), unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, registered domestic partner or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.

(c). Subject to subsections (a), (b), (d) and (e), if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 5-934 through 5-946.

(d). Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 5-947.

(e). Subject to subsections (a), (b) and (d), if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(f). Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

(g). An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

§5-932. Incorporation of authority

(a). An agent has authority described in this subpart if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 5-934 through 5-947 or cites the section in which the authority is described.

(b). A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 5-934 through 5-947 or a citation to a section of sections 5-934 through 5-947 incorporates the entire section as if it were set out in full in the power of attorney.

(c). A principal may modify authority incorporated by reference.

§5-933. Construction of authority generally

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 5-934 through 5-947 or that grants to an agent authority to do all acts that a principal could do pursuant to section 5-931, subsection (c), a principal authorizes the agent, with respect to that subject, to:

(a). Demand, receive and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become or claims to be entitled and conserve, invest, disburse or use anything so received or obtained for the purposes intended;

(b). Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release or modify the contract or another contract made by or on behalf of the principal;

(c). Execute, acknowledge, seal, deliver, file or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(d). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(e). Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(f). Engage, compensate and discharge an attorney, accountant, discretionary investment manager, expert witness or other advisor;

(g). Prepare, execute and file a record, report or other document to safeguard or promote the principal's interest under a statute, rule or regulation;

(h). Communicate with any representative or employee of a government or governmental subdivision, agency or instrumentality on behalf of the principal;

(i). Access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone or other means; and

(j). Do any lawful act with respect to the subject and all property related to the subject.

§5-934. Real property

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(a). Demand, buy, lease, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject an interest in real property or a right incident to real property;

(b). Sell; exchange; convey with or without covenants, representations or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(c). Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(d). Release, assign, satisfy or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien or other claim to real property that exists or is asserted;

(e). Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1). Insuring against liability or casualty or other loss;

(2). Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3). Paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4). Purchasing supplies, hiring assistance or labor and making repairs or alterations to the real property;

(f). Use, develop, alter, replace, remove, erect or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(g). Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1). Selling or otherwise disposing of them;

(2). Exercising or selling an option, right of conversion or similar right with respect to them; and

(3). Exercising any voting rights in person or by proxy;

(h). Change the form of title of an interest in or right incident to real property; and

(i). Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

§5-935. Tangible personal property

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(a). Demand, buy, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(b). Sell; exchange; convey with or without covenants, representations or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(c). Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(d). Release, assign, satisfy or enforce by litigation or otherwise a security interest, lien or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property;

(e). Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1). Insuring against liability or casualty or other loss;

(2). Obtaining or regaining possession of or protecting the property or interest by litigation or otherwise;

(3). Paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with them;

(4). Moving the property from place to place;

(5). Storing the property for hire or on a gratuitous bailment;

(6). Using and making repairs, alterations or improvements to the property; and

(7). Changing the form of title of an interest in tangible personal property.

§5-936. Stocks and bonds

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(a). Buy, sell and exchange stocks and bonds;

(b). Establish, continue, modify or terminate an account with respect to stocks and bonds;

(c). Pledge stocks and bonds as security to borrow, pay, renew or extend the time of payment of a debt of the principal;

(d). Receive certificates and other evidences of ownership with respect to stocks and bonds; and

(e). Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts and consent to limitations on the right to vote.

§5-937. Commodities and options

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(a). Buy, sell, exchange, assign, settle and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(b). Establish, continue, modify and terminate option accounts.

§5-938. Banks and other financial institutions

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(a). Continue, modify and terminate an account or other banking arrangement made by or on behalf of the principal;

(b). Establish, modify and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm or other financial institution selected by the agent;

(c). Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(d). Withdraw, by check, order, electronic funds transfer or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(e). Receive statements of account, vouchers, notices and similar documents from a financial institution and act with respect to them;

(f). Enter a safe deposit box or vault and withdraw or add to the contents;

(g). Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(h). Make, assign, draw, endorse, discount, guarantee and negotiate promissory notes, checks, drafts and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions and accept a draft drawn by a person upon the principal and pay it when due;

(i). Receive for the principal and act upon a sight draft, warehouse receipt or other document of title, whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(j). Apply for, receive and use letters of credit, credit and debit cards, electronic transaction authorizations and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(k). Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

§5-939. Operation of entity or business

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(a). Operate, buy, sell, enlarge, reduce or terminate an ownership interest;

(b). Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege or option that the principal has, may have or claims to have;

(c). Enforce the terms of an ownership agreement;

(d). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(e). Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege or option the principal has or claims to have as the holder of stocks and bonds;

(f). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(g). With respect to an entity or business owned solely by the principal:

(1). Continue, modify, renegotiate, extend and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(2). Determine:

(i) The location of its operation;

(ii) The nature and extent of its business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting and advertising employed in its operation;

(iv) The amount and types of insurance carried; and

(v) The mode of engaging, compensating and dealing with its employees and accountants, attorneys or other advisors;

(3). Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4). Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(h). Put additional capital into an entity or business in which the principal has an interest;

(i). Join in a plan of reorganization, consolidation, conversion, domestication or merger of the entity or business;

(j). Sell or liquidate all or part of an entity or business;

(k). Establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(l). Prepare, sign, file and deliver reports, compilations of information, returns or other papers with respect to an entity or business and make related payments; and

(m). Pay, compromise or contest taxes, assessments, fines or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines or penalties, with respect to an entity or business, including attempts to recover, in

any manner permitted by law, money paid before or after the execution of the power of attorney.

§5-940. Insurance and annuities

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(a). Continue, pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(b). Procure new, different and additional contracts of insurance and annuities for the principal and the principal's spouse, registered domestic partner, children and other dependents and select the amount, type of insurance or annuity and mode of payment;

(c). Pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract of insurance or annuity procured by the agent;

(d). Apply for and receive a loan secured by a contract of insurance or annuity;

(e). Surrender and receive the cash surrender value on a contract of insurance or annuity;

(f). Exercise an election;

(g). Exercise investment powers available under a contract of insurance or annuity;

(h). Change the manner of paying premiums on a contract of insurance or annuity;

(i). Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(j). Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(k). Collect, sell, assign, hypothecate, borrow against or pledge the interest of the principal in a contract of insurance or annuity;

(l). Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(m). Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

§5-941. Estates, trusts and other beneficial interests

(a). As used in this section, "estate, trust and other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow or custodianship or a fund from which the principal is, may become or claims to be entitled to a share or payment.

(b). Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts and other beneficial interests authorizes the agent to:

(1). Accept, receive, receipt for, sell, assign, pledge or exchange a share in or payment from the fund;

(2). Demand or obtain money or another thing of value to which the principal is, may become or claims to be entitled by reason of the fund, by litigation or otherwise;

(3). Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to ascertain the meaning, validity or effect of a deed, will, declaration of trust or other instrument or transaction affecting the interest of the principal;

(5). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to remove, substitute or surcharge a fiduciary;

(6). Conserve, invest, disburse or use anything received for an authorized purpose; and

(7). Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities and other property to the trustee of a revocable trust created by the principal as settler.

§5-942. Claims and litigation

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(a). Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability or seek an injunction, specific performance or other relief;

(b). Bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(c). Seek an attachment, garnishment, order of arrest or other preliminary, provisional or intermediate relief and use an available procedure to effect or satisfy a judgment, order or decree;

(d). Make or accept a tender, offer of judgment or admission of facts, submit a controversy on an agreed statement of facts, consent to examination and bind the principal in litigation;

(e). Submit to alternative dispute resolution, settle and propose or accept a compromise;

(f). Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement or other instrument in connection with the prosecution, settlement or defense of a claim or litigation;

(g). Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(h). Pay a judgment, award or order against the principal or a settlement made in connection with a claim or litigation; and

(i). Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

§5-943. Personal and family maintenance

(a). Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(1). Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse or the principal's registered domestic partner and the following individuals, whether living when the power of attorney is executed or later born:

(i) Individuals legally entitled to be supported by the principal; and

(ii) Individuals whom the principal has customarily supported or indicated the intent to support;

(2). Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3). Provide living quarters for the individuals described in paragraph (1) by:

(i) Purchase, lease or other contract; or

(ii) Paying the operating costs, including interest, amortization payments, repairs, improvements and taxes, for premises owned by the principal or occupied by those individuals;

(4). Provide normal domestic help, usual vacations and travel expenses and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in paragraph (1);

(5). Pay expenses for necessary health care and custodial care on behalf of the individuals described in paragraph (1);

(6). Act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, 42 United States Code, Section 1320d et seq., as amended, and applicable regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

(7). Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing them, for the individuals described in paragraph (1);

(8). Maintain credit and debit accounts for the convenience of the individuals described in paragraph (1) and open new accounts; and

(9). Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or to continue contributions to those organizations.

(b). Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this Part.

§5-944. Benefits from governmental programs or civil or military service

(a). As used in this section, "benefit from governmental programs or civil or military service" means any benefit, program or assistance provided under a

statute, rule or regulation including Social Security, Medicare and Medicaid.

(b). Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(1). Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 5-943, subsection (a), paragraph (1) and for shipment of their household effects;

(2). Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for that purpose;

(3). Enroll in, apply for, select, reject, change, amend or discontinue, on the principal's behalf, a benefit or program;

(4). Prepare, file and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute, rule or regulation;

(5). Initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute, rule or regulation; and

(6). Receive the financial proceeds of a claim described in subsection (4) and conserve, invest, disburse or use for a lawful purpose anything so received.

§5-945. Retirement plans

(a). As used in this section, "retirement plan" means a plan or account created by an employer, the principal or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary or owner, including a plan or account under the following sections of the federal Internal Revenue Code:

(1). An individual retirement account under 26 United States Code, Section 408, as amended;

(2). A Roth individual retirement account under 26 United States Code, Section 408A, as amended;

(3). A deemed individual retirement account under 26 United States Code, Section 408(q), as amended;

(4). An annuity or mutual fund custodial account under 26 United States Code, Section 403(b), as amended;

(5). A pension, profit-sharing, stock bonus or other retirement plan qualified under 26 United States Code, Section 401(a), as amended;

(6). A plan under 26 United States Code, Section 457(b), as amended; and

(7). A nonqualified deferred compensation plan under 26 United States Code, Section 409A, as amended.

(b). Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(1). Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(2). Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3). Establish a retirement plan in the principal's name;

(4). Make contributions to a retirement plan;

(5). Exercise investment powers available under a retirement plan; and

(6). Borrow from, sell assets to or purchase assets from a retirement plan.

§5-946. Taxes

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(a). Prepare, sign and file federal, state, local and foreign income, gift, payroll, property, Federal Insurance Contributions Act and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under 26 United States Code, Section 2032A, as amended, closing agreements and any power of attorney required by the federal Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(b). Pay taxes due, collect refunds, post bonds, receive confidential information and contest deficiencies determined by the federal Internal Revenue Service or other taxing authority;

(c). Exercise any election available to the principal under federal, state, local or foreign tax law; and

(d). Act for the principal in all tax matters for all periods before the federal Internal Revenue Service or other taxing authority.

§5-947. Gifts

(a). As used in this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Maine Uniform Transfers to Minors Act and a tuition savings account or prepaid tuition plan as defined under 26 United States Code, Section 529, as amended.

(b). An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if known by the agent and, if unknown, as the agent determines is consistent with the principal's objectives based on all relevant factors, including:

(1). The value and nature of the principal's property;

(2). The principal's foreseeable obligations and need for maintenance;

(3). Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes;

(4). Eligibility for a benefit, a program or assistance under a statute, rule or regulation; and

(5). The principal's personal history of making or joining in making gifts.

SUBPART 3

STATUTORY FORMS

§5-951. Agent's certification

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of .....

County of .....

I, ...(Name of Agent), certify under penalty of perjury that .....(Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated ..... .

I further certify that to my knowledge:

(1) The Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) If the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4)

.....

.....

.....

.....

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

....

Agent's Signature Date

.....

Agent's Name Printed

.....

Agent's Address

.....

Agent's Telephone Number

This document was acknowledged before me on

.....

(Date)

by .....

(name of Agent)

..... (Seal, if any)

Signature of Notary/Attorney

My commission expires: .....

This document prepared by:

.....

SUBPART 4

MISCELLANEOUS PROVISIONS

§5-961. Uniformity of application and construction

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

§5-962. Relation to Electronic Signatures in Global and National Commerce Act

This Part modifies, limits and supersedes the federal Electronic Signatures in Global and National

Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in 15 United States Code, Section 7003(b).

§5-963. Effect on existing powers of attorney

Except as otherwise provided in this Part, on July 1, 2010:

(a). This Part applies to a power of attorney created before, on or after July 1, 2010;

(b). This Part applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2010; and

(c). This Part applies to a judicial proceeding concerning a power of attorney commenced before July 1, 2010, unless the court finds that application of a provision of this Part would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.

An act done before July 1, 2010 is not affected by this Part.

§5-964. Effective date

This Part takes effect July 1, 2010.

Sec. 3. 22 MRSA §1711-C, sub-§1, ¶A, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-A, section 5-802; ~~attorney-in-fact~~ agent pursuant to Title 18-A, ~~section 5-506~~ Article 5, Part 9; or other authorized representative or, after death, that person's personal representative or a person identified in subsection 3-B. For a minor who has not consented to health care treatment in accordance with the provisions of state law, "authorized representative" means the minor's parent, legal guardian or guardian ad litem.

Sec. 4. 22 MRSA §8621, sub-§6, as enacted by PL 1993, c. 692, §1, is amended to read:

6. Durable health care power of attorney. "Durable health care power of attorney" has the same meaning as "power of attorney for health care" contained in Title 18-A, section ~~5-506~~ 5-801.

Sec. 5. Legislative intent. This Act is the Maine enactment of the Uniform Power of Attorney Act as approved by the National Conference of Commissioners on Uniform State Laws in 2006. The text of the uniform act has been changed to conform to Maine statutory conventions. Unless otherwise noted in a Maine comment, the changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the Uniform Power of Attorney Act.

Sec. 6. Effective date. This Act takes effect July 1, 2010.

Effective July 1, 2010.

CHAPTER 293

H.P. 887 - L.D. 1268

An Act To Update the Site Location of Development Laws

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

Sec. 1. 38 MRSA §484, sub-§1, as amended by PL 1995, c. 287, §1, is further amended to read:

1. Financial capacity and technical ability. The developer has the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon a developer providing the commissioner with evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in ~~this~~ the State as defined in Title 9-B, section 131, subsection 17-A or with evidence of any other form of financial assurance the board determines by rule to be adequate.

Sec. 2. 38 MRSA §485-A, sub-§1-C, as amended by PL 2005, c. 602, §5, is further amended to read:

1-C. Long-term construction projects. The department shall adopt rules ~~allowing the option of, and~~ identifying requirements for ~~, a planning permit~~ a long-term construction project that ~~allows~~ allow approval of development within a specified area and within specified parameters such as maximum area~~,~~ and groundwater usage ~~and traffic generation~~, although the specific nature and extent of the development or timing of construction may not be known at the time ~~the~~ a permit for the long-term construction project is issued. The location and parameters of the development must meet the standards of this article. This ~~alternative is not available for~~ subsection does not apply to metallic mineral mining or advanced exploration activities. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

~~If the department determines that full compliance with new or amended rules enacted after a planning permit was issued will significantly alter the plan for the development, the department may require the permittee to comply with the rules in effect at the time of issu-~~

~~ance of the planning permit and, to the extent practicable, to comply with additional requirements or standards in the new or amended rules for any remaining portion of the development for which final submissions have not been provided. The department may not require significant alteration of constructed or permitted infrastructure authorized by the planning permit, or subsequent approvals designed to serve future development phases in existence at the time of the new or amended rules in assessing practicability.~~

~~For purposes of this subsection, "practicable" means available and feasible considering cost, existing technology and logistics based on the overall purpose of the project as authorized in the planning permit.~~

Sec. 3. 38 MRSA §486-B is enacted to read:

§486-B. General permit authority; Department of Transportation and Maine Turnpike Authority developments

1. Authorization. The department may issue a general permit for all or a subclass of developments constructed or caused to be constructed or operated or caused to be operated by the Department of Transportation or the Maine Turnpike Authority that require approval pursuant to this article.

2. Standards. A development authorized by a general permit is required to meet all applicable requirements under and rules adopted pursuant to this article. In a general permit the department may:

A. Rely upon the Department of Transportation's or the Maine Turnpike Authority's environmental procedures and standard practices for purposes of approving a development if the department determines that such practices meet or exceed the requirements of and rules adopted pursuant to this article. This reliance may occur although the Department of Transportation's or the Maine Turnpike Authority's environmental procedures and standard practices have not been adopted through rulemaking and minor changes to such procedures and practices occur without prior review by the department;

B. Provide for reduced submissions or less review than would otherwise be required for an individual permit; and

C. Set forth specific requirements, terms and conditions.

For purposes of any enforcement under this subsection, the department may rely upon the standards of and rules adopted pursuant to this article, although the department may have relied upon the Department of Transportation's or the Maine Turnpike Authority's environmental procedures and standard practices for purposes of approval.

3. Review. The department may approve:

A. A specific development upon receipt and review of a notice of intent under subsection 4, paragraph A to comply with standards in the general permit for the specific development from the Department of Transportation or the Maine Turnpike Authority; or

B. A notice of intent under subsection 4 prior to receipt of a final design for a development, as long as any requirements in a general permit for the approval are met.

4. Procedure. Procedures for a general permit under this section include:

A. A notice of intent must be submitted on a form provided by the department and contain information required by the department that is necessary to determine whether standards will be met; and

B. If a general permit provides for approval of a notice of intent under paragraph A prior to submission of final designs to the department, then following submission of the designs the department may require that changes in design be made where necessary to conform with applicable standards.

The Department of Transportation or the Maine Turnpike Authority may choose to apply for an individual permit for a development rather than file a notice of intent under paragraph A.

The department may require the Department of Transportation or the Maine Turnpike Authority to file for an individual permit for a development that would otherwise be authorized to file a notice of intent under paragraph A as provided for in the general permit.

5. Approval. A development authorized under a general permit is considered to be approved by the department upon approval by the department of a notice of intent under subsection 4, paragraph A. The permit must include the text of the general permit and the department's approval of the notice of intent under subsection 4. The department may condition its approval of the notice of intent as necessary to ensure compliance with standards under a general permit.

6. Fee. The department may not charge a fee for processing and approval of a notice of intent under subsection 4, paragraph A.

7. Modification of general permit. Notwithstanding section 341-D, the department may modify a general permit through notification of the Department of Transportation or the Maine Turnpike Authority. The department shall modify a general permit whenever rules adopted pursuant to this article are enacted or modified and may modify a general permit as otherwise necessary to provide for efficient administration and conformance with department standards.

8. Modification of notice of intent. The department shall provide for application and approval of modification of the notice of intent in any general permit.

Sec. 4. 38 MRSA §489-A, sub-§2, as amended by PL 1999, c. 243, §19, is further amended to read:

2. Registration. The commissioner shall register municipalities to grant permits for projects under subsection ~~1-B~~ 1 if the commissioner finds that the municipality meets all of the following criteria:

A. A municipal planning board or reviewing authority is established;

B. A comprehensive plan consistent with Title 30-A, chapter 187 has been adopted with standards and objectives determined by the department to be at least as stringent as this article;

C. Subdivision regulations have been adopted that are consistent with Title 30-A, chapter 187, and determined by the commissioner to be at least as stringent as criteria set forth in section 484;

D. Site plan review regulations have been adopted with criteria determined by the commissioner to be at least as stringent as section 484;

E. The municipality has adequate resources to administer and enforce the provisions of its ordinances;

F. Procedures for public hearing and notification have been established including:

(1) Notice to the commissioner upon receipt of an application, including a description of the project;

(2) Notice of issuance and denial to the applicant and commissioner, including the reason for denial;

(3) Public notification of the application and any hearings; and

(4) Satisfactory hearing procedures;

G. Procedures for appeal by aggrieved parties of local decisions are defined; and

H. A registration form, provided by the commissioner, has been completed and submitted by the municipality, demonstrating compliance with the criteria under this subsection.

Sec. 5. 38 MRSA §490-D, sub-§1, as amended by PL 2007, c. 616, §3, is further amended to read:

1. Significant wildlife habitat and other protected areas. Affected land may not be located in, on or over a significant wildlife habitat or other type of protected natural resource, as defined in section 480-B, or in an area listed pursuant to the Natural Areas Program, Title 12, section 544. The department may allow excavation to occur ~~in, on or over a significant wildlife habitat or other type of protected natural resource provided~~ under this section as long as a permit is obtained pursuant to article 5-A. Permit requirements for certain excavations in, on or over high and moderate value inland waterfowl and wading bird habitat are also governed by section 480-GG.

Sec. 6. 38 MRSA §490-Z, sub-§1, as amended by PL 2007, c. 616, §6, is further amended to read:

1. Significant wildlife habitat and other protected areas. Affected land may not be located in, on or over a significant wildlife habitat or other type of protected natural resource, as defined in section 480-B, or in an area listed pursuant to the Natural Areas Program, Title 12, section 544. The department may allow excavation to occur ~~in, on or over a significant wildlife habitat or other type of protected natural resource provided~~ under this section as long as a permit is obtained pursuant to article 5-A. Permit ~~requirement~~ requirements for certain excavations in, on or over high and moderate value inland waterfowl and wading bird habitat are also governed by section 480-GG.

Sec. 7. Report. The Department of Environmental Protection shall review the storm water management provisions in the Maine Revised Statutes, Title 38, section 420-D and the site location of development provisions of Title 38, chapter 3, subchapter 1, article 6 that provide for the registration of municipalities for the authority to substitute local permits for state permits and exempt developments or projects from permitting or specified standards within certain municipalities or portions of municipalities. The department shall also consider whether these provisions may need to be amended in light of changes in the regulation of storm water discharges under Title 38, section 413. The department shall report concerning its review and recommend any needed statutory changes on this or related subjects to the Joint Standing Committee on Natural Resources by January 15, 2010. The committee is authorized to submit a bill related to this report to the Second Regular Session of the 124th Legislature at the time of submission of the report.

See title page for effective date.

CHAPTER 294

H.P. 851 - L.D. 1231

An Act To Protect the Long-term Viability of Island Lobster Fishing Communities

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

Sec. 1. 12 MRSA §6448, sub-§8, ¶E is enacted to read:

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 or 6475 or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program.

Sec. 2. 12 MRSA §6449 is enacted to read:

§6449. Island limited-entry programs

An island limited-entry program may be established pursuant to this section in order to maintain a number of licenses appropriate for the needs of an island community and the local lobster resource.

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by 2/3 of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by 2/3 of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

2. No longer resident. An individual who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program but who no longer wishes to maintain residency on the island is subject to the following requirements.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license and maintained residency on the island for a period of not less than 8 years and who can document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and fish elsewhere in the lobster management zone in which the island is located without going on a waiting list as established in section 6448.

B. A person who holds a Class I, Class II or Class III lobster and crab fishing license and who either has maintained residency on the island for less than 8 years or who has maintained residency on the island for at least 8 years but cannot document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and become eligible to fish elsewhere in the lobster management zone in which the island is located if that person complies with the waiting list requirement established in accordance with section 6448.

3. Restriction. This section applies only to an island in the coastal waters with a year-round community that is not connected to the mainland by an artificial structure.

4. Rules. The commissioner shall adopt rules to implement the island limited-entry program. The rules must include but are not limited to:

A. A definition of residency on an island;

B. Allowances for the temporary absence from an island due to a medical condition or educational requirements; and

C. Providing for an opportunity for increasing the number of Class I, Class II or Class III lobster and crab fishing license holders on an island, if appropriate, based on the characteristics of the island and the lobster resource.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 295

H.P. 888 - L.D. 1269

An Act To Clarify the Laws Regarding Significant Groundwater Wells

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

Sec. 1. 38 MRSA §480-B, sub-§9-A, as enacted by PL 2007, c. 399, §10, is amended to read:

9-A. Significant groundwater well. "Significant groundwater well" is defined as follows.

A. "Significant groundwater well" means any well, wellfield, excavation or other structure, device or method used to obtain groundwater that is:

(1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or

(2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.

Withdrawals of water for firefighting or preoperational capacity testing are not applied toward these thresholds.

B. "Significant groundwater well" does not include:

(1) A public water system as defined in Title 22, section 2601, subsection 8 ~~other than a public water system used solely to bottle water for sale;~~, except that "significant groundwater well" includes:

(a) A public water system used solely to bottle water for sale; and

(b) Any portion of a public water system that is:

(i) Constructed on or after January 1, 2009;

(ii) Used solely to bottle water for sale; and

(iii) Not connected to another portion of the public water system through pipes intended to convey water.

For purposes of this paragraph, a public water system that is used solely to bottle water for sale includes a public water system that bottles water for sale and may provide a de minimus amount of water for other purposes, such as employee or other use, as determined by the department;

(2) Individual home domestic supply;

(3) Agricultural use or storage;

(3-A) Dewatering of a mining operation;

(4) A development or part of a development requiring a permit pursuant to article 6, article 7 or article 8-A; or

(5) A structure or development requiring a permit from the Maine Land Use Regulation Commission.

Sec. 2. PL 2007, c. 399, §13 is amended to read:

Sec. 13. Transition. If a person who requires a permit for establishment or operation of a significant groundwater well from the Department of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 480-C is authorized to transport water pursuant to Title 22, section 2660-A on ~~the effective date of this Act~~ September 20, 2007 and applies for a permit for establishment or operation of the significant groundwater well prior to expiration of the water transport authorization, the person may continue to withdraw water until final agency action on the permit application.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A.

Sec. 3. PL 2007, c. 399, §14 is amended to read:

Sec. 14. Rulemaking public information meetings. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall amend their rules to require that a public information meeting be held prior to submission of an application for a significant groundwater well or project including a significant groundwater well unless the project already has a public information meeting requirement. The public information meeting must meet the requirements for public information meetings contained in the Department of Environmental Protection's rule concerning the processing of applications and other administrative matters. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A, except that a development or part of a development requiring a permit pursuant to Title 38, chapter 3, subchapter 1, article 6 or a structure or development requiring a permit from the Maine Land Use Regulation Commission is not excluded from the definition of "significant groundwater well."

This section applies to a significant groundwater well that requires approval pursuant to Title 12, chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6.

Sec. 4. PL 2007, c. 399, §15 is amended to read:

Sec. 15. Rulemaking independent monitoring; fees. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall periodically contract with independent environmental professionals to provide a technical review and assessment of monitoring information submitted to the Department of Environmental Protection or the Maine Land Use Regulation Commission related to significant groundwater wells that are part of projects or developments permitted under the Maine Revised Statutes, Title 12, chapter 206-A or Title 38, chapter 3, subchapter 1, article 5-A or 6, and each shall through rulemaking develop a fee structure to provide funding for the contracts. Rules adopted pursuant to this section are routine technical rules as defined in ~~the Maine Revised Statutes,~~ Title 5, chapter 375, subchapter 2-A.

For purposes of this section, "significant groundwater well" has the same meaning as in the Maine Revised Statutes, Title 38, section 480-B, subsection 9-A, except that a development or part of a development requiring a permit pursuant to Title 38, chapter 3, subchapter 1, article 6 or a structure or development requiring a permit from the Maine Land Use Regulation Commission is not excluded from the definition of "significant groundwater well."

The Department of Environmental Protection or the Maine Land Use Regulation Commission may exclude certain types of pumping or certain significant groundwater wells or portions of significant groundwater wells from a fee requirement when appropriate based upon considerations such as the applicability of other fees, the type or amount of pumping or insignificant risk to protected natural resources or other wells.

See title page for effective date.

CHAPTER 296

S.P. 528 - L.D. 1443

An Act To Support the Center of Excellence for At-risk Students

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 rising dropout rate in the State deprives an increasing number of youth of education essential to their future success, while creating the potential for greater costs on the State's social welfare system; and

Whereas, many school administrative units have limited resources available to tailor programs to address the needs of youth at risk of failing or dropping out of school; and

Whereas, a private, nonprofit charitable organization with a long history of education and caring for children at risk is currently working with a major Maine charitable foundation to create a statewide center of excellence to serve students at risk of failure; and

Whereas, immediate support for that effort is essential to ensure that the organization can begin serving students in the 2009-2010 school year; and

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

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

Sec. 1. 20-A MRSA c. 227 is enacted to read:

CHAPTER 227

CENTER OF EXCELLENCE FOR AT-RISK STUDENTS

§6951. Center establishment

1. Center established. The Center of Excellence for At-risk Students is established.

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

A. "At-risk student" means an elementary student or secondary student who is at risk of failing or dropping out of a regular public school program.

B. "Center" means the Center of Excellence for At-risk Students established in subsection 1.

3. Center requirements. The center shall provide a comprehensive residential and nonresidential program for educating at-risk students. The center shall also provide information and resources for other schools serving at-risk students. The center may be administered by a private, nonprofit charitable corporation with a public purpose that meets the requirements of section 2951. The commissioner may grant a waiver from any requirements of sections 2901, 2902 and 2951 that the commissioner determines appropriate in consideration of the special characteristics of the center.

§6952. Center criteria

To qualify for support, approval and funding under this chapter, the center must provide services to at-risk students who are or have been enrolled in one or more of grades 7 to 12. The admission of an at-risk student to the center is subject to approval by the center based upon criteria of the center approved by the commissioner. The center shall provide residential and nonresidential instruction that is approved pursuant to section 6951 and designed to effect positive, sustainable change in the lives of at-risk students through comprehensive on-site education services in 4 major areas, including high-quality scholastic, vocational and behavioral health education; training and support for families of students; training and support for public school teachers in dealing with students who are at risk of failing or dropping out of school; and providing an environment conducive to research aiding the improvement of education for at-risk students.

The center shall collaborate with the department, public school administrators and other public and private organizations with an interest in the support and education of at-risk students.

§6953. Transfers

Students in school administrative units may be transferred to and become students of the center by agreement between the school administrative unit responsible for the student and the chief executive officer of the corporation administering the center.

§6954. Rules

The department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. Nonprofit corporation; timeline. The Department of Education shall arrange with the Good Will-Hinckley school to serve as the nonprofit charitable corporation with a public purpose to implement the Center of Excellence for At-risk Students, established in the Maine Revised Statutes, Title 20-A, section 6951, referred to in this Act as "the center." The Commissioner of Education and the Chief Executive Officer of the Good Will-Hinckley school shall jointly develop a plan for funding and delivering an approved program pursuant to Title 20-A, section 6951, subsection 3 and section 6952, including a timeline for commencing operation of the center. The Commissioner of Education may convene an advisory group to include representatives of school boards, superintendents, alternative educators and students to participate in developing the plan. The goal of the plan is to begin providing services by September 1, 2010. The Commissioner of Education may modify the plan in consultation with the Chief Executive Officer of the Good Will-Hinckley school.

Sec. 3. Funding proposal. Taking into consideration the plan developed pursuant to section 2 for implementing the center, the Commissioner of Education shall develop a proposal for funding the center. The funding proposal must take into account the unique needs of at-risk students and the resources required to meet those needs, as well as the availability, restrictions and limitations of private and other sources of funds. On or before November 1, 2009, the Commissioner of Education shall report to the Joint Standing Committee on Education and Cultural Affairs on a recommended plan for funding the center and a recommended timeline for commencing the center's operations, providing access to the center for students from school administrative units throughout the State and the number of students that the center is able to serve. Following receipt and consideration of the Commissioner of Education's report, the Joint Standing Committee on Education and Cultural Affairs may submit to the Second Regular Session of the 124th Legislature any legislation that may be necessary to accomplish the funding plan and the implementation timeline for the center.

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

Effective June 8, 2009.

CHAPTER 297

H.P. 862 - L.D. 1243

An Act To Amend Operating After Suspension Laws by Creating an Infraction Alternative for Certain Kinds of Operating After Suspension

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

Sec. 1. 29-A MRSA §2412-A, sub-§1-A, as enacted by PL 2003, c. 452, Pt. Q, §85 and affected by Pt. X, §2, is amended to read:

1-A. Offense; penalty. A person commits operating while license suspended or revoked if that person:

A. Operates a motor vehicle on a public way or in a parking area when that person's license has been suspended or revoked, and that person:

(1) Has received written notice of a suspension or revocation from the Secretary of State or a court;

(2) Has been orally informed of the suspension or revocation by a law enforcement officer or a court;

(3) Has actual knowledge of the suspension or revocation;

(4) Has been sent written notice in accordance with section 2482 or former Title 29, section 2241, subsection 4; or

(5) Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608;

B. Violates paragraph A and the suspension was for OUI or an OUI offense;

C. Violates paragraph A and the suspension was for OUI or an OUI offense, the person was subject to the mandatory minimum sentence and the person:

(1) Has one prior conviction for violating this section;

(2) Has 2 prior convictions for violating this section; or

(3) Has 3 or more prior convictions for violating this section; or

D. Violates paragraph A, the suspension was not for OUI or an OUI offense and the person has one or more prior convictions for violating this section.

Except for an offense under subsection 8 or as otherwise provided, operating while license suspended or revoked is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 2. 29-A MRSA §2412-A, sub-§8 is enacted to read:

8. Traffic infraction. A person commits a traffic infraction operating while license suspended if the person has not been convicted or adjudicated of a prior offense under this section and the sole basis for the suspension is:

A. Failure to pay a fine;

B. Failure to pay a license reinstatement fee; or

C. Suspension for a dishonored check.

Sec. 3. 29-A MRSA §2551-A, sub-§3, as amended by PL 2009, c. 58, §§1 to 3, is further amended to read:

3. Offenses not included. The following convictions are not included under subsection 1, paragraph A:

A. A conviction of operating a motor vehicle without a license if the license had expired and was not suspended or revoked;

B. A conviction of operating after suspension when the suspension is based upon a failure to pay child support; ~~and~~

C. A conviction of operating after suspension when the suspension is based solely on a failure to pay the reinstatement fee required by section 2486.~~;~~ and

D. An adjudication for the traffic infraction of operating after suspension under section 2412-A, subsection 8.

See title page for effective date.

CHAPTER 298

S.P. 494 - L.D. 1359

An Act To Improve the Use of Data from the Controlled Substances Prescription Monitoring Program

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

Sec. 1. 22 MRSA §7250, sub-§4, ¶D, as enacted by PL 2003, c. 483, §1, is amended to read:

D. A patient to whom a prescription is written, insofar as the information relates to that patient; ~~and~~

Sec. 2. 22 MRSA §7250, sub-§4, ¶E, as enacted by PL 2003, c. 483, §1, is amended to read:

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system.~~;~~ and

Sec. 3. 22 MRSA §7250, sub-§4, ¶F is enacted to read:

F. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members and avoiding duplicate dispensing of controlled substances.

See title page for effective date.

CHAPTER 299

H.P. 995 - L.D. 1419

An Act To Implement Respectful Language Amendments

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

PART A

Sec. A-1. 5 MRSA §20051, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Laws. A county, municipality or other political subdivision may not adopt or enforce a local law, ordinance, regulation or rule having the force of law that includes drinking, being a ~~common drunkard~~ person with alcoholism or being found in an intoxicated condition as one of the elements of an offense giving rise to a criminal or civil penalty or sanction.

Sec. A-2. 14 MRSA §5956, first ¶ is amended to read:

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person who is legally incompetent or a person who is insolvent may have a declaration of rights or legal relations in respect thereto:

Sec. A-3. 22 MRSA §822, as amended by PL 2005, c. 383, §18, is further amended to read:

§822. Reporting

Whenever any physician knows or has reason to believe that any person whom the physician examines or cares for has ~~or is afflicted with any~~ a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports.

Sec. A-4. 22 MRSA §5107-J, sub-§2, ¶C, as enacted by PL 2003, c. 465, §4, is amended to read:

C. The Governor shall appoint 3 members as follows:

(1) One person who represents the area agencies on aging;

(2) One person who represents persons and families ~~afflicted~~ with Alzheimer's disease or dementia; and

(3) One person who represents a statewide organization representing persons with disabilities.

Sec. A-5. 22 MRSA §8552, sub-§2, ¶A, as enacted by PL 1995, c. 205, §1, is amended to read:

A. The program's written statement of its philosophy and mission that reflect the needs of individuals ~~afflicted~~ with dementia;

Sec. A-6. 34-B MRSA §1402, sub-§2, ¶B, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

B. Provide for informing and advising any indigent person, that person's relatives or friends and the representatives of any charitable agency as to:

(1) The mental condition of the indigent person;

(2) The prevention and treatment of the condition;

(3) The available institutions or other means of caring for the ~~afflicted~~ person; and

(4) Any other matter relative to the welfare of the person; and

Sec. A-7. 34-B MRSA §9002, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Mental deficiency. "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person ~~so afflicted~~ is incapable of managing ~~himself and his~~ that person's affairs, but ~~shall~~ may not include mental illness.

Sec. A-8. 34-B MRSA §9002, sub-§4, as enacted by PL 1983, c. 459, §7, is amended to read:

4. Mental illness. "Mental illness" means mental disease to such extent that a person ~~so afflicted~~ requires care and treatment for ~~his~~ that person's own welfare or the welfare of others or of the community.

Sec. A-9. 37-B MRSA §601, as amended by PL 2007, c. 167, §9, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to ~~senile dementia~~ patients with dementia, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to ~~senile dementia~~ patients with dementia, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans'

Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons.

PART B

Sec. B-1. Develop recommendations for changes in statutory language. The Department of Health and Human Services, referred to in this Part as "the department," shall review the Maine Revised Statutes to identify those sections that use the term "mental retardation" or "mentally retarded" and develop recommendations for removal of the terms or substitutions of language that reflect the recommendations of the respectful language working group in the report submitted by the Maine Developmental Disabilities Council to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 62. The department shall seek input from interested stakeholders in the development of those recommendations.

Sec. B-2. Report and recommendations. By January 15, 2010, the department shall submit a report to the Joint Standing Committee on Health and Human Services regarding recommended changes for the Maine Revised Statutes pursuant to section 1.

Sec. B-3. Authority for legislation. After receipt and review of the recommendations submitted pursuant to section 2, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 300

S.P. 513 - L.D. 1429

An Act To Strengthen the Workplace Smoking Laws and Other Laws Governing Smoking

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

Sec. 1. 22 MRSA §1542, sub-§2, ¶F, as enacted by PL 1993, c. 342, §1 and affected by §9, is repealed.

Sec. 2. 22 MRSA §1542, sub-§2, ¶J, as amended by PL 2005, c. 257, §4, is further amended to read:

J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless the private residence is used as a day care or baby-sitting service. If a private residence is used as a day care or baby-sitting service, smoking is prohibited:

(1) In the residence, during the hours of operation as a day care or baby-sitting service;

(2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and

(3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle.

Sec. 3. 22 MRSA §1580, as reallocated by PL 1983, c. 816, Pt. A, §15, is repealed.

Sec. 4. 22 MRSA §1580-A, sub-§2, ¶A, as enacted by PL 1985, c. 126, is amended to read:

A. "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. A business facility ~~shall~~ does not include any workplace or portion of a workplace ~~which~~ that also serves as the employee's or employer's personal residence. A business facility is a place of employment. Notwithstanding this paragraph, a personal residence or unit or apartment in a residential facility is a business facility only during the period of time that an employee is physically present to perform work there. A residential facility, nursing home or a hospital is a business facility.

Sec. 5. 22 MRSA §1580-A, sub-§2, ¶A-2 is enacted to read:

A-2. "Designated smoking area" means an outdoor area where smoking is permitted, which

must be at least 20 feet from entryways, vents and doorways.

Sec. 6. 22 MRSA §1580-A, sub-§2, ¶C-3 is enacted to read:

C-3. "Residential facility" means a facility with one or more residential units or apartments that is licensed by the Department of Health and Human Services.

Sec. 7. 22 MRSA §1580-A, sub-§3, as amended by PL 2005, c. 338, §4, is repealed and the following enacted in its place:

3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of any business facility for which the employer is responsible, subject to paragraph A. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy must prohibit smoking indoors subject to paragraph A, prevent environmental tobacco smoke from circulating into enclosed areas and prohibit smoking outdoors except in designated smoking areas. The policy may prohibit smoking throughout the business facility, including outdoor areas. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. Nothing in this section may be construed to subject an employer to any additional liability, other than liability that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

A. All areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262.

B. The Maine Center for Disease Control and Prevention shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

Sec. 8. 22 MRSA §1580-B, as amended by PL 2001, c. 59, §§1 to 3, is repealed.

Sec. 9. 22 MRSA §1825, as enacted by PL 1983, c. 293, is repealed.

See title page for effective date.

CHAPTER 301

S.P. 500 - L.D. 1384

An Act To Clarify Apportionment of Benefits for Multiple Work Injuries

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

Sec. 1. 39-A MRSA §354, sub-§3, as amended by PL 1999, c. 354, §9, is further amended to read:

3. Subrogation. Any insurer determined to be liable for benefits under subsection 2 must be subrogated to the employee's rights under this Act for all benefits the insurer has paid and for which another insurer may be liable. Apportionment decisions made under this subsection may not affect an employee's rights and benefits under this Act. There may be no reduction of an employee's entitlement to any benefits under this Act payable by an insurer based on a prior work-related injury that was the subject of a lump sum settlement approved by the board prior to the date of the injury for which the insurer is responsible. The board has jurisdiction over proceedings to determine the apportionment of liability among responsible insurers.

Sec. 2. Retroactivity. This Act applies retroactively to all injuries including pending cases and cases on appeal.

See title page for effective date.

CHAPTER 302

S.P. 536 - L.D. 1451

An Act To Amend the Maine Clean Election Act and the Enforcement Procedures of the Commission on Governmental Ethics and Election Practices

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

Sec. 1. 21-A MRSA §1004-A, last ¶, as amended by PL 2007, c. 443, Pt. A, §2, is further amended to read:

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C.

Sec. 2. 21-A MRSA §1004-A, as amended by PL 2007, c. 443, Pt. A, §2, is further amended by adding at the end a new paragraph to read:

Penalties assessed pursuant to this section that have not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

Sec. 3. 21-A MRSA §1004-B is enacted to read:

§1004-B. Enforcement of penalties assessed by the commission

The commission staff shall collect the full amount of any penalty and the return of Maine Clean Election Act funds required by the commission to be returned for a violation of the statutes or rules administered by the commission and has all necessary powers to carry out these duties. Failure to pay the full amount of any penalty assessed by the commission or return of Maine Clean Election Act funds is a civil violation by the candidate, treasurer, party committee, political action committee or other person. Thirty days after issuing the notice of penalty or order for the return of funds, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty or to return Maine Clean Election Act funds unless the commission has provided an extended deadline for payment. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty or order for the return of Maine Clean Election Act funds. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

Sec. 4. 21-A MRSA §1017, sub-§5, as amended by PL 2007, c. 567, §1, is further amended to read:

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of $50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. If the payee is a member of the candidate's household or immediate family, the candidate must disclose the ~~family~~ candidate's relationship to the payee in a manner prescribed by the commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

Sec. 5. 21-A MRSA §1020-A, sub-§6, as amended by PL 2007, c. 443, Pt. A, §23, is repealed and the following enacted in its place:

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice by certified mail to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. The notice must be sent by certified mail. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

Sec. 6. 21-A MRSA §1020-A, sub-§7, as amended by PL 2007, c. 443, Pt. A, §24, is further amended to read:

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the ~~treasurer~~ political committee.

If ~~no~~ a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff ~~shall calculate the penalty as prescribed in subsection 4-A and~~ shall mail final notice of the penalty to the candidate and treasurer. A

detailed summary of all notices must be provided to the commission.

Sec. 7. 21-A MRSA §1020-A, sub-§10, as amended by PL 1999, c. 426, §33, is repealed and the following enacted in its place:

10. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

Sec. 8. 21-A MRSA §1062-A, sub-§5, as amended by PL 2007, c. 443, Pt. A, §40, is repealed and the following enacted in its place:

5. Request for a commission determination. If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice by certified mail to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. The notice must be sent by certified mail. A request for determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

Sec. 9. 21-A MRSA §1062-A, sub-§6, as amended by PL 1999, c. 426, §34, is further amended to read:

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If ~~no~~ a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff ~~shall calculate the penalty based on the provision of subsection 3 and~~ shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.

Sec. 10. 21-A MRSA §1062-A, sub-§9, as amended by PL 1999, c. 426, §34, is repealed and the following enacted in its place:

9. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

Sec. 11. 21-A MRSA §1125, sub-§2-A, ¶C, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection ~~8~~ 8-A.

Sec. 12. 21-A MRSA §1125, sub-§6-A, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the distribution of revenues under subsections 7 and ~~8~~ 8-A for certified candidates in a contested election.

Sec. 13. 21-A MRSA §1125, sub-§6-B, as enacted by PL 2007, c. 567, §2, is repealed.

Sec. 14. 21-A MRSA §1125, sub-§6-C is enacted to read:

6-C. Expenditures to the candidate or family or household members. Expenditures to the candidate or immediate family member or household member of the candidate are governed by this subsection.

A. The candidate may not use fund revenues to compensate the candidate or a sole proprietorship of the candidate for campaign-related services.

B. A candidate may not make expenditures using fund revenues to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest or a nonprofit entity in which the candidate or a member

of the candidate's immediate family or household is a director, officer, executive director or chief financial officer, unless the expenditure is made:

(1) For a legitimate campaign-related purpose;

(2) To an individual or business that provides the goods or services being purchased in the normal course of the individual's occupation or the business; and

(3) In an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

For the purpose of this paragraph, "business entity" means a corporation, limited liability company, limited partnership, limited liability partnership and general partnership.

If a candidate uses fund revenues for an expenditure covered by this paragraph, the candidate shall submit evidence demonstrating that the expenditure complies with the requirements of this paragraph if requested by the commission.

This subsection does not prohibit reimbursement to the candidate or a member of a candidate's household or immediate family when made in accordance with this chapter and rules adopted by the commission.

Sec. 15. 21-A MRSA §1125, sub-§7, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

7. Timing of fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection ~~8~~ 8-A in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election.

B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year.

C. No later than 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election.

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

Sec. 16. 21-A MRSA §1125, sub-§8, as amended by PL 2007, c. 443, Pt. B, §6, is repealed.

Sec. 17. 21-A MRSA §1125, sub-§8-A is enacted to read:

8-A. Amount of fund distribution. By September 1, 2011, and at least every 2 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates in legislative elections based on the type of election and office. In making this determination, the commission may take into consideration any relevant information, including but not limited to:

A. The range of campaign spending by candidates for that office in the 2 preceding elections;

B. The Consumer Price Index published monthly by the United States Department of Labor, Bureau of Labor Statistics and any other significant changes in the costs of campaigning such as postage or fuel; and

C. The impact of independent expenditures on the payment of matching funds.

Before making any determination, the commission shall provide notice of the determination and an opportunity to comment to the President of the Senate, the Speaker of the House of Representatives, all floor leaders, the members of the joint standing committee of the Legislature having jurisdiction over legal affairs and persons who have expressed interest in receiving notices of opportunities to comment on the commission's rules and policies. The commission shall present at a public meeting the basis for the commission's final determination.

For contested gubernatorial primary elections, the amount of revenues distributed is $400,000 per candidate in a primary election. For uncontested gubernatorial primary elections the amount of revenues distributed is $200,000. For contested and uncontested gubernatorial general elections, the amount of revenues distributed is $600,000 per candidate in the general election.

Sec. 18. 21-A MRSA §1125, sub-§9, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

9. Matching funds. When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in con-

junction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection ~~8, paragraph A or C, whichever is applicable~~ 8-A. Matching funds for certified gubernatorial candidates in a primary election are limited to ~~2 times~~ half the amount originally distributed under subsection ~~8, paragraph E~~ 8-A. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection ~~8, paragraph F~~ 8-A.

Sec. 19. 21-A MRSA §1125, sub-§10, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

10. Candidate not enrolled in a party. An unenrolled candidate who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and ~~8~~ 8-A. Otherwise, an unenrolled candidate must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection ~~8~~ 8-A. Revenues for the general election must be distributed to the candidate no later than 3 days after certification.

Sec. 20. 21-A MRSA §1125, sub-§12, as amended by PL 2007, c. 571, §12, is further amended to read:

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or household or a business or nonprofit entity affiliated with a member of the candidate's immediate family or household, the candidate must disclose the ~~family~~ candidate's relationship to the payee in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

Sec. 21. 21-A MRSA §1125, sub-§12-A, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

12-A. Required records. The treasurer shall obtain and keep:

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of $50 or more; ~~and~~

C. A record proving that a vendor received payment for every expenditure of $50 or more in the form of a cancelled check, cash receipt from the vendor or bank or credit card statement identifying the vendor as the payee~~.~~; and

D. For any services provided to the campaign by a vendor for which the candidate paid $500 or more for the election cycle, invoices, timesheets or other documentation specifying in detail the services the vendor provided, the amount paid and the basis for the compensation paid by the campaign.

The treasurer shall preserve the records for ~~2~~ 3 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

Sec. 22. 21-A MRSA §1125, sub-§13, as enacted by IB 1995, c. 1, §17, is amended to read:

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections ~~8~~ 8-A or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than ~~$500~~ $750 per donor per election for gubernatorial candidates and ~~$250~~ $350 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections ~~8~~ 8-A and 9 according to rules adopted by the commission.

Sec. 23. 21-A MRSA §1127, sub-§1, as amended by PL 2005, c. 542, §6, is further amended to read:

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission

adopted pursuant to section 1126 is subject to a fine not to exceed $10,000 per violation payable to the fund. The commission may assess a fine of up to $10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. ~~This fine is recoverable in a civil action.~~ In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

Sec. 24. Effective date. Those sections of this Act that repeal the Maine Revised Statutes, Title 21-A, section 1125, subsection 8 and enact Title 21-A, section 1125, subsection 8-A take effect September 1, 2011. Those sections of this Act that amend Title 21-A, section 1125, subsection 2-A, paragraph C and Title 21-A, section 1125, subsections 6-A, 7, 9, 10 and 13 take effect September 1, 2011.

See title page for effective date, unless otherwise indicated.

CHAPTER 303

H.P. 855 - L.D. 1235

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2009-10 and To Make Other Changes Related to the Municipal Cost Components

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

Whereas, prompt determination and certification of the municipal cost components in the Unorganized Territory Tax District are necessary to the establishment of a mill rate and the levy of the Unorganized Territory Educational and Services Tax; and

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

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

Sec. 1. 5 MRSA §246, sub-§3, as amended by PL 2007, c. 636, §2, is further amended to read:

3. Legislation. The fiscal administrator shall prepare and submit legislation to the Legislature by March 1st, annually, providing for the requests made by counties and state agencies for services provided in the unorganized territory that are entitled to funding under Title 36, chapter 115. ~~Legislation submitted pursuant to this subsection must also include a notation as to any tax enhancement programs that have been approved by the county commissioners.~~ The administrator may not reject or change a budget submitted by a county or state agency without the approval of the county or agency making the request.

Sec. 2. Municipal cost components for services rendered. In accordance with the Maine Revised Statutes, Title 36, chapter 115, the Legislature determines that the net municipal cost component for services and reimbursements to be rendered in fiscal year 2009-10 is as follows:

Audit - Fiscal Administration	$206,711
Education	13,857,261
Forest Fire Protection	160,000
Human Services - General Assistance	59,000
Property Tax Assessment – Operations	824,349
Maine Land Use Regulation Commission – Operations	487,977
TOTAL STATE AGENCIES	$15,595,298
County Reimbursements for Services:	

Aroostook	$885,417
Franklin	564,825
Hancock	154,505
Kennebec	872
Oxford	480,525
Penobscot	885,380
Piscataquis	1,389,350
Somerset	888,306
Washington	762,597
TOTAL COUNTY SERVICES	$6,011,777
TOTAL REQUIREMENTS	$21,607,075
COMPUTATION OF ASSESSMENT	
Requirements	$21,607,075
Less Deductions:	
General -	
State Revenue Sharing	$265,000
Homestead Reimbursement	100,000
Miscellaneous Revenues	50,000
TOTAL	$415,000
Educational -	
Land Reserved Trust	$80,000
Tuition/Travel	250,000
Miscellaneous	5,000
Special - Teacher Retirement	200,000
TOTAL	$535,000
TOTAL DEDUCTIONS	$950,000
TAX ASSESSMENT	$20,657,075

Sec. 3. Increase in growth limitation. Pursuant to the Maine Revised Statutes, Title 36, section 1611, subsection 3, paragraph B, the Legislature intends by this Act to exceed the municipal cost component growth limitation for the state component by $1,475,109 and to increase the municipal cost component growth limitation for the state component by the remainder of the amount provided in this Act.

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

Effective June 8, 2009.

CHAPTER 304

S.P. 502 - L.D. 1386

An Act Pertaining to Response Costs Incurred by the Department of Environmental Protection under the Waste Motor Oil Disposal Site Remediation Program

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

Sec. 1. 10 MRSA §1020-A, sub-§4, ¶A-1 is enacted to read:

A-1. The provisions of this paragraph may be used as an alternative to the procedure described in paragraph A. This alternative procedure may be used only when the authority is advised by the Department of Environmental Protection of the issuance of a certificate of final response costs and a final remedy selection for the remedy that will be or has been implemented by the department at the Ellsworth, Casco or Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D.

(1) Upon notification by the Department of Environmental Protection, the authority shall determine the costs for that site that represent the collective share of those persons eligible under subsection 7 to have their share of the costs for the waste motor oil disposal site paid from the proceeds of revenue obligation securities. The proceeds of revenue obligation securities may be used only to fund the proportion of response costs attributable to responsible parties that are eligible under subsection 7. The authority may disburse proceeds of revenue obligation securities only after January 15, 2010 or after all Plymouth waste motor oil disposal site response costs set forth in a certificate of costs and a certificate of determination under paragraphs A and B have been paid to or on behalf of eligible persons from the proceeds of revenue obligation securities, whichever occurs first. In determining the amount of response costs incurred by the department, the authority shall rely on a written certificate of response costs from the department supported by copies of invoices, receipts or other evidence of payment. The department shall make the certifi-

cate of costs and supporting evidence available for public review and comment for a minimum of 30 days before receiving any disbursements from the proceeds of the revenue obligation securities. Notice of the availability of cost information and the opportunity for public comment must be included in the public notice made pursuant to subsection 7, paragraph B, placed on the publicly accessible website of the department and sent to persons that have registered with the department as interested in receiving a notice of availability of response cost information for the site. If warranted by public comment, the department shall provide the authority with an amended certificate of final response costs.

(2) Upon receipt of full payment of eligible response costs for a responsible party from the proceeds of the revenue obligation securities for a site:

(a) The department or any other agency or instrumentality of the State may not sue or take administrative action against that responsible party pursuant to any state or federal statute or common law regarding response costs or environmental conditions related to the release, threatened release or presence of hazardous substances at or from the site prior to the effective date of this paragraph, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment; and

(b) The eligible person on whose behalf the authority paid response costs to the department is protected from contribution actions or claims regarding that site.

(3) If responsible parties at the Ellsworth, Casco or Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D are determined to not be eligible persons as defined in section 1020, subsection 1, paragraph A, the department shall negotiate in good faith with those responsible parties and seek to enter into a consent decree or other final settlement order or agreement under which the responsible parties agree to pay their proportionate share of response costs calculated in the same manner as for those persons determined to be eligible under subsection 7. Any consent decree or other settlement agreement entered into in accordance with this subparagraph must include a covenant not to sue and contribution protection as provided for in this paragraph.

Sec. 2. 10 MRSA §1020-A, sub-§4, ¶B, as enacted by PL 2007, c. 464, §6, is amended to read:

B. With respect to a waste motor oil disposal site, following the determinations made pursuant to paragraph A or A-1, the authority shall issue a certificate of determination setting forth the amount of:

(1) The response costs paid or to be paid with respect to that waste motor oil disposal site;

(2) The eligible response costs with respect to that waste motor oil disposal site to be paid from the proceeds of revenue obligation securities; and

(3) The proceeds of the revenue obligation securities to be paid to or on behalf of the responsible parties.

Sec. 3. 10 MRSA §1020-A, sub-§5, ¶G, as enacted by PL 2007, c. 464, §6, is amended to read:

G. A person or its successor in interest that:

(1) Performed repairs at repair facilities located in this State on motor vehicles that are owned by 3rd parties;

(2) Is identified as qualified under this subsection by the potentially responsible party (PRP) group at the waste oil disposal site ~~as qualified under this subsection~~ or, in the case when the response action was or will be undertaken by the State, by the Department of Environmental Protection; and

(3) Certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection;

Sec. 4. 10 MRSA §1020-A, sub-§5, ¶H, as enacted by PL 2007, c. 464, §6, is amended to read:

H. Any person or its successor in interest that performed repairs on its own fleet of motor vehicles, is identified by the potentially responsible party (PRP) group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. The motor vehicles at all pertinent times must have been registered, garaged and serviced in this State; and

Sec. 5. 10 MRSA §1020-A, sub-§5, ¶I, as enacted by PL 2007, c. 464, §6, is amended to read:

I. Any person or its successor in interest that performed repairs, at repair facilities located in this State, on special equipment or special mobile

equipment, as defined in Title 29-A, section 101, subsections 69 and 70, is identified by the potentially responsible party (PRP) group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management 0247

Initiative: Deallocates funds in response to transaction cost savings generated from allowing direct reimbursement from the waste motor oil disposal site remediation program at the Finance Authority of Maine to the Department of Environmental Protection, which eliminates negotiating with responsible parties.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($200,000)	($300,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	($200,000)	($300,000)

See title page for effective date.

CHAPTER 305

S.P. 547 - L.D. 1469

An Act To Ensure Fair Calculation of Severance Pay for Maine Workers

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to ensure the fair calculation of severance pay for workers of this State as soon as possible in light of the current economic conditions and to provide relief to affected workers; and

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

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

Sec. 1. 26 MRSA §625-B, sub-§1, ¶E, as enacted by PL 1979, c. 663, §157, is amended to read:

E. "Physical calamity" means any calamity such as fire, flood or other natural disaster~~, or the final order of any federal, state or local governmental agency including adjudicated bankruptcy~~.

Sec. 2. 26 MRSA §625-B, sub-§1, ¶H, as enacted by PL 1979, c. 663, §157, is amended to read:

H. "Week's pay" means an amount equal to ~~1/52nd part of~~ the employee's gross ~~wages paid to an employee~~ earnings during the 12 months ~~prior to relocation or termination~~ previous to the date of termination or relocation as established by the director or the date of the termination or layoff of the employee, should it occur earlier, divided by the number of weeks in which the employee worked during that period.

Sec. 3. 26 MRSA §625-B, sub-§3, as amended by PL 2003, c. 624, §1 and affected by §2, is further amended to read:

3. Mitigation of severance pay liability. There is no liability under this section for severance pay to an eligible employee if:

A. Relocation or termination of a covered establishment is necessitated by a physical calamity;

B. The employee is covered by, and has been paid under the terms of, an express contract providing for severance pay that is equal to or greater than the severance pay required by this section;

C. That employee accepts employment at the new location; ~~or~~

D. That employee has been employed by the employer for less than 3 years.; or

E. A covered establishment files for protection under 11 United States Code, Chapter 11 unless the filing is later converted to a filing under 11 United States Code, Chapter 7.

Sec. 4. 26 MRSA §625-B, sub-§10 is enacted to read:

10. Mass layoff. Whenever an employer lays off 100 or more employees at a covered establishment, the employer within 7 days of such a layoff shall report to the director the expected duration of the layoff and whether it is of indefinite or definite duration. The director shall, from time to time, but no less frequently than every 30 days, require the employer to report such facts as the director considers relevant to a determination as to whether the layoff constitutes a ter-

mination or relocation under this section or whether there is a substantial reason to believe the affected employees will be recalled within a reasonable time.

Sec. 5. Retroactivity. This Act applies retroactively to March 31, 2009.

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

Effective June 8, 2009.

CHAPTER 306

S.P. 554 - L.D. 1479

An Act Relating to Biomass Gasification

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

Sec. 1. 38 MRSA §585-K, sub-§1, ¶A, as enacted by PL 2007, c. 584, §1, is amended to read:

A. "Coal gasification facility" means a facility that uses a process other than the biological degradation of waste to convert ~~carbonaceous~~ coal or coal-derived materials into a synthesis gas or a product made from synthesis gas, including, without limitation, electricity, liquid fuels and chemicals.

See title page for effective date.

CHAPTER 307

H.P. 188 - L.D. 234

An Act To Expand Access to Oral Health Care

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

Sec. 1. 24 MRSA §2317-B, sub-§12-E is enacted to read:

12-E. Title 24-A, sections 2765 and 2847-Q. Coverage for services provided by independent practice dental hygienists, Title 24-A, sections 2765 and 2847-Q;

Sec. 2. 24-A MRSA §2765 is enacted to read:

§2765. Coverage for services provided by independent practice dental hygienist

1. Services provided by independent practice dental hygienist. An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing individual health insurance is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 24-A MRSA §2847-Q is enacted to read:

§2847-Q. Coverage for services provided by independent practice dental hygienist

1. Services provided by independent practice dental hygienist. An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing group health insurance is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 4. 24-A MRSA §4257 is enacted to read:

§4257. Coverage for services provided by independent practice dental hygienist

1. Services provided by independent practice dental hygienist. All individual and group health maintenance organization contracts that include coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health maintenance organization policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the health maintenance organization providing health coverage is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 5. Bureau of Insurance Report. The Department of Professional and Financial Regulation, Bureau of Insurance shall review and evaluate the financial impact, social impact and medical efficacy of the mandated health insurance benefit required in this Act after its enactment in the same manner as required for proposed mandated health benefits legislation in the Maine Revised Statutes, Title 24-A, section 2752. The bureau shall also compare the projected cost impact of this mandated benefit prior to enactment and the actual cost impact of the mandated benefit based on premium information after enactment. As part of its assessment of the medical efficacy of the mandate, the bureau shall consult with health insurance and dental insurance carriers and independent practice dental hygienists to determine whether the mandate has increased access to dental services in areas of the State designated as having a shortage of dentists and whether granting authority to carriers to include independent practice dental hygienists in a dental provider network has an impact on the cost and access to dental services. The bureau shall contract within the bureau's existing budgeted resources for any necessary consulting and actuarial expertise to complete the report required by this section. The bureau shall submit a report, including any recommendations for legislation, to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1, 2013. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on the report to the First Regular Session of the 126th Legislature.

Sec. 6. Applicability. This Act applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2010. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 308

H.P. 843 - L.D. 1223

An Act To Allow Pharmacists To Administer Certain Immunizations

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

Sec. 1. 32 MRSA §13702-A, sub-§28, as enacted by PL 2007, c. 402, Pt. DD, §2, is amended to read:

28. Practice of pharmacy. "Practice of pharmacy" means the interpretation and evaluation of prescription drug orders; the compounding, dispensing, labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records for these drugs and devices; the administration of influenza vaccine, intranasal influenza vaccine, pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine and tetanus-diphtheria vaccine; the responsibility for advising, when necessary or regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, opera-

tions or transactions necessary in the conduct, operation, management and control of a pharmacy.

Sec. 2. 32 MRSA §13735, as amended by PL 2007, c. 402, Pt. DD, §16, is further amended to read:

§13735. Continuing pharmacy education

An annual renewal license may not be issued by the board until the applicant certifies to the board that, during the calendar year preceding an application for renewal, the applicant has participated in not less than 15 hours of approved courses of continuing professional pharmaceutical education as set out in this section. Of the 15 hours to be completed, at least 2 hours must be in board-approved courses on drug administration as described in section 13702-A, subsection 28. The continuing professional pharmaceutical educational courses consist of postgraduate studies, institutes, seminars, workshops, lectures, conferences, extension studies, correspondence courses or such other forms of continuing professional pharmaceutical education as may be approved by the board.

These courses consist of subject matter pertinent to the following general areas of professional pharmaceutical education: ~~The~~ the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the ideology, characteristics and therapeutics of the disease state. The specific subject matter of the courses may include, but is not limited to, pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, drug administration as it relates to the area of permitted practice, pharmacy jurisprudence, public health and communicable diseases, pharmaceutical marketing, professional practice management, anatomy, histology and such other subject matter as represented in curricula of accredited colleges of pharmacy. The content of each course offered for credit under this continuing professional educational program must be approved in advance of the course by the board or its representative. The board may make exceptions to this section in emergency or hardship cases.

Each application for approval of a continuing education program or course must be submitted according to the guidelines prescribed by rule by the board, together with a fee as set under section 13724.

Sec. 3. 32 MRSA c. 117, sub-c. 13 is enacted to read:

SUBCHAPTER 13

ADMINISTRATION OF DRUGS AND IMMUNIZATIONS

§13831. Authority

1. Administration of influenza vaccines. A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board may administer topically or by injection or by inhalation all forms of influenza vaccines, including intranasal influenza vaccines, to a person 9 years of age or older without a prescription.

2. Administration of other vaccines. A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board, in addition to influenza vaccines under subsection 1, may administer pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine, tetanus-diphtheria vaccine and booster tetanus-diphtheria vaccine to a person according to a valid prescription when the person has an existing primary care physician or other existing relationship with an authorized practitioner in this State. When the person does not have an existing relationship with a primary care physician or other practitioner in this State the pharmacist may proceed to administer according to a treatment protocol established by an authorized practitioner or a written standing order from a practitioner authorized under the laws of this State to issue an order, a prescription or a protocol to a person 18 years of age or older for pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine, tetanus-diphtheria vaccine or booster tetanus-diphtheria vaccine.

3. Emergency administration of certain drugs. A pharmacist may administer epinephrine or diphenhydramine, or both, to a person in an emergency situation resulting from an adverse reaction to an immunization administered by the pharmacist.

§13832. Qualifications; requirements

In order to administer a drug or immunization under this subchapter, a pharmacist must:

1. Certificate; application and fee. Possess a current certificate of administration issued by the board pursuant to this subchapter. The pharmacist must submit an application in the form prescribed by the board together with the requirements set forth under this subchapter and certificate fee as set forth under section 13724. The certificate of administration expires and is subject to the conditions in the same manner as stated in section 13734;

2. License. Hold a valid unrestricted pharmacist license in this State;

3. Training. Submit evidence acceptable to the board that the pharmacist, within the 3 years immediately preceding application for a certificate of administration:

A. Has completed a 20-hour course of study in the areas of drug administration authorized under this subchapter and as described in subsection 4;

B. Has graduated with a Doctor of Pharmacy degree from a college of pharmacy accredited by the American Council on Pharmaceutical Education that includes completion of training in the areas of

drug administration authorized under this subchapter satisfactory to the board, including instruction in the areas identified in subsection 4 received as part of the pharmacist's pharmacy degree program; or

C. Possesses a current certificate of administration issued by another jurisdiction that authorizes the pharmacist to administer drugs comparable to those authorized under this chapter and that is based on the pharmacist's completion of training or course work as described in subsection 4, or its equivalent as determined by the board, and has continuous administration practice since the pharmacist received such training or since completion of a retraining program as required in this subchapter, as long as such retraining incorporates the areas identified in subsection 4;

4. Didactic; practical course. Satisfactorily complete a didactic and practical course approved by the board that includes the current guidelines and recommendations of the federal Department of Health and Human Services, Centers for Disease Control and Prevention, the American Council on Pharmaceutical Education or a similar health authority or professional body, and that includes, but is not limited to, disease epidemiology, indications for use of vaccines, vaccine characteristics, injection techniques, adverse reactions to vaccines, emergency response to adverse events, immunization screening, informed consent, record keeping, registries, including the immunization information system established under Title 22, section 1064, registry training and reporting mechanisms, including reporting adverse events, life support training, biohazard waste disposal and sterile techniques and related topics; and

5. Life support training. Submit evidence of completing cardiovascular life support training accepted by the American Heart Association, the American Red Cross or other similar training organization.

§13833. Treatment protocol

The pharmacist shall administer drugs and immunizations in compliance with a treatment protocol established by a practitioner authorized under the laws of this State to order administration of those drugs and immunizations approved by the board. A copy of the treatment protocol must be submitted to the board. At a minimum the treatment protocol must include:

1. Standards. Standards for observation of the person receiving the drug or immunization to determine whether the person has an adverse reaction, as adopted in rules by the board;

2. Procedures. Procedures to be followed by the pharmacist when administering epinephrine, diphenhydramine, or both, to a person who has an adverse reaction to an immunization administered by the pharmacist; and

3. Notification. Notification to the authorized practitioner who issued the prescription, standing order or protocol under section 13831, subsection 2 of the administration by the pharmacist of the drug or immunization, or both, within 3 business days.

§13834. Prohibited acts

1. Delegate authority. A pharmacist may not delegate the pharmacist's authority to administer drugs or immunizations.

2. Administer drugs. A pharmacist may not engage in the administration of drugs or immunizations unless the pharmacist meets the qualifications and requirements of section 13832 and the pharmacist has obtained a board-issued certificate of administration.

§13835. Rules

The board, after consultation with the Maine Center for Disease Control and Prevention and the Board of Licensure in Medicine, shall adopt rules to implement this subchapter. The rules must include, at a minimum:

1. Criteria. Criteria for the operation of a drug administration clinic within or outside a retail pharmacy, rural health clinic or free clinic licensed under section 13751;

2. Record keeping. Record keeping and documentation procedures and reporting requirements, giving preference to electronic means when available; and

3. Recipient assessment. Recipient assessment, consent and rights.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. MaineCare program. Reimbursement under the MaineCare program for services provided under the Maine Revised Statutes, Title 32, chapter 117, subchapter 13 is subject to the adoption of a billing mechanism by the Department of Health and Human Services for the MaineCare program to implement the provisions of subchapter 13 and amendment of the rules of the MaineCare benefits manual to cover the service provided in subchapter 13 at a minimum of the current average wholesale price reimbursement rate plus a dispensing fee of $3.35. Prior to the adoption of a billing mechanism, a MaineCare member that receives a vaccination from a pharmacist as authorized by subchapter 13 must be told in advance that the administration of vaccines provided by a pharmacist is not covered by MaineCare and the member will be responsible for payment.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Allocates one-time funds to configure the agency licensing system and for the costs of rulemaking.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$7,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$7,000	$0

See title page for effective date.

CHAPTER 309

H.P. 39 - L.D. 44

An Act Regarding Requirements for Approval of a Transmission Line

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

Sec. 1. 35-A MRSA §3132, sub-§2, as amended by PL 2007, c. 575, §1, is further amended to read:

2. Construction of transmission line. Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more, that person shall file a petition for the approval of the proposed line in accordance with subsection 2-C. ~~The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes.~~ The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, ~~provided that~~ as long as the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

Sec. 2. 35-A MRSA §3132, sub-§2-C is enacted to read:

2-C. Petition for approval of proposed transmission line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes, including, but not limited to:

A. A description of the effect of the proposed transmission line on public health and safety and scenic, historic, recreational and environmental values and of the proximity of the proposed transmission line to inhabited dwellings;

B. Justification for adoption of the route selected, including comparison with alternative routes that are environmentally, technically and economically practical; and

C. Results of an investigation of alternatives to construction of the proposed transmission line including energy conservation, distributed generation or load management.

Sec. 3. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 123, §5, is further amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. If the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public con-

venience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. 4. 35-A MRSA §3132, sub-§7, as amended by PL 2007, c. 148, §6, is further amended to read:

7. Environmental protection agency modification. If the commission has issued a certificate of public convenience and necessity for a proposed transmission line and the ~~Board~~ Department of Environmental Protection in an order issued under Title 38, ~~section 484~~ chapter 3, subchapter 1, article 6 makes a modification in the location, size, character or design of the transmission line, the person proposing the transmission line shall:

A. Deliver a copy of the order to the commission; and

B. State the nature of the modifications and all cost adjustments occasioned by the modifications to the cost of the proposed transmission line relied upon by the commission in issuing its certificate of public convenience and necessity under this section.

Sec. 5. Rulemaking. The Public Utilities Commission shall amend its rules governing the construction of new transmission lines to implement the provisions of this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 310
H.P. 97 - L.D. 113

An Act Regarding Construction and Excavation near Burial Sites

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

Whereas, a malfunctioning septic system has polluted a shellfish bed and that shellfish bed can be reopened if the construction of a private sewer connection to a public sewer line is approved; and

Whereas, the immediate repair of a malfunctioning septic system is needed to protect the public's health and the local shellfish industry; and

Whereas, a change in the laws governing construction and excavation near burial sites is necessary to ensure the immediate repair of the septic system; 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. 13 MRSA §1371-A, sub-§1, as amended by PL 2007, c. 112, §2, is repealed and the following enacted in its place:

1. Known burial sites. Construction or excavation near a known burial site or within the boundaries of an established cemetery must comply with any applicable land use ordinance concerning burial sites or established cemeteries, whether or not the burial site or established cemetery is properly recorded in the deed to the property. In the absence of local ordinances, construction or excavation may not be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established cemetery, whichever is the greater, whether or not the burial site or established cemetery is properly recorded in the deed to the property, except:

A. When the construction or excavation is performed pursuant to a lawful order or permit allowing the relocation of bodies;

B. When necessary for the construction of a public improvement, as approved by the governing body of a municipality or, in the case of a state highway, by the Commissioner of Transportation; or

C. When necessary for the construction of a private sewer line connection to a public sewer system if:

(1) No other practicable alternative exists to connecting to a public sewer system;

(2) No other practicable alternative exists to excavation or construction within 25 feet;

(3) The excavation or construction is at the maximum possible distance from the cemetery or burial site;

(4) The construction of the private sewer line connection is approved by the governing body of the municipality and the regulating division within the Department of Health and Human Services;

(5) Public notice is provided by the affected municipality that allows 2 weeks for members of the public to submit testimony prior to any approval, construction or excavation and any testimony is also submitted by the municipality to the regulating division within the Department of Health and Human Services; and

(6) No excavation or construction equipment is placed on any part of the cemetery or burial site or within 10 feet of the cemetery or burial site at any time during the construction of the sewer connection.

This paragraph is repealed June 30, 2010.

A municipality may enforce this subsection or any local ordinance concerning burial sites or established cemeteries pursuant to Title 30-A, section 4452, including the assessment of civil penalties.

In the event of any violation of this subsection, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

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

Effective June 9, 2009.

CHAPTER 311

S.P. 125 - L.D. 361

An Act To Provide for a Certificate of Birth Resulting in Stillbirth

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

Whereas, issuance of a certificate of birth resulting in stillbirth in a timely manner after the stillbirth is a matter of importance to the parents and an issue related to the public health; and

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

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

Sec. 1. 22 MRSA §2761-C is enacted to read:

§2761-C. Certificate of birth resulting in stillbirth

Upon request of a parent, in the event of an unintentional intrauterine death of a fetus of 20 or more weeks of gestation, the department shall issue a certificate of birth resulting in stillbirth bearing the official seal of the State. The certificate must be based upon information drawn from a previously filed certificate of fetal death under section 2841.

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

Effective June 9, 2009.

CHAPTER 312

H.P. 303 - L.D. 415

An Act to Regulate Swim Areas on Inland Waters

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

Sec. 1. 12 MRSA c. 220, sub-c. 10 is enacted to read:

SUBCHAPTER 10

REGULATION OF SWIM AREAS ON INLAND WATERS

§1900. Swim areas

1. Definitions. As used in this subchapter, the following terms have the following meanings.

A. "Camping area" means, in addition to the generally accepted interpretations, lakeshore places, picnic and lunch grounds or other premises where tents or recreational vehicles are permitted and licensed under Title 22, section 2495.

B. "Developed swim area" means an area delineated by line buoys in accordance with the aids to navigation system established pursuant to section 1894.

C. "Qualified entity" means a camping area, recreational camp or governmental entity or governmentally sponsored group.

D. "Recreational camp" means day camps, boys and girls camps and family, hunting, fishing and similar camps licensed under Title 22, section 2495.

E. "Swim line" means a line, rope or a series of buoys used to delineate an area of surface water for the purpose of swimming.

F. "Water safety zone" means the area of water within 200 feet of shoreline, whether the shoreline of the mainland or of an island.

2. Property rights. Nothing in this subchapter may be construed to affect private property rights or the State's ownership rights over inland waters.

3. Swim area prohibition. A person may not establish or maintain a swim line or a developed swim area without a permit issued under subsection 4.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 or more than $500 may be adjudged. Each day a person violates this subsection is a separate violation.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this subchapter within the previous 5-year period commits a Class E crime.

4. Issuance of permit. The director may issue a permit only to a qualified entity to establish and maintain a developed swim area within the water safety zone designed to provide recreational swimming opportunities for the public.

5. Fee; expiration. Permits issued under subsection 4 expire 5 years after the date of issuance. The director shall establish by rule a fee for the permits, except that a developed swim area established and operated by the State or a governmental entity or a recreational camp may not be charged a fee and its permit does not expire as long as no alterations to the developed swim area are made after the permit is issued.

6. Enforcement. A municipally appointed inland harbor master, code enforcement officer or law enforcement officer is primarily responsible for the enforcement of this subchapter.

7. Rules. The director shall adopt rules to implement and carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

CONSERVATION, DEPARTMENT OF

Boating Facilities Fund 0226

Initiative: Provides one-time funding for costs associated with posting public notices and mailing permits.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$3,200	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$3,200	$0

See title page for effective date.

CHAPTER 313

H.P. 929 - L.D. 1325

An Act Regarding Curriculum Requirements and Standards for Awarding a High School Diploma

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

Sec. 1. 20-A MRSA §4502, sub-§2, as amended by PL 2007, c. 141, §7, is further amended to read:

2. Curriculum requirements. Schools ~~shall also~~ must meet all curriculum ~~standards~~ requirements established in chapter 207-A. Schools that offer public preschool programs shall demonstrate curriculum practice for those programs that implements the Maine early childhood learning guidelines and is appropriate for the age and development level of the children.

Sec. 2. 20-A MRSA §4502, sub-§5, as amended by PL 2007, c. 141, §§8 to 10, is further amended to read:

5. Other requirements. The state board and the commissioner shall jointly adopt basic school approval rules governing school administrative units and elementary and secondary schools. These rules must set minimum ~~standards~~ requirements in the following areas, incorporating such ~~standards~~ requirements as are established by statute:

A. Instructional time, including a minimum school day and week;

B. Staffing, including student-teacher ratios~~, except that the approval rules in effect for the school years beginning in the fall of 1998 and 1999 must~~ that permit maximum student-teacher ratios of 25:1 school-wide for kindergarten to grade 8 and maximum student-teacher ratios of 30:1 school-wide for grades 9 to 12;

C. Physical facilities, incorporating the school construction rules of the state board;

D. ~~Standards~~ Requirements for equipment and libraries;

E. Minimum school size, but including recognition of geographically isolated schools;

F. Grade and program organization;

G. Assessment and evaluation of student performance;

H. Student personnel services, including guidance and counseling and, notwithstanding any rules adopted by the department, comprehensive guidance plans to be approved by the commissioner ~~for implementation in the 2000-01 school year~~;

I. Records, record keeping and reporting requirements;

J. Health, sanitation and safety requirements, including compliance with section 6302;

K. School improvement;

L-1. A plan for training and development of all personnel that is aligned with the system of learning results as established in section 6209;

M. The use of time-out areas, administered in accordance with ~~standards~~ requirements adopted by the department and with this paragraph. The use of a time-out area is subject to the following:

(1) The time-out area must be well ventilated and sufficiently lighted. The time-out area may not be locked; and

(2) The time-out area must be designed to ensure the safety of the student so that the student is supervised by a professional staff member in the room or can be observed from outside of the time-out area and can be heard by a person supervising the time-out area;

N. Preparation of a written local policy and implementation of training for all unlicensed personnel who administer medication in accordance with the requirements under section 254, subsection 5;

O. Preparation of a written local policy and implementation of training for all guidance counselors and school personnel who administer reintegration planning pursuant to section 254, subsection 12, who participate in a reintegration team and who have access to confidential criminal justice information regarding juveniles pursuant to section 1055, subsection 12; and

P. Provision of family outreach and support programs designed to improve parent-school relations and parenting skills consistent with section 4252, subsection 8.

Sec. 3. 20-A MRSA §4502, sub-§5-A, as amended by PL 1999, c. 790, Pt. N, §1, is repealed.

Sec. 4. 20-A MRSA §4503, sub-§2, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

2. Junior high school or middle school. A junior high school or middle school is a school ~~which~~ that maintains a diversified program of studies of 2 or more consecutive grades from grades 6 to 9, which meets basic school approval and applicable curriculum requirements. A junior high school or middle school may be maintained in connection with or as part of an approved secondary school.

Sec. 5. 20-A MRSA §4504, sub-§2, as amended by PL 2005, c. 446, §1, is further amended to read:

2. Comprehensive review. The commissioner shall conduct a comprehensive review of a school administrative unit in accordance with the school assistance process established in section 6210, based on a review of the school administrative unit's comprehensive education plan and ~~the local assessment system~~ student achievement data, or as part of an inspection in accordance with section 258-A.

Sec. 6. 20-A MRSA §4517, amended by PL 1999, c. 790, Pt. N, §2, is repealed.

Sec. 7. 20-A MRSA §4703, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is amended to read:

§4703. Instruction for individual students

Elementary and secondary schools ~~may provide special instruction for gifted and talented~~ shall provide students~~.~~ with opportunities for learning in multiple pathways that may include the following:

1. Career and technical education. Career and technical education;

2. Alternative education programs. Alternative education programs;

3. Apprenticeships. Apprenticeships;

4. Career academies. Career academies;

5. Advanced placements. Advanced placements;

6. Online courses. Online courses;

7. Adult education. Adult education;

8. Dual enrollment. Dual enrollment; or

9. Gifted and talented programs. Gifted and talented programs.

Sec. 8. 20-A MRSA §4706, first ¶, as repealed and replaced by PL 2001, c. 667, Pt. A, §42, is amended to read:

Instruction in American history, government, citizenship and Maine studies must be ~~taught as specified in~~ aligned with the ~~system of learning results~~ parame-

ters for essential instruction and graduation requirements established ~~in~~ under section 6209.

Sec. 9. 20-A MRSA §4706, sub-§1, as amended by PL 2001, c. 403, §1, is further amended to read:

1. American history. American history ~~and civil,~~ government and citizenship, including the Constitution of the United States, the Declaration of Independence, the importance of voting and the privileges and responsibilities of citizenship, must be taught in and required for graduation from all elementary and secondary schools, both public and private.

Sec. 10. 20-A MRSA §4710 is enacted to read:

§4710. Kindergarten to grade 12 interventions

By the school year that begins in the fall of 2012 all school administrative units shall develop and implement a system of interventions for kindergarten to grade 12 that provide each student who is not progressing toward meeting the content standards of the parameters for essential instruction and graduation requirements with different learning experiences or assistance to achieve the standard. The interventions must be specific, timely and based upon ongoing formative assessments that continuously monitor student progress.

Sec. 11. 20-A MRSA §4711, as amended by PL 2001, c. 454, §21, is further amended to read:

§4711. Elementary course of study

The basic course of study for the elementary schools must provide for the instruction of all students in career ~~preparation~~ and education development, English language arts, ~~foreign~~ world languages, health education and physical education, mathematics, science and technology, social studies and visual and performing arts, as described in the ~~system of learning results~~ parameters for essential instruction and graduation requirements subject to the schedule specified in section 6209. ~~In furtherance of the content standards in section 6209, subsection 2, the course of study must also include physiology and hygiene, with special reference to the effects of substance abuse, including alcohol, tobacco and narcotics upon the human system.~~

Sec. 12. 20-A MRSA §4712 is enacted to read:

§4712. Junior high school or middle school course of study

The basic course of study for the junior high schools or middle schools must provide for the instruction of all students in career and education development, English language arts, health education and physical education, mathematics, science and technology, social studies, visual and performing arts and world languages, as described in the parameters for essential instruction and graduation requirements subject to the schedule specified in section 6209.

Sec. 13. 20-A MRSA §4721, as amended by PL 2001, c. 454, §22, is repealed and the following enacted in its place:

§4721. General requirement

1. Comprehensive program of instruction. A secondary school shall provide a comprehensive program of instruction of at least 2 years in length, which must meet the requirements of this chapter and the parameters for essential instruction and graduation requirements established under section 6209. The program must include instruction for all students in career and education development, English language arts, health education and physical education, mathematics, science and technology, social studies, visual and performing arts and world languages.

2. Secondary school organization and delivery of instruction. A secondary school shall provide a structure that allows for student achievement of the parameters for essential instruction and graduation requirements established under section 6209 in multiple pathways as set out under section 4703.

Sec. 14. 20-A MRSA §4722, first ¶, as amended by PL 2001, c. 454, §23, is further amended to read:

A secondary school shall provide ~~at least one course of study~~ a comprehensive program of instruction leading to a high school diploma ~~that must meet the following standards~~ as set out in section 4721. The commissioner shall develop rules for the transition between the requirements of this section and ~~the system of learning results as~~ the parameters for essential instruction and graduation requirements established ~~in~~ under section 6209.

Sec. 15. 20-A MRSA §4722, sub-§1, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is amended to read:

1. Minimum instructional requirements. A ~~diploma course of study shall~~ comprehensive program of instruction must include a minimum 4-year program ~~of instruction which~~ that meets the curriculum requirements established by this chapter and any other instructional requirements established by the commissioner and the school board.

Sec. 16. 20-A MRSA §4722, sub-§2-A is enacted to read:

2-A. Implementation of multiple pathways and opportunities. Students may demonstrate achievement of the standards through multiple pathways as set out under section 4703 and multiple opportunities. Achievement may be demonstrated by evidence documented by course and learning experiences using

multiple measures, such as, but not limited to, examinations, quizzes, portfolios, performances, exhibitions and projects.

Sec. 17. 20-A MRSA §4722, sub-§3, as amended by PL 2007, c. 451, §2, is further amended to read:

3. Satisfactory completion. A diploma may be awarded to secondary school students who have satisfactorily completed all diploma requirements in accordance with the academic standards of the school administrative unit and this chapter. All secondary school students must ~~work toward achievement of~~ achieve the content standards of the ~~system of learning results~~ parameters for essential instruction and graduation requirements established pursuant to section 6209. Children with disabilities, as defined in section 7001, subsection ~~1-A~~ 1-B, who successfully meet the content standards of the ~~system of learning results~~ parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to all secondary school students, as specified by the goals and objectives of their individualized education plans, may be awarded a high school diploma. Career and technical students may, with the approval of the commissioner, satisfy the 2nd-year math and science, the 2nd-year social studies and the fine arts requirements of subsection 2 through separate or integrated study within the career and technical school curriculum.

Students who experience education disruption, as defined in section 5001-A, subsection 4, paragraph F, who successfully demonstrate achievement of the content standards of the ~~system of learning results~~ parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to secondary school students as set forth in their school work recognition plans as defined in section 5161, subsection 6 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161, subsection 2.

Sec. 18. 20-A MRSA §4728, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is repealed.

Sec. 19. 20-A MRSA §6201, as amended by PL 2001, c. 454, §§27 and 28, is further amended to read:

§6201. Legislative intent

The Legislature ~~concurs with the recommendation of the 1984 report of the Commission on the Status of Education in Maine~~ finds that all students graduating from high school must be prepared for success in postsecondary education, careers and citizenship and that a ~~state-wide~~ statewide educational assessment program must be implemented.

There is a need for assessment information at both ~~the~~ state and local ~~level~~ levels to measure progress and ensure accountability regarding the ~~system of learning results, which~~ implementation of the parameters for essential instruction and graduation requirements under section 6209 and in the department rules implementing that section and other curricular requirements. This must be accomplished through ~~a comprehensive system of local and state~~ assessments~~, involving multiple measures~~ to determine what each student knows and is able to demonstrate regarding the ~~standards of the system of learning results~~ parameters for essential instruction and graduation requirements.

~~This comprehensive local and state~~ The assessment system must have the following objectives:

1. Statewide assessment. To provide information on the academic achievement and progress of Maine students;

2. State goals. To establish a process for a continuing evaluation of the system of learning results established in section 6209 and to aid in the development of educational policies, standards and programs;

3. Local programs. To provide school officials with information to assess the quality, effectiveness and appropriateness of educational materials~~,~~ and methods and curriculum needs, including remediation, interventions and enrichment in their schools;

4. Individual students. To provide school staffs with information about the individual students that may be used, with other information, to meet individual and ~~educational~~ education needs of the student. The statewide assessment program may not be the only criteria for judging student performance;

5. Trends. To identify year-to-year trends in student achievement; and

6. Parents. To provide parents with information about the achievements of their children ~~on the assessment program~~.

Sec. 20. 20-A MRSA §6202, first ¶, as amended by PL 2005, c. 662, Pt. A, §13, is further amended to read:

The commissioner shall establish a statewide assessment program to measure and evaluate on a continuing basis the academic achievements of students ~~at~~ in grades ~~4, 8 and 11 in the content areas of the system of learning results established~~ 3 to 12 on the accountability standards set forth in section 6209 ~~specified by the commissioner~~ and in department rules implementing that section and other curricular requirements. The commissioner may elect to provide for the use of alternative measures of student achievement in ~~grade 11~~ grades 9 to 12. This assessment applies to students in the public elementary and secondary schools and in all private schools approved for tuition whose school enrollments include at least 60% publicly funded stu-

dents, as determined by the previous school year's October and April average enrollment. The assessment program must be adapted to meet the needs of children with disabilities as defined in section 7001, subsection 1-A or other students as defined under rules by the commissioner.

Sec. 21. Requirements for awarding high school diplomas. The Commissioner of Education shall convene a working group of interested parties to work together, in good faith, as educational partners to develop requirements for awarding high school diplomas that permit school administrative units to award high school diplomas based on standards, credits or a combination of standards and credits. The commissioner shall invite the participation of the Maine School Boards Association, the Maine School Superintendents Association, the Maine Principals' Association, the Maine Education Association, the Maine Administrators of Services for Children with Disabilities and other interested entities. The commissioner shall submit a report on the requirements for awarding high school diplomas to the Joint Standing Committee on Education and Cultural Affairs no later than January 29, 2010. After receipt and review of the report, the joint standing committee may report out legislation regarding the requirements for awarding high school diplomas to the Second Regular Session of the 124th Legislature.

Sec. 22. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 20-A, chapter 207-A, subchapter 2, in the subchapter headnote, the words "elementary schools" are amended to read "elementary and junior high schools or middle schools" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 314

S.P. 511 - L.D. 1392

An Act To Promote Economic Development and Reduce Reliance on Automobiles through Transit-oriented Tax Increment Financing Districts

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

Sec. 1. 30-A MRSA §5221, sub-§2, ¶A, as amended by PL 2007, c. 413, §1, is further amended to read:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination;

Sec. 2. 30-A MRSA §5222, sub-§19 is enacted to read:

19. Transit. "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.

Sec. 3. 30-A MRSA §5222, sub-§20 is enacted to read:

20. Transit facility. "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.

Sec. 4. 30-A MRSA §5222, sub-§21 is enacted to read:

21. Transit-oriented development. "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.

Sec. 5. 30-A MRSA §5222, sub-§22 is enacted to read:

22. Transit-oriented development area. "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.

Sec. 6. 30-A MRSA §5222, sub-§23 is enacted to read:

23. Transit-oriented development corridor. "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.

Sec. 7. 30-A MRSA §5222, sub-§24 is enacted to read:

24. Transit-oriented development district. "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.

Sec. 8. 30-A MRSA §5223, sub-§3, as amended by PL 2007, c. 693, §3 and affected by §37, is further amended to read:

3. Conditions for approval. Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

(1) Must be a blighted area;

(2) Must be in need of rehabilitation, redevelopment or conservation work; or

(3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of all development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

(1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed $10,000,000;

(2) The geographic area consists entirely of contiguous property owned by a single taxpayer;

(3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and

(4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed $50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(2) The acquisition, construction and installment of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 ~~or~~, tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.

Sec. 9. 30-A MRSA §5224, sub-§2, ¶C, as amended by PL 2007, c. 413, §4, is further amended to read:

C. A description of commercial facilities, arts districts, transit expansion, improvements or projects to be financed in whole or in part by the development program;

Sec. 10. 30-A MRSA §5225, sub-§1, ¶A, as amended by PL 2007, c. 413, §5, is further amended to read:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

(1) Capital costs, including, but not limited to:

(a) The acquisition or construction of land, improvements, buildings, structures, fixtures and equipment for public, arts district ~~or~~, commercial or transit-oriented development district use;

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) Site preparation and finishing work; and

(d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;

(2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs;

(4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation; ~~and~~

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

Sec. 11. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2009, c. 85, §1, is further amended to read:

C. Costs related to economic development, environmental improvements or employment training within the municipality, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or funding the marketing of the municipality as a business or arts location;

(2) Costs of funding environmental improvement projects developed by the municipality for commercial or arts district use or related to such activities;

(3) Funding to establish permanent economic development revolving loan funds or investment funds;

(4) Costs of services to provide skills development and training for residents of the municipality. These costs may not exceed 20% of the total project costs and must be designated as training funds in the development program;

(5) Quality child care costs, including finance costs and construction, staffing, training, certification and accreditation costs related to child care; ~~and~~

(6) Costs relating to planning, design, construction, maintenance, grooming and improvements to new or existing recreational trails determined by the department to have significant potential to promote economic development, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses; and

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; and

See title page for effective date.

CHAPTER 315

H.P. 110 - L.D. 126

An Act To Amend Certain Laws Affecting Transportation

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

Sec. 1. 23 MRSA §705, as amended by PL 2007, c. 306, §2, is further amended to read:

§705. Culverts

The Department of Transportation ~~is responsible for administering~~ shall oversee the ~~placement~~ installation or replacement of culverts within the right-of-way on ~~improved~~ state and state aid highways lying outside the compact area of an urban compact municipality as defined in section 754. ~~When an~~ An abutter ~~wants an~~ desiring to establish a new driveway, entrance ~~to be constructed~~ or approach on these highways~~, the abutter shall petition the department for a permit as provided under~~ must first comply with section 704 and any rules adopted under section 704. ~~Should a permit be issued and~~ If the department determines that a culvert is required, the abutter shall, at the abutter's expense, provide a culvert meeting department standards and install~~, at the abutter's expense, under the direction of the department, a culvert~~ the culvert in a manner satisfactory to the department~~, which the department shall maintain~~. The abutter has continuing responsibility for the condition and stability of the access, including replacement of any culverts or other structures pertaining to the access, subject to the department's ongoing jurisdiction over the right-of-way.

When the department determines that, in order to reestablish access to an abutting property, a culvert replacement is required for an existing driveway, entrance or approach located within the highway limits as part of a capital highway or ditching project or emergency response effort, the department is responsible for the cost of the replacement.

When the department determines a culvert replacement is not required for an existing driveway, entrance or approach located within the highway limits, the abutter is responsible for the cost of any replacement.

For locations on town ways and on state and state aid highways within the compact area of an urban compact municipality pursuant to section 754, the municipality must be petitioned by the abutter pursuant to section 704. Should a permit be issued, the abutter shall provide, at the abutter's expense, a culvert satisfactory to the municipality, which the municipality shall install and maintain.

Sec. 2. 23 MRSA §802, as amended by PL 1999, c. 473, Pt. C, §4, is further amended to read:

§802. Maintenance by State

State aid highways must be continually maintained under the direction and control of the department at the expense of the State except as provided in ~~section~~ sections 705, 754 and 1003.

Sec. 3. 29-A MRSA §101, sub-§15-A is enacted to read:

15-A. Combination vehicle. "Combination vehicle" means a motor vehicle consisting of a truck tractor in combination with one or more trailers or semitrailers.

Sec. 4. 29-A MRSA §101, sub-§29-A, as enacted by PL 2003, c. 166, §5, is amended to read:

29-A. Interstate highway, interstate system or interstate highway system. "Interstate highway," "interstate system" or "interstate highway system" has the same meaning as defined in Title 23, section 1903, subsection 3, except that it does not include that portion of the Maine Turnpike designated Interstate 95 ~~and 495~~ and that portion of Interstate 95 from the southern terminus of the Maine Turnpike to the New Hampshire state line.

See title page for effective date.

CHAPTER 316

H.P. 926 - L.D. 1322

An Act To Amend Provisions of the Submerged Lands Law

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

Whereas, the cap on the maximum rent for a lease of submerged lands is repealed effective June 30, 2009; and

Whereas, implementing a more equitable rent schedule to coincide with removal of the cap is beneficial to many lessees and to the management of submerged lands and shore and harbor improvements; and

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

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

Sec. 1. 12 MRSA §1862, sub-§1, ¶C, as enacted by PL 1997, c. 678, §13, is amended to read:

C. "Fair market rental value," for all uses of submerged lands except slip space rented or otherwise made available for private use for a fee, means the municipally assessed value per square foot for the adjacent upland multiplied by a reduction factor plus a base rate based on the use of the leased submerged land as specified in this section. This value is then multiplied by the square foot area of the proposed lease area to determine the annual rental rate. For slip space rented or otherwise made available for private use for a fee, the fair market rental value is the gross income from that space multiplied by a reduction factor as specified in this section based on the use of the leased submerged land.

Sec. 2. 12 MRSA §1862, sub-§1, ¶D-1, as enacted by PL 2005, c. 134, §2, is repealed.

Sec. 3. 12 MRSA §1862, sub-§1, ¶E-1 is enacted to read:

E-1. "Offshore project" means a project that extends beyond localized development adjacent to a single facility or property. "Offshore project" includes, but is not limited to, tanker ports, ship berthing platforms requiring secondary transport to shore, an interstate or international pipeline or cable and similar projects. "Offshore project" does not include a shore-based pier, marina or boatyard or utility cable and pipelines serving neighboring communities or islands. "Offshore project" does not include wind farms, tidal and wave energy facilities or other offshore renewable energy projects.

Sec. 4. 12 MRSA §1862, sub-§2, ¶A, as enacted by PL 1997, c. 678, §13, is amended to read:

A. For fill, permanent causeways, bridges, marinas, wharves, docks, pilings, moorings or other permanent structures and for nonpermanent structures occupying a total of 500 square feet or more of submerged land or occupying a total of 2,000 square feet or more of submerged land if used exclusively for commercial fishing activities:

(1) The director shall charge the lessee a ~~base~~ rent that practically approximates the fair market rental value of the submerged land. The reduction factors and base rate for use categories are as follows:

(a) A reduction factor of 0%~~,~~ with no base rate or ~~no~~ rental fee~~,~~ for nonprofit organizations or publicly owned facilities that offer free public use or public use with nominal user fees. Public uses include, but are not limited to, municipal utilities and facilities that provide public access to the water, town wharves, walkways, fishing piers, boat launches, parks, nature reserves, swimming or skating areas and other projects designed to allow or enhance public recreation, fishing, fowling and navigation and for which user fees are used exclusively for the maintenance of the facility;

(b) A reduction factor of ~~1%~~ 0.1% plus a base rate of $0.025 per square foot for commercial fishing uses of renewable aquatic resources. Commercial uses of renewable aquatic resources include, but are not limited to, facilities that are directly involved in commercial fishing activities. Such facilities include, but are not limited to, fish piers, lobster impoundments, fish processing facilities and floats or piers for the storage of gear;

(c) A reduction factor of 2% for any slip space rented or otherwise made available for private use by commercial fishing boats for a fee;

(d) A reduction factor of ~~2%~~ 0.2% plus a base rate of $0.05 per square foot for water-dependent commerce, industry and private uses. Water-dependent commerce, industry and private uses other than commercial uses of renewable aquatic resources include, but are not limited to, all facilities that are functionally dependent upon a waterfront location, can not reasonably be located or operated on an upland site or are essential to the operation of the marine industry. Such facilities include, but are not limited to, privately owned piers and docks, cargo ports, private boat ramps, shipping and ferry terminals, tug and barge facilities, businesses that are engaged in watercraft construction, maintenance or repair, aquariums and the area within marinas occupied by service facilities, gas docks, breakwaters and other structures not used for slip space;

(e) A reduction factor of 4% for any slip space rented or otherwise made available

for private use for recreational boats for a fee. ~~For facilities that include slip space under constructive easement, the rental fee may be reduced proportionally by the ratio of linear length of slip space within the area under constructive easement to the total linear length of all slip space within the facility~~; and

(f) A reduction factor of ~~2%~~ 0.2% for upland uses and fill located on submerged lands prior to July 1, 2009 and 0.4% for new upland uses and fill after July 1, 2009 plus a base rate of $0.05 per square foot. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or that are not essential to the operation of the marine industry. These facilities include, but are not limited to, residences, offices, restaurants and parking lots. Fill must include the placement of solid material other than pilings or other open support structures upon submerged lands.

~~When~~ If the director determines that the municipally assessed value of the adjacent upland is not an accurate indicator of the value of submerged land, the director may make adjustments in the municipally assessed value so that it more closely reflects the value of comparable waterfront properties in the vicinity or require the applicant to provide an appraisal of the submerged land. The appraisal must be approved by the director~~;~~.

For offshore projects where municipally assessed value for the adjacent upland or submerged lands appraisals are unavailable or the director determines that such assessment or appraisals do not accurately indicate the value of the submerged land, the director may establish the submerged lands annual rental rate and other public compensation as appropriate by negotiation between the bureau and the applicant. In such cases the annual rent and other public compensation must take into account the proposed use of the submerged lands, the extent to which traditional and customary public uses may be diminished, the public benefit of the project, the economic value of the project and the avoided cost to the applicant. If the State's ability to determine the values listed in this paragraph or to carry out negotiations requires expertise beyond the program's capability, the applicant must pay for the costs of contracting for such expertise;

(2) After October 1, 1990, the director may revalue all existing rents to full fair market rental value. Rents for all uses except slip space may be adjusted annually as needed over a period not to exceed 5 years until the full fair market rental value is reached. ~~Thereafter~~ After the full fair market rental value is reached, the director may revalue rents for all uses except slip space every 5 years based on changes in municipally assessed value and programmatic cost adjustments to the base rate. Adjustments to the base rate may not exceed 4% per year. Rents for slip space may fluctuate annually depending on the gross income of the facility;

(3) The director may also lease a buffer zone of not more than 30 feet in width around a permanent structure located on submerged or intertidal land, provided that the lease is necessary to preserve the integrity and safety of the structure and that the Commissioner of Marine Resources consents to that lease;

(4) Any existing or proposed lease may be subleased for the period of the original lease for the purpose of providing berthing space for any boat or vessel;

(5) No portion of an existing or proposed lease may be transferred from a person subleasing that portion to provide berthing space for any boat or vessel except for a transfer to heirs upon death of the sublessee holder or a transfer to the original leaseholder subject to terms agreed to by the lessor and sublessee at the time of the sublease. This subparagraph does not apply to any subleasing arrangements entered into before June 15, 1989; and

(6) The director may grant the proposed lease if the director finds that, in addition to any other findings that the director may require, the proposed lease:

(a) Will not unreasonably interfere with navigation;

(b) Will not unreasonably interfere with fishing or other existing marine uses of the area;

(c) Will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and

(d) Will not unreasonably interfere with ingress and egress of riparian owners.

The bureau shall adopt rules pertaining to this subparagraph by March 15, 1990.

Sec. 5. 12 MRSA §1862, sub-§2, ¶D, as enacted by PL 1997, c. 678, §13, is amended to read:

D. The ~~director may establish a reasonable~~ minimum rent to which any lease is subject~~, not to exceed $100~~ is $150 per year.

Sec. 6. 12 MRSA §1862, sub-§9, as enacted by PL 1997, c. 678, §13, is amended to read:

9. Public compensation. ~~When~~ With respect to any lease, including, but not limited to, leases for offshore projects, when the director determines that the public should be compensated for the loss or diminution of traditional and customary public uses resulting from the activities proposed by the lessee, the director may negotiate with the lessee to provide public access improvements such as walkways, boat launching ramps, parking space or other facilities or negotiate a fee in lieu of such improvements as a condition of the lease. The determination of loss or diminution of traditional and customary public uses and appropriate public compensation must be made in consultation with local municipal officials.

Sec. 7. Application. This Act applies to new and renewal leases issued under the Maine Revised Statutes, Title 12, chapter 220, subchapter 5 after June 30, 2009 and all leases after December 31, 2009.

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

Effective June 9, 2009.

CHAPTER 317

H.P. 633 - L.D. 915

An Act To Update and Clarify Statutes Related to or Administered by the Department of Public Safety

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

PART A

Sec. A-1. 5 MRSA §948, sub-§1, as amended by PL 2003, c. 20, Pt. R, §§5 and 6, is further amended to read:

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

A. Chief, Bureau of State Police;

C. Director, Office of State Fire Marshal;

D. Director, Maine Criminal Justice Academy;

E. Assistant to the Commissioner for Public Information;

G. ~~Two~~ Deputy ~~Chiefs~~ Chief, Bureau of State Police;

H. Director, Bureau of Highway Safety;

I. Director, Maine Drug Enforcement Agency;

~~J. Assistant Director, Maine Drug Enforcement Agency;~~

K. Two majors, Bureau of State Police; ~~and~~

L. Director, Maine Emergency Medical Services.~~;~~

M. Director, Bureau of Consolidated Emergency Communications; and

N. Director, Bureau of Building Codes and Standards.

PART B

Sec. B-1. 23 MRSA §6072, sub-§1, ¶A, as amended by PL 2003, c. 199, §1, is further amended to read:

A. Has met all the education and training requirements as outlined under former Title 25, section 2805, first paragraph or Title 25, ~~sections~~ section 2804-B ~~and~~ or 2804-C;

PART C

Sec. C-1. 25 MRSA §1533, as enacted by PL 2003, c. 678, §2, is repealed and the following enacted in its place:

§1533. Bureau of Consolidated Emergency Communications

The Bureau of Consolidated Emergency Communications, referred to in this chapter as "the bureau," is established within the department for the provision of emergency dispatch and E-9-1-1 call-taking services to municipal, county and state government entities.

1. Coordination with the Public Utilities Commission. In accordance with a designation made by the Public Utilities Commission, the department shall provide E-9-1-1 call-taking services.

2. Director; duties. The Commissioner of Public Safety shall hire a Director of the Bureau of Consolidated Emergency Communications, referred to in this chapter as "the director." The director shall carry out policies and procedures established by the board. The director shall administer the bureau to safeguard the public safety by the provision of 24-hour per day E-9-1-1 call-taking and dispatching services to first responders.

PART D

Sec. D-1. 25 MRSA §2801-B, sub-§1, ¶H, as amended by PL 2005, c. 139, §1 and c. 331, §6, is further amended to read:

H. The State Fire Marshal or Assistant State Fire Marshal;

PART E

Sec. E-1. 25 MRSA §2803-A, sub-§8-A, as amended by PL 2005, c. 331, §12, is further amended to read:

8-A. Training of police officers of the Bureau of Capitol Police. To establish certification standards and a training program for ~~security~~ police officers appointed by the Commissioner of Public Safety pursuant to section 2908. This program must include:

A. The preservice law enforcement training under section 2804-B;

B. An additional 120-hour field training program developed and approved by the board that is specific to the duties of a ~~security~~ Capitol Police officer; and

C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

~~Security~~ Capitol Police officers are exempt from section 2804-C;

Sec. E-2. 25 MRSA §2804-J, as enacted by PL 2001, c. 559, Pt. KK, §3, is amended to read:

§2804-J. Law enforcement training for police officers of the Bureau of Capitol Police

The following provisions govern the training and certification of ~~security~~ police officers appointed pursuant to section 2908.

~~**1. Security officers hired or appointed before March 1, 2002.** A security officer hired or appointed before March 1, 2002 must successfully complete, before July 1, 2003, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.~~

2. Police officers hired or appointed on or after March 1, 2002. A ~~security~~ police officer hired or appointed on or after March 1, 2002 must have successfully completed, at the time the person is hired or within the first 12 months of employment, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.

Sec. E-3. 25 MRSA §2901, as amended by PL 2003, c. 451, Pt. T, §4, is further amended to read:

§2901. Department; commissioner

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Bureau of Highway Safety ~~and~~, the Maine Drug Enforcement Agency, Maine Emergency Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated Emergency Communications, the Bureau of Building Codes and Standards and the Gambling Control Unit.

Sec. E-4. 25 MRSA §2901-A, as enacted by PL 1975, c. 579, §11, is amended to read:

§2901-A. Duties of commissioner

The commissioner ~~shall be~~ is the chief executive officer of the Department of Public Safety~~. He~~ and shall coordinate and supervise the activities and programs of the bureaus and agency ~~which~~ that are part of the department; undertake comprehensive planning and analysis with respect to the functions and responsibilities of the department; ~~and~~ develop and implement, whenever necessary, procedures and practices to promote economy and coordination within the department; and actively seek cooperation between the department and all other law enforcement officers and agencies in the State. From time to time, ~~he~~ the commissioner shall recommend to the Governor and Legislature such changes in the laws relating to the organization, functions, services or procedures of the agency and bureaus of the department as ~~he shall deem~~ the commissioner considers desirable. The commissioner shall prepare a budget for the department.

Sec. E-5. 25 MRSA §2902, sub-§7, as amended by PL 2001, c. 559, Pt. KK, §4, is further amended to read:

7. Bureau of Highway Safety. The Bureau of Highway Safety, which is under the direction of the Director of the Bureau of Highway Safety. The bureau is responsible for the State's highway safety program. The bureau is authorized to develop and implement a process for obtaining information about highway safety programs administered by other state and local agencies and to provide and facilitate the provision of financial and technical assistance to other state agencies and political subdivisions for the purpose of developing and carrying out highway safety programs; ~~and~~

Sec. E-6. 25 MRSA §2902, sub-§8, as enacted by PL 2001, c. 559, Pt. KK, §4, is amended to read:

8. Bureau of Capitol Police. The Bureau of Capitol ~~Security~~ Police, which is under the direction of the ~~Director~~ Chief of the Bureau of Capitol ~~Security~~ Police. ~~Security~~ Police officers of this bureau are those appointed by the Commissioner of Public Safety pursuant to section 2908.~~.~~;

Sec. E-7. 25 MRSA §2902, sub-§9 is enacted to read:

9. Bureau of Consolidated Emergency Communications. The Bureau of Consolidated Emergency Communications, which is under the direction of the Director of the Bureau of Consolidated Emergency Communications;

Sec. E-8. 25 MRSA §2902, sub-§10 is enacted to read:

10. Maine Emergency Medical Services. The Maine Emergency Medical Services, which is under the direction of the Director of Maine Emergency Medical Services;

Sec. E-9. 25 MRSA §2902, sub-§11 is enacted to read:

11. Bureau of Building Codes and Standards. The Bureau of Building Codes and Standards, which is under the direction of the Director of the Bureau of Building Codes and Standards; and

Sec. E-10. 25 MRSA §2902, sub-§12 is enacted to read:

12. Gambling Control Unit. The Gambling Control Unit.

Sec. E-11. 25 MRSA §2903, as enacted by PL 1977, c. 37, is amended to read:

§2903. Temporary enforcement powers

The Commissioner of Public Safety, at ~~his~~ the commissioner's discretion, is authorized to grant statewide power of enforcement of the criminal laws of the State to ~~local~~ county and municipal law enforcement officers, as defined in section ~~2805~~ 2801-A, subsection 5, assigned to the Department of Public Safety for the duration of that assignment, according to procedures established for that purpose. That power ~~shall~~ may be granted only to ~~local~~ county and municipal law enforcement officers who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section ~~2805~~ 2804-C, subsection 1 or 5.

Sec. E-12. 25 MRSA §2904, sub-§1, as amended by PL 2001, c. 559, Pt. KK, §5, is further amended to read:

1. Commissioner of Public Safety. Except as provided in subsection 2, the Commissioner of Public Safety is authorized and empowered to adopt rules, including a schedule of parking violation fees, subject to the approval of the Governor, governing the security regarding use and occupancy of all parks, grounds, buildings and appurtenances maintained by the State at the capitol area or other state-controlled locations in Augusta. ~~These rules become effective upon deposit of a copy with the Secretary of State, who shall forward a copy attested under the Great Seal of the State to the District Court for Southern Kennebec.~~ Prior to adoption of new or amended rules, the commissioner shall provide notice of rulemaking to the Legislative Council. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

Sec. E-13. 25 MRSA §2906, as amended by PL 1991, c. 665, §§1 and 2, is repealed and the following enacted in its place:

§2906. Rules

1. Rules. The Commissioner of Public Safety is authorized and empowered to make and enforce rules, subject to the approval of the Governor, governing the use of public ways and parking areas maintained by the State at the capitol area or other state-controlled locations in Augusta.

2. Fees. The Commissioner of Public Safety may by rule establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within specified periods of time. These rules may provide that a vehicle unlawfully parked is prima facie evidence of the unlawful parking of the vehicle by the person in whose name the vehicle is registered. The specified fee for any violation must be at least $10.

Rules adopted pursuant to this section are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

Sec. E-14. 25 MRSA §2908, as repealed and replaced by PL 1989, c. 857, §59, is repealed and the following enacted in its place:

§2908. Police officers; powers and duties; cooperation

1. Appointment of police officers. The Commissioner of Public Safety may appoint and employ police officers, subject to the Civil Service Law. The specific duties and powers of police officers appointed and employed are to patrol the public ways and parking areas, to provide security for all parks, grounds, buildings and appurtenances maintained by the State in the capitol area and other state-controlled locations designated by the commissioner and to enforce any rules adopted pursuant to this chapter. The commissioner may expand the duties and powers of police

officers in the capitol area, other state-controlled locations and public ways designated by the commissioner beyond the duties and powers enumerated in this section to investigate, prosecute, serve process on and arrest violators of any law of this State. Police officers may issue summons in the course of their duty to enforce this section. The commissioner may grant statewide power of enforcement of any law of this State to police officers described in this subsection. That power may be granted only to police officers who have completed a basic training course at the Maine Criminal Justice Academy or for whom the basic training course has been waived by the board of trustees of the academy because of equivalent training, as provided in section 2804-C, subsection 1 or 5. The commissioner shall provide forms and standard operating procedures to police officers to carry out their functions under this section.

2. Cooperation of other law enforcement agencies. The State Police, sheriffs, deputy sheriffs, constables and municipal police officers shall, as much as possible, cooperate with the police officers appointed and employed under this section in the enforcement of rules adopted pursuant to this chapter and any law of this State.

Sec. E-15. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "capital security officer" appear or reference is made to a security officer appointed by the Commissioner of Public Safety pursuant to the Maine Revised Statutes, Title 25, section 2908, they are amended to read or mean, as appropriate, "Capitol Police officer" or "police officer appointed by the Commissioner of Public Safety pursuant to Title 25, section 2908," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. E-16. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Bureau of Capital Security" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Bureau of Capitol Police," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART F

Sec. F-1. 29-A MRSA §2054, sub-§1, ¶B, as amended by PL 2007, c. 348, §18, is further amended to read:

B. "Authorized emergency vehicle" means any one of the following vehicles:

(1) An ambulance;

(2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;

(3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

(4) A Department of Conservation vehicle operated by a forest ranger;

(5) A Department of Conservation vehicle used for forest fire control;

(6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;

(7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;

(8) A Department of Public Safety vehicle operated by a ~~capital security~~ police officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;

(9) An emergency medical service vehicle;

(10) A fire department vehicle;

(11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;

(12) A railroad police vehicle;

(13) A sheriff's department vehicle;

(14) A State Police or municipal police department vehicle;

(15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;

(16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;

(17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;

(18) A Federal Government vehicle operated by a federal law enforcement officer;

(19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief;

(20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; and

(21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator.

See title page for effective date.

CHAPTER 318

H.P. 309 - L.D. 421

An Act To Amend the Laws Concerning Licensure Qualifications of Independent Practice Dental Hygienists

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

Sec. 1. 32 MRSA §1094-K, as enacted by PL 2007, c. 620, Pt. B, §1, is amended to read:

§1094-K. Education and experience

An applicant for licensure under this subchapter as an independent practice dental hygienist must:

1. Bachelor's degree and 2,000 hours experience. Possess a bachelor's degree in dental hygiene from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation, or its successor organization, and document ~~one year or~~ 2,000 work hours of clinical practice in a private dental practice or nonprofit dental clinic under direct or general supervision of a dentist during the ~~2~~ 4 years preceding application; or

2. Associate degree and 5,000 hours experience. Possess an associate degree in dental hygiene from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation, or its successor organization, and document ~~3 years or 6,000~~ 5,000 work hours of clinical practice in a private dental practice or nonprofit dental clinic under direct or general supervision of a dentist during the 6 years preceding application.

See title page for effective date.

CHAPTER 319

H.P. 936 - L.D. 1332

An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund

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

Sec. 1. 38 MRSA §562-A, sub-§1-A, as enacted by PL 1993, c. 363, §2 and affected by §21, is amended to read:

1-A. Aboveground oil storage facility. "Aboveground oil storage facility" ~~also referred to as a "facility"~~ means any aboveground oil storage tank or tanks, together with associated piping, transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in section 542, subsection 7 and propane facilities are not included in this definition and are not eligible for coverage by the fund.

Sec. 2. 38 MRSA §562-A, sub-§15-A is enacted to read:

15-A. Oil storage facility or facility. "Oil storage facility" or "facility" means an aboveground oil storage facility or an underground oil storage facility.

Sec. 3. 38 MRSA §562-A, sub-§15-B is enacted to read:

15-B. Operator. "Operator" means a person in control of, or having responsibility for, the daily operation of an oil storage facility.

Sec. 4. 38 MRSA §562-A, sub-§21, as enacted by PL 1989, c. 865, §2, is amended to read:

21. Underground oil storage facility. "Underground oil storage facility~~,~~" ~~also referred to as "facility,"~~ means any underground oil storage tank or tanks, as defined in subsection 22, together with associated piping and dispensing facilities located under any land at a single location and used, or intended to be used, for the storage or supply of oil, as defined in this subchapter. Underground oil storage facility also includes piping located under any land at a single location associated with above ground storage tanks and containing 10% or more of the facility's overall volume capacity.

Sec. 5. 38 MRSA §564, sub-§2-A, ¶J, as amended by PL 1991, c. 494, §5, is further amended to read:

J. Owners and operators, upon request by the commissioner, to sample their underground oil tanks, to maintain records of all monitoring and sampling results at the facility or the facility owner's place of business and to furnish records of all monitoring and sampling results to the commissioner and to permit the commissioner or the commissioner's representative to inspect and copy those records; ~~and~~

Sec. 6. 38 MRSA §564, sub-§2-A, ¶K, as enacted by PL 1991, c. 66, Pt. B, §5, is amended to read:

K. Owners and operators to permit the commissioner or the commissioner's designated representatives, including contractors, access to all underground oil storage facilities for all purposes connected with administering this subchapter, including, but not limited to, for sampling the contents

of underground oil tanks and monitoring wells. This right of access is ~~to be~~ in addition to any other granted by law~~.~~; and

Sec. 7. 38 MRSA §564, sub-§2-A, ¶L is enacted to read:

L. Operators to complete a department training program that meets the minimum requirements specified by the United States Environmental Protection Agency under 42 United States Code, Section 6991i (2007).

Sec. 8. 38 MRSA §568, sub-§3, as amended by PL 2007, c. 534, §4, is further amended to read:

3. Issuance of clean-up orders. The commissioner may investigate and sample sites where an oil discharge has or may have occurred to identify the source and extent of the discharge. During the course of the investigation, the commissioner may require submission of information or documents that relate or may relate to the discharge under investigation from any person who the commissioner has reason to believe may be a responsible party under this subchapter or subchapter 2-A. If the commissioner finds, after investigation, that a discharge of oil has occurred and may create a threat to public health or the environment, including, but not limited to, contamination of a water supply, the commissioner may issue a clean-up order requiring the responsible party to cease the discharge immediately and to take action to prevent further discharge and to mitigate or terminate the threat of human exposure to contamination or to explosive vapors. In addition to other actions, including an action to prohibit product delivery under section 565-A, the commissioner may, as part of any clean-up order, require the responsible party to provide temporary drinking water and water treatment systems approved by the commissioner, to sample and analyze wells ~~and~~, to compensate 3rd-party damages resulting from the discharge and to impose restrictions by deed covenant or other means on the use of the real property where the discharge occurred. The commissioner may also order that the responsible party take temporary and permanent remedial actions at locations threatened or affected by the discharge of oil, including a requirement that the responsible party restore or replace water supplies contaminated with oil with water supplies the commissioner finds are cost effective, technologically feasible and reliable and that effectively mitigate or minimize damage to, and provide adequate protection of, the public health, welfare and the environment. Clean-up orders may be issued only in compliance with the following procedures.

A. Any orders issued under this section must contain findings of fact describing the manner and extent of oil contamination, the site of the discharge and the threat to the public health or environment. Service of a copy of the commissioner's findings and order must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure.

B. A responsible party to whom such an order is directed may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by a responsible party. Within 15 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote. The nature of the hearing is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order was directed. The burden of going forward then shifts to the person appealing to demonstrate, based upon a preponderance of the evidence, that the order should be modified or rescinded. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

C. Upon completion of the clean-up activity, the commissioner shall issue a letter to the responsible party or parties indicating that the clean-up order has been complied with for one or more parcels.

Sec. 9. 38 MRSA §568-A, sub-§1, ¶F, as enacted by PL 1995, c. 361, §4, is amended to read:

F. Within 15 working days of receipt of a request under paragraph A, the commissioner in the case of an underground oil storage facility or the State Fire Marshal in the case of an aboveground oil storage facility shall determine whether the request is complete. Failure to inform the applicant of the determination of completeness within 15 working days constitutes acceptance as complete. If the application is not accepted, the commissioner or State Fire Marshal shall return the application to the applicant with the reasons for nonacceptance specified in writing. ~~Within 90 days of receipt of an applicant's completed request for coverage by the fund submitted pursuant to this subsection, the commissioner or State Fire Marshal shall issue an order determining eligibility and, if the applicant is eligible, specifying the amount of the deductible under subsection 2. Failure to issue an order within this period constitutes a determination that the applicant is eligible, subject to the deductibles in subsection 2, paragraph A.~~

Sec. 10. 38 MRSA §568-A, sub-§1, ¶F-1 is enacted to read:

F-1. Within 90 days of receipt of an applicant's completed request for coverage by the fund submitted pursuant to this subsection, the commissioner or State Fire Marshal shall issue an order determining eligibility and, if the applicant is eligible, specifying the amount of the deductible under subsection 2. Failure to issue an order within this period constitutes a determination that the applicant is eligible, subject to the deductibles in subsection 2, paragraph A. An order issued under this paragraph may be conditioned on any reasonable terms determined necessary by the commissioner or State Fire Marshal to prevent or limit human exposure to contamination from the discharge, including a requirement that the applicant impose restrictions by deed covenant or other means on the use of the real property where the discharge occurred.

Sec. 11. 38 MRSA §568-A, sub-§1, ¶L is enacted to read:

L. An applicant is not eligible for coverage under this section if the applicant is a motor carrier under the Motor Carrier Act, 49 United States Code, Section 31139 and the discharge for which coverage is sought occurred during the offloading or onloading of oil from or to a motor vehicle used to transport oil.

Sec. 12. 38 MRSA §568-A, sub-§7, as amended by PL 2003, c. 245, §10, is further amended to read:

7. Repeal date. This section is repealed December 31, ~~2010~~ 2015.

Sec. 13. 38 MRSA §568-B, sub-§3, as enacted by PL 2003, c. 245, §11, is amended to read:

3. Repeal date. This section is repealed December 31, ~~2010~~ 2015.

Sec. 14. 38 MRSA §569-A, sub-§13, as amended by PL 2003, c. 245, §13, is further amended to read:

13. Repeal date. This section is repealed December 31, ~~2010~~ 2015.

Sec. 15. 38 MRSA §569-B, sub-§8, as amended by PL 2003, c. 245, §14, is further amended to read:

8. Effective date. This section takes effect December 31, ~~2010~~ 2015.

Sec. 16. 38 MRSA §570, first ¶, as affected by PL 2003, c. 245, §§20 and 21 and amended by PL 2007, c. 292, §§35 and 36, is repealed and the following enacted in its place:

The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-A, subsection 8, paragraphs B, D, E, H and J, or other damage incurred by the State, except for costs found by the commissioner to be eligible for coverage under section 568-A. The term "other damages," as used in this paragraph, includes interest computed at 15% a year from the date of expenditure and damage for injury to, destruction of, loss of or loss of use of natural resources, the reasonable costs of assessing natural resources damage and the costs of preparing and implementing a natural resources restoration plan. The commissioner shall demand reimbursement of costs and damages paid by the department from state or federal funds as provided under section 569-A, subsection 10 except for amounts that are eligible for coverage by the fund under this subchapter. Payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court or the department may file suit in District Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability. This paragraph is repealed December 31, 2015.

Sec. 17. 38 MRSA §570, as affected by PL 2003, c. 245, §§20 and 21 and amended by PL 2007, c. 292, §§35 and 36, is further amended by adding after the first paragraph a new paragraph to read:

This paragraph takes effect December 31, 2015. The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-B, subsection 5, paragraphs B, D, E and G or other damage incurred by the State, including interest computed at 15% a year from the date of expenditure, and damage for injury to, destruction of, loss of or loss of use of natural resources and the reasonable costs of assessing natural resources damage. The commissioner shall demand reimbursement of costs and payment of damages paid by the department from state or federal funds to be recovered under this section and payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court or the department may file suit in District Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a de-

mand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

Sec. 18. 38 MRSA §570-A, last ¶, as amended by PL 2003, c. 245, §15, is further amended to read:

This section is repealed December 31, ~~2010~~ 2015.

Sec. 19. 38 MRSA §570-B, last ¶, as amended by PL 2003, c. 245, §16, is further amended to read:

This section is repealed December 31, ~~2010~~ 2015.

Sec. 20. 38 MRSA §570-I, last ¶, as amended by PL 2003, c. 245, §17, is further amended to read:

This section takes effect December 31, ~~2010~~ 2015.

Sec. 21. 38 MRSA §570-J, last ¶, as amended by PL 2003, c. 245, §18, is further amended to read:

This section is effective December 31, ~~2010~~ 2015.

Sec. 22. PL 1991, c. 817, §28, as amended by PL 2003, c. 245, §20, is repealed.

Sec. 23. PL 1991, c. 817, §30, as amended by PL 2003, c. 245, §21, is repealed.

Sec. 24. Review and evaluation. The Department of Environmental Protection, in consultation with interested parties, shall review and evaluate the current framework for funding investigations and the cleanup of tank-related oil discharges at voluntary response action program sites under the Maine Revised Statutes, Title 38, section 343-E and sites contaminated by discharges during the delivery of oil to an oil storage facility. The department shall make recommendations for sustainable public or private funding of the investigation and cleanup of those sites. By January 15, 2010, the department shall submit to the Joint Standing Committee on Natural Resources a report detailing its findings and recommendations, and the committee may report out legislation to the Second Regular Session of the 124th Legislature relating to the report.

Sec. 25. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management 0247

Initiative: Deallocates funds as a result of limiting eligibility for coverage and modifying other activities to reduce expenditures from the Ground Water Oil Clean-up Fund.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($500,000)	($500,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	($500,000)	($500,000)

See title page for effective date.

CHAPTER 320

H.P. 798 - L.D. 1159

An Act Relating to Industrial Hemp

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

Sec. 1. 7 MRSA c. 406-A is enacted to read:

CHAPTER 406-A

HEMP

§2231. Industrial hemp

1. Definition. As used in this chapter, unless the context otherwise indicates, "industrial hemp" means any variety of Cannabis sativa L. with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in compliance with this chapter.

2. Growing permitted. Notwithstanding any other provision of law, a person may plant, grow, harvest, possess, process, sell and buy industrial hemp if that person holds a license issued pursuant to subsection 4.

3. Application. A person desiring to grow industrial hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner. The application must include the name and address of the applicant, the legal description of the land area to be used for the production of industrial hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating the production fields. Except for employees of the Maine Agricultural Experiment Station and the University of Maine System involved in research and related activities, an applicant for an initial licensure must submit a set of the applicant's fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history record check by the Department of Public Safety, State Bureau of Identification and the Federal Bureau of Investigation. All costs associated with the criminal

history record check are the responsibility of the applicant and must be submitted with the fingerprints. Criminal history records provided to the commissioner under this section are confidential. The results of criminal records checks received under this subsection may only be used in determining an applicant's eligibility for licensure. A person with a prior criminal conviction is not eligible for licensure.

4. License issued. Upon review and approval of an application, the commissioner shall notify the applicant and request that the application fee determined under subsection 7 be submitted. Upon receipt of the appropriate fee and in accordance with subsection 8, the commissioner shall issue a license, which is valid for a period of one year and only for the site or sites specified in the license.

5. Documentation. A licensee shall file with the commissioner documentation indicating that the seeds planted were of a type and variety of hemp approved by the commissioner as having a concentration of no more than 0.3% delta-9-tetrahydrocannabinol by dry weight and a copy of any contract to grow industrial hemp. A licensee shall notify the commissioner of the sale or distribution of industrial hemp grown by the licensee and the name of each person to whom the industrial hemp was sold or distributed.

6. Rules. The commissioner shall adopt rules to establish approved varieties of industrial hemp, protocols for testing plant parts during growth for delta-9-tetrahydrocannabinol levels and guidelines for monitoring the growth and harvest of industrial hemp. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Fees. The commissioner shall establish through rulemaking under subsection 6 an application fee, a license fee and per acre fees for monitoring, sampling and testing that are reasonable and necessary to cover the costs of the department.

All fees received pursuant to this subsection must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this subsection must be used for the expenses of administering this chapter.

8. Licensing contingent upon action by Federal Government. A license may not be issued under this section unless:

A. The United States Congress excludes industrial hemp from the definition of "marihuana" for the purpose of the Controlled Substances Act, 21 United States Code, Section 802(16); or

B. The United States Department of Justice, Drug Enforcement Administration takes affirmative steps towards issuing a permit under 21 United States Code, Chapter 13, Subchapter 1, Part C to a person holding a license issued by a state to grow industrial hemp.

The commissioner shall notify the Revisor of Statutes and the Commissioner of Public Safety when the requirements of either paragraph A or B have been met.

See title page for effective date.

CHAPTER 321

S.P. 105 - L.D. 341

An Act To Amend the Department of Health and Human Services' Progressive Treatment Program

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

Sec. 1. 34-B MRSA §3873, sub-§2, ¶B, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

B. The person must:

(1) Be ~~21~~ 18 years of age or older;

(2) Have been clinically determined to be suffering from a severe and persistent mental illness;

(3) Have been under an order of involuntary commitment to a state mental health institute at the time of filing of the application for progressive treatment; and

(4) Have been clinically determined to be in need of the progressive treatment program in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. A determination under this subparagraph must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and inability to make informed decisions regarding treatment.

Sec. 2. 34-B MRSA §3873, sub-§3, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

3. Duration of participation. Except as provided in subsections 4 and 5, participation in the progressive treatment program must be for ~~a term~~ an initial period of 6 months or an extension of participation of 6 months. The District Court may not order partici-

pation in the progressive treatment program for longer than 12 months consecutively. Participation ends if a person successfully completes the program in accordance with subsection 4 or is hospitalized pursuant to a court order entered under subsection 5. Participation in the program is temporarily suspended if the person is voluntarily rehospitalized and recommences upon discharge from the hospital.

Sec. 3. 34-B MRSA §3873, sub-§3-A is enacted to read:

3-A. Extension of participation. Prior to the end of the initial period of participation under subsection 3, the District Court may order an extension of participation for 6 months for a person who is eligible under this subsection.

A. A person is eligible for an extension of participation if the person is a participant in the progressive treatment program and meets the requirements of subsection 2, paragraph B, subparagraphs (1), (2) and (4).

B. The assertive community treatment team providing treatment and care for the person shall determine whether the person is eligible for an extension of participation and whether an extension of participation is in the best interest of the person and shall complete a certificate stating those conclusions if they are in the affirmative and the basis for the conclusions.

C. A physician, psychologist, certified psychiatric nurse specialist or nurse practitioner who is a member of the assertive community treatment team shall file with the District Court:

(1) The certificate completed under paragraph B;

(2) An application for an extension of participation; and

(3) A written statement certifying that a copy of the application and certificate under paragraph B have been given personally to the person and that the person has been notified of the right to retain an attorney or to have an attorney appointed.

D. The following procedures apply when an application for an extension of participation has been filed under paragraph C:

(1) The assertive community treatment team shall give notice personally to the person, including a copy of the certificate completed under paragraph B; and

(2) The person must be afforded an opportunity to be represented by counsel, and if neither the person nor others provide counsel, the court shall appoint counsel for the person.

E. The District Court shall:

(1) Provide notice in accordance with section 3864, subsection 3;

(2) Provide notice to the person of the right to counsel, including the right to court-appointed counsel, and if neither the person nor others have provided counsel, the court shall appoint counsel for the person;

(3) Provide notice to the person of the right to select an examiner for the mental health examination under subparagraph (4);

(4) Provide a mental health examination by 2 examiners, each of whom must be a licensed physician or a licensed clinical psychologist, in accordance with section 3864, subsection 4, paragraph A, subparagraph 2-A;

(5) Hold a hearing in accordance with section 3864, subsection 5, paragraphs A, C, G and H;

(6) Make a determination of whether the person is eligible for an extension of participation and whether an extension of participation is in the best interest of the person, based on findings stated in the record; and

(7) If the District Court finds that the person is eligible for an extension of participation and that an extension of participation is in the best interest of the person, the District Court shall enter an order extending participation for 6 months. If the District Court finds that the person is not eligible for an extension of participation or that an extension of participation is not in the best interest of the person, the District Court shall dismiss the application.

F. The provisions of section 3864, subsections 10 and 11 apply to expenses and the right of appeal.

Sec. 4. 34-B MRSA §3873, sub-§4, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

4. Successful completion. A person who fully participates in the program and who follows the individualized treatment plan successfully completes the program upon expiration of 6 months or the 6-month period of extension ordered by the court under subsection 3-A or upon certification by the assertive community treatment team physician or psychologist that the person is no longer in need of the services of the program.

Sec. 5. Report. By January 1, 2010 the Department of Health and Human Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the following:

1. The needs of persons who are eligible to participate in the progressive treatment program under the Maine Revised Statutes, Title 34-B, section 3873, the needs of persons who are participating in the progressive treatment program and the resources available to meet those needs;

2. The costs of community-based care and hospitalization in community hospitals and state mental health institutes for persons who would be eligible to participate in the progressive treatment program; and

3. An analysis of implementation of the progressive treatment program for persons who were hospitalized at the state mental health institutes, including measurable outcomes.

See title page for effective date.

CHAPTER 322

S.P. 474 - L.D. 1292

An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System

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

Sec. 1. 5 MRSA §17054, sub-§3, as amended by PL 1993, c. 386, §2, is further amended to read:

3. Recovery of overpayments by the retirement system. Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions resulted from ~~an unintentional~~ a mistake of or incorrect information provided by an employee of the retirement system, or a mistake of the retiree or the recipient of the benefit or life insurance benefit, ~~no~~ a penalty or interest may not be ~~collected~~ assessed by the retirement system ~~on the amount to be recovered~~. In all cases of recovery of overpayments through the reduction of a retirement benefit, whether with or without the assessment of interest by the retirement system, the recovery practices must be reasonable and consider the personal economic stability of the retiree in the establishment of the recovery schedule. The executive director may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the executive director makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451~~; and~~.

Employers are responsible for enrolling employees in the correct retirement plan. The retirement system shall provide training, education and information to assist employers in the correct enrollment of employees. If an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits. The State is not responsible for the employer contribution when the employer is a school district, municipality or county and those contributions and assessed interest, if applicable, must be paid to the retirement system by the school district, municipality or county; and

Sec. 2. 5 MRSA §17103, sub-§6, as amended by PL 2007, c. 491, §77, is further amended to read:

6. Rights, credits and privileges; decisions. The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.

Sec. 3. 5 MRSA §17103, sub-§6-A is enacted to read:

6-A. Communication between the board and members of the retirement system. Communications between the board and members of the retirement system are governed by this subsection.

A. The board shall make all members aware of the requirements in law or rule and any changes to these requirements governing retirees, disability benefits and any other benefits provided by the retirement system. All retirement information provided to retirement system members must be provided by highly competent individuals well-trained and knowledgeable about the benefits and requirements of the retirement system in both law and rules, including requirements to qualify for disability retirement, and including information provided by individuals representing participating local districts to members. The board shall provide applicants for retirement or disability status with materials summarizing the most significant

requirements and restrictions in state laws and rules to include, at a minimum, retirement benefits, postretirement employment and responsibilities of retirees. These materials must be clearly written in simple and understandable terms.

B. In the event that a member requests to retire before normal retirement age, it is the primary responsibility of the retirement system to ensure through all feasible means that the member is informed of all the restrictions related to early retirement.

Sec. 4. 5 MRSA §17103, sub-§11, as amended by PL 1997, c. 651, §3, is further amended to read:

11. Report to Legislature. The board shall make a written report to the appropriate legislative committee on or before ~~the~~ March 1st of each year that must contain:

A. A discussion of any areas of policy or administration that, in the opinion of the board, should be brought to the attention of the committee;

B. Any proposed legislation amending the retirement system law that the board recommends to improve the retirement system;

C. A discussion of the progress toward meeting the goals of chapter 161;

D. A review of the operations of the retirement system, including a summary of administrative expenses and improvements in the delivery of services to members of the retirement system; ~~and~~

E. A budget report showing the budget status of the administrative operations and functions of the system for the current fiscal year relative to the budget for the current fiscal year.~~;~~

F. The number of individuals who retired in the previous calendar year categorized by plan status;

G. The number of new active members of the retirement system who became members during the previous year, by plan status;

H. The amount of earnings on investment in the previous calendar year;

I. The total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; and

J. The number of persons who applied for disability retirement during the previous calendar year including:

(1) The number of applicants for disability retirement who were awarded benefits at the application stage;

(2) The number of applicants for disability retirement who were awarded benefits following the submission of additional information;

(3) The net number of applicants for disability retirement who appealed decisions that denied disability retirement status; and

(4) The number of applicants who were granted disability retirement following their appeals.

Sec. 5. 5 MRSA §17105-A is enacted to read:

§17105-A. Adverse decisions of the retirement system

Prior to any adverse decision rendered by retirement system staff with respect to the recoupment, suspension or termination of benefits, or assessment of penalties or interest, the affected member or retiree is entitled to an informal hearing to which the member or retiree may bring legal counsel. The retirement system shall issue a written decision; this decision is subject to the retirement system's review and appeal process pursuant to section 17451.

Sec. 6. 5 MRSA §17106, as amended by PL 2007, c. 491, §79, is further amended to read:

§17106. Medical board

1. Establishment. The board shall designate a medical board ~~or boards each~~ to be composed of at least 3 physicians not eligible to participate in any of the retirement programs of the retirement system. The board shall make a good faith effort to appoint physicians to the medical board who are from those fields of medicine within which the Maine Public Employees Retirement System receives the greatest number of applications for disability retirement benefits.

2. Other physicians. If determined advisable by the board, the board may designate other physicians to provide medical consultation on disability cases.

3. Powers and duties. The medical board is advisory only to the retirement system. The medical board or other ~~physician~~ physicians designated by the board shall~~, at the request of the executive director,~~ review the file of an applicant for disability retirement and ~~as requested shall respond on any or all of the following~~:

A. Recommend an additional medical review in those instances where there are conflicting medical opinions;

B. Recommend additional medical tests to be performed on an applicant to obtain objective evidence of a permanent disability;

C. Assist the executive director in determining if a disability review of a recipient of a disability allowance is warranted;

D. ~~Inform the executive director and board in writing of its view as to the existence of a disability~~ Provide a written report of its analysis of how the applicant's medical records do or do not demonstrate the existence of physical or mental functional limitations entitling an applicant to benefits under chapter 423, subchapter ~~V~~ 5, articles 3 and 3-A, or chapter 425, subchapter ~~V~~ 5, articles 3 or 3-A; and

E. Advise the ~~executive director and board at the request of either~~ retirement system whether there are medical indications that a person who is the recipient of a disability retirement benefit under chapter 423, subchapter ~~V~~ 5, article 3-A or chapter 425, subchapter ~~V~~ 5, article 3-A should not engage in a rehabilitation program or whether a recipient is too severely disabled to benefit from rehabilitation in accordance with the purposes of chapter 423, subchapter ~~V~~ 5, article 3-A or chapter 425, subchapter ~~V~~ 5, article 3-A.

4. Medical evidence. The provisions of this subsection apply to medical evidence used for a disability retirement determination.

A. The retirement system shall consider the applicant's disability application, medical records and the medical board's analysis in making a disability retirement determination.

B. Explicit or implicit preferential weight may not be afforded any medical evidence or source of evidence, whether provided by the retirement system, its medical board or contracted examiners, or by any member, in connection with the application, review or hearing processes.

C. When addressing the weight to be given any medical evidence upon which a determination to award, deny or discontinue benefits is made, the retirement system, hearing officers and board of trustees shall consider, at least, the expertise of the medical source, the foundation of information upon which the opinion is rendered and its consistency with other medical evidence in the record.

D. The retirement system shall offer to review the decision and the records supporting that decision with the applicant prior to issuing a determination.

Sec. 7. 5 MRSA §17106-A is enacted to read:

§17106-A. Use of hearing officers

A hearing officer employed, contracted or otherwise provided by the board to implement the provisions of this chapter is subject to the provisions of this section.

1. Independent decision makers. All hearing officers are independent decision makers and are authorized to make recommended final decisions in regard to matters that come before them, consistent with applicable statutes and rules. A decision of the hearing officer must be based upon the record as a whole. The board shall accept the recommended decision of the hearing officer unless the recommended decision is not supported by the record as a whole, the retirement system is advised by the Attorney General that the hearing officer has made an error of law or the decision exceeds the authority or jurisdiction conferred upon the hearing officer. A decision of the board upon a recommended decision of the hearing officer constitutes final agency action. The board shall retain its decision-making authority in all retirement system policy areas.

2. No direct or indirect influence. A party to the appeal, including the appellant, the board, the executive director or the staff of the board may not exert direct or indirect influence on a hearing officer with regard to decisions of the hearing officer or the decision-making process.

3. Decision-making process. In the course of the decision-making process, hearing officers may accept, reject or determine the amount of weight to be given any information offered into evidence, including, but not limited to, medical evidence submitted by any of the parties to the appeal.

4. Discussion of issues before the hearing officers. All parties to an appeal, including the appellant, the board, the executive director and the retirement system staff are prohibited from ex parte communication with the hearing officer. All parties, including the appellant, the board, the executive director and the retirement system staff are prohibited from initiating or engaging in any discussion with a hearing officer regarding the substance of any pending case without first making all parties aware of the proposed contact and without also giving all parties the opportunity to participate in any communication.

5. Investigation. The joint standing committee of the Legislature having jurisdiction over labor matters shall monitor the compliance of the retirement system and all involved parties with regard to the use of hearing officers and the independence of hearing officers in the decision-making process. The joint standing committee of the Legislature having jurisdiction over labor matters may request the Attorney General to conduct an investigation if a complaint is made by a hearing officer or any participating party regarding the independence of the hearing process.

6. Engagement and termination. The board shall engage only qualified hearing officers, who must be monitored by the board. A hearing officer may be terminated for misconduct. Retaliatory action of any kind, including reprimand or termination, may not be taken against a hearing officer on the basis of that hearing officer's having issued decisions contrary to the decision of the executive director. In the event of termination, the retirement system shall set forth in

writing the basis for the termination, the propriety of which may then be considered by the joint standing committee of the Legislature having jurisdiction over labor matters pursuant to subsection 5.

Sec. 8. 5 MRSA §17924, sub-§2, as amended by PL 2007, c. 491, §177, is further amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service ~~immediately~~ preceding that member's ~~application for a disability retirement benefit~~ last date in service is not eligible for ~~that~~ a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 9. 5 MRSA §18504, sub-§2, as amended by PL 2007, c. 491, §244, is further amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service ~~immediately~~ preceding that member's ~~application for a disability retirement benefit~~ last date of service is not eligible for ~~that~~ a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's ~~latest~~ membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 10. 5 MRSA §18511, sub-§2, as amended by PL 1989, c. 878, Pt. B, §6, is further amended to read:

2. Presumption. ~~In participating local districts which have not adopted the disability retirement benefits enacted by Public Law 1975, chapter 622, section 54, and subsequent amendments, it~~ It is presumed that a member incurred a disability in the line of duty ~~which~~ that occurred while in actual performance of duty at some definite time and place and ~~which~~ that was not caused by the willful negligence of the member if:

A. The disability is the result of a cardiovascular injury ~~which~~ that occurred, or a cardiovascular or pulmonary disease ~~which~~ that developed, within 6 months of having participated in ~~fire fighting~~ firefighting or in a training or drill ~~which~~ that involved ~~fire fighting~~ firefighting; and

B. The member was an active member of a municipal fire department or of a volunteer fire association, as defined in Title 30-A, section 3151, for at least 2 years before the injury or the onset of the disease; ~~and~~.

~~C. The member has been granted workers' compensation benefits for the cardiovascular injury or disease or the pulmonary disease.~~

Sec. 11. 5 MRSA §18524, sub-§2, as amended by PL 2007, c. 491, §246, is further amended to read:

2. Exception. A member with fewer than 5 years of continuous creditable service ~~immediately~~ preceding that member's ~~application for a disability retirement benefit~~ last date of service is not eligible for ~~that~~ a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 12. Report. The Maine Public Employees Retirement System shall submit a report on the implementation of the new processes established under this Act and indicate whether those processes have resulted in the elimination of the necessity of deposing the medical board created pursuant to the Maine Revised Statutes, Title 5, section 17106. The retirement system also shall report on whether the pre-Tidd v. MSRS Docket Number HOUSC-AP-06-001 decision status offers enough protection for members with a preexisting disability. The retirement system shall report to the Joint Standing Committee on Labor by January 10, 2010. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 323

H.P. 667 - L.D. 965

An Act To Establish Annual Reporting for Genetically Engineered Crops

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

Sec. 1. 7 MRSA §1051, sub-§4, as enacted by PL 2007, c. 602, §3, is amended to read:

4. Manufacturer. "Manufacturer" means a person that produces or commercializes a genetically engineered plant part, seed or plant, not including a farm

operation ~~for the purposes of Title 17, section 2805~~ as defined in section 152, subsection 6.

Sec. 2. 7 MRSA §1052, sub-§2-A is enacted to read:

2-A. Reporting. A manufacturer selling genetically engineered plant parts, plants or seeds in the State shall annually report to the commissioner the total potential acreage at a given planting density of genetically modified crops that could be grown based on the amount of each genetically engineered product sold in the State. Individual manufacturer data received under this subsection is confidential and may not be made public. The commissioner shall make public aggregate data that does not reveal the sales activities of an individual manufacturer. The commissioner shall provide aggregate data on sales of genetically engineered trees, tree seedlings, tree seeds, tree scions and other propagative materials to the Department of Conservation, Bureau of Forestry.

See title page for effective date.

CHAPTER 324

S.P. 508 - L.D. 1405

An Act To Implement the Updates to Article 7 of the Uniform Commercial Code Suggested by the National Conference of Commissioners on Uniform State Laws

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

PART A

Sec. A-1. 11 MRSA art. 7, as amended, is repealed.

Sec. A-2. 11 MRSA art. 7-A is enacted to read:

ARTICLE 7-A

DOCUMENTS OF TITLE

PART 1

GENERAL

§7-1101. Short title

This Article may be known and cited as "the Uniform Commercial Code - Documents of Title."

§7-1102. Definitions and index of definitions

(1). In this Article, unless the context otherwise requires, the following terms have the following meanings.

(a). "Bailee" means a person that by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(b). "Carrier" means a person that issues a bill of lading.

(c). "Consignee" means a person named in a bill of lading to which or to whose order the bill promises delivery.

(d). "Consignor" means a person named in a bill of lading as the person from which the goods have been received for shipment.

(e). "Delivery order" means a record that contains an order to deliver goods directed to a warehouse, carrier or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(f). "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(g). "Goods" means all things that are treated as movable for the purposes of a contract for storage or transportation.

(h). "Issuer" means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed or in any other respect the agent or employee violated the issuer's instructions.

(i). "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

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

(k). "Sign" means, with present intent to authenticate or adopt a record:

(i) To execute or adopt a tangible symbol; or

(ii) To attach to or logically associate with the record an electronic sound, symbol, or process.

(l). "Shipper" means a person that enters into a contract of transportation with a carrier.

(m). "Warehouse" means a person engaged in the business of storing goods for hire.

(2). Definitions in other Articles applying to this Article and the sections in which they appear are:

(a). "Contract for sale," section 2-106;

(b). "Lessee in the ordinary course of business," section 2-1103; and

(c). "Receipt" of goods, section 2-103.

(3). In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§7-1103. Relation of Article to treaty or statute

(1). This Article is subject to any treaty or statute of the United States or regulatory statute of this State to the extent the treaty, statute or regulatory statute is applicable.

(2). This Article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee or otherwise regulating a bailee's business in respects not specifically treated in this Article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(3). This Article modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b).

(4). To the extent there is a conflict between the Uniform Electronic Transactions Act and this Article, this Article governs.

§7-1104. Negotiable and nonnegotiable document of title

(1). Except as otherwise provided in subsection (3), a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(2). A document of title other than one described in subsection (1) is nonnegotiable. A bill of lading that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against an order in a record signed by the same or another named person.

(3). A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

§7-1105. Reissuance in alternative medium

(1). Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(a). The person entitled under the electronic document surrenders control of the document to the issuer; and

(b). The tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(2). Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (1):

(a). The electronic document ceases to have any effect or validity; and

(b). The person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(3). Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(a). The person entitled under the tangible document surrenders possession of the document to the issuer; and

(b). The electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(4). Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (3):

(a). The tangible document ceases to have any effect or validity; and

(b). The person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

§7-1106. Control of electronic document of title

(1). A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(2). A system satisfies subsection (1), and a person is deemed to have control of an electronic document of title, if the document is created, stored and assigned in such a manner that:

(a). A single authoritative copy of the document exists that is unique, identifiable and, except as otherwise provided in paragraphs (d), (e) and (f), unalterable;

(b). The authoritative copy identifies the person asserting control as:

(i) The person to which the document was issued; or

(ii) If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(c). The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d). Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e). Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f). Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

PART 2

WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

§7-1201. Person that may issue a warehouse receipt; storage under bond

(1). A warehouse receipt may be issued by any warehouse.

(2). If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if issued by a person that is the owner of the goods and is not a warehouse.

§7-1202. Form of warehouse receipt; effect of omission

(1). A warehouse receipt need not be in any particular form.

(2). Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(a). A statement of the location of the warehouse facility where the goods are stored;

(b). The date of issue of the receipt;

(c). The unique identification code of the receipt;

(d). A statement whether the goods received will be delivered to the bearer, to a named person or to a named person or its order;

(e). The rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(f). A description of the goods or the packages containing them;

(g). The signature of the warehouse or its agent;

(h). If the receipt is issued for goods that the warehouse owns, either solely, jointly or in common with others, a statement of the fact of that ownership; and

(i). A statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest, unless the precise amount of advances made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse or to its agent that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(3). A warehouse may insert in its receipt any terms that are not contrary to this Title and do not impair its obligation of delivery under section 7-1403 or its duty of care under section 7-1204. Any contrary provision is ineffective.

§7-1203. Liability for nonreceipt or misdescription

A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1). The document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown," "said to contain" or words of similar import, if the indication is true; or

(2). The party or purchaser otherwise has notice of the nonreceipt or misdescription.

§7-1204. Duty of care; contractual limitation of warehouse's liability

(1). A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise

care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(2). Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on an increased valuation of the goods.

(3). Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the bailment may be included in the warehouse receipt or storage agreement.

§7-1205. Title under warehouse receipt defeated in certain cases

A buyer in ordinary course of business of fungible goods sold and delivered by a warehouse that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

§7-1206. Termination of storage at warehouse's option

(1). A warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title or, if a period is not fixed, within a stated period not less than 30 days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to section 7-1210.

(2). If a warehouse in good faith believes that goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided in subsection (1) and section 7-1210, the warehouse may specify in the notice given under subsection (1) any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(3). If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to other property, the warehouse facilities or other persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(4). A warehouse shall deliver the goods to any person entitled to them under this Article upon due demand made at any time before sale or other disposition under this section.

(5). A warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but shall hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

§7-1207. Goods must be kept separate; fungible goods

(1). Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(2). If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled thereto and the warehouse is severally liable to each owner for that owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

§7-1208. Altered warehouse receipts

If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

§7-1209. Lien of warehouse

(1). A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the

goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(2). A warehouse may also reserve a security interest against the bailor for the maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. The security interest is governed by Article 9-A.

(3). A warehouse's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person that so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(a). Deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(i) Actual or apparent authority to ship, store or sell;

(ii) Power to obtain delivery under section 7-1403; or

(iii) Power of disposition under section 2-403; section 2-1304, subsection (2); section 2-1305, subsection (2); section 9-1320; or section 9-1321, subsection (3) or other statute or rule of law; or

(b). Acquiesce in the procurement by the bailor or its nominee of any document.

(4). A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (1) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings or personal effects used by the depositor in a dwelling.

(5). A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§7-1210. Enforcement of warehouse's lien

(1). Except as otherwise provided in subsection (2), a warehouse's lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(2). A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(a). All persons known to claim an interest in the goods must be notified;

(b). The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place;

(c). The sale must conform to the terms of the notification;

(d). The sale must be held at the nearest suitable place to where the goods are held or stored; and

(e). After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for 2 weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held and the time and place of the sale. The sale must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least 10 days before the sale in not fewer than 6 conspicuous places in the neighborhood of the proposed sale.

(3). Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable

expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the warehouse subject to the terms of the receipt and this Article.

(4). A warehouse may buy at any public sale held pursuant to this section.

(5). A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(6). A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(7). The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(8). If a lien is on goods stored by a merchant in the course of its business, the lien may be enforced in accordance with subsection (1) or (2).

(9). A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

PART 3

BILLS OF LADING: SPECIAL PROVISIONS

§7-1301. Liability for nonreceipt or misdescription; "said to contain;" "shipper's weight, load, and count;" improper handling

(1). A consignee of a nonnegotiable bill of lading that has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown," "said to contain," "shipper's weight, load and count" or words of similar import, if that indication is true.

(2). If goods are loaded by the issuer of a bill of lading:

(a). The issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(b). Words such as "shipper's weight, load and count" or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed in packages.

(3). If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(4). The issuer of a bill of lading, by including in the bill the words "shipper's weight, load and count" or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(5). A shipper guarantees to an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer's responsibility or liability under the contract of carriage to any person other than the shipper.

§7-1302. Through bills of lading and similar documents of title

(1). The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier, is liable to any person entitled to recover on the bill or other document for any breach by the other person or the performing carrier of its obligation under the bill or other document. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(2). If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document and does not include liability for breach by any other person or by the issuer.

(3). The issuer of a through bill of lading or other document of title described in subsection (1) is entitled to recover from the performing carrier, or other person

in possession of the goods when the breach of the obligation under the bill or other document occurred:

(a). The amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment or transcript of judgment; and

(b). The amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

§7-1303. Diversion; reconsignment; change of instructions

(1). Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(a). The holder of a negotiable bill;

(b). The consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;

(c). The consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(d). The consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(2). Unless instructions described in subsection (1) are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

§7-1304. Tangible bills of lading in a set

(1). Except as customary in international transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2). If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(3). If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrendering its part.

(4). A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(5). The bailee shall deliver in accordance with Part 4 against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

§7-1305. Destination bills

(1). Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(2). Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to section 7-1105, may procure a substitute bill to be issued at any place designated in the request.

§7-1306. Altered bills of lading

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

§7-1307. Lien of carrier

(1). A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(2). A lien for charges and expenses under subsection (1) on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(3). A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

§7-1308. Enforcement of carrier's lien

(1). A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are

commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(2). Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but must be retained by the carrier, subject to the terms of the bill of lading and this Article.

(3). A carrier may buy at any public sale pursuant to this section.

(4). A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(5). A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(6). The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(7). A carrier's lien may be enforced pursuant to either subsection (1) or the procedure set forth in section 7-1210, subsection (2).

(8). A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

§7-1309. Duty of care; contractual limitation of carrier's liability

(1). A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods that a reasonably careful person would exercise under similar circumstances. This subsection does not affect any statute, regulation or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(2). Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability may not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(3). Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

PART 4

WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

§7-1401. Irregularities in issue of receipt or bill or conduct of issuer

The obligations imposed by this Article on an issuer apply to a document of title even if:

(1). The document does not comply with the requirements of this Article or of any other statute, rule or regulation regarding its issuance, form or content;

(2). The issuer violated laws regulating the conduct of its business;

(3). The goods covered by the document were owned by the bailee when the document was issued; or

(4). The person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

§7-1402. Duplicate document of title; overissue

A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen or destroyed documents or substitute documents issued pursuant to section 7-1105. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

§7-1403. Obligation of bailee to deliver; excuse

(1). A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a). Delivery of the goods to a person whose receipt was rightful as against the claimant;

(b). Damage to or delay, loss or destruction of the goods for which the bailee is not liable;

(c). Previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(d). The exercise by a seller of its right to stop delivery pursuant to section 2-705 or by a lessor of its right to stop delivery pursuant to section 2-1526;

(e). A diversion, reconsignment or other disposition pursuant to section 7-1303;

(f). Release, satisfaction or any other personal defense against the claimant; or

(g). Any other lawful excuse.

(2). A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(3). Unless a person claiming the goods is a person against which the document of title does not confer a right under section 7-1503, subsection (1):

(a). The person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(b). The bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

§7-1404. No liability for good faith delivery pursuant to document of title

A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this Article is not liable for the goods even if:

(1). The person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2). The person to which the bailee delivered the goods did not have authority to receive the goods.

PART 5

WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

§7-1501. Form of negotiation and requirements of due negotiation

(1). The following rules apply to a negotiable tangible document of title.

(a). If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(b). If the document's original terms run to bearer, it is negotiated by delivery alone.

(c). If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(d). Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(e). A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

(2). The following rules apply to a negotiable electronic document of title.

(a). If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(b). If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(c). A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(3). Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(4). The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

§7-1502. Rights acquired by due negotiation

(1). Subject to sections 7-1205 and 7-1503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(a). Title to the document;

(b). Title to the goods;

(c). All rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d). The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this Article, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2). Subject to section 7-1503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

(a). The due negotiation or any prior due negotiation constituted a breach of duty;

(b). Any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion; or

(c). A previous sale or other transfer of the goods or document has been made to a 3rd person.

§7-1503. Document of title to goods defeated in certain cases

(1). A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(a). Deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(i) Actual or apparent authority to ship, store or sell;

(ii) Power to obtain delivery under section 7-1403; or

(iii) Power of disposition under section 2-403; section 2-1304, subsection (2); section 2-1305, subsection (2); section 9-1320; or section 9-1321, subsection (3) or other statute or rule of law; or

(b). Acquiesce in the procurement by the bailor or its nominee of any document.

(2). Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under section 7-1504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3). Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with Part 4 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

§7-1504. Rights acquired in absence of due negotiation; effect of diversion; stoppage of delivery

(1). A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(2). In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(a). By those creditors of the transferor that could treat the transfer as void under section 2-402 or 2-1308;

(b). By a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;

(c). By a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

(d). As against the bailee, by good faith dealings of the bailee with the transferor.

(3). A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading that causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(4). Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under section 2-705 or a lessor under section 2-1526, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's

instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

§7-1505. Indorser not guarantor for other parties

The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or previous indorsers.

§7-1506. Delivery without indorsement; right to compel indorsement

The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

§7-1507. Warranties on negotiation or delivery of document of title

If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under section 7-1508, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

(1). The document is genuine;

(2). The transferor does not have knowledge of any fact that would impair the document's validity or worth; and

(3). The negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

§7-1508. Warranties of collecting bank as to documents of title

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

§7-1509. Adequate compliance with commercial contract

Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease or the conditions of a letter of credit is determined by Article 2, 2-A or 5.

PART 6

WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

§7-1601. Lost, stolen or destroyed documents of title

(1). If a document of title is lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court may also order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection.

(2). A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery that files a notice of claim within one year after the delivery.

§7-1602. Judicial process against goods covered by negotiable document of title

Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

§7-1603. Conflicting claims; interpleader

If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

PART 7

MISCELLANEOUS PROVISIONS

§7-1701. Effective date

This Article takes effect February 15, 2010.

§7-1702. Applicability

This Article applies to a document of title that is issued or a bailment that arises on or after the effective date of this Article. This Article does not apply to a

document of title that is issued or a bailment that arises before the effective date of this Article even if the document of title or bailment would be subject to this Article if the document of title had been issued or bailment had arisen on or after the effective date of this Article. This Article does not apply to a right of action that has accrued before the effective date of this Article.

§7-1703. Savings clause

A document of title issued or a bailment that arises before February 15, 2010 and the rights, obligations and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by this Act as if amendment or repeal had not occurred and may be terminated, completed, consummated or enforced under that statute or other rule.

Sec. A-3. Legislative intent. This Act is the Maine enactment of the Uniform Commercial Code, Article 7 as revised by the National Conference of Commissioners on Uniform State Laws. The text of the uniform act has been changed to conform to Maine statutory conventions, and the article is enacted as Article 7-A. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the revised Article 7 of the uniform act.

Sec. A-4. Effective date. This Part takes effect February 15, 2010.

PART B

Sec. B-1. 10 MRSA §9416, sub-§1, ¶A, as enacted by PL 1999, c. 762, §2, is amended to read:

A. Would be a note under Title 11, Article 3-A or a document under Title 11, Article ~~7~~ 7-A if the electronic record were in writing; and

Sec. B-2. 10 MRSA §9416, sub-§4, as enacted by PL 1999, c. 762, §2, is amended to read:

4. Holders. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section 1-201, subsection (20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under Title 11, section 3-1302, subsection (1); Title 11, section ~~7-501~~ 7-1501; or Title 11, section 9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated or a purchaser, respectively. Delivery, possession and indorsement are not required to obtain or exercise any of the rights under this subsection.

Sec. B-3. 11 MRSA §2-103, sub-§(3), as amended by PL 1999, c. 699, Pt. B, §5 and affected by §28, is further amended to read:

(3). The following definitions in other Articles apply to this Article:

"Check."	Section 3-104.
"Consignee."	Section ~~7-102~~ 7-1102.
"Consignor."	Section ~~7-102~~ 7-1102.
"Consumer goods."	Section 9-1102.
"Dishonor."	Section 3-1502.
"Draft."	Section 3-104.

Sec. B-4. 11 MRSA §2-103, sub-§(3-A) is enacted to read:

(3-A). "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

"Check."	Section 3-104.
"Consignee."	Section 7-1102.
"Consignor."	Section 7-1102.
"Consumer goods."	Section 9-1102.
"Dishonor."	Section 3-502.
"Draft."	Section 3-104.

Sec. B-5. 11 MRSA §2-104, sub-§(2) is amended to read:

(2). Financing agency. "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (section 2-707).

Sec. B-6. 11 MRSA §2-310, sub-§(3) is repealed and the following enacted in its place:

(3). If delivery is authorized and made by way of documents of title otherwise than by subsection (2), then payment is due regardless of where the goods are to be received:

(a). At the time and place at which the buyer is to receive delivery of the tangible documents; or

(b). At the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none the seller's residence; and

Sec. B-7. 11 MRSA §2-323, sub-§(2) is amended to read:

(2). Where in a case within subsection (1) a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

(a). Due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery (section 2-508, subsection (1)); and

(b). Even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payments upon furnishing an indemnity which the buyer in good faith deems adequate.

Sec. B-8. 11 MRSA §2-401, sub-§(3) is amended to read:

(3). Unless otherwise explicitly agreed where delivery is to be made without moving the goods

(a). If the seller is to deliver a tangible document of title, title passes at the time when and the place where ~~he~~ the seller delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b). If the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting.

Sec. B-9. 11 MRSA §2-403, sub-§(4), as amended by PL 1991, c. 636, §2, is further amended to read:

(4). The rights of other purchasers of goods and of lien creditors are governed by the Articles on secured transactions (Article ~~9~~ 9-A) and documents of title (Article ~~7~~ 7-A).

Sec. B-10. 11 MRSA §2-503, sub-§(4), ¶(b) is amended to read:

(b). Tender to the buyer of a nonnegotiable document of title or of a ~~written direction to~~ record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Article 9-A receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

Sec. B-11. 11 MRSA §2-503, sub-§(5) is amended to read:

(5). Where the contract requires the seller to deliver documents,

(a). ~~He~~ The seller must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (section 2-323, subsection (2)); and

(b). Tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

Sec. B-12. 11 MRSA §2-505, sub-§(1), ¶(b) is amended to read:

(b). A nonnegotiable bill of lading to ~~himself~~ the seller or ~~his~~ the seller's nominee reserves possession of the goods as security, but except in a case of conditional delivery under section 2-507, subsection (2) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

Sec. B-13. 11 MRSA §2-505, sub-§(2) is amended to read:

(2). When shipment by the seller with reservation of a security interest is in violation of the contract for sale, it constitutes an improper contract for transportation within section 2-504 but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.

Sec. B-14. 11 MRSA §2-506, sub-§(2) is amended to read:

(2). The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular ~~on its face~~.

Sec. B-15. 11 MRSA §2-509, sub-§(2), ¶(a) is amended to read:

(a). On ~~his~~ the buyer's receipt of possession or control of a negotiable document of title covering the goods; or

Sec. B-16. 11 MRSA §2-509, sub-§(2), ¶(c) is amended to read:

(c). After ~~his~~ the buyer's receipt of possession or control of a nonnegotiable document of title or other ~~written~~ direction to deliver in a record, as provided in section 2-503, subsection (4), paragraph (b).

Sec. B-17. 11 MRSA §2-605, sub-§(2) is amended to read:

(2). Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

Sec. B-18. 11 MRSA §2-705, sub-§(3), ¶(c) is amended to read:

(c). If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

Sec. B-19. 11 MRSA §2-1103, sub-§(1), ¶(a), as enacted by PL 1991, c. 805, §4, is amended to read:

(a). "Buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. Buying may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

Sec. B-20. 11 MRSA §2-1103, sub-§(1), ¶(o), as enacted by PL 1991, c. 805, §4, is amended to read:

(o). "Lessee in ordinary course of business" means a person who, in good faith and without knowledge that the lease to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

Sec. B-21. 11 MRSA §2-1514, sub-§(2), as enacted by PL 1991, c. 805, §4, is amended to read:

(2). A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent ~~on the face of~~ in the documents.

Sec. B-22. 11 MRSA §2-1526, sub-§(2), ¶(c), as enacted by PL 1991, c. 805, §4, is amended to read:

(c). Such an acknowledgment to the lessee by a carrier via reshipment or as a warehouse ~~operator~~.

Sec. B-23. 11 MRSA §4-104, sub-§(3), as amended by PL 2003, c. 594, §9, is further amended to read:

(3). ~~The~~ "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

"Acceptance."	Section 3-1409.
"Alteration."	Section 3-1407.
"Cashier's check."	Section 3-1104.
"Certificate of deposit."	Section 3-1104.
"Certified Check."	Section 3-1409.
"Check."	Section 3-1104.
"Demand draft."	Section 3-1104.
"Draft."	Section 3-1104.
"Good faith."	Section 3-1103.
"Holder in due course."	Section 3-1102.
"Instrument."	Section 3-1104.
"Notice of dishonor."	Section 3-1503.
"Order."	Section 3-1103.
"Ordinary care."	Section 3-1103.
"Person entitled to enforce."	Section 3-1301.
"Presentment."	Section 3-1501.
"Promise."	Section 3-1103.
"Prove."	Section 3-1103.
"Teller's check."	Section 3-1104.
"Unauthorized signature."	Section 3-1403.

Sec. B-24. 11 MRSA §4-208, sub-§(3), as amended by PL 1999, c. 699, Pt. B, §17 and affected by §28, is further amended to read:

(3). Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article ~~9~~ 9-A, but:

(a). No security agreement is necessary to make the security interest enforceable (section 9-1203, subsection (2), paragraph (c), subparagraph (i)); ~~and~~

(b). No filing is required to perfect the security interest; and

(c). The security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds.

Sec. B-25. 11 MRSA §5-1110, sub-§(2), as enacted by PL 1997, c. 429, Pt. A, §2 and affected by §4, is amended to read:

(2). The warranties in subsection (1) are in addition to warranties arising under Articles 3-A, 4, ~~7~~ 7-A and 8-A because of the presentation or transfer of documents covered by any of those Articles.

Sec. B-26. 11 MRSA §8-1103, sub-§(7) is enacted to read:

(7). A document of title is not a financial asset unless section 8-1102, subsection (1), paragraph (i), subparagraph (iii) applies.

Sec. B-27. 11 MRSA §9-1102, sub-§(30), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(30). "Document" means a document of title or a receipt of the type described in section ~~7-201~~ 7-1201, subsection (2).

Sec. B-28. 11 MRSA §9-1102, sub-§(80), ¶(d), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(d). Transmitting or producing and transmitting electricity, steam, gas or water.

~~The~~ "Control" as provided in section 7-1106 and the following definitions in other Articles apply to this Article:

"Applicant"	Section 5-1102.
"Beneficiary"	Section 5-1102.
"Broker"	Section 8-1102.
"Certificated security"	Section 8-1102.
"Check"	Section 3-1104.
"Clearing corporation"	Section 8-1102.
"Contract for sale"	Section 2-106.
"Customer"	Section 4-104.
"Entitlement holder"	Section 8-1102.
"Financial asset"	Section 8-1102.
"Holder in due course"	Section 3-1302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 5-1102.
"Issuer" (with respect to a security)	Section 8-1201.
"Issuer" (with respect to documents of title)	Section 7-1102.
"Lease"	Section 2-1103.
"Lease agreement"	Section 2-1103.
"Lease contract"	Section 2-1103.
"Leasehold interest"	Section 2-1103.
"Lessee in ordinary course of business"	Section 2-1103.
"Lessor"	Section 2-1103.
"Lessor's residual interest"	Section 2-1103.
"Letter of credit"	Section 5-1102.
"Merchant"	Section 2-104.
"Negotiable instrument"	Section 3-1104.
"Nominated person"	Section 5-1102.
"Note"	Section 3-1104.
"Proceeds of a letter of credit"	Section 5-114.
"Prove"	Section 3-1103.
"Sale"	Section 2-106.
"Securities account"	Section 8-1501.
"Securities intermediary"	Section 8-1102.
"Security"	Section 8-1102.
"Security certificate"	Section 8-1102.
"Security entitlement"	Section 8-1102.
"Uncertificated security"	Section 8-1102.

Sec. B-29. 11 MRSA §9-1203, sub-§(2), ¶(c), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(c). One of the following conditions is met:

(i) The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(ii) The collateral is not a certificated security and is in the possession of the secured party under section 9-1313 pursuant to the debtor's security agreement;

(iii) The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8-1302 pursuant to the debtor's security agreement; or

(iv) The collateral is deposit accounts, electronic chattel paper, investment property, ~~or~~ letter-of-credit rights or electronic documents, and the secured party has control under sections 9-1104, 9-1105, 9-1106 or 9-1107 pursuant to the debtor's security agreement.

Sec. B-30. 11 MRSA §9-1207, sub-§(3), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(3). Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 7-1106, 9-1104, 9-1105, 9-1106 or 9-1107:

(a). May hold as additional security any proceeds, except money or funds, received from the collateral;

(b). Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c). May create a security interest in the collateral.

Sec. B-31. 11 MRSA §9-1208, sub-§(2), ¶(d), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(d). A secured party having control of investment property under section 8-1106, subsection (4), paragraph (b) or 9-1106, subsection (2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; ~~and~~

Sec. B-32. 11 MRSA §9-1208, sub-§(2), ¶(e), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(e). A secured party having control of a letter-of-credit right under section 9-1107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party ~~.~~; and

Sec. B-33. 11 MRSA §9-1208, sub-§(2), ¶(f) is enacted to read:

(f). A secured party having control of an electronic document shall:

(1) Give control of the electronic document to the debtor or its designated custodian;

(2) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(3) Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party.

Sec. B-34. 11 MRSA §9-1301, sub-§(3), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(3). Except as otherwise provided in subsection (4), while tangible negotiable documents, goods, instruments, money or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a). Perfection of a security interest in the goods by filing a fixture filing;

(b). Perfection of a security interest in timber to be cut; and

(c). The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

Sec. B-35. 11 MRSA §9-1310, sub-§(2), ¶(e), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(e). In certificated securities, documents, goods or instruments that is perfected without filing, control or possession under section 9-1312, subsection (5), (6) or (7);

Sec. B-36. 11 MRSA §9-1310, sub-§(2), ¶(h), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(h). In deposit accounts, electronic chattel paper, electronic documents, investment property or letter-of-credit rights that is perfected by control under section 9-1314;

Sec. B-37. 11 MRSA §9-1312, sub-§(5), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(5). A security interest in certificated securities, negotiable documents or instruments is perfected without filing or the taking of possession or control for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

Sec. B-38. 11 MRSA §9-1313, sub-§(1), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(1). Except as otherwise provided in subsection (2), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8-1301.

Sec. B-39. 11 MRSA §9-1314, sub-§(1), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(1). A security interest in investment property, deposit accounts, letter-of-credit rights ~~or~~, electronic chattel paper or electronic documents may be perfected by control of the collateral under section 7-1106, 9-1104, 9-1105, 9-1106 or 9-1107.

Sec. B-40. 11 MRSA §9-1314, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A security interest in deposit accounts, electronic chattel paper, ~~or~~ letter-of-credit rights or electronic documents is perfected by control under section 7-1106, 9-1104, 9-1105 or 9-1107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

Sec. B-41. 11 MRSA §9-1317, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

Sec. B-42. 11 MRSA §9-1317, sub-§(4), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(4). A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Sec. B-43. 11 MRSA §9-1338, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments or a security certificate, receives delivery of the collateral.

Sec. B-44. 11 MRSA §9-1601, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2). A secured party in possession of collateral or control of collateral under section 7-1106, 9-1104, 9-1105, 9-1106 or 9-1107 has the rights and duties provided in section 9-1207.

Sec. B-45. 17 MRSA §1663 is amended to read:

§1663. Issue of duplicate bills not so marked

Any officer, agent or servant of a carrier who, with intent to defraud, issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of Title 11, section ~~7-402~~ 7-1402, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncanceled, ~~shall be~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than $5,000 or by imprisonment for not more than 5 years, or by both.

Sec. B-46. 17 MRSA §1703 is amended to read:

§1703. Issue of duplicate receipts not so marked

A ~~warehouseman~~ warehouse, or any officer's agent, or servant of a ~~warehouseman~~ warehouse, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate", except in the case of a lost or destroyed receipt after proceedings as provided for in Title 11, section ~~7-402~~ 7-1402, ~~shall be~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than $5,000 or by imprisonment for not more than 5 years, or by both.

Sec. B-47. 17 MRSA §1705 is amended to read:

§1705. Delivery of goods without obtaining negotiable receipt

A ~~warehouseman~~ warehouse, or any officer, agent or servant of a ~~warehouseman~~ warehouse who delivers goods out of the possession of such ~~warehouseman~~ warehouse, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, ~~shall~~, except in the cases provided for in Title 11, sections ~~7-402~~ 7-1402 and ~~7-403~~ 7-1403, ~~be found~~ is guilty of a crime, and upon conviction ~~shall~~ must be punished for each offense by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or by both.

Sec. B-48. Effective date. This Part takes effect February 15, 2010.

Effective February 15, 2010.

CHAPTER 325

S.P. 506 - L.D. 1403

An Act To Implement the Uniform Law Conference Suggested Updates to Article 1 of the Uniform Commercial Code

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

PART A

Sec. A-1. 11 MRSA Art. 1, as amended, is repealed.

Sec. A-2. 11 MRSA Art. 1-A is enacted to read:

ARTICLE 1-A

GENERAL PROVISIONS

PART 1

GENERAL PROVISIONS

§1-1101. Short titles

(1). This Title may be cited as the Uniform Commercial Code.

(2). This Article may be cited as the Uniform Commercial Code - General Provisions.

§1-1102. Scope of article

This Article applies to a transaction to the extent that it is governed by another Article of the Uniform Commercial Code.

§1-1103. Construction of Uniform Commercial Code to promote its purposes and policies; applicability of supplemental principles of law

(1). The Uniform Commercial Code must be liberally construed and applied to promote its underlying purposes and policies, which are:

(a). To simplify, clarify and modernize the law governing commercial transactions;

(b). To permit the continued expansion of commercial practices through custom, usage and agreement of the parties; and

(c). To make uniform the law among the various jurisdictions.

(2). Unless displaced by the particular provisions of the Uniform Commercial Code, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy and other validating or invalidating cause supplement its provisions.

§1-1104. Construction against implied repeal

The Uniform Commercial Code being a general act intended as a unified coverage of its subject matter, no part of it may be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

§1-1105. Severability

If any provision or clause of the Uniform Commercial Code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Uniform Commercial Code that can be given effect without the invalid provision or application, and to this end the provisions of the Uniform Commercial Code are severable.

§1-1106. Use of singular and plural; gender

In the Uniform Commercial Code, unless the statutory context otherwise requires:

(1). Words in the singular number include the plural and those in the plural include the singular; and

(2). Words of any gender also refer to any other gender.

§1-1107. Section captions

Section captions are part of the Uniform Commercial Code.

§1-1108. Relation to electronic signatures in Electronic Signatures in Global and National Commerce Act

This Article modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., except that nothing in this Article modifies, limits or supersedes Section 7001(c) of that Act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that Act.

PART 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

§1-1201. General definitions

Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other Articles of the Uniform Commercial Code that apply to particular Articles or Parts thereof, have the meanings stated.

Subject to definitions contained in other Articles of the Uniform Commercial Code that apply to particular Articles or Parts thereof, the following terms have the following meanings.

(1). "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in

equity and any other proceeding in which rights are determined.

(2). "Aggrieved party" means a party entitled to pursue a remedy.

(3). "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing or usage of trade as provided in section 1-1303.

(4). "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union and trust company.

(5). "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title or certificated security that is payable to bearer or indorsed in blank.

(6). "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7). "Branch" includes a separately incorporated foreign branch of a bank.

(8). "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9). "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10). "Conspicuous," with reference to a term, means so written, displayed or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:

(a). A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font or color to the surrounding text of the same or lesser size; and

(b). Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11). "Consumer" means an individual who enters into a transaction primarily for personal, family or household purposes.

(12). "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.

(13). "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(14). "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim or 3rd-party claim.

(15). "Delivery," with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title or chattel paper, means voluntary transfer of possession.

(16). "Document of title" means a record:

(a). That in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold and dispose of the record and the goods the record covers; and

(b). That purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession that are either identified or are fungible portions of an identified mass.

The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(17). "Fault" means a default, breach or wrongful act or omission.

(18). "Fungible goods" means:

(a). Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(b). Goods that by agreement are treated as equivalent.

(19). "Genuine" means free of forgery or counterfeiting.

(20). "Good faith," except as otherwise provided in Article 5, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21). "Holder" means:

(a). The person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(b). The person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; and

(c). The person in control of a negotiable electronic document of title.

(22). "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23). "Insolvent" means:

(a). Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(b). Being unable to pay debts as they become due; or

(c). Being insolvent within the meaning of federal bankruptcy law.

(24). "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between 2 or more countries.

(25). "Organization" means a person other than an individual.

(26). "Party," as distinguished from "3rd party," means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.

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

(28). "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29). "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(30). "Purchaser" means a person that takes by purchase.

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

(32). "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33). "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association and a trustee, executor or administrator of an estate.

(34). "Right" includes remedy.

(35). "Security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible or a promissory note in a transaction that is subject to Article 9-A. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2-401, but a buyer may also acquire a "security interest" by complying with Article 9-A. Except as otherwise provided in section 2-505, the right of a seller or lessor of goods under Article 2 or 2-A to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9-A. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under section 2-401 is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to section 1-1203.

(36). "Send" in connection with a writing, record or notice means:

(a). To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(b). In any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

(37). "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38). "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(39). "Surety" includes a guarantor or other secondary obligor.

(40). "Term" means a portion of an agreement that relates to a particular matter.

(41). "Unauthorized signature" means a signature made without actual, implied or apparent authority. The term includes a forgery.

(42). "Warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire.

(43). "Writing" includes printing, typewriting or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

§1-1202. Notice; knowledge

(1). Subject to subsection (6), a person has "notice" of a fact if the person:

(a). Has actual knowledge of it;

(b). Has received a notice or notification of it; or

(c). From all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(2). "Knowledge" means actual knowledge. "Knows" has a corresponding meaning.

(3). "Discover," "learn" or words of similar import refer to knowledge rather than to reason to know.

(4). A person "notifies" or "gives" a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.

(5). Subject to subsection (6), a person "receives" a notice or notification when:

(a). It comes to that person's attention; or

(b). It is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(6). Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

§1-1203. Lease distinguished from security interest

(1). Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(2). A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(a). The original term of the lease is equal to or greater than the remaining economic life of the goods;

(b). The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c). The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(d). The lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(3). A transaction in the form of a lease does not create a security interest merely because:

(a). The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b). The lessee assumes risk of loss of the goods;

(c). The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording or registration fees, or service or maintenance costs;

(d). The lessee has an option to renew the lease or to become the owner of the goods;

(e). The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(f). The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(4). Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(a). When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(b). When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(5). The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

§1-1204. Value

Except as otherwise provided in Articles 3-A, 4 and 5-A, a person gives value for rights if the person acquires them:

(1). In return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2). As security for, or in total or partial satisfaction of, a preexisting claim;

(3). By accepting delivery under a preexisting contract for purchase; or

(4). In return for any consideration sufficient to support a simple contract.

§1-1205. Reasonable time; seasonableness

(1). Whether a time for taking an action required by the Uniform Commercial Code is reasonable depends on the nature, purpose and circumstances of the action.

(2). An action is taken seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

§1-1206. Presumptions

Whenever the Uniform Commercial Code creates a "presumption" with respect to a fact, or provides that a fact is "presumed," the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

PART 3

TERRITORIAL APPLICABILITY AND GENERAL RULES

§1-1301. Territorial applicability; parties' power to choose applicable law

(1). Except as otherwise provided in this section, when a transaction bears a reasonable relation to this State and also to another state or nation the parties may agree that the law either of this State or of such other state or nation shall govern their rights and duties.

(2). In the absence of an agreement effective under subsection (1) and except as provided in subsection (3) the Uniform Commercial Code applies to transactions bearing an appropriate relation to this State.

(3). If one of the following provisions of the Uniform Commercial Code specifies the applicable law that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(a). Section 2-402;

(b). Sections 2-1105 and 2-1106;

(c). Section 4-102;

(d). Section 4-1507;

(e). Section 5-1116;

(f). Section 8-1110; and

(g). Sections 9-1301 to 9-1307.

§1-1302. Variation by agreement

(1). Except as otherwise provided in subsection (2) or elsewhere in the Uniform Commercial Code, the effect of provisions of the Uniform Commercial Code may be varied by agreement.

(2). The obligations of good faith, diligence, reasonableness and care prescribed by the Uniform

Commercial Code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever the Uniform Commercial Code requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(3). The presence in certain provisions of the Uniform Commercial Code of the phrase "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

§1-1303. Course of performance, course of dealing and usage of trade

(1). A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:

(a). The agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(b). The other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(2). A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(3). A "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(4). A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(5). Except as otherwise provided in subsection (6), the express terms of an agreement and any applicable course of performance, course of dealing or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(a). Express terms prevail over course of performance, course of dealing and usage of trade;

(b). Course of performance prevails over course of dealing and usage of trade; and

(c). Course of dealing prevails over usage of trade.

(6). Subject to section 2-209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

(7). Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

§1-1304. Obligation of good faith

Every contract or duty within the Uniform Commercial Code imposes an obligation of good faith in its performance and enforcement.

§1-1305. Remedies to be liberally administered

(1). The remedies provided by the Uniform Commercial Code must be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special damages nor penal damages may be had except as specifically provided in the Uniform Commercial Code or by other rule of law.

(2). Any right or obligation declared by the Uniform Commercial Code is enforceable by action unless the provision declaring it specifies a different and limited effect.

§1-1306. Waiver or renunciation of claim or right after breach

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

§1-1307. Prima facie evidence by 3rd-party documents

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice or any other document authorized or required by the contract to be issued by a 3rd party is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the 3rd party.

§1-1308. Performance or acceptance under reservation of rights

(1). A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights re-

served. Such words as "without prejudice," "under protest" or the like are sufficient.

(2). Subsection (1) does not apply to an accord and satisfaction.

§1-1309. Option to accelerate at will

A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or when the party "deems itself insecure," or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.

§1-1310. Subordinated obligations

An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

Sec. A-3. Legislative intent. This Act is the Maine enactment of the Uniform Commercial Code, Article 1 as revised by the National Conference of Commissioners on Uniform State Laws. The text of the uniform act has been changed to conform to Maine statutory conventions and the Article is enacted as Article 1-A. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the revised Article 1 of the uniform act.

Sec. A-4. Effective date. This Part takes effect February 15, 2010.

PART B

Sec. B-1. 10 MRSA §1286, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

§1286. Usage of trade

The terms "utility" and "industrial," when used to refer to equipment, machinery, attachments, yard and garden equipment or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as usage of trade in accordance with Title 11, section ~~1-205~~ 1-1303, subsection ~~2~~ (3).

Sec. B-2. 10 MRSA §9403, sub-§2, ¶B, as enacted by PL 1999, c. 762, §2, is amended to read:

B. The Uniform Commercial Code other than Title 11, ~~sections 1-107 and 1-206~~ section 1-1306 and Articles 2 and ~~2A~~ 2-A.

Sec. B-3. 10 MRSA §9416, sub-§4, as enacted by PL 1999, c. 762, §2, is amended to read:

4. Holders. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section ~~1-201~~ 1-1201, subsection ~~(20)~~ (21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under Title 11, section 3-1302, subsection (1); Title 11, section 7-501; or Title 11, section 9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated or a purchaser, respectively. Delivery, possession and indorsement are not required to obtain or exercise any of the rights under this subsection.

Sec. B-4. 11 MRSA §2-103, sub-§(1), ¶(b) is repealed.

Sec. B-5. 11 MRSA §2-202, sub-§(1) is amended to read:

(1). By course of performance, course of dealing or usage of trade (section ~~1-205~~ 1-1303) ~~or by course of performance (section 2-208)~~; and

Sec. B-6. 11 MRSA §2-208 is repealed.

Sec. B-7. 11 MRSA §2-1103, sub-§(3), as amended by PL 1999, c. 699, Pt. B, §11 and affected by §28, is further amended to read:

(3). The following definitions in other Articles apply to this Article:

"Account." Section 9-1102, subsection (2).

"Between merchants." Section 2-104, subsection (3).

"Buyer." Section 2-103, subsection (1), paragraph (a).

"Chattel paper." Section 9-1102, subsection (11).

"Consumer goods." Section 9-1102, subsection (23).

"Document." Section 9-1102, subsection (30).

"Entrusting." Section 2-403, subsection (3).

"General intangible" Section 9-1102, subsection (42).

~~"Good faith." Section 2-103, subsection (1), paragraph (b).~~

"Instrument." Section 9-1102, subsection (47).

"Merchant." Section 2-104, subsection (1).

"Mortgage." Section 9-1102, subsection (55).

"Pursuant to commitment." Section 9-1102, subsection (60).

"Receipt." Section 2-103, subsection (1), paragraph (c).

"Sale." Section 2-106, subsection (1).

"Sale on approval." Section 2-326.

"Sale or return." Section 2-326.

"Seller." Section 2-103, subsection (1), paragraph (d).

Sec. B-8. 11 MRSA §2-1207, as enacted by PL 1991, c. 805, §4, is repealed.

Sec. B-9. 11 MRSA §2-1501, sub-§(4), as enacted by PL 1991, c. 805, §4, is amended to read:

(4). Except as otherwise provided in section ~~1-106~~ 1-1305, subsection (1), this Article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.

Sec. B-10. 11 MRSA §2-1518, sub-§(2), as enacted by PL 1991, c. 805, §4, is amended to read:

(2). Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2-1504) or otherwise determined pursuant to agreement of the parties (section ~~1-102, subsection (3)~~ 1-1302 and section 2-1503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages:

(a). The present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement; and

(b). Any incidental or consequential damages minus expenses saved in consequence of the lessor's default.

Sec. B-11. 11 MRSA §2-1519, sub-§(1), as enacted by PL 1991, c. 805, §4, is amended to read:

(1). Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2-1504), or otherwise determined pursuant to agreement of the parties (section ~~1-102, subsection (3)~~ 1-1302 and section 2-1503) if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under section 2-1518, subsection (2) or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages minus expenses saved in consequence of the lessor's default.

Sec. B-12. 11 MRSA §2-1527, sub-§(2), as enacted by PL 1991, c. 805, §4, is amended to read:

(2). Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2-1504) or otherwise determined pursuant to agreement of the parties (section ~~1-102, subsection (3)~~ 1-1302 and section 2-1503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages:

(a). Accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement;

(b). The present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term comparable to the then remaining term of the original lease agreement; and

(c). Any incidental damages allowed under section 2-1530 minus expenses saved in consequence of the lessee's default.

Sec. B-13. 11 MRSA §2-1528, as enacted by PL 1991, c. 805, §4, is amended to read:

§2-1528. Lessor's damages for nonacceptance, failure to pay, repudiation or other default

(1). Except as otherwise provided with respect to damages liquidated in the lease agreement (section 2-1504) or otherwise determined pursuant to agreement of the parties, (section ~~1-102, subsection (3)~~ 1-1302 and section 2-1503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under section 2-1527, subsection (2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in section 2-1523, subsection (1) or section 2-1523, subsection (3), paragraph (a), or, if agreed, for other default of the lessee:

(a). Accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor;

(b). The present value as of the date determined under this subsection of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term; and

(c). Any incidental damages allowed under section 2-1530 minus expenses saved in consequence of the lessee's default.

(2). If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee together with any incidental damages allowed under section 2-1530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

Sec. B-14. 11 MRSA §3-1103, sub-§(1), ¶(d), as enacted by PL 1993, c. 293, Pt. A, §2, is repealed.

Sec. B-15. 11 MRSA §3-1103, sub-§(1), ¶(j), as enacted by PL 1993, c. 293, Pt. A, §2, is amended to read:

(j). "Prove" with respect to a fact means to meet the burden of establishing the fact (section ~~1 201~~ 1-1201, subsection (8)).

Sec. B-16. 11 MRSA §4-104, sub-§(3), as amended by PL 2003, c. 594, §9, is further amended to read:

(3). The following definitions in other Articles apply to this Article:

"Acceptance."	Section 3-1409.
"Alteration."	Section 3-1407.
"Cashier's check."	Section 3-1104.
"Certificate of deposit."	Section 3-1104.
"Certified Check."	Section 3-1409.
"Check."	Section 3-1104.
"Demand draft."	Section 3-1104.
"Draft."	Section 3-1104.
~~"Good faith."~~	~~Section 3-1103.~~
"Holder in due course."	Section 3-1102.
"Instrument."	Section 3-1104.
"Notice of dishonor."	Section 3-1503.
"Order."	Section 3-1103.
"Ordinary care."	Section 3-1103.
"Person entitled to enforce."	Section 3-1301.
"Presentment."	Section 3-1501.
"Promise."	Section 3-1103.
"Prove."	Section 3-1103.
"Teller's check."	Section 3-1104.
"Unauthorized signature."	Section 3-1403.

Sec. B-17. 11 MRSA §4-1105, sub-§(1), ¶(e), as enacted by PL 1991, c. 812, §2, is amended to read:

(e). "Funds transfer system" means a wire transfer network, automated clearing house or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed; and

Sec. B-18. 11 MRSA §4-1105, sub-§(1), ¶(f), as enacted by PL 1991, c. 812, §2, is repealed.

Sec. B-19. 11 MRSA §4-1105, sub-§(1), ¶(g), as enacted by PL 1991, c. 812, §2, is amended to read:

(g). "Prove" with respect to a fact means to meet the burden of establishing the fact (section ~~1 201~~ 1-1201, subsection (8)).

Sec. B-20. 11 MRSA §4-1106, sub-§(1), as enacted by PL 1991, c. 812, §2, is amended to read:

(1). The time of receipt of a payment order or communication cancelling or amending a payment order is determined by the rules applicable to receipt of a notice stated in section ~~1 201, subsection 27~~ 1-1202. A receiving bank may fix a cut-off time or times on a funds transfer business day for the receipt and processing of payment orders and communications cancelling or amending payment orders. Different cut-off times may apply to payment orders, cancellations or amendments, or to different categories of payment orders, cancellations or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication cancelling or amending a payment order is received after the close of a funds transfer business day or after the appropriate cut-off time on a funds transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds transfer business day.

Sec. B-21. 11 MRSA §4-1204, sub-§(2), as enacted by PL 1991, c. 812, §2, is amended to read:

(2). Reasonable time under subsection (1) may be fixed by agreement as stated in section ~~1 204~~ 1-1302, subsection ~~(1)~~ (2), but the obligation of a receiving bank to refund payment as stated in subsection (1) may not otherwise be varied by agreement.

Sec. B-22. 11 MRSA §5-1103, sub-§(3), as enacted by PL 1997, c. 429, Pt. A, §2 and affected by §4, is amended to read:

(3). With the exception of this subsection, subsections (1) and (4), section 5-1102, subsection (1),

paragraphs (i) and (j), section 5-1106, subsection (4), and section 5-1114, subsection (4), and except to the extent prohibited in section ~~1-102, subsection (3)~~ 1-1302 and section 5-1117, subsection (4), the effect of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

Sec. B-23. 11 MRSA §7-102, sub-§(1), ¶(e), is amended to read:

(e). "Document" means document of title as defined in the general definitions in Article 1 (section ~~1-201~~ 1-1201).

Sec. B-24. 11 MRSA §8-1102, sub-§(1), ¶(j), as enacted by PL 1997, c. 429, Pt. B, §2, is repealed.

Sec. B-25. 11 MRSA §9-1102, sub-§(43), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is repealed.

Sec. B-26. 17-A MRSA §902, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. ~~He~~ The person destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest, as defined in Title 11, section ~~1-201~~ 1-1201, subsection ~~(37)~~ (35), with the intent to hinder enforcement of that interest; or

Sec. B-27. Effective date. This Part takes effect February 15, 2010.

Effective February 15, 2010.

CHAPTER 326

S.P. 490 - L.D. 1355

An Act To Make Permanent the Allowance of Certain Commercial Vehicles between the United States-Canada Border and Certain Points in Maine

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

Whereas, rural communities in the State are particularly dependent upon its forest products industries for employment opportunities and, given the current economic climate, the State's lumber and pulp and paper mills are struggling to continue their operations and to keep people employed; and

Whereas, it is important to avoid compromising the State's transportation infrastructure; and

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

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

Sec. 1. 29-A MRSA §2354-B, sub-§5, as enacted by PL 2005, c. 421, §1 and affected by §2, is amended to read:

5. Repeal. This section is repealed December 31, ~~2010~~ 2009.

Sec. 2. 29-A MRSA §2354-C is enacted to read:

§2354-C. Allow certain commercial vehicles at Canadian weight limits to travel from the United States-Canada border to certain points in the State

1. Canadian gross vehicle weight limits. Notwithstanding section 2354, the Commissioner of Transportation, in consultation with the Department of Public Safety and the Department of the Secretary of State, is authorized to allow certain commercial vehicles at Canadian gross vehicle weight limits to travel from the United States-Canada border at Calais to Baileyville, from the United States-Canada border at Madawaska to a paper mill at Madawaska and from the United States-Canada border at Van Buren to a rail yard in Van Buren. Vehicles are allowed to travel from the United States-Canada border under the following conditions.

A. The only allowable routes of travel are from the United States-Canada border in Calais north on U.S. Route 1 to Access Road in Baileyville, east on Access Road to Domtar Woodland Mill or its successor on Main Street and north on Main Street to the Louisiana-Pacific Oriented Strand Board mill or its successor in Baileyville; from the United States-Canada border in Madawaska then directly north or south into the Fraser Papers facility or its successor in Madawaska or up Bridge Street to Mill Street in Madawaska in order to reverse direction; and from the United States-Canada border in Van Buren on Bridge Street, east into the rail yard in Van Buren, located approximately 2/10 of one mile from the border.

B. Allowable truck configuration is limited to:

(1) A 3-axle truck tractor with a 3-axle semitrailer at a gross vehicle weight of 108,900 pounds; and

(2) A 3-axle truck tractor with a semitrailer-semitrailer combination, configured as a B-train double with 8 axles total, at a gross vehicle weight of 137,700 pounds. The weight of the 2nd semitrailer may not exceed the weight of the first semitrailer.

C. Maine axle weight limits, axle group limits, commodity allowances, maximum dimensions and all other commercial vehicle limits and requirements apply, except that the B-train double overall length limit must be 82.02 feet, or 25 meters.

D. The manufacturer's ratings for gross vehicle weight, axle capacity, brake systems and other components for which a manufacturer's rating is available may not be exceeded.

E. Each truck combination allowed under this section must display a credential obtained for a fee from the Secretary of State. The fee must be established by the Commissioner of Transportation in an amount to cover related administrative costs, compliance monitoring and the additional cost of highway damage resulting from the allowance under this section calculated using accepted engineering practices.

F. The Commissioner of Transportation may revoke the privileges of operation under this section of trucks and trucking companies for cause, including repeatedly exceeding size and weight limits or operating outside the designated route of travel. Revocation by the Commissioner of Transportation is considered a final agency action.

2. Definition. As used in this section, unless the context otherwise indicates, "B-train double" means a truck tractor-semitrailer-semitrailer combination vehicle in which the 2 trailing units are connected with a B-train assembly. The B-train assembly is a rigid frame extension attached to the rear frame of a first semitrailer that allows for a 5th wheel connection point for a 2nd semitrailer. This combination has one less articulation point than the conventional A-dolly-connected truck tractor-semitrailer-trailer combination.

3. Overlimit movement permits. As provided in section 2382, the Secretary of State, acting under guidelines and advice of the Commissioner of Transportation, may grant permits to commercial vehicles at Canadian gross vehicle weight limits operating under the requirements of this section. The Secretary of State shall adopt rules to implement this section in consultation with the Department of Transportation and the Department of Public Safety. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Monitor; report. The Department of Transportation shall monitor and evaluate the effects of the allowance under this section on road conditions. The Commissioner of Transportation shall submit an initial report to the joint standing committee of the Legislature having jurisdiction over transportation matters for presentation to the Second Regular Session of the 126th Legislature and a final report to the First Regular Session of the 129th Legislature. The report must include any findings regarding the effects on road conditions and recommendations for continuance, discontinuance or modification of the allowance under this section.

Sec. 3. Rulemaking; emergency rulemaking authority. No later than July 1, 2009, the Secretary of State in consultation with the Department of Transportation and the Department of Public Safety shall adopt rules to implement this Act. The Secretary of State is authorized to adopt rules on an emergency basis under the Maine Revised Statutes, Title 5, sections 8054 and 8073 in order to implement those provisions of the Act over which the department has subject matter jurisdiction to avoid a threat to public health, safety or general welfare.

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

Effective June 9, 2009.

CHAPTER 327

S.P. 198 - L.D. 503

An Act To Regulate Foreclosure Negotiators

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

Sec. 1. 32 MRSA §6183 is enacted to read:

§6183. Debt management services related to residential mortgage loans

A person that engages in debt management services as described in section 6172, subsection 2, paragraph D related to a consumer's residential mortgage loan shall comply with the requirements of this chapter governing debt management service providers, subject to the following conditions and provisions.

1. Good faith and fair dealing. A person subject to this section shall act in good faith and with fair dealing in any transaction, practice or course of business in connection with the providing of debt management services.

2. Training. With respect to section 6174-B, training leading to certification of the counselor must relate to subject matter specific to such activity, including but not limited to the tax consequences to the consumer of forgiven debt, the consumer's options for discharge of debt, including but not limited to the

availability of bankruptcy, and all other options available to the consumer. The consumer education program must also include information about the tax consequences of forgiven debt.

3. Written reports. With respect to section 6177, subsection 1, the periodic written reports must consist of written updates provided to the consumer on at least a quarterly basis as well as a final accounting provided to the consumer.

4. Exceptions. Section 6179, subsections 1 and 3 do not apply to the provisions of this section.

5. Disclosure. If the service to be provided to the consumer includes the sale or transfer of an interest in real property:

A. The consumer's right to cancel the agreement by providing a written notice of cancellation to the other party pursuant to section 6176, subsection 2, paragraph E is effective only until the date of consummation of the transfer;

B. The debt management service provider must provide the consumer with the names and contact information for 3rd-party housing counselors approved by the United States Department of Housing and Urban Development; and

C. The debt management service provider must specifically advise the consumer in writing whether the consumer will be liable for a deficiency or not liable for a deficiency resulting from the sale or transfer.

6. Damages. In addition to any other remedies available to the consumer, a consumer has a right to recover consequential damages from the debt management service provider for a violation of this section.

Sec. 2. Effective date. This Act takes effect January 1, 2010.

Effective January 1, 2010.

CHAPTER 328

H.P. 361 - L.D. 516

An Act To Increase the Number of Members of the Maine Land Use Regulation Commission Who Reside in the Commission's Jurisdiction

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

Sec. 1. 12 MRSA §683, first ¶, as corrected by RR 1999, c. 1, §15, is amended to read:

The Maine Land Use Regulation Commission, as established by Title 5, section 12004-D, subsection 1 to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission consists of 7 public members, none of whom may be state employees, who must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Legislature, for staggered 4-year terms. Appointees to the commission must be familiar with the needs and issues affecting the commission's jurisdiction. All appointees must reside in the commission's jurisdiction; work in the commission's jurisdiction; be a former resident or be retired after working within the commission's jurisdiction for a minimum of 5 years; or have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they affect the commission's jurisdiction. In selecting appointees, the Governor shall actively seek and give consideration to persons residing in or near the unorganized areas of the State and to persons residing on unorganized coastal islands. At least ~~2~~ 3 members must be residents within the commission's jurisdiction. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

See title page for effective date.

CHAPTER 329

H.P. 742 - L.D. 1075

An Act To Establish the Community-based Renewable Energy Pilot Program

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

PART A

Sec. A-1. 5 MRSA §1766-A, as enacted by PL 2007, c. 52, §1, is amended to read:

§1766-A. Electricity purchases for state buildings

No later than January 1, 2010, all electricity consumed in state-owned buildings must be supplied by renewable resources. For purposes of this section, "renewable resource" ~~means any renewable resource defined~~ has the same meaning as in Title 35-A, section

3210, subsection 2, paragraph C. In purchasing electricity for state-owned buildings, the State may give preference to electricity generated by community-based renewable energy projects, as defined in Title 35-A, section 3602, subsection 1.

Sec. A-2. 35-A MRSA §3210, sub-§8, as amended by PL 2007, c. 403, §6, is further amended to read:

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists. When renewable energy credits are used to satisfy the portfolio requirements of subsections 3 and 3-A, the value of a renewable energy credit for electricity generated by a community-based renewable energy project, as defined in section 3602, that is participating in the community-based renewable energy pilot program established in section 3603 and elects the renewable energy credit multiplier under section 3605 is 150% of the amount of the electricity.

Sec. A-3. 35-A MRSA §3212, sub-§4-D is enacted to read:

4-D. Community-based renewable energy. The commission may incorporate energy generated by community-based renewable energy projects as defined in section 3602, subsection 1 into the supply of standard-offer service. The commission shall encourage entities based in this State that are not otherwise either a standard-offer service provider or its affiliate to participate in supplying energy from community-based renewable energy projects pursuant to this subsection.

Sec. A-4. 35-A MRSA c. 36 is enacted to read:

CHAPTER 36

COMMUNITY-BASED RENEWABLE ENERGY

§3601. Short title

This chapter may be known and cited as "the Community-based Renewable Energy Act."

§3602. Definitions

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

1. Community-based renewable energy project. "Community-based renewable energy project" means a locally owned electricity generating facility that generates electricity from an eligible renewable resource.

2. Eligible renewable resource. "Eligible renewable resource" means a renewable resource as defined in section 3210, subsection 2, paragraph C, except that "eligible renewable resource" does not include a generator fueled by municipal solid waste in conjunction with recycling and does include a generator fueled by landfill gas. "Eligible renewable resource" includes a biomass generator whose fuel includes anaerobic digestion of agricultural products, byproducts or wastes.

3. Locally owned electricity generating facility. "Locally owned electricity generating facility" means an electricity generating facility at least 51% of which is owned by one or more qualifying local owners.

4. Program participant. "Program participant" means a community-based renewable energy project that is participating in the community-based renewable energy pilot program established in section 3603.

5. Qualifying local owner. "Qualifying local owner" means a person or entity that is:

A. An individual who is a resident of the State;

B. A political subdivision of the State, including, but not limited to, a county, municipality, quasi-municipal corporation or district as defined in Title 30-A, section 2351, school administrative unit as defined in Title 20-A, section 1, public or private institution of higher education, regional council of governments or any other local or regional governmental organization, including, but not limited to, a board, commission or association;

C. A department, agency or instrumentality of the State;

D. A federally recognized Indian tribe located in the State;

E. A nonprofit corporation, organized under the laws of the State, including a unit owners association organized under Title 33, section 1603-101; or

F. A business corporation, organized under the laws of the State, at least 51% of which is owned by one or more residents of the State.

§3603. Community-based renewable energy pilot program

1. Program established. The community-based renewable energy pilot program, referred to in this section as "the program," is established to encourage the sustainable development of community-based renewable energy in the State. The program is administered by the commission.

2. Program scope; limits on generating capacity. The commission shall limit participation in the program in accordance with this subsection.

A. The installed generating capacity of a program participant may not exceed 10 megawatts.

B. The total installed generating capacity of all program participants combined may not exceed 50 megawatts.

C. The total installed generating capacity of program participants within the service territory of a single investor-owned transmission and distribution utility may not exceed 25 megawatts, unless a higher capacity limit is authorized by the utility and approved by the commission. The commission shall determine a generating capacity limit for the service territory of each investor-owned transmission and distribution utility at the outset of the program, taking into consideration the utility's electric load and share of electricity market in the State. The commission may modify the generating capacity limit under this paragraph based on program experience.

D. Of the 50-megawatt limit on total generating capacity under paragraph B, 10 megawatts must be reserved at the outset of the program for program participants that:

(1) Have an installed generating capacity of less than 100 kilowatts; or

(2) Are located in the service territory of a consumer-owned transmission and distribution utility.

The commission may modify the amount of generating capacity reserved under this paragraph based on program experience.

E. The total installed generating capacity of program participants that receive the renewable energy credit multiplier incentive under section 3605 may not exceed 10 megawatts.

3. Program eligibility criteria. To be eligible to participate in the program, a community-based renewable energy project must:

A. Provide documentation of a resolution of support passed by the municipal legislative body or municipal officers, as appropriate, of the municipality in which the community-based renewable energy project is proposed to be located, except that any project that is proposed to be located wholly in an unorganized or deorganized area of the State or that has a generating capacity of less than 100 kilowatts is exempt from the requirement set forth in this paragraph;

B. In the case of a community-based renewable energy project proposed to be located on the tribal land or territory of a federally recognized Indian tribe in this State, including any land owned by the tribe or held in trust by the United States for the tribe, provide documentation that the tribe supports the community-based renewable energy project;

C. Be connected to the electric grid of this State;

D. Have an in-service date after September 1, 2009; and

E. Satisfy the limits on generating capacity established in subsection 2.

The commission shall prescribe an application form or procedure that must be used to apply to the program under this chapter. The application form or procedure must include any information that the commission determines necessary for the purpose of administering the program. The commission shall, within 30 days of receipt of a completed application, determine whether a community-based renewable energy project qualifies to participate in the program and respond in writing.

4. Program incentives. Subject to the requirements of subsection 2, a program participant may elect one of the following program incentives:

A. A long-term contract for community-based renewable energy pursuant to section 3604; or

B. The renewable energy credit multiplier pursuant to section 3605.

§3604. Long-term contracts for community-based renewable energy

Long-term contracts with program participants who elect the long-term contract for community-based renewable energy pursuant to section 3603, subsection 4, paragraph A are governed by this section.

1. Investor-owned transmission and distribution utilities; required participation. Notwithstanding section 3204, the commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts with program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. An investor-owned transmission and distribution utility shall sell energy, capacity resources or renewable energy credits purchased pursuant to this subsection into the wholesale electricity market or take other action relative to such energy, capacity resources or renewable energy credits as directed by the commission.

2. Consumer-owned transmission and distribution utilities; voluntary participation. A consumer-owned transmission and distribution utility may, at the option of the utility, enter into long-term contracts with program participants located within the service territory of the utility for energy, capacity resources or renewable energy credits. Consumer-owned transmission and distribution utilities may enter into contracts under this subsection only as agents for

their customers and only in accordance with this section.

3. Sale of energy; contract procedures. Energy, capacity resources or renewable energy credits contracted in long-term contracts pursuant to this section may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids under section 3212 or solicitations for green power offer bids under section 3212-A. To the greatest extent possible, the commission shall develop procedures for long-term contracts for transmission and distribution utilities under this section having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for transmission and distribution utilities.

4. Contract term. A contract entered into pursuant to this section may not be for more than 20 years.

5. Contract pricing; cost containment. The commission shall ensure that in any contract entered into pursuant to this section:

A. The average price per kilowatt-hour within each contract year does not exceed 10¢; and

B. The cost of the contract does not exceed the cost of the project plus a reasonable rate of return on investment as determined by the commission.

6. Competitive solicitation process and contract negotiation; large generators. For program participants with a generating capacity of one megawatt or more, the commission shall, in accordance with this subsection, conduct competitive solicitations for long-term contracts. The commission shall require that bids include full project cost disclosure. Following a review of bids received, the commission may negotiate with one or more potential suppliers. The commission shall negotiate contracts that are commercially reasonable and that commit all parties to commercially reasonable behavior. In selecting program participants for contracting pursuant to this subsection, the commission shall select program participants that are competitive and the lowest priced when compared to other available bids of the same or similar contract duration or terms.

7. Contract administration; small generators. For program participants with a generating capacity of less than one megawatt, the commission shall administer long-term contracts at prices established by the commission by rule. The commission shall, at a minimum, establish prices for energy generated by the following renewable resources:

A. Wind power installations;

B. Solar arrays and installations; and

C. Any other renewable resource upon request of one or more community-based renewable energy generators that use that resource.

The commission shall establish prices under this subsection based on an analysis of reasonable costs and may establish different prices for different resources or technologies and different prices by time of generation in accordance with that analysis.

8. Cost recovery. The commission shall ensure that a transmission and distribution utility recovers in rates all costs of contracts entered into under this section, including but not limited to any effects on the utility's costs of capital. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the energy is sold must be reflected in rates and may not be considered to be imprudent.

9. Contract payments. Contracts for capacity and related energy entered into pursuant to this section must provide that payments will be made only after contracted amounts of energy have been provided.

10. Ratepayer protection. The commission shall ensure that mechanisms are established to provide protections for ratepayers over the term of contracts entered into pursuant to this section.

§3605. Renewable energy credit multiplier

The renewable energy credit multiplier is governed by this section. The value of a renewable energy credit for electricity generated by a program participant that elects the renewable energy credit multiplier under section 3603, subsection 4, paragraph B is 150% of the amount of the electricity. When a program participant elects the renewable energy credit multiplier, the multiplier must be accounted for when renewable energy credits are used to satisfy the portfolio requirements of section 3210, subsections 3 and 3-A.

§3606. Rules

The commission shall adopt rules to implement this chapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§3607. Tracking; biennial report

The commission shall develop and administer a system to register and track the development of community-based renewable energy projects and by January 15, 2011 and biennially by January 15th thereafter shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the program and the development of community-based renewable energy projects. The report must include, but is not limited to:

1. Community-based renewable energy development. Documentation of the progress of community-based renewable energy development, including the number of community-based renewable energy projects in the State, the generating capacity of

those projects and the kilowatt-hours of electricity purchased from community-based renewable energy projects; and

2. Program implementation; assessment; recommendations. Actions taken by the commission to implement the program, an assessment of the effectiveness of the program with respect to encouraging the sustainable development of community-based renewable energy in the State and recommendations, including any necessary implementing legislation, to improve the program.

§3608. Regulatory approvals; use of public resources

1. Regulatory approval. The development, siting and operation of a community-based renewable energy project is subject to all applicable regulatory reviews and approvals required by governmental entities, including, but not limited to, municipalities and state agencies, pursuant to law, ordinance or rule.

2. Use of publicly owned land, water or facilities. Nothing in this chapter limits the authority of the State or a political subdivision of the State to use publicly owned land, water or facilities in the development and operation of a community-based renewable energy project or to lease publicly owned land, water or facilities to other qualifying owners for the development and operation of a community-based renewable energy project.

§3609. Repeal; authority for legislation

This chapter is repealed December 31, 2015. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation regarding this program to the First Regular Session of the 126th Legislature.

Sec. A-5. 35-A MRSA §10008, sub-§6, ¶E, as enacted by PL 2007, c. 317, §15, is amended to read:

E. Nonelectric savings programs must be used to maximize fossil-fueled energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph B. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust as nonelectric savings programs.

Sec. A-6. Community-based renewable energy pilot program; first biennial report; incentives for economically disadvantaged areas. In the report due January 15, 2011 under the Maine Revised Statutes, Title 35-A, section 3607, the Public Utilities Commission shall provide recommendations regarding policy options, including but not limited to financial incentives, to encourage the development of community-based renewable energy projects in economically disadvantaged areas of the State. For the purposes of this section, "economically disadvantaged areas" includes, but is not limited to, communities, counties and other geographic areas of the State in which the average weekly wage is below the state average weekly wage or the unemployment rate is greater than the state unemployment rate.

Sec. A-7. Interim progress report. No later than February 15, 2010, the Public Utilities Commission shall submit an interim progress report to the Joint Standing Committee on Utilities and Energy regarding the development and implementation of the community-based renewable energy pilot program pursuant to the Maine Revised Statutes, Title 35-A, chapter 36, including, but not limited to:

1. Rulemaking undertaken by the commission pursuant to Title 35-A, section 3606, including, but not limited to, rulemaking to establish prices for long-term contracts for program participants with a generating capacity of less than one megawatt pursuant to Title 35-A, section 3604, subsection 7;

2. The development of contract terms and conditions for long-term contracts under Title 35-A, section 3604; and

3. The number and types of projects that have expressed interest in the program to date, based on inquiries and applications made to the commission.

PART B

Sec. B-1. 35-A MRSA §3210, sub-§7, as amended by PL 2007, c. 403, §5, is further amended to read:

7. Information. The commission shall inform electricity consumers in this State of the benefits of electricity generated in this State using renewable resources and of the opportunities available in this State to purchase electricity that is generated using those resources, including, but not limited to, the green power offer and other green power supply products and renewable energy credit products certified under section 3212-A. The commission may not promote any renewable resources over others. The commission may apply for, receive and expend grant money from the United States Department of Energy and other government agencies for this purpose. Notwithstanding section 3211-A, subsection 5, the commission also may use up to $100,000 per year from the conservation program fund established under section 3211-A, subsection 5 to support the purposes of this subsection. The commission may create or cause to be created a brand or logo to identify Maine renewable resources, including the green power offer and other green power supply products and renewable energy credit products certified under section 3212-A, to consumers. The commission shall register any mark or logo created pursuant to this subsection with the United States Pat-

ent and Trademark Office or in accordance with Title 10, chapter 301-A, or both. Any brand or logo created pursuant to this subsection may only be used in accordance with the purposes of this subsection as approved by the commission.

Sec. B-2. 35-A MRSA §3212-A, sub-§1, ¶A, as enacted by PL 2007, c. 403, §8, is further amended to read:

A. "Green power supply" means electricity ~~supply~~ or renewable energy credits for electricity generated ~~only~~ from renewable capacity resources as defined in section 3210-C, subsection 1, paragraph E~~, except that the total power production capacity limit of 100 megawatts under section 3210, subsection 2, paragraph C does not apply to wind power installations~~ or from a generator fueled by landfill gas, including electricity generated by community-based renewable energy projects as defined in section 3602, subsection 1. ~~For the purposes of this section, "green~~ "Green power supply" includes a biomass generator, whose fuel may include, but is not limited to, anaerobic digestion of agricultural products, byproducts or wastes.

Sec. B-3. 35-A MRSA §3212-A, sub-§1-A is enacted to read:

1-A. Green power offer. The commission shall arrange for a green power offer that is composed of green power supply in accordance with this subsection. Except as provided in this subsection, the commission shall ensure that the green power offer is available to all residential and small commercial electricity customers, as defined by the commission by rule, and shall administer a competitive bid process to select a green power offer provider or providers for the service territory of a transmission and distribution utility.

A. The green power offer must be in addition to existing standard-offer service under section 3212.

B. The commission shall, to the maximum extent possible:

(1) Incorporate green power supply from community-based renewable energy projects, as defined in section 3602, subsection 1, into the green power offer; and

(2) Encourage entities based in this State to provide green power supply from community-based renewable energy projects, as defined in section 3602, subsection 1 for the green power offer pursuant to this subsection.

C. The green power offer may include incidental amounts of electricity supply that do not meet the definition of green power supply, if the commission determines that including such electricity supply is necessary to ensure that a green power offer provider can meet its retail load obligation.

D. The commission shall, in accordance with section 3210, subsection 7, inform residential and small commercial consumers of electricity in this State of the opportunity to purchase the green power offer.

E. The commission is not required to arrange for a green power offer in the event that the commission receives no bids to provide the green power offer in a transmission and distribution utility's territory, determines that the bids it receives are inadequate or unacceptable or determines, based on prior experience arranging for a green power offer in a utility's territory, that it is reasonably likely that it will not receive any adequate or acceptable bids.

F. The commission is not required to arrange for a green power offer for the territory of a consumer-owned transmission and distribution utility. If the commission arranges standard-offer service for a consumer-owned transmission and distribution utility, the consumer-owned transmission and distribution utility may elect to have the commission arrange a green power offer in accordance with this subsection. A consumer-owned transmission and distribution utility may establish a green power offer through a competitive bidding process conducted in accordance with the commission's rules governing the selection of a green power offer provider under this subsection.

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-4. 35-A MRSA §3212-A, sub-§2, as enacted by PL 2007, c. 403, §8, is amended to read:

2. Certification; information in bill inserts. Beginning July 1, 2008, information regarding the availability of the green power offer and of green power supply products and renewable energy credit products that are certified by the commission may, at the option of the provider of the ~~products~~ offer or the product and with the cooperation of the transmission and distribution utility, be presented through inserts in customer bills issued by transmission and distribution utilities. The costs of the inserts, including but not limited to printing and postage costs, are the responsibility of the provider of the offer or product. The commission may define the criteria for certification of green power supply products and renewable energy credit products by order or by rule, and the commission may limit the criteria for certification for consumer protection and eligibility verification purposes. Rules adopted to implement this subsection are routine

technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-5. 35-A MRSA §3212-A, sub-§3, as enacted by PL 2007, c. 403, §8, is amended to read:

3. Repeal. This section is repealed ~~July 1, 2010~~ December 31, 2015.

See title page for effective date.

CHAPTER 330

S.P. 531 - L.D. 1446

An Act To Create the Maine Online Learning Program

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

Whereas, delivering educational programs that meet the diverse educational needs of our children is of the greatest importance to the future welfare of the State; and

Whereas, closing the achievement gap between high-performing and low-performing students, including the gap between economically disadvantaged students and their more advantaged peers, continues to be a significant challenge; and

Whereas, providing a broader range of educational options to parents and utilizing existing resources, including learning technology, will help improve the academic achievement of students; and

Whereas, the State can augment the capacity of school administrative units to provide public school options for those students whose educational needs are not being met through the regular public school program; and

Whereas, through the use of available learning technology resources, the State can create educational opportunities for students that may not exist without the use of those resources; and

Whereas, this legislation is necessary to provide consistent, high-quality, public education options for students through the use of available learning technology resources; and

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

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

Sec. 1. 20-A MRSA §5001-A, sub-§2, ¶B, as amended by PL 2003, c. 688, Pt. H, §1 and affected by §3, is further amended to read:

B. A person who has:

(1) Reached the age of 15 years or completed the 9th grade;

(2) Permission to leave school from that person's parent;

(3) Been approved by the principal for a suitable program of work and study or training;

(4) Permission to leave school from the school board or its designee; and

(5) Agreed in writing with that person's parent and the school board or its designee to meet annually until that person's 17th birthday to review that person's educational needs. When the request to be excused from school has been denied pursuant to this paragraph, the student's parent may appeal to the commissioner; ~~or~~

Sec. 2. 20-A MRSA §5001-A, sub-§2, ¶D, as enacted by PL 1985, c. 123, §2, is amended to read:

D. A person who has matriculated and is attending an accredited, post-secondary, degree-granting institution as a full-time student. An exception to attendance in public school under this paragraph must be approved by the commissioner~~.~~; or

Sec. 3. 20-A MRSA §5001-A, sub-§2, ¶E is enacted to read:

E. A person enrolled in an online learning program or course.

Sec. 4. 20-A MRSA c. 802 is enacted to read:

CHAPTER 802

MAINE ONLINE LEARNING PROGRAM

§19151. Definitions

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

1. Online learning program or course. "Online learning program or course" means an interactive course or program that:

A. Is taught by a certified teacher and is delivered primarily electronically using the Internet or other computer-based methods in which a student enrolled in a course may have access to the teacher synchronously or asynchronously;

B. May be delivered to students at school as part of the regularly scheduled school day or may be delivered to students, in whole or in part, independently from a regular classroom schedule;

C. Is combined with other traditional delivery methods that include frequent student assessment and may include actual teacher contact time; and

D. Meets or exceeds the accountability standards and parameters for essential instruction established as part of the statewide system of learning results as set forth in section 6209.

2. Online learning provider. "Online learning provider" means a private organization that is approved by the department to provide online learning programs or courses to one or more school administrative units for kindergarten to grade 12 students.

3. Proctored environment. "Proctored environment" means an environment directly monitored by a teacher or administrative staff employed by an online learning provider or by an adult authorized by the program.

§19152. Program established

The Maine Online Learning Program, referred to in this chapter as "the program," is established to provide high-quality educational options for kindergarten to grade 12 students in this State using online learning programs and courses. The goals of the program are to:

1. Create opportunity. Create educational opportunities for students in this State that may not exist without such technology;

2. Close achievement gap. Close the achievement gap between high-performing and low-performing students, including the gap between minority and nonminority students and between economically disadvantaged students and their more advantaged peers;

3. Educational options. Use existing educational resources, along with technology, to provide parents a broader range of educational options and to help students in the State improve their academic achievement; and

4. Public school educational opportunities. Increase the capacity of school administrative units to provide public school educational opportunities for students whose educational needs are not being met in the regular public school program.

§19153. Approval of online learning providers

No later than June 30, 2010, the department shall provide school administrative units with a list of providers approved to offer full-time and part-time online learning programs and courses available for kindergarten to grade 12 students in the State. The department, in consultation with the state board, shall develop approval criteria and a process for approving online learning providers to implement online learning programs and courses.

1. Approval of online learning providers. The department shall approve online learning providers on the basis of the online learning providers' demonstrated experience in the operation and management of online learning programs and courses, including the number of students served and proven academic success as measured by student performance and state assessment results, as appropriate, and an online learning provider's ability to satisfy the requirements under subsection 2.

2. Requirements. To be approved by the department, an online learning provider must demonstrate and thereafter annually document that it meets all of the following requirements.

A. The online learning provider must be nonsectarian in its programs, admission policies, employment practices and operations.

B. Each course offered for a unit of credit must correlate with applicable state-adopted academic standards prior to being offered. All courses must include assessments.

C. A teacher employed by the online learning provider and providing instruction to students must hold a valid teaching certificate in each content area being taught or receive approval from the commissioner to teach the course.

D. A teacher employed by the online learning provider must receive appropriate preservice and in-service training pertaining to the organization of the online classroom, programs and courses, the technical aspects of online education, the monitoring of student assessment and other pertinent training.

E. The online learning provider must verify ongoing student attendance and progress and performance in each course as documented by ongoing assessments in a proctored environment and provide examples of student course work.

F. Administrators, teachers and other educational staff employed by the online learning provider must comply with the fingerprinting and national criminal history record check requirements as set forth in section 6103.

G. The online learning program must comply with the State's information technology accessibility policies and standards.

§19154. Enrollment and eligibility

Full-time students enrolled in an online learning program are considered to have met the compulsory attendance requirement set forth in section 5001-A, subsection 2, paragraph E. The following provisions apply for enrollment and eligibility.

1. Full-time or part-time. School administrative units may enroll students in an online learning pro-

gram or course on a full-time and part-time basis. If a program is oversubscribed, a school district shall use a random lottery to select enrolled students, subject to any statutorily imposed enrollment preferences.

2. Eligibility. A kindergarten to grade 12 student enrolled in a public school residing in the State who is 20 years of age or younger is eligible to enroll in the program.

3. Agreements to access programs and courses. School administrative units may develop agreements to access online learning courses and programs offered by other school administrative units.

4. Assessment. Students enrolled in an online learning program or course for a unit of credit shall participate in any applicable final exams, grade-level assessments and state assessments in a proctored environment.

§19155. Report

The department shall provide the Legislature annually with a report that includes, but is not limited to, the following information:

1. Programs and courses. A list of programs and courses offered through the program;

2. Students. The number of students participating in the program, including the number of full-time students, part-time students and full-time equivalent students enrolled;

3. Student performance. Student performance for students enrolled in online learning programs or courses, including the academic achievement of students enrolled in each course offered through the program;

4. Expenditures. Expenditures of state and nonstate funds made for online learning programs and courses; and

5. Limitation. The number of students who were unable to enroll in an online learning program or course because of space limitation.

Sec. 5. Department of Education review of online learning initiatives; report; additional necessary implementing legislation. In establishing the Maine Online Learning Program under the Maine Revised Statutes, Title 20-A, chapter 802, the Department of Education shall review the online learning initiatives established in other states and jurisdictions, including the best practices established by these online learning initiatives related to funding, governance, approval requirements for online learning providers, teacher quality, assessment of student performance, accessibility of programs and materials for individuals with disabilities, alignment with accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, and alignment with the universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, Public Law 105-244. No later than January 1, 2010, the Commissioner of Education shall submit to the Joint Standing Committee on Education and Cultural Affairs a report that contains findings, recommendations and any proposed legislation necessary to further the implementation of the Maine Online Learning Program. Following receipt and review of the report, the Joint Standing Committee on Education and Cultural Affairs may submit a bill to the Second Regular Session of the 124th Legislature.

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

Effective June 9, 2009.

CHAPTER 331

S.P. 439 - L.D. 1191

An Act To Improve Teacher Confidentiality Laws

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

Sec. 1. 20-A MRSA §13004, sub-§2-A, as amended by PL 2007, c. 666, §1, is repealed and the following enacted in its place:

2-A. Confidentiality. The provisions of this subsection govern confidentiality. For the purposes of this subsection, the term "certification" means certification, authorization or approval under this chapter and chapter 502.

A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend certification are confidential, except when submitted in court proceedings to revoke or suspend certification.

B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:

(1) Complete its own investigations;

(2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;

(3) Assist other public authorities to investigate the same teacher's certification in another jurisdiction;

(4) Report or prevent criminal misconduct or assist law enforcement agencies in their investigations; or

(5) Report child abuse or neglect under Title 22, section 4011-A.

C. The department may publish and release as public information statistical summaries of complaints and dispositions as long as the release of such information does not jeopardize the confidentiality of individually identifiable information.

See title page for effective date.

CHAPTER 332
H.P. 663 - L.D. 961

An Act To Amend the Maine Condominium Act Regarding Escrow of Assessments

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

Sec. 1. 33 MRSA §1603-115-A is enacted to read:

§1603-115-A. Optional escrow of assessments

(a) The association may require that a person who purchases a unit after October 1, 2009 make payments into an escrow account established by the association until the balance in the escrow account for that unit is equal to 6 months of assessments as established under section 1603-115.

(b) All assessment payments made under this section and received after October 1, 2009 must be held in an account of a bank or other financial institution under terms that place these assessment payments beyond the claim of creditors of the association. Upon request by a unit owner, the association shall disclose the name of the institution and the account number where these assessment payments are being held. An association may use a single escrow account to hold assessment payments made under this section from all of the unit owners.

(c) The association shall pay interest on the assessment payments under this section in an amount equivalent to the rate required under Title 9-B, section 429.

(d) The association shall return the assessment payments made under this section, together with the interest earned under subsection (c), to the unit owner when the owner sells the unit and has fully paid all assessments under section 1603-115. The association may use the balance in the account to offset any assessments remaining unpaid.

(e) The assessment payments made under this section may be used by the association to cover up to 6 months of the costs attributable to a unit for which assessment payments have not been made.

See title page for effective date.

CHAPTER 333
S.P. 157 - L.D. 454

An Act To Expand Representation on the Animal Welfare Advisory Council

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

Sec. 1. 7 MRSA §3906-C, sub-§1, as amended by PL 2003, c. 405, §4, is further amended to read:

1. Membership. The council consists of ~~12~~ 14 members appointed by the Governor as follows:

A. One member representing municipal interests;

B. One animal control officer;

C. One member representing licensed animal shelters;

D. One member representing licensed boarding ~~or breeding~~ kennels;

E. One member representing licensed pet shops;

F.

G. One member who is or has been a veterinarian licensed to practice in the State;

H. One member who owns a pet and represents the interests of the public in animal welfare, generally;

I. One attorney with experience in animal welfare law;

J. One cooperative extension agent or specialist;

K. One member with expertise in equine care;

L. One member with expertise in livestock representing a statewide farming organization; ~~and~~

M. One member representing a ~~State-based~~ state-based animal advocacy group.~~;~~

N. One member who holds a kennel license issued under section 3923-C; and

O. One member representing licensed breeding kennels.

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association. In making

the appointment of the person holding a kennel license issued under section 3923-C, the Governor shall consider nominations made by state-based dog clubs.

See title page for effective date.

CHAPTER 334

H.P. 909 - L.D. 1306

An Act To Require Interscholastic Athletic Organizations To Comply with the Public Proceedings Provisions of the Freedom of Access Laws for Certain Meetings

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

Sec. 1. 1 MRSA §402, sub-§2, ¶E, as amended by PL 1995, c. 608, §2, is further amended to read:

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; ~~and~~

Sec. 2. 1 MRSA §402, sub-§2, ¶F, as enacted by PL 1995, c. 608, §3, is amended to read:

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter.; and

Sec. 3. 1 MRSA §402, sub-§2, ¶G is enacted to read:

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

(1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and

(2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach.

Sec. 4. 1 MRSA §402, sub-§4 is enacted to read:

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.

See title page for effective date.

CHAPTER 335

S.P. 520 - L.D. 1436

An Act To Create Economic Development in the State by Modernizing the State's Captive Insurance Laws

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

Sec. 1. 24-A MRSA §6701, sub-§2, as enacted by PL 1997, c. 435, §1, is amended to read:

2. Association. "Association" means any legal association of individuals, corporations, limited liability companies, partnerships or associations that have been in continuous existence for at least one year, ~~except labor organizations,~~ the member organizations of which ~~collectively~~:

A. Own, control or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; ~~or~~

B. Have complete voting control over an association captive insurance company incorporated as a mutual or reciprocal insurer.; or

C. Constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

Sec. 2. 24-A MRSA §6701, sub-§4, as enacted by PL 1997, c. 435, §1, is amended to read:

4. Captive insurance company. "Captive insurance company" means any pure captive insurance company, sponsored captive insurance company, association captive insurance company or industrial insured captive insurance company formed or licensed under this chapter.

Sec. 3. 24-A MRSA §6701, sub-§5, ¶C, as enacted by PL 1997, c. 435, §1, is repealed.

Sec. 4. 24-A MRSA §6701, sub-§5, ¶D is enacted to read:

D. Has all its risks managed by a pure captive insurance company in accordance with this chapter.

Sec. 5. 24-A MRSA §6701, sub-§8, ¶A, as enacted by PL 1997, c. 435, §1, is amended to read:

A. A group of industrial insureds that collectively:

(1) Owns, controls or holds with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; ~~or~~

(2) Has complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(3) Constitutes all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer; or

Sec. 6. 24-A MRSA §6701, sub-§9, as enacted by PL 1997, c. 435, §1, is amended to read:

9. Member organization. "Member organization" means any individual, corporation, limited liability company, partnership or association that belongs to an association.

Sec. 7. 24-A MRSA §6701, sub-§10, as enacted by PL 1997, c. 435, §1, is amended to read:

10. Parent. "Parent" means a corporation, limited liability company, partnership or individual that directly or indirectly owns, controls or holds with power to vote more than 50% ~~or~~ of the outstanding voting securities of a pure captive insurance company organized as a stock corporation or 50% of the membership interests of a pure captive insurance company organized as a nonprofit corporation.

Sec. 8. 24-A MRSA §6701, sub-§11, as enacted by PL 1997, c. 435, §1, is amended to read:

11. Pure captive insurance company. "Pure captive insurance company" means any company that insures risks of its parent~~,~~ and affiliated companies or controlled unaffiliated businesses~~,~~ but does not include those insurers that otherwise qualify for and elect to hold a certificate of authority as an insurer under section 414. "Pure captive insurance company" includes, with respect to operations in this State unless otherwise restricted by the superintendent, a branch captive insurance company.

Sec. 9. 24-A MRSA §6702, as amended by PL 1997, c. 583, §§1 to 3, is further amended to read:

§6702. Licensing; authority

1. Authority. A captive insurance company may not engage in the business of insurance in this State unless the company:

A. Obtains a license from the superintendent authorizing the company to do insurance business in this State;

B. Holds at least one meeting of its board of directors, or other governing body, each year in this State. For pure captive insurance companies and pure nonprofit captive insurance companies, the annual in-state meeting requirement may be satisfied by a teleconferenced or videoconferenced meeting if at least one Maine resident member of the board of directors, or other governing body, participates in the meeting from this State;

C. Maintains its principal place of business in this State; and

D. Appoints a resident agent to accept service of process and to otherwise act on its behalf in this State.

2. Charter and bylaws. In order to receive a license, a captive insurance company must file with the superintendent a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition and any other statements or documents required by the superintendent.

3. Information required. In addition to the information required by subsection 2, an applicant captive insurance company must file with the superintendent evidence of the following:

A. The amount and liquidity of its assets relative to the risks to be assumed;

B. The adequacy of the expertise, experience and character of the person or persons who will manage it;

C. The overall soundness of its plan of operation;

D. The adequacy of the loss prevention programs of its parent or member organizations, as applicable;

E. The character, reputation, financial standing and purposes of the incorporators;

F. The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and

G. Any other factors determined relevant by the superintendent in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

4. License. If the superintendent is satisfied that the documents and statements filed by the captive in-

surance company under subsections 2 and 3 comply with this chapter, the superintendent may grant a license authorizing it to do insurance business. A captive insurance company shall comply with all applicable federal and state laws relating to the risks insured pursuant to the license granted by the superintendent.

5. Fees. A captive insurance company shall pay filing, issuance, annual continuation and reinstatement fees as provided for domestic insurers pursuant to section 601, subsection 1.

~~**6. Activities.** A captive insurance company may engage in the business of the following types of insurance:~~

~~A. Casualty insurance as defined by section 707, excluding the direct writing of workers' compensation insurance. Workers' compensation risks may be reinsured by a captive insurer only as provided in section 6711;~~

~~B. Marine and transportation insurance as defined by section 708, subsection 1;~~

~~C. Marine protection and indemnity insurance, as defined by section 708, subsection 1;~~

~~D. Wet marine and transportation insurance as defined by section 708, subsection 2;~~

~~E. Property insurance as defined by section 705;~~

~~F. Surety insurance as described in section 706;~~

~~G. Title insurance as defined by section 709;~~

~~H. Reinsurance of credit life insurance and credit health insurance, as defined by section 2853, to the extent provided in section 6711;~~

~~I. Reinsurance of life insurance as defined by section 702, annuities as defined by section 703 and health insurance as defined by section 704 written in connection with the employee benefit plan or plans of the single or association parent of a captive insurer to the extent provided in section 6711; and~~

~~J. Financial guaranty insurance as defined in section 709-A.~~

7. Permitted activities. A captive insurance company, when permitted by its articles of association or charter, may apply to the superintendent for a license to provide any insurance described in ~~subsection 6~~ this Title, including annuities, except that:

A. A pure captive insurance company may not insure or reinsure any risks other than those of its parent and affiliated companies or controlled unaffiliated businesses;

B. An association captive insurance company may not insure or reinsure any risks other than those of the member organizations of its association and their affiliated companies;

C. An industrial insured captive insurance company may not insure or reinsure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

D. A captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or any component thereof; ~~and~~

E. A captive insurance company may not accept or cede reinsurance except as provided in section 6711.~~;~~ and

F. A captive insurance company may not provide workers' compensation insurance except for reinsurance of workers' compensation risk as permitted in section 6711.

8. Certificate of good standing. Prior to its organization or incorporation with the Secretary of State, the organizers or incorporators of a captive insurance company shall petition the superintendent to issue a certificate stating the superintendent's finding that the establishment and continued existence of the proposed captive insurance company, however organized, will promote the general good of the State. In making such a finding, the superintendent shall consider:

A. The character, reputation, financial standing and purpose of the organizers or incorporators;

B. The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors of the proposed captive insurance company; and

C. Any other relevant information determined by the superintendent.

Any certificate issued by the superintendent pursuant to this subsection must be filed with the Secretary of State to be recorded with the articles of incorporation of the captive insurance company.

Sec. 10. 24-A MRSA §6704, as enacted by PL 1997, c. 435, §1, is amended to read:

§6704. Minimum capital and surplus

1. Minimum capital and surplus. A ~~pure~~ captive insurance company~~, an association captive insurance company incorporated as a stock insurer or an industrial insured captive insurance company incorporated as a stock insurer~~ may not be issued a license unless the company has and maintains unimpaired paid-in capital and surplus of:

A. In the case of a pure captive insurance company, not less than ~~$100,000~~ $250,000;

B. In the case of an association captive insurance company ~~incorporated as a stock insurer~~, not less than ~~$400,000~~ $750,000; ~~and~~

C. In the case of an industrial insured captive insurance company ~~incorporated as a stock insurer~~, not less than ~~$200,000.~~ $500,000;

D. In the case of a sponsored captive insurance company, not less than $500,000; and

E. In the case of a risk retention group, not less than $1,000,000.

The superintendent may prescribe additional capital based upon the type, volume and nature of insurance business transacted.

2. Letter of credit. The required capital may be in the form of cash, an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the Federal Reserve System or any other security approved by the superintendent.

3. Dividends. A captive insurance company may not pay a dividend out of or make any other distribution with respect to capital and surplus in excess of the limitations under section 222 without the prior approval of the superintendent. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital and surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the superintendent. Notwithstanding the provisions of Title 13-B or 13-C, a captive insurance company organized under the provisions of either Title may make such distributions as are in conformity with its purposes with the prior approval of the superintendent.

Sec. 11. 24-A MRSA §6705, as enacted by PL 1997, c. 435, §1, is repealed.

Sec. 12. 24-A MRSA §6706, as corrected by RR 2001, c. 2, Pt. B, §45 and affected by §58, is amended to read:

§6706. Formation of captive insurance companies in this State

1. Pure captive insurance company. A pure captive insurance company must be ~~incorporated~~:

A. ~~As~~ Incorporated as a stock insurer with capital divided into shares and held by the stockholders; ~~or~~

B. ~~As~~ Incorporated as a nonprofit corporation whose votes of membership interest are held by a parent organization formed under a nonprofit law or by such nonprofit ~~parent and its affiliated companies.~~ corporation with one or more members; or

C. Organized as a manager-managed limited liability company.

2. Association captive insurance company. An association captive insurance company or an industrial insured captive insurance company may be ~~incorporated~~:

A. ~~As~~ Incorporated as a stock insurer with its capital divided into shares and held by the stockholders; or

B. ~~As~~ Incorporated as a mutual insurer without capital stock, the governing body of which must be elected by the member organizations of its association.~~;~~

C. Organized as a reciprocal insurer in accordance with this Title; or

D. Organized as a manager-managed limited liability company.

3. Incorporators. A captive insurance company may not have fewer than 3 incorporators~~, and at least 2 incorporators~~ or 3 organizers of whom at least one must be ~~residents~~ a resident of this State. If the captive insurance company is a limited liability company, at least one manager must be a resident of this State.

4. Applicability of chapter 47. To the extent not inconsistent with this chapter, a captive insurance company is subject to the procedures applicable to domestic insurers pursuant to chapter 47 except that, if the surviving entity after a merger, consolidation, conversion or mutualization is a captive insurance company, a captive insurance company is subject to this chapter. With respect to mergers, consolidations, conversions and mutualizations, the superintendent, in the superintendent's discretion, may ~~waive any public hearing requirement.~~:

A. Waive any public hearing requirement;

B. Permit an alien insurer as a party to a merger as long as the requirements for a merger between a captive insurance company and a foreign insurer apply. For the purposes of this paragraph, an alien insurer must be treated as a foreign insurer and the jurisdiction of the alien insurer is considered a state; or

C. Approve the conversion of a captive insurance company organized as a stock insurer to a nonprofit corporation with one or more members or a limited liability company.

5. Issuance of stock. ~~The~~ If the capital stock of a captive insurance company incorporated as a stock insurer ~~may not be~~ is issued at ~~less than~~ par value, stock may not be issued at less than par value.

6. Board of directors. ~~At~~ If formed as a corporation, then at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State. If formed as a reciprocal insurer, then at least one of the members of the subscriber's advisory committee must be a resident of this State. If organized as a limited liability company, then at least one manager must be a resident of this State.

7. Captive insurance company. A captive insurance company formed under this chapter, except for a pure nonprofit captive insurance company, has the privileges granted by and is subject to Title 13-C and this chapter. In the event of conflict between Title 13-C and this chapter, this chapter controls.

8. Pure nonprofit captive insurance company. A pure nonprofit captive insurance company formed under this chapter has the privileges granted by and is subject to Title 13-B and this chapter. In the event of conflict between Title 13-B and this chapter, this chapter controls.

9. Quorum. If formed as a corporation, the articles of incorporation or bylaws of a captive insurance company may authorize a quorum of its board of directors to consist of no fewer than 1/3 of the fixed or prescribed number of directors determined under Title 13-B or 13-C. If formed as a reciprocal insurer, the subscribers' agreement or other organizing document may authorize a quorum of its subscribers' advisory committee to consist of no fewer than 1/3 of the number of its members.

Sec. 13. 24-A MRSA §6708, sub-§3 is enacted to read:

3. Examinations. At least once in 3 years, and whenever the superintendent determines it to be prudent, the superintendent shall personally, or by some competent person appointed by the superintendent, visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations and whether it has complied with the provisions of this chapter. The superintendent may enlarge the 3-year period to 5 years, as long as the captive insurance company is subject to a comprehensive annual audit during the period of a scope satisfactory to the superintendent by independent auditors approved by the superintendent. The expenses and charges of the examination must be paid to the State by the company or companies examined.

Sec. 14. 24-A MRSA §6709, sub-§1, ¶B, as enacted by PL 1997, c. 435, §1, is amended to read:

B. Failure to meet the requirements of section 6704 ~~or 6705~~;

Sec. 15. 24-A MRSA §6709, sub-§1, ¶D, as enacted by PL 1997, c. 435, §1, is amended to read:

D. Failure to comply with the provisions of the company's charter or bylaws or other organizational document;

Sec. 16. 24-A MRSA §6710, as enacted by PL 1997, c. 435, §1, is amended to read:

§6710. Legal investments

A pure captive insurance company is not subject to ~~the~~ any restrictions on allowable investments including those provided under chapter 13 and chapter 13-A, except that ~~a pure captive insurance company may petition~~ the superintendent ~~for approval of investments that are not specified in this Title~~ may prohibit or limit any investment that threatens the solvency or liquidity of such insurance company. A pure captive insurance company may not make a loan to or investments in its parent or affiliated companies without the prior written approval of the superintendent. A loan of any minimum capital and surplus funds required by section 6704 is prohibited. Except as otherwise authorized by the superintendent, association captive insurance companies and industrial insured captive insurance companies are subject to the restrictions on allowable investments applicable to admitted insurers transacting the same type of business. With respect to investments of association captive insurance companies, the superintendent may approve the use of alternative methods of valuation and rating.

Sec. 17. 24-A MRSA §6711, sub-§1, as enacted by PL 1997, c. 435, §1, is amended to read:

1. Reinsurance. A captive insurance company may provide reinsurance on risks ceded by any other insurer~~; however, the ceding of insurance by a domestic insurer may be done only pursuant to section 731-B~~ to the extent permitted by section 6702.

Sec. 18. 24-A MRSA §6711, sub-§2, as enacted by PL 1997, c. 435, §1, is amended to read:

2. Credit for reserves. A captive insurance company may take credit for ~~reserves on risks~~ the reinsurance of risks or portions of risks ceded to a reinsurer~~, except that a~~ in accordance with this Title. A captive insurance company may not cede risks or take credit for the reinsurance of risks or portions of risk without the approval of the superintendent, except for business written outside the United States by an alien captive insurance company.

Sec. 19. 24-A MRSA §6711, sub-§4, as enacted by PL 1997, c. 435, §1, is amended to read:

4. Reinsurance of workers' compensation risks. A captive insurance company may, with the approval of the superintendent, reinsure workers' compensation risks of ~~a qualified self-insured plan of~~ its parent and affiliated companies ~~to the extent that these risks are insured by~~ under a statutory workers' compensation policy issued by a licensed insurer or under a qualified self-insured plan. The superintendent may require that all or part of any assumed self-insured risk be retroceded to an insurance company that meets the standards for acceptance of reinsurance of workers' compensation self-insurance.

Sec. 20. 24-A MRSA §6714, as enacted by PL 1997, c. 435, §1, is amended to read:

§6714. Delinquent captive insurers

The provisions of chapter ~~47~~ 57 apply to captive insurers.

Sec. 21. 24-A MRSA §6721 is enacted to read:

§6721. Rules for controlled unaffiliated business

The superintendent may adopt rules establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a pure captive insurance company. In the absence of any rules, the superintendent may approve the coverage of such risks by a pure captive insurance company upon request. Any rules adopted by the superintendent pursuant to this section are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

Sec. 22. 24-A MRSA §6722 is enacted to read:

§6722. Conversion to or merger with reciprocal insurer

1. Authority for conversion or merger. A captive insurance company, association captive insurance company or industrial insured captive insurance company formed as a stock or mutual insurer may convert to or merge with a reciprocal insurer with the approval of the superintendent in accordance with a plan of operation and with the requirements of this section. Any plan for conversion or merger must provide a fair and equitable mechanism for purchasing, retiring or otherwise extinguishing the interests of stockholders and policyholders of a stock insurer and the interests of members and policyholders of a mutual insurer, including a fair and equitable provision for the rights and remedies of dissenting stockholders, members or policyholders.

2. Conversion. The superintendent may not approve a plan of conversion unless the plan:

A. Provides notice of the opportunity to request a hearing to directors, officers, stockholders, members and policyholders of the captive insurance company. If no request for a hearing is received, the superintendent is not required to hold a hearing in the superintendent's discretion;

B. Provides a fair and equitable plan for the conversion of stockholder, member or policyholder interests into subscriber interests in the resulting reciprocal insurer in a substantially proportionate manner to the corresponding interest in the stock or mutual insurer except that the resulting reciprocal insurer is not precluded from applying underwriting criteria that may affect ongoing ownership interests;

C. In the case of a stock insurer, has been approved by a majority of voting shares represented in person or by proxy at a duly called regular or special meeting at which a quorum is present; and

D. In the case of a mutual insurer, has been approved by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting at which a quorum is present.

The superintendent shall approve a plan of conversion if the superintendent finds that the conversion will promote the general good of the State in conformity with this chapter. If the superintendent approves the plan, the superintendent shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue the amended certificate of authority to the converting insurer's designated attorney. The conversion is effective upon the issuance of the amended certificate of authority by the superintendent. Upon the conversion, the corporate existence of the converting insurer ceases and the resulting reciprocal insurer shall notify the Secretary of State of the conversion.

3. Merger. A plan of merger may not be approved by the superintendent unless the plan of merger satisfies the same requirements in subsection 2, paragraphs A to D. The superintendent may permit the formation, without surplus, of a captive insurance company organized as a reciprocal insurer into which an existing captive insurance company may be merged for the purpose of facilitation of a transaction under this section except that no more than one authorized insurance company may survive the merger. An alien insurer may be a party to a merger authorized under this section if the requirements of this Title for a merger between a domestic and foreign insurer are met. For the purposes of this section, the alien insurer is treated as a foreign insurer and the jurisdiction of the alien insurer is considered a state.

4. Effect. A conversion or merger pursuant to this section has all of the effects of a conversion or merger approved pursuant to this Title to the extent that such effects are not inconsistent with the provisions of this chapter.

Sec. 23. 24-A MRSA §6724 is enacted to read:

§6724. Sponsored captive insurance companies

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

A. "Participant" means an entity as described in subsection 6, and any affiliates thereof, that are insured by a sponsored captive insurance company.

B. "Participant contract" means a contract by which a sponsored captive insurance company insures the risks of a participant.

C. "Protected cell" means a separate account established by a sponsored captive insurance company formed or licensed under the provisions of this chapter in which assets are maintained for one or more participants in accordance with the terms of one or more participant contracts to fund the liability of the sponsored captive insurance company assumed on behalf of the participants as set forth in the participant contracts.

D. "Sponsor" means an entity that meets the requirements of subsection 5 and is approved by the superintendent to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurance company.

E. "Sponsored captive insurance company" means a captive insurance company:

(1) In which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(2) That is formed or licensed under the provisions of this chapter;

(3) That insures the risks only of its participants through separate participant contracts; and

(4) That funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the sponsored captive insurance company's general account.

2. Formation. One or more sponsors may form a sponsored captive insurance company under this chapter. In addition to the general provisions of this chapter, the provisions of this section apply to sponsored captive insurance companies. A sponsored captive insurance company must be incorporated as a stock insurer with its capital divided into shares and held by the stockholder, as a nonprofit corporation with one or more members or as a manager-managed limited liability company.

3. Supplemental application materials. In addition to the information required by section 6702, each applicant sponsored captive insurance company shall file with the superintendent the following:

A. Materials demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the superintendent and how it will report the experience to the superintendent;

B. A statement acknowledging that all financial records of the sponsored captive insurance company, including records pertaining to any protected cells, will be made available for inspection or examination by the superintendent or the superintendent's designated agent;

C. All contracts or sample contracts between the sponsored captive insurance company and any participants; and

D. Evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

4. Protected cells. A sponsored captive insurance company formed or licensed under the provisions of this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

A. The shareholders of a sponsored captive insurance company must be limited to its participants and sponsors, except that a sponsored captive insurance company may issue nonvoting securities to other persons on terms approved by the superintendent;

B. Each participant contract must specify one or more protected cells as the sole source of the participant's coverage and limit the losses of the participant to its pro rata share of the assets of the protected cell identified in the contract. If the sponsored captive insurance company enters into a contract involving more than one protected cell, the rights and obligations relating to each protected cell must be several rather than joint and the contract must make clear provisions for apportionment of the rights and obligations between protected cells;

C. Each protected cell must be accounted for separately on the books and records of the sponsored captive insurance company to reflect the financial condition and results of operations of each protected cell, net income or loss, dividends or other distributions to participants and such other factors as may be provided in the participant contract or required by the superintendent;

D. The assets of a protected cell may not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

E. A sale, exchange or other transfer of assets may not be made by a sponsored captive insurance company between or among any of its protected cells without the consent of the protected cells;

F. A sale, exchange, transfer of assets, dividend or distribution may not be made from a protected cell to a sponsor or participant without the superintendent's approval and in no event may approval

be given if the sale, exchange, transfer, dividend or distribution would result in insolvency or impairment with respect to a protected cell;

G. Each sponsored captive insurance company must annually file with the superintendent such financial reports as the superintendent requires, which must include, without limitation, accounting statements detailing the financial experience of each protected cell;

H. Each sponsored captive insurance company must notify the superintendent in writing within 10 business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

I. A participant contract may not take effect without the superintendent's prior written approval, and the addition of each new protected cell and withdrawal of any participant or termination of any existing protected cell constitutes a change in the business plan requiring the superintendent's prior written approval;

J. The business written by a sponsored captive insurance company, with respect to each protected cell, must be:

(1) Fronted by a properly licensed insurance company;

(2) Reinsured by a reinsurer authorized or approved by the superintendent; or

(3) Secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the superintendent. The amount of security provided must be no less than the reserves associated with those liabilities that are neither fronted nor reinsured, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums for business written through the participant's protected cell. The superintendent may require the sponsored captive insurance company to increase the funding of any security arrangement established under this subparagraph. If the form of security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a member of the Federal Reserve System and established in a form and upon such terms approved by the superintendent;

K. In any action or proceeding involving the potential for monetary recovery by or against a sponsored captive insurance company or for nonmonetary relief relating to a particular protected cell or cells, any process, pleading or order must name the specific protected cell or cells affected, including if applicable the general account; and

L. A sponsored captive insurance company shall notify the superintendent in writing within 10 business days after the special purpose reinsurance vehicle or any protected cell becomes impaired or insolvent.

5. Qualification of sponsors. A sponsor of a sponsored captive insurance company must be an insurer licensed under the laws of any state, a reinsurer authorized or approved under the laws of any state, a captive insurance company formed or licensed under this chapter, a broker-dealer licensed pursuant to the Maine Uniform Securities Act, a financial institution or financial institution holding company authorized under Title 9-B, including any affiliate or subsidiary of such financial institution holding company, or any other person approved by the superintendent in the exercise of the superintendent's discretion after finding that the approval of a person as a sponsor is not inconsistent with the purposes of this chapter. A risk retention group authorized pursuant to chapter 72-A may not be either a sponsor or a participant of a sponsored captive insurance company.

6. Participants in sponsored captive insurance companies. The following may be participants in a sponsored captive insurance company:

A. Associations, corporations, limited liability companies, partnerships, trusts and other business entities may be participants in any sponsored captive insurance company formed or licensed under this chapter;

B. A sponsor may be a participant in a sponsored captive insurance company;

C. A participant need not be a shareholder of the sponsored captive insurance company or any affiliate thereof; and

D. A participant may insure only its own risks through a sponsored captive insurance company.

7. Investments by sponsored captive insurance companies. Notwithstanding the provisions of subsection 5, the assets of 2 or more protected cells may be combined for purposes of investment, and such a combination may not be construed as defeating the segregation of assets for accounting or other purposes. Sponsored captive insurance companies shall comply with the investment requirements contained in this Title, as applicable, except that compliance with such investment requirements must be waived for sponsored captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed pursuant to section 6711 or to the extent otherwise considered reasonable and appropriate by the superintendent. Section 6707 applies to sponsored captive insurance companies except to the extent it is inconsis-

tent with approved accounting standards in use by the company. Notwithstanding any other provision of this Title, the superintendent may approve the use of alternative reliable methods of valuation and rating.

8. Delinquency of sponsored captive insurance companies or protected cells. In the case of a sponsored captive insurance company, the provisions of section 6714 apply, except as otherwise provided in this subsection.

A. The insolvency of one protected cell does not constitute the insolvency of any other protected cell or of the sponsored captive insurance company itself. The insolvency of a sponsored captive insurance company does not constitute the insolvency of any of its solvent protected cells and is not a basis for the receivership of any solvent protected cell capable of independent operation.

B. Notwithstanding the insolvency of the sponsored captive insurance company or of any other protected cell, the obligations attributed to any solvent protected cell must continue to be paid as they become due.

C. The assets attributed to a protected cell may not be applied to the liabilities attributed to another protected cell or to the sponsored captive insurance company generally, except that:

(1) If the insolvency of the sponsored captive insurance company renders a protected cell incapable of being managed independently, a receiver may, after consultation with the creditors of a protected cell, contract for the management of the protected cell and charge to the protected cell a reasonable amount for those services;

(2) A general liability of an insolvent sponsored captive insurance company may be apportioned equitably in whole or in part to one or more of its protected cells if the Superior Court determines that the liability arises out of the operations of the protected cell or cells and that the interests of innocent creditors of the protected cell or cells are not unreasonably impaired; and

(3) If assets or liabilities have been commingled, or have been wrongfully transferred between protected cells or between a protected cell and the general account, the Superior Court shall trace the assets and attribute them to the proper accounts, giving due consideration to the terms of any relevant governing instrument or contract.

D. The plan of rehabilitation or liquidation of any sponsored captive insurance company must make reasonable provision for the continued operation of all solvent protected cells, which may involve the formation of one or more new sponsored captive insurance companies or the transfer of one or more protected cells.

Sec. 24. 24-A MRSA §6725 is enacted to read:

§6725. Branch captive insurance companies

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

A. "Alien captive insurance company" means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the superintendent on companies transacting the business of insurance in the alien jurisdiction.

B. "Branch business" means any insurance business transacted by a branch captive insurance company in this State.

C. "Branch captive insurance company" means any alien captive insurance company licensed by the superintendent to transact the business of insurance in this State through a business unit with a principal place of business in this State.

D. "Branch operations" means any business operations of a branch captive insurance company in this State.

2. Establishment of a branch captive insurance company. A branch captive insurance company may be established in this State in accordance with the provisions of this chapter to write in this State only insurance or reinsurance of the employee benefit business of its parent and affiliated companies that is subject to the provisions of the federal Employee Retirement Income Security Act of 1974, as amended. In addition to the general provisions of this chapter, the provisions of this section apply to branch captive insurance companies. A branch captive insurance company may not do any insurance business in this State unless it maintains the principal place of business for its branch operations in this State.

3. Security required. In the case of a branch captive insurance company, as security for the payment of liabilities attributable to the branch operations, the superintendent shall require that either a trust fund funded by assets acceptable to the superintendent or an irrevocable letter of credit be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed by the branch captive insurance company through its branch operations. The amount of the security may be no less than the amount set forth in section 6704, subsection 1, paragraph A

and the reserves on the insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operation, except that the superintendent may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account or the amount payable under the irrevocable letter of credit required by this subsection by the same amount as long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in this State or a member bank of the Federal Reserve System.

4. Certificate of general good. In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company shall petition the superintendent to issue a certificate setting forth the superintendent's finding that, after considering the character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors of the alien captive insurance company, the licensing and maintenance of the branch operations will promote the general good of the State. The alien captive insurance company may register to do business in this State after the superintendent's certificate is issued.

5. Reports. Prior to March 1st of each year, or with the approval of the superintendent within 60 days after its fiscal year-end, a branch captive insurance company shall file with the superintendent a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of 2 of its executive officers. If the superintendent is satisfied that the annual report filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company, the superintendent may waive the requirement for completion of the captive annual statement for business written in the alien jurisdiction.

6. Examination of branch captive insurance companies. The examination of a branch captive insurance company pursuant to section 6708 must be of the branch business and branch operations only, as long as the branch captive insurance company provides annually to the superintendent a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed and demonstrates to the superintendent's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction. As a condition of licensure, the alien captive insurance company must grant authority to the superintendent for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

See title page for effective date.

CHAPTER 336

H.P. 894 - L.D. 1275

An Act To Implement the Recommendations of the Criminal Law Advisory Commission

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

Sec. 1. 5 MRSA §3360, sub-§3, ¶G, as amended by PL 2007, c. 684, Pt. E, §1 and affected by Pt. H, §1, is further amended to read:

G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; or

Sec. 2. 5 MRSA §3360, sub-§3, ¶H, as amended by PL 2007, c. 684, Pt. E, §2 and affected by Pt. H, §1, is further amended to read:

H. Sexual exploitation of a minor as described in Title 17-A, chapter 12~~; or~~.

Sec. 3. 5 MRSA §3360, sub-§3, ¶I, as enacted by PL 2007, c. 684, Pt. E, §3 and affected by Pt. H, §1, is repealed.

Sec. 4. 17-A MRSA §2, sub-§8, as amended by PL 2007, c. 173, §1, is further amended to read:

8. "Deadly force" means physical force that a person uses with the intent of causing, or that a person knows to create a substantial risk of causing, death or serious bodily injury. ~~Intentionally~~ Except as provided in section 101, subsection 5, intentionally, knowingly or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.

Sec. 5. 17-A MRSA §101, sub-§5, as amended by PL 2001, c. 386, §1, is repealed and the following enacted in its place:

5. For purposes of this chapter, use by a law enforcement officer, a corrections officer or a corrections supervisor of the following is use of nondeadly force:

A. Chemical mace or any similar substance composed of a mixture of gas and chemicals that has or is designed to have a disabling effect upon human beings; or

B. A less-than-lethal munition that has or is designed to have a disabling effect upon human beings. For purposes of this paragraph, "less-than-

lethal munition" means a low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy.

Sec. 6. 17-A MRSA §106, sub-§1, as amended by PL 2007, c. 173, §22, is further amended to read:

1. A parent, foster parent, guardian or other similar person responsible for the long term general care and welfare of ~~another person~~ a child is justified in using a reasonable degree of force against ~~such other person~~ that child when and to the extent that the person reasonably believes it necessary to prevent or punish ~~such other person's~~ the child's misconduct. A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct is similarly justified in using a reasonable degree of force. For purposes of this subsection, "child" means a person who has not attained 18 years of age and has not been ordered emancipated by a court pursuant to Title 15, section 3506-A.

Sec. 7. 17-A MRSA §106, sub-§1-A, as enacted by PL 2003, c. 143, §1, is amended to read:

1-A. For purposes of subsection 1, "reasonable degree of force" is an objective standard. To constitute a reasonable degree of force, the physical force applied to the ~~person~~ child may result in no more than transient discomfort or minor temporary marks on that ~~person~~ child.

Sec. 8. 17-A MRSA §106, sub-§2, as amended by PL 2007, c. 173, §22, is further amended to read:

2. A teacher or other person entrusted with the care or supervision of a person for special and limited purposes is justified in using a reasonable degree of nondeadly force against any such person who creates a disturbance when and to the extent that the teacher or other entrusted person reasonably believes it necessary to control the disturbing behavior or to remove a person from the scene of such disturbance.

Sec. 9. 17-A MRSA §106, sub-§3, as amended by PL 2007, c. 173, §22, is further amended to read:

3. A person responsible for the general care and supervision of a mentally incompetent person is justified in using a reasonable degree of nondeadly force against such person who creates a disturbance when and to the extent that the responsible person reasonably believes it necessary to control the disturbing behavior or to remove such person from the scene of such disturbance.

Sec. 10. 17-A MRSA §106, sub-§4, as amended by PL 2003, c. 143, §2, is further amended to read:

4. The justification extended in subsections 2 and 3 does not apply to the intentional, knowing or reckless use of nondeadly force that creates a substantial risk of ~~death, serious bodily injury or~~ extraordinary pain.

Sec. 11. 17-A MRSA §210-A, sub-§1, ¶C, as amended by PL 2007, c. 685, §1, is further amended to read:

C. The actor violates paragraph A and has 2 or more prior convictions in this State or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this paragraph, "another jurisdiction" also includes any Indian tribe.

Violation of this paragraph is a Class C crime.

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 12. 17-A MRSA §1004, sub-§4, ¶B, as enacted by PL 2005, c. 264, §1, is amended to read:

B. A person using ~~deadly force~~ an electronic weapon when that use is for the purpose of:

(1) Defending that person or a 3rd person as authorized under section 108, subsection 2; or

(2) Defending that person's dwelling place as authorized under section 104, subsections 3 and 4.

Sec. 13. 17-A MRSA §1158-A, sub-§1, as enacted by PL 2003, c. 657, §7, is amended to read:

1. As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

A. That firearm constitutes the basis for conviction under:

(1) Title 15, section 393;

(2) Section 1105-A, subsection 1, paragraph C-1;

(3) Section 1105-B, subsection 1, paragraph C;

(4) Section 1105-C, subsection 1, paragraph C-1; or

(5) Section 1105-D, subsection 1, paragraph B-1; ~~or~~

B. The State pleads and proves that the firearm is used by the defendant or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13~~.~~; or

C. The defendant, with the approval of the State, consents to the forfeiture of the firearm.

Sec. 14. 17-A MRSA §1202, sub-§3-A is enacted to read:

3-A. A motion and hearing pursuant to subsection 2, 2-A or 3 need not be before the justice or judge who originally imposed probation. Any justice or judge may initiate and hear a motion and any justice or judge may hear a motion brought by the probation officer or by the person on probation.

Sec. 15. 17-A MRSA §1348-A, sub-§4 is enacted to read:

4. For purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence.

Sec. 16. 17-A MRSA §1348-B, as amended by PL 2005, c. 683, Pt. A, §20, is further amended to read:

§1348-B. Court hearing as to final disposition

1. Unless a court hearing is sooner held under subsection 2, and except as provided in subsection 1-A, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1348-A shall return to court for a hearing on final disposition. If the person demonstrates by a preponderance of the evidence that the person has complied with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty and consented to in writing at the time sentencing was deferred or as amended by agreement of the parties in writing prior to sentencing, unless the attorney for the State, prior to sentence imposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the defendant, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.

1-A. Notwithstanding subsection 1, if at the conclusion of the period of deferment and prior to sentence imposition the attorney for the State in writing moves the court to allow the person to withdraw the plea of guilty and the defendant in writing agrees to such withdrawal, the court may, without a hearing on final disposition and in the absence of the person, grant the attorney for the State's motion and allow the person to withdraw the plea. Following such court action, the attorney for the State shall dismiss the pending charging instrument with prejudice.

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. When a person fails to pay the administrative supervision fee as required under section 1348-A, subsection 1, the court may terminate the running of the period of deferment and impose sentence unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

3. A hearing under this section or section 1348-A must be held in the court that ordered the deferred disposition. The hearing need not be conducted by the justice or judge who originally ordered the deferred disposition.

4. The person at a hearing under this section or section 1348-A must be afforded the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person who was granted deferred disposition pursuant to section 1348-A can not afford counsel, the court shall appoint counsel for the person. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Criminal Procedure.

5. A summons may be used to order a person who was granted deferred disposition pursuant to section 1348-A to appear for a hearing under this section. If the person fails to appear after having been served with a summons, the court may issue a warrant for the arrest of the person.

7. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the person or request that a warrantless arrest be made of the person pursuant to section 15, subsection 1, paragraph A, subparagraph (17).

Sec. 17. 17-A MRSA §1349-D, sub-§4, as amended by PL 2007, c. 344, §9, is further amended to read:

4. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may apply for a warrant for the arrest of the person or request that a warrantless arrest be made of the person pursuant to section 15, subsection 1, paragraph A, subparagraph (15). Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within 5 days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in section 1205-C, subsections 5 and 6.

Sec. 18. 25 MRSA §2803-B, as amended by PL 2005, c. 397, Pt. C, §17, is further amended to read:

§2803-B. Requirements of law enforcement agencies

1. Law enforcement policies. All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

A. Use of physical force, including the use of electronic weapons and less-than-lethal munitions;

B. Barricaded persons and hostage situations;

C. Persons exhibiting deviant behavior;

D. Domestic violence, which must include, at a minimum, the following:

(1) A process to ensure that a victim receives notification of the defendant's release from jail;

(2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; and

(3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours notice to each party prior to the retrieval;

E. Hate or bias crimes;

F. Police pursuits;

G. Citizen complaints of police misconduct;

H. Criminal conduct engaged in by law enforcement officers;

I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations;

J. Public notification regarding persons in the community required to register under Title 34-A, chapter 15; and

K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases.

The chief administrative officer of each agency shall certify to the board that attempts were made to obtain public comment during the formulation of policies.

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; ~~and~~ policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; and policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be

made to the board no later than June 1, 2003; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; ~~and~~ certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; and certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; ~~and~~ certification for orientation and training with respect to policies regarding the recording and preservation of interview of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; and certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the board no later than January 1, 2011.

5. Annual standards review. The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

6. Freedom of access. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually beginning on January 1, 2004 that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13.

7. Certification by record custodian. Notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the board, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

See title page for effective date.

CHAPTER 337

H.P. 1022 - L.D. 1468

An Act Regarding the Evaluation of Economic Development Programs

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 comprehensive economic development evaluation has a reporting deadline of February 1, 2010; and

Whereas, it is essential to begin the evaluation process by the beginning of July in order to meet the statutory reporting deadline; and

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

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

Sec. 1. 5 MRSA §13056-B, as enacted by PL 2007, c. 434, §2, is amended to read:

§13056-B. Reporting requirements of recipients of economic development funding

To assist the department in preparing the comprehensive economic development evaluation pursuant to section 13056-A, a recipient of state economic development funding, including General Fund appropriations, dedicated revenue, tax expenditures as defined in section 1666 and general obligation bond proceeds for economic development, shall, in addition to any other reporting requirements required by law, collect, maintain and provide data as requested by the department.

Sec. 2. 5 MRSA §13056-C, sub-§3, as enacted by PL 2007, c. 434, §3, is amended to read:

3. Payments to fund. Notwithstanding section 1585 or any other provision of law, the department shall assess agencies or private entities that receive General Fund appropriations or general obligation

bonds for economic development an amount for contribution to the fund that is not to exceed 0.08% of General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development efforts. Private entities that receive funds from general obligation bonds for economic development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is not to exceed 0.08% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive $250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of $250,000 or more for economic development efforts in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed ~~$150,000~~ $200,000 in any fiscal year.

Sec. 3. 5 MRSA §13058, sub-§5, as amended by PL 1999, c. 776, §§4 and 5, is further amended to read:

5. Review of program; report to Governor and Legislature. The commissioner shall review and evaluate the programs and functions of the department and the operation of the economic delivery system using the information available from the economic development evaluation pursuant to section 13056-A. ~~The Maine Small Business Commission, as established in section 13032, shall conduct the evaluation and review required by this section with respect to small business programs.~~ The commissioner shall report the commissioner's findings and recommendations with respect to the issues described in this subsection to the Governor and to the Legislature no later than February 1st of each first regular session of the Legislature. The commissioner shall conduct the review and evaluation with respect to the following:

A. The purpose of these programs and the degree to which the purpose is being met;

B. The degree of significance of the purpose of the programs and functions of the department;

C. The extent of the coordination of programs and services as required in subsection 4;

D. The needs, problems and opportunities that are not being met by the programs and services of the department;

E. The types of programs and services necessary to meet the needs, problems and opportunities as set out in paragraph D;

F. The problems and successes in the economic delivery system;

G. The state of small business in this State, including economic data, the effectiveness of state programs to aid small business, problems of small business that may be affected by state policies and such other information on small business as desired by the commissioner;

H. Within available resources, the extent of business growth and change, including business expansions, new businesses and business closings;

I. Within available resources, the status of investments in business in the State; and

J. The extent to which the purposes of the Maine Downtown Center are being met.

Sec. 4. 5 MRSA §13063-O, sub-§1, as enacted by PL 2003, c. 451, Pt. MMM, §1, is amended to read:

1. Accounting and reporting requirements. The department shall:

A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines, including a detailed accounting of all program funding sources and expenditures; and

~~B. Undertake an ongoing process to evaluate the impact of the projects undertaken with program funds. The evaluation process must include benchmarks and criteria to evaluate the success of the fund. The benchmarks and criteria must be designed by the department to provide the following:~~

~~(1) An assessment of the direct and indirect economic impact of the funded projects; and~~

~~(2) An assessment of the contribution of the fund to the creation of new entrepreneurial opportunities; and~~

C. Each year, submit a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include:

(1) An accounting of the use of all program funds received and expended since the program's inception;

(2) A summary of the status of any approved projects;

(3) A summary of the results of any completed projects;

(4) Evaluation data and assessment consistent with section 13056-A; and

(5) Other information required to be submitted and evaluated by the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters.

Sec. 5. 5 MRSA §13070-J, as amended by PL 2005, c. 519, Pt. TTT, §1, is further amended to read:

§13070-J. Business disclosure associated with eligibility for public subsidies and incentives

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

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Department" means the Department of Economic and Community Development.

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to:

(1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;

(2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;

(3) Municipal tax increment financing under Title 30-A, chapter 206;

(4) The jobs and investment tax credit under Title 36, section 5215;

(5) The research expense tax credit under Title 36, section 5219-K;

(6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;

(7) Employment tax increment financing under Title 36, chapter 917;

(8) The shipbuilding facility credit under Title 36, chapter 919;

(9) The credit for seed capital investment under Title 36, section 5216-B; ~~or~~ and

(10) The credit for pollution-reducing boilers under Title 36, section 5219-Z.

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

(1) Is intended to encourage significant business expansion or retention in the State; and

(2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed $100,000 per year.

2. Disclosure. Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

A. The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and

B. The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

~~**3. Report.** Annually, a business receiving an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (8), the value of which exceeds $10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:~~

~~A. The amount of assistance received by the business in the preceding year from each economic development incentive and the uses to which that assistance has been put;~~

~~B. The total amount of assistance received from all economic assistance programs;~~

~~C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;~~

~~D. Current employment levels for the business for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;~~

~~E. Any changes in employment levels that have occurred over the preceding year; and~~

~~F. An assessment of how the business has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.~~

~~The department shall mail report forms by May 15th of each year to every business required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.~~

4. Agency reports. The following agencies shall submit the following reports.

A. The State Tax Assessor shall submit a report by October 1st annually to the Legislature identi-

fying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each business to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information.

B. The Commissioner of Labor shall report by October 1st annually to the Legislature on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each business and the public benefit resulting from those economic development incentives.

C. The Maine Community College System shall report by October 1st annually to the Legislature on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each business and the public benefit resulting from those economic development incentives.

~~D. The department shall report by October 1st annually to the Legislature the following:~~

~~(1) The amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each employer and the public benefit resulting from those economic development incentives; and~~

~~(2) The activities in the State, in the aggregate, of businesses receiving funds through the Maine Seed Capital Tax Credit program, including the following:~~

~~(a) The total amount of tax credit certificates issued by the Finance Authority of Maine;~~

~~(b) The total amount of private investment;~~

~~(c) Total employment;~~

~~(d) The total number of jobs created;~~

~~(e) The total number of jobs retained;~~

~~(f) Total payroll; and~~

~~(g) Total annual sales.~~

~~The Finance Authority of Maine shall provide the department with the information collected in accordance with Title 10, section 1100-T, subsection 6 and assist in the preparation of this report.~~

~~E. The department shall report by October 1st annually to the State Tax Assessor a listing of businesses that have failed to submit reports required under subsection 3. The report must document that each business included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the business may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the business, the department shall so notify the State Tax Assessor.~~

~~F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.~~

5. Rules. Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter ~~II-A~~ 2-A.

Sec. 6. 5 MRSA §13103, sub-§2, ¶G, as amended by PL 2003, c. 50, Pt. B, §1 and affected by §2, is further amended to read:

G. Submit each biennium a report to the Governor, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include detailed information on the status of the funds in the Maine Biomedical Research Fund~~,~~ and a listing and explanation of each specific source of funding from grant sources for biomedical research ~~and its use and the number of new jobs created in the State and where those jobs are located~~.

Sec. 7. 5 MRSA §13109, sub-§4, as repealed and replaced by PL 2005, c. 425, §7, is amended to read:

4. Payments to fund. Notwithstanding section 1585 or any other provision of law, agencies or private entities that receive General Fund or general obligation bonds for research and development shall contribute to the fund an amount not to exceed 0.8% of General Fund appropriations received by and general obligation bonds issued to an agency or entity for research and development efforts. Private entities that receive funds from general obligation bonds for research and development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an amount not to exceed 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive $500,000 or more in research and development appropriations in any fiscal year, or those entities that receive funds from a general obligation bond issue of $500,000 or more for research and development efforts in any fiscal year, as identified and certified by the Office of Innovation and the Office of Fiscal and Program Review, may be assessed. The Office of Innovation shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed ~~$120,000~~ $200,000 in any fiscal year.

Sec. 8. 5 MRSA §15302, sub-§10, as amended by PL 2001, c. 562, §1, is repealed.

Sec. 9. 7 MRSA §309, as amended by PL 1999, c. 72, §6, is further amended to read:

§309. Annual review

The commissioner and the Agriculture Development Committee shall, on an annual basis, review the effectiveness of the programs operated under the provisions of this chapter and provide a summary of the review to the Commissioner of Economic and Community Development.

Sec. 10. 36 MRSA §6652, sub-§3, as enacted by PL 1999, c. 768, §6, is repealed.

Sec. 11. 36 MRSA §6656, sub-§2, as enacted by PL 2005, c. 618, §20 and affected by §22, is amended to read:

2. Pay certified amounts. The assessor shall pay the certified amounts to each approved applicant that qualifies for the benefit under this chapter by November 1st or within 90 days after receipt of the claim, whichever is later. ~~For those claims for which payments are withheld pursuant to section 6652, subsection 3, and with respect to which the assessor receives notification under that subsection that the report has been received, reimbursement must be paid by November 1st or within 90 days after the assessor receives the notification, whichever is later.~~ Interest is not allowed on any payment made to a claimant pursuant to this chapter.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Maine Economic Development Evaluation Fund Z057

Initiative: Allocates funds associated with increasing the maximum amount that can be collected from those agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development for the economic development evaluation.

OTHER SPECIAL REVENUE FUNDS	**2008-09**	**2009-10**	**2010-11**
All Other	$50,000	$50,000	$50,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$50,000	$50,000	$50,000

Maine Research and Development Evaluation Fund 0985

Initiative: Allocates funds associated with increasing the maximum amount that can be collected from those agencies or private entities that receive General Fund appropriations or general obligation bonds for research and development for the research and development evaluation.

OTHER SPECIAL REVENUE FUNDS	**2008-09**	**2009-10**	**2010-11**
All Other	$80,000	$80,000	$80,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$80,000	$80,000	$80,000

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			
DEPARTMENT TOTALS	2008-09	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$130,000	$130,000	$130,000
DEPARTMENT TOTAL - ALL FUNDS	$130,000	$130,000	$130,000

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

Effective June 9, 2009.

CHAPTER 338

H.P. 1035 - L.D. 1482

An Act to Amend Mercury Standards for Air Emission Sources

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

Sec. 1. 38 MRSA §585-B, sub-§5, as amended by PL 2005, c. 590, §1, is further amended to read:

5. Standards for mercury. Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. As an alternative to not emitting mercury in excess of 11.4 kilograms, or 25 pounds, after January 1, 2010, an air emission source may reduce mercury emissions by 90 percent by weight after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The board shall establish by rule testing protocols and measurement methods for emissions sources for which the board has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter 2-A.

An air emission source may apply to the board for an extension or modification of the 11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, 2009 for a 6-month extension of the January 1, 2010 deadline to meet the 11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, 2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the 15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

Sec. 2. 38 MRSA §585-B, sub-§6, as corrected by RR 2005, c. 2, §24, is amended to read:

6. Mercury reduction plans. Any air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. The mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

A. Identification, characterization and accounting of the mercury used or released at the emission source; and

B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released.

The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources subject to this subsection. In addition, the department shall include an evaluation of the appropriateness of the 25-pound mercury standard established in subsection 5. The evaluation must address, but is not limited to, the technological feasibility, cost and schedule of achieving the standards established in subsection 5. The department shall submit an updated report to the committee by January 1, 2010. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out to the 124th Legislature legislation relating to the evaluation and the updated report.

See title page for effective date.

CHAPTER 339

H.P. 52 - L.D. 59

An Act To Amend the Laws Governing the Confidentiality of Correctional Facility Plans

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

Sec. 1. 1 MRSA §402, sub-§3, ¶N, as amended by PL 2005, c. 381, §2, is further amended to read:

N. Social security numbers in the possession of the Department of Inland Fisheries and Wildlife; ~~and~~

Sec. 2. 1 MRSA §402, sub-§3, ¶O, as amended by PL 2007, c. 597, §1, is further amended to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials~~.~~; and

Sec. 3. 1 MRSA §402, sub-§3, ¶P is enacted to read:

P. Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials, the Department of Corrections or members of the State Board of Corrections under conditions that protect the information from further disclosure.

See title page for effective date.

CHAPTER 340

S.P. 319 - L.D. 811

An Act To Amend Certain Provisions of Fish and Wildlife Laws

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

Sec. 1. 12 MRSA §10051, 2nd ¶, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides, the Junior Maine Guides and Trip Leaders' Curriculum Board and whatever state agencies that are designated. The department is under the control and supervision of the commissioner.

Sec. 2. 12 MRSA §10052, amended by PL 2003, c. 655, Pt. B, §13 and affected by §422, is further amended to read:

§10052. Division of Licensing, Registration and Engineering

The ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering is established within the Department of Inland Fisheries and Wildlife. The ~~bureau~~ division is equal in organizational level and status with other major organizational units within the department or its successors. The ~~bureau~~ division is administered by a director who is immediately responsible to the deputy commissioner. The director possesses full authority and responsibility

for administering all the powers and duties of the ~~bureau~~ division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the ~~bureau~~ division include, but are not limited to:

~~**1. Financial accounting.** The financial accounting of all department revenues and expenditures, including long-range financial planning and the preparation of annual and biennial budgets;~~

~~**2. Personnel activities.** The administration of all personnel activities;~~

3. Licensing and registration. The administration and issuance of department licenses, stamps and permits and the registration of snowmobiles, watercraft and all-terrain vehicles; and

4. Engineering. The design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document~~;~~.

~~**5. Land acquisition.** The acquisition and development of land for the protection, preservation and enhancement of inland fisheries and wildlife resources; and~~

~~**6. Equipment inventory.** The maintenance of a current inventory of all department-owned or department-managed property.~~

Sec. 3. 12 MRSA §10053, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

8. Animal damage control. The coordination of animal damage control functions throughout the State, including supplemental assistance for the control of coyotes and other nuisance wildlife that exceeds normal funding and staffing levels within the department; ~~and~~

Sec. 4. 12 MRSA §10053, sub-§9, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

9. Rules. The development of rules governing the effective management of the inland fisheries and wildlife resources of the State~~.~~; and

Sec. 5. 12 MRSA §10053, sub-§10 is enacted to read:

10. Land acquisition. The acquisition and development of land for the protection, preservation and enhancement of inland fisheries and wildlife resources.

Sec. 6. 12 MRSA §10105, sub-§1-A, as enacted by PL 2007, c. 73, §1, is amended to read:

1-A. Authorize taking and destruction of fish. Notwithstanding sections 12454, 12456 and 12457 and chapter 923, subchapters 4 and 5, whenever an illegal introduction of invasive fish species occurs and the commissioner determines it necessary for resource protection and management, the commissioner may authorize licensed anglers to assist the commissioner in the taking and destruction or sale of that invasive fish species.

Sec. 7. 12 MRSA §10201, sub-§5, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. The design of the permit and any art created in conjunction with it may be selected through an art contest. The commissioner may award a cash prize for the winning entry selected in a contest.

Sec. 8. 12 MRSA §10206, sub-§3, ¶C, as amended by PL 2007, c. 44, §1, is further amended to read:

C. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, including fines, fees and other available money deposited with the Treasurer of State, must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing ~~and~~, Registration and Engineering. Three dollars of each motorized watercraft registration is dedicated to the Department of Inland Fisheries and Wildlife and is not subject to the split with another agency as required under this paragraph. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Administrative and Financial Services, Bureau of the Budget.

The fees outlined in section 13056, subsection 8, paragraphs A and B for watercraft operating on inland waters of the State each include a $10 fee for invasive species prevention and control. This fee is disposed of as follows:

(1) Sixty percent of the fee must be credited to the Invasive Aquatic Plant and Nuisance Species Fund established within the Department of Environmental Protection under Title 38, section 1863; and

(2) Forty percent of the fee must be credited to the Lake and River Protection Fund estab-

lished within the department under section 10257.

Sec. 9. 12 MRSA §10502, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. Unless reasonable doubt exists as to ownership, property having a value less than ~~$10~~ $100;

Sec. 10. 12 MRSA §10502, sub-§2, ¶B, as amended by PL 2003, c. 592, §1 and affected by §5; c. 614, §9; and c. 655, Pt. C, §§5 and 6, is further amended to read:

B. A firearm or archery equipment, including crossbows, seized in connection with a violation of:

(1) Section 11206;

(2) Section 10902, subsection 6; or

(3) Section 10752, subsection 6, paragraph B and section 10902, subsection 4, paragraphs A and B;

Sec. 11. 12 MRSA §10906, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §105 and affected by §422, is further amended to read:

§10906. Violation of suspended or revoked license, permit or registration

While a person's license ~~or~~, permit or recreational vehicle registration is under suspension or revocation under this Part, that person may not engage in the particular activity permitted by the license ~~or~~, permit or recreational vehicle registration that has been suspended or revoked.

A person who violates this section commits a Class D crime.

Sec. 12. 12 MRSA §10907, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §106 and affected by §422, is further amended to read:

§10907. Obtaining suspended or revoked license, permit or registration

A person may not obtain or attempt to obtain any license ~~or~~, permit or recreational vehicle registration that has been suspended or revoked by the commissioner under this Part.

A person who violates this section commits a Class D crime.

Sec. 13. 12 MRSA §11108-B, sub-§3, as enacted by PL 2007, c. 203, §6, is amended to read:

3. Eligibility. A person who is 16 years of age or older ~~and not a holder of~~ who has never held a valid hunting license or junior hunting license may hold an apprenticeship hunter license. A person may not be issued an apprenticeship hunter license after having held an apprenticeship hunter license under section 11109. A person selected to receive a moose permit may not then purchase an apprenticeship hunter license to meet the licensing requirements for that permit.

Sec. 14. 12 MRSA §11209, sub-§1, as amended by PL 2005, c. 477, §8, is further amended to read:

1. Prohibition. A person may not:

A. Unless a relevant municipal ordinance provides otherwise and except as provided in sections 12401 and 12402, discharge a firearm, including muzzle-loading firearms, or crossbow within 100 yards of a building or residential dwelling ~~or a farm building used for sheltering livestock, machines or harvested crops~~ without the permission of the owner or, in the owner's absence, of an adult occupant of that building or dwelling authorized to act on behalf of the owner; or

B. Possess a wild animal or wild bird taken in violation of this subsection, except as otherwise provided in this Part.

This subsection may not be construed to prohibit a person from killing or taking a wild animal in accordance with sections 12401 and 12402.

For purposes of this subsection, "building" means any residential, commercial, retail, educational, religious or farm structure that is designed to be occupied by people or domesticated animals or is being used to shelter machines or harvested crops.

Sec. 15. 12 MRSA §12255, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §217 and affected by §422, is further amended to read:

3. Carrying a firearm while trapping. Notwithstanding section 11205, subsection 1, paragraph A and section 11206-A, subsection 1, paragraph A, a person who holds a valid trapping license may carry a firearm at any time during the open trapping season for the sole purpose of dispatching trapped animals unless that person is prohibited from possessing a firearm under Title 15, section 393, subsection 1 and has not obtained a valid permit in accordance with Title 15, section 393, subsection 2.

Sec. 16. 12 MRSA §12551-A, sub-§7, ¶A, as amended by PL 2005, c. 237, §3, is further amended to read:

A. The holder of a smelt wholesale dealer's license may:

(1) Take live smelts for resale from inland waters or private ponds. The taking of live smelts from inland waters must be in accordance with general rules adopted by the commissioner in regard to the taking of smelts. Except as provided in paragraph B,

the holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers and is subject to the same penalties for violations of those limits and restrictions. This subparagraph does not apply to a holder of a fish cultivator license as provided under section 12507;

(2) ~~From ice-in to ice-out, use~~ Use a drop net, a lift net or hook and line to take up to 8 quarts of smelts through man-made openings in the ice while fishing on the ice from specific inland waters designated by the commissioner. A dip net may be used in conjunction with the above methods to assist with the handling and transporting of smelts. A licensee may keep the daily bag limit alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day;

(2-A) In waters naturally free of ice, take smelts from noon to 2:00 a.m. by the use of a dip net in the usual and ordinary way. The commissioner may establish the daily bag limit by rule and a licensee may keep the daily bag limit of smelts alive. The daily bag limit established under this subparagraph is for a 24-hour period, beginning at noon on a given day and ending at 11:59 a.m. the following day. The commissioner may shorten the noon to 2:00 a.m. smelt fishing timeframe by rule for enforcement or conservation purposes;

(3) Use artificial light for the purpose of luring smelts to a drop net or a lift net;

(4) Transport or possess at the holder's business facility more than the daily bag limit of smelts provided that the smelts were taken by the license holder in accordance with this section or acquired from a person licensed under this section to deal in live smelts;

(5) Designate others to assist in selling live smelts at the holder's business facility; and

(6) Transport or designate others to transport on the license holder's behalf live smelts in accordance with this subsection.

Sec. 17. 12 MRSA §12913, sub-§2, ¶A, as enacted by PL 2003, c. 655, Pt. B, §337 and affected by §422, is amended to read:

A. Except as provided in this paragraph, a person may not operate a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls without an allocation or in excess of an allocation on any day for which allocations are established under this subsection or by the department by rule.

(1) Allocations are not established and are not required for other rivers or for other stretches of the Kennebec River or the West Branch Penobscot River.

(2) Allocations are required for Saturdays on the Kennebec River between Harris Station and West Forks for the period of July 1st to August 31st. Allocations are required for Saturdays on the West Branch Penobscot River between McKay Station and Pockwockamus Falls for the period of ~~June 8th~~ July 1st to August 31st. The commissioner may adopt rules establishing allocations for Sundays for the period of July 1st to August 31st. If the department determines that the recreational use limit will be reached on other days, the department shall provide by rule for allocations. Rules adopted under this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(3) Under high-water or low-water conditions on the West Branch Penobscot River, an emergency swap of an allocation may be made to the Kennebec River, as long as sufficient water is available there. Under no circumstances is a transfer of an allocation allowed from the Kennebec River to the West Branch Penobscot River.

(4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to accommodate problems in booking, as long as the average of the number of passengers carried on an outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed the outfitter's allocation for that river and day. Abuse by an outfitter of the privilege to carry additional passengers results in the loss of the privilege for a period to be determined by the commissioner.

(5) On the several days in the months of April and May when special water releases are scheduled to be made from the Flagstaff Dam to permit whitewater rafting on the Dead River, commercial whitewater rafting trips may be transferred from the Dead River to the Kennebec River whenever high-water or low-water conditions render use of the Dead River unsafe or inappropriate for commercial whitewater rafting trips.

(6) The following penalties apply to violations of this paragraph.

(a) A person who violates this paragraph commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

(b) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 18. 12 MRSA §13001, sub-§9, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

9. Division. "Division" means the Department of Inland Fisheries and Wildlife, Division of Licensing ~~and~~, Registration and Engineering.

Sec. 19. 12 MRSA §13060, as amended by PL 2003, c. 655, Pt. B, §§367 and 368 and affected by §422, is repealed and the following enacted in its place:

§13060. Temporary registration certificate

The commissioner may issue temporary registration certificates to a registered dealer who may, upon the sale or exchange of a boat, issue a temporary registration certificate to a new owner in order to allow the new owner to operate the boat for a period of 20 consecutive days after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is $1.

Sec. 20. 12 MRSA §13106-A, sub-§14, ¶A, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

A. Except as provided in section 13112, a person may not:

(1) Operate a snowmobile that exceeds the noise limits for that snowmobile established in paragraph B; or

(2) ~~Modify~~ Operate a snowmobile with an exhaust system that has been modified in a manner that amplifies or otherwise increases total noise emission above that of the snowmobile as originally constructed, regardless of the date of manufacture.

Sec. 21. 12 MRSA §13106-D is enacted to read:

§13106-D. Accidents involving property damage

1. Notification to property owner. The operator of a snowmobile involved in an accident that results in property damage shall take reasonable steps to notify the owner of that property of the accident.

2. Provide information to property owner. The operator of a snowmobile involved in an accident under subsection 1 shall, if the property owner is notified pursuant to subsection 1, provide to the property owner:

A. The operator's name and address;

B. The registration number of the operator's snowmobile; and

C. An opportunity to examine the registration certificate if the owner so requests and the certificate is available.

3. Penalties. A person who violates this section commits a Class E crime.

Sec. 22. 12 MRSA §13155, sub-§8-A, as enacted by PL 2003, c. 655, Pt. B, §410 and affected by §422, is amended to read:

8-A. Registration inspection. An owner or operator of an ATV shall present a registration certificate or an online registration receipt for inspection by any law enforcement officer on demand.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 23. 12 MRSA §13155, sub-§9, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §411 and affected by §422, is further amended to read:

9. Display of registration numbers. Each new ATV sold in the State must have 3 1/2 inch by 6 inch spaces provided on the front and rear of the machine, as high above the tires as possible, for the vertical display of the registration numbers. A person may not operate an ATV that is required to be registered under this section unless registration numbers are displayed in these spaces or as otherwise required by the department. A person may operate an ATV registered online without displaying a registration number until that person receives the registration certificate from the department or for 30 days after registering the ATV online, whichever occurs first.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 24. 12 MRSA §13157-A, sub-§25, ¶A, as enacted by PL 2005, c. 397, Pt. E, §26, is amended to read:

A. Except as provided in section 13159, a person may not:

(1) Operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust;

(2) ~~Modify the~~ Operate an ATV with an exhaust system ~~of an ATV~~ that has been modified in any manner that will increase the noise emitted above the following emission standard:

(a) Each ATV must meet noise emission standards of the United States Environmental Protection Agency and in no case exceed 96 decibels of sound pressure when measured from a distance of 20 inches using test procedures established by the commissioner; or

(3) Operate an ATV without a working spark arrester.

Sec. 25. 12 MRSA §13160, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Temporary registration certificate. The commissioner may issue temporary registration ~~plates and~~ certificates to a registered dealer who may, upon the sale or exchange of an ATV, issue a temporary registration ~~plate and~~ certificate to a new owner, in order to allow the new owner to operate the ATV for a period of 20 consecutive days, after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration is $1.

Sec. 26. 17 MRSA §2267-A, as amended by PL 2001, c. 536, §3, is further amended to read:

§2267-A. Submerged motor vehicles, snowmobile and watercraft in waters of the State

The following provisions apply when a motor vehicle is submerged or partially submerged in waters of the State or when a snowmobile or ~~motorboat~~ watercraft is submerged in the inland waters of the State.

1. Definition. When used in this section the term "motor vehicle" means any self-propelled vehicle designed to carry persons or property or used to transport persons, except snowmobiles and ~~motorboats~~ watercraft. The term "watercraft," when used in this section, means any type of craft placed on the inland waters of the State, whether used as a means of transportation or for other purposes.

2. Notice of submerged vehicle, snowmobile or watercraft to be given to department. The owner of any motor vehicle that becomes submerged or partially submerged in the waters of the State shall immediately, by the fastest means of communication, notify the Commissioner of Inland Fisheries and Wildlife of the event and the location of the vehicle. The owner of a snowmobile or ~~motorboat~~ watercraft that becomes submerged in the inland waters of the State for more than 24 hours shall notify the commissioner as provided in this subsection.

The commissioner shall, upon receiving notice of a submerged or partially submerged vehicle in the waters of the State or a submerged snowmobile or ~~motorboat~~ watercraft in the inland waters of the State, notify the Chief of the State Police, the Commissioner of Environmental Protection and any municipality or public utility that regulates the uses of the waters as a source of public water supply pursuant to Title 22, sections 2641 to 2648.

3. Owner legally liable to remove vehicle, snowmobile or watercraft. The owner of the vehicle is legally liable to remove any motor vehicle submerged or partially submerged in the waters of the State and pay any damages resulting from the submersion or removal. The vehicle must be removed within 30 days of the submersion or partial submersion or within 30 days of "ice out" in the body of water unless the commissioner determines that the vehicle creates a health or safety hazard. If the commissioner determines that the vehicle creates a health or safety hazard the commissioner shall order the owner to remove the vehicle immediately. If the owner fails to remove the vehicle upon order of the commissioner, the commissioner shall, in writing, request the court to direct the owner to remove the vehicle immediately. The owner of a snowmobile or ~~motorboat~~ watercraft that is submerged in the inland waters of this State for longer than 24 hours shall remove the snowmobile or ~~motorboat~~ watercraft in accordance with this subsection.

4. Financial responsibility. A conviction or adjudication of any person for a violation of this section constitutes a violation of state law relative to motor vehicles to which Title 29-A, chapter 13 applies.

5. Penalties. A violation of this section is a civil violation for which a forfeiture of $200 may be adjudged. In addition to a forfeiture, or instead of a forfeiture, the judge may direct the person convicted to remove the vehicle, snowmobile or ~~motorboat~~ watercraft.

6. Rules. The commissioner may, in accordance with the provisions of ~~the Maine Administrative Procedure Act,~~ Title 5, chapter 375, ~~promulgate~~ adopt any rules necessary to carry out the purposes of this chapter.

Sec. 27. 36 MRSA §191, sub-§2, ¶GG, as amended by PL 2005, c. 683, Pt. A, §63, is further amended to read:

GG. The disclosure to the Department of Inland Fisheries and Wildlife, ~~Bureau of Administrative Services~~ Division of Licensing, Registration and Engineering of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft;

Sec. 28. 36 MRSA §1503, sub-§3, as amended by PL 1983, c. 819, Pt. A, §59, is further amended to read:

3. Director. "Director" means the Director of the Division of Licensing ~~and~~, Registration and Engineering, Department of Inland Fisheries and Wildlife.

See title page for effective date.

CHAPTER 341

H.P. 189 - L.D. 235

An Act To Provide Fiscal Information for Citizen Initiatives

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

Sec. 1. 1 MRSA §353, as amended by PL 2007, c. 695, Pt. A, §2, is further amended to read:

§353. Explanation of proposed amendments and statewide referenda

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, ~~beginning with the November 2006 election~~ the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within ~~30 days after the adjournment of the legislative session immediately prior to the statewide election when the constitutional resolution or referendum will appear on the ballot~~ 10 business days after the receipt of the application and full text of the proposed law by the Secretary of State. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government. The Secretary of State shall publish the explanatory statement and the fiscal estimate in each daily newspaper of the State, not more than 10 and not less than 7 days prior to the voting. This information may be published in the English language in a foreign language newspaper.

Sec. 2. 21-A MRSA §625, as amended by PL 1997, c. 436, §87, is further amended to read:

§625. Posting of sample ballots, direct initiative fiscal impacts

At least 7 days before an election, the clerk shall post a sample ballot, furnished to the clerk under section 603, and the fiscal impact statement for direct initiatives of legislation furnished to the clerk under section 629, subsection 1, paragraph D-1 in a conspicuous, public place in each voting district.

Sec. 3. 21-A MRSA §629, sub-§1, ¶D-1 is enacted to read:

D-1. The Secretary of State shall provide adequate copies of the fiscal impact statement for each direct initiative of legislation prepared in accordance with Title 1, section 353, which must be placed in each voting booth.

Sec. 4. 21-A MRSA §901, sub-§5, as amended by PL 2007, c. 234, §3, is further amended to read:

5. Summary of proposal. For a direct initiative, the Secretary of State shall request the Revisor of Statutes to recommend a concise summary that objectively describes the content of the proposed law. The Secretary of State shall approve or amend the summary, and the summary and the fiscal impact statement required by Title 1, section 353 must be printed on the petition form immediately following the statements required by section 901-A.

Sec. 5. 21-A MRSA §901-A, as amended by PL 2007, c. 234, §4, is further amended to read:

§901-A. Petition requirements for direct initiatives of legislation

The following provisions apply to direct initiatives of legislation under the Constitution of Maine, Article IV, Part Third, Section 18.

1. Opportunity to read direct initiative summary. A person circulating a petition must provide the voter the opportunity to read the proposed direct initiative summary and fiscal impact statement required by section 901 prior to that voter signing the petition. The summary presented to the voter must be as it appears on a publicly accessible website established by the Secretary of State.

2. Required statements; placement of information. The Secretary of State shall include a space at the top right or left corner of each petition to be submitted to the voters, which must be filled in with the

name of the circulator collecting signatures on that petition, and include the fiscal impact of the initiative as described in Title 1, section 353 directly below the following ~~statements~~ statement at the top of the petition ~~to be submitted to voters~~ in a type size of no less than 16 points:

"Freedom of Citizen Information: Before a registered voter signs any initiative petition, signature gatherers must offer the voter the opportunity to read the proposed initiative summary and fiscal impact statement prepared by the Secretary of State."

~~"Ballot questions during the 20.. election [most recent election cycle] cost taxpayers approximately $..... [Secretary of State shall use fiscal information provided by the Office of Fiscal and Program Review] each to be placed on the ballot. As a citizen of Maine, you have a right to this information."~~

See title page for effective date.

CHAPTER 342

H.P. 811 - L.D. 1172

An Act To Allow a Municipality To Grant a Variance for the Construction of a Parking Structure for a Person with a Permanent Disability

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

Sec. 1. 30-A MRSA §4353, sub-§4-A, as amended by PL 1995, c. 212, §1, is repealed and the following enacted in its place:

4-A. Disability variance; vehicle storage. A disability variance may be granted pursuant to this subsection.

A. The board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this paragraph solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability.

The board may impose conditions on the variance granted pursuant to this paragraph, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this paragraph, the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

B. If authorized by the zoning ordinance establishing the board, the board may grant a variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the board.

The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.

For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability.

The board may impose conditions on the variance granted pursuant to this subsection.

For purposes of this subsection, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.

See title page for effective date.

CHAPTER 343

H.P. 758 - L.D. 1103

An Act To Amend the Animal Welfare Laws

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

Sec. 1. 7 MRSA §3906-C, sub-§2, as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

2. Staff. ~~The commissioner or the commissioner's designee serves as an ex officio nonvoting member.~~ The department shall provide necessary staffing services to the council.

Sec. 2. 7 MRSA §3906-C, sub-§4, as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

4. Terms of office. Except for initial appointees ~~and the commissioner or the commissioner's designee~~, each member serves for a term of 3 years or until the

member's successor has ~~qualified~~ been appointed. ~~Except for the commissioner or the commissioner's designee, a~~ A member may not serve more than 2 consecutive terms. In the case of a vacancy for any reason, the Governor shall appoint a member representing the same interest to fill the unexpired term.

Sec. 3. 7 MRSA §3907, sub-§8, as amended by PL 1997, c. 33, §1, is further amended to read:

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned ~~dogs or other pets, or both,~~ companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

Sec. 4. 7 MRSA §3907, sub-§17, as amended by PL 2007, c. 702, §6, is further amended to read:

17. Kennel. "Kennel" means 5 or more dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials, ~~mushing~~ sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

Sec. 5. 7 MRSA §3909, sub-§2, as amended by PL 1997, c. 683, Pt. B, §1, is further amended to read:

2. Designated employees of the department. For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian who have been certified in accordance with subsection 3-A to issue and serve civil ~~process~~ violation processes against offenders pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court for violations of this Part. The commissioner may authorize certified humane agents or a certified state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. ~~Certification of the humane agents and a state veterinarian for this purpose is as provided under Title 30-A, section 4453, subsection 5. Once certified, prosecution by the~~ A certified humane agent or a certified state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

Sec. 6. 7 MRSA §3909, sub-§2-A is enacted to read:

2-A. Animal welfare citation form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the department.

A. The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued to the department. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to humane agents and a state veterinarian certified under subsection 3-A and for the proper disposition of those books.

B. It is unlawful and official misconduct for any humane agent or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in an applicable official policy or procedure of the department.

C. A Uniform Summons and Complaint may be filed in a court having jurisdiction and constitutes a lawful complaint to commence any criminal prosecution or civil violation proceeding if the Uniform Summons and Complaint is duly sworn to as required by law and is otherwise legally sufficient.

D. A Uniform Summons and Complaint, when served upon a person by a humane agent, functions as a summons to appear in court. A person who fails to appear in court after having been served with a summons commits a Class E crime. Upon that person's failure to appear, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this paragraph that the failure to appear resulted from just cause.

Sec. 7. 7 MRSA §3909, sub-§3-A, as amended by PL 2003, c. 536, §3, is further amended to read:

3-A. Humane agents; training requirements. Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part. To issue and serve civil violation processes or represent the department in District Court under subsection 2, a humane agent or a state veterinarian must have completed a program at the Maine Criminal Justice Academy that certifies familiarity with court procedures.

A humane agent, regardless of appointment date, shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

Sec. 8. 7 MRSA §3909, sub-§5 is enacted to read:

5. Enforcement provision; animal control officers. The certification of an animal control officer under section 3906-B may be suspended or revoked by

the commissioner in accordance with Title 5, chapter 375.

Sec. 9. 7 MRSA §3913, sub-§2-A, as amended by PL 1997, c. 690, §11, is further amended to read:

2-A. Animal shelter. An animal shelter, as defined in section 3907, to which a stray dog is taken shall accept the dog for a period of 6 days unless the shelter is in quarantine or has a bona fide lack of adequate space. ~~The~~ Except as provided in subsection 2-B, the acceptance entitles the animal shelter to receive from the department the sum of $4 a day for the period for which food and shelter are furnished to the dog. An animal shelter may refuse to accept dogs from municipalities not contracting with that animal shelter.

Sec. 10. 7 MRSA §3913, sub-§2-B is enacted to read:

2-B. Adoption policy. Beginning January 1, 2010, to be eligible for reimbursement under subsection 2-A, an animal shelter must have an adoption policy. An adoption policy must provide for a dog to be available for adoption for a minimum of 24 hours except as provided in subsection 6.

Sec. 11. 7 MRSA §3919-A, sub-§2, as amended by PL 2007, c. 439, §9, is further amended to read:

2. Homeless cats. When an animal shelter accepts a cat under section 3919 and that cat does not have cat identification ~~or is determined to be a feral cat~~, the animal shelter shall hold the cat for not less than 48 hours or, for feral cats, not less than 24 hours. After the 24-hour or 48-hour period, the animal shelter may treat the cat as a homeless cat and may:

A. Except as provided in section 3938-A, offer the cat for adoption, sell or give away the cat; or

B. Otherwise dispose of the cat humanely in accordance with Title 17, chapter 42, subchapter 4.

An animal shelter may not sell or give a cat to a research facility.

Sec. 12. 7 MRSA §3919-B, sub-§1, as enacted by PL 2003, c. 405, §9, is amended to read:

1. Notice. An animal shelter that accepts a pet under this section shall within 24 hours of receiving the pet send a notice by mail, return receipt requested, to the owner of the pet at the owner's last known address. The notice must inform the owner of the provisions of this section.

Sec. 13. 7 MRSA §3923-A, sub-§4, as amended by PL 2003, c. 405, §13, is further amended to read:

4. Late fees. An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk or dog recorder a late fee of $15 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

~~An owner or keeper whose name appears on a municipal warrant issued in accordance with section 3943 must pay the late fee of $25 required by that section and is not subject to this subsection.~~

Sec. 14. 7 MRSA §3923-F, as enacted by PL 2001, c. 422, §10, is amended to read:

§3923-F. Veterinarian or animal shelter serving as dog licensing agent

The commissioner may authorize an animal shelter licensed in accordance with chapter 723 and a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A. The rules must provide a process for identifying animal shelters and veterinarians who are willing to serve as dog licensing agents~~,~~ for distributing license blanks, tags and stickers, and for the collection, distribution and deposit of license fees into the appropriate ~~municipal and~~ state accounts. The animal shelters and veterinarians shall retain a recording fee of $3 and pay the remaining fee to the department for deposit in the Animal Welfare Fund.

Sec. 15. 7 MRSA §3932, sub-§5 is enacted to read:

5. Notice of fees and services. A person maintaining a boarding kennel shall post upon the premises and provide upon request a written notice of fees charged for boarding and for any other services offered at the boarding kennel. The notice must indicate the hours during which the owner of the boarding kennel or a person responsible to the owner of the boarding kennel is on the premises.

Sec. 16. 7 MRSA §3933, sub-§3, as enacted by PL 2003, c. 350, §1, is amended to read:

3. Records. A person maintaining a pet shop, as defined in section 3907, shall keep a record of each animal received by the pet shop, except for mice and fish. The record must include the name and address of the person or company from whom the animal was received and the name and address of the person buying or otherwise acquiring the animal from the pet shop. The record must be kept on file for a period of 2 years following the sale or other disposition of the animal by the pet shop and must be made available to

the department within 24 hours of the request of the department.

Sec. 17. 7 MRSA §3935, as amended by PL 2007, c. 439, §21, is further amended to read:

§3935. License prohibited

The department may not issue a license to maintain a boarding kennel, breeding kennel, animal shelter or pet shop to a person who, within the 10 years previous to the application for the license, has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13 or a criminal violation under Title 17, chapter 42, or under a criminal law involving cruelty to animals that is no longer in effect, or, within 10 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739 or has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section.

Sec. 18. 7 MRSA §3936, sub-§2, as amended by PL 1993, c. 89, §1 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

2. Suspension of license. The District Court, upon complaint of the commissioner, the Attorney General or the Commissioner of Inland Fisheries and Wildlife, department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend a kennel, boarding kennel, breeding kennel, animal shelter or pet shop license if a person maintaining the kennel, boarding kennel, breeding kennel, animal shelter or pet shop violates any quarantine or maintains animals contrary to the rules adopted by the department, fails to keep records required by the department or violates any provision of the laws or rules of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession.

Sec. 19. 7 MRSA §3943, as amended by PL 2003, c. 405, §21, is repealed.

Sec. 20. 7 MRSA §3947, as amended by PL 2009, c. 177, §1, is further amended to read:

§3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3943, 3948, 3950, 3950-A, 3952 and 4041 and Title 17, section 1023, responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and any other duties to control animals as the municipality may require. A municipality may appoint an employee of an animal shelter as an animal control officer as long as the person meets the qualifications and training requirements of this section.

A municipality may not appoint a person to the position of animal control officer who has been convicted of murder, a Class A or Class B offense or a violation of Title 17-A, chapter 9, 11, 12 or 13 or has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section.

Animal control officers must be certified in accordance with section 3906-B, subsection 4. Upon initial appointment, an animal control officer must complete basic training and be certified by the commissioner within 6 months of appointment.

An animal control officer must attend advanced training programs as described under section 3906-B, subsection 4 to maintain certification. An animal control officer must have a minimum of 8 hours of training each year.

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer within 10 business days. In the event the position is vacant upon termination or resignation of the animal control officer, the municipal clerk shall notify the commissioner within 10 business days of the vacancy.

Sec. 21. 7 MRSA §3948, sub-§2, as amended by PL 1997, c. 690, §30, is further amended to read:

2. Medical attention. Law enforcement officers and animal control officers shall take a stray animal to its owner, if known, or, if the owner is unknown, to an animal shelter and shall ensure that any injured companion animal that is at large or in a public way is given proper medical attention.

Sec. 22. 7 MRSA §3950-A, sub-§2, as enacted by PL 2003, c. 452, Pt. B, §21 and affected by Pt. X, §2, is amended to read:

2. Penalty. A person who violates subsection 1 commits a civil violation for which a fine of not less than $50 and not more than $250 $500 and costs may be adjudged.

Sec. 23. 7 MRSA §4015, sub-§6, as amended by PL 2007, c. 439, §28, is further amended to read:

6. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure. For dogs other

than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog's normal body heat; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than ~~arctic breeds~~ dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For ~~arctic breeds~~ dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and "dogs kept as sled dogs or dogs used in competition" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

Sec. 24. 7 MRSA §4162, as repealed and replaced by PL 1997, c. 690, §55 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§4162. Additional penalties

1. Civil violation. A person who fails to meet a requirement of this chapter commits a civil violation for which a ~~forfeiture not to exceed $100~~ fine of not less than $50 or more than $500 per violation may be adjudged.

2. Action against pet shops and breeding kennels. The department may ~~file an action in District Court to~~, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend the license of a pet shop or breeding kennel that violates any provision of this chapter or rules adopted under section 3906-B, subsection 10 to implement this chapter.

Sec. 25. 17 MRSA §1011, sub-§17, as amended by PL 2007, c. 702, §40, is further amended to read:

17. Kennel. "Kennel" means ~~one pack or collection of~~ 5 or more dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials, ~~mushing~~ sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

Sec. 26. 17 MRSA §1037, sub-§7, as enacted by PL 2005, c. 340, §4, is amended to read:

7. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure. For dogs other than arctic breeds, the portal must be constructed ~~in a manner that keeps~~ with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must ~~have~~ be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog's normal body heat; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than ~~arctic breeds~~ dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For ~~arctic breeds~~ dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360` area of movement.

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and

"dogs kept as sled dogs or dogs used in competition" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

See title page for effective date.

CHAPTER 344

H.P. 1007 - L.D. 1455

An Act To Establish the Maine Fuel Board

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

PART A

Sec. A-1. 5 MRSA §12004-A, sub-§27, as amended by PL 1999, c. 687, Pt. B, §1, is repealed.

Sec. A-2. 5 MRSA §12004-A, sub-§33-A, as amended by PL 1999, c. 687, Pt. B, §1, is repealed.

Sec. A-3. 5 MRSA §12004-A, sub-§49 is enacted to read:

49.

Maine Fuel Board	$35/Day	32 MRSA §18121

PART B

Sec. B-1. 10 MRSA §8001, sub-§38, ¶U, as enacted by PL 1995, c. 397, §11, is repealed.

Sec. B-2. 10 MRSA §8001, sub-§38, ¶II, as amended by PL 1995, c. 560, Pt. H, §3 and affected by §17, is repealed.

Sec. B-3. 10 MRSA §8001, sub-§38, ¶LL, as amended by PL 2007, c. 369, Pt. B, §5 and affected by Pt. C, §5, is further amended to read:

LL. Board of Elevator and Tramway Safety; ~~and~~

Sec. B-4. 10 MRSA §8001, sub-§38, ¶MM, as enacted by PL 2007, c. 369, Pt. B, §6 and affected by Pt. C, §5, is amended to read:

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting.; and

Sec. B-5. 10 MRSA §8001, sub-§38, ¶NN is enacted to read:

NN. Maine Fuel Board.

Sec. B-6. 10 MRSA §9703, sub-§4, as enacted by PL 2003, c. 580, §1, is amended to read:

4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section ~~2313~~ 18123, subsection 2;

Sec. B-7. 10 MRSA §9703, sub-§5, as enacted by PL 2003, c. 580, §1, is amended to read:

5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section ~~14805~~ 18123, subsection 2;

Sec. B-8. 10 MRSA §9725, sub-§4, as enacted by PL 2007, c. 699, §6, is amended to read:

4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section ~~2353~~ 18123, subsection 2;

Sec. B-9. 10 MRSA §9725, sub-§5, as enacted by PL 2007, c. 699, §6, is amended to read:

5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section ~~14804~~ 18123, subsection 2;

PART C

Sec. C-1. 32 MRSA c. 33, as amended, is repealed.

Sec. C-2. 32 MRSA c. 130, as amended, is repealed.

Sec. C-3. 32 MRSA c. 139 is enacted to read:

CHAPTER 139

MAINE FUEL BOARD

SUBCHAPTER 1

GENERAL PROVISIONS

§18101. Definitions

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

1. Accessory equipment. "Accessory equipment" means equipment, materials and controls that are not integral parts of the oil, solid fuel, propane or natural gas burning unit but that are connected to the oil, solid fuel, propane or natural gas burning unit and have the potential to affect the safety of the equipment.

2. ASME container. "ASME container" means a container constructed in accordance with a code developed by the American Society of Mechanical Engineers or its successor organization.

3. Board. "Board" means the Maine Fuel Board established in Title 5, section 12004-A, subsection 49.

4. Chimney. "Chimney" means a factory-built, masonry or metal chimney constructed to allow one or more vertical or nearly vertical passageways for con-

veying flue gases from a building to the outside atmosphere.

5. Dispensing station. "Dispensing station" means a licensed facility consisting of fixed equipment where propane or natural gas is stored and dispensed into portable containers.

6. Equipment installations. "Equipment installations" means the installation, alteration or repair of oil, solid fuel, propane or natural gas burning equipment and chimneys, including accessory equipment as relating only to the safety of the installation. Associated electrical equipment must be wired in compliance with the rules of the Electricians' Examining Board established in Title 5, section 12004-A, subsection 13.

7. Natural gas. "Natural gas" means hydrocarbon fuel in a gaseous state with a composition of predominantly CH4, delivered by pipeline to the property of the consumer.

8. NFPA. "NFPA" means the National Fire Protection Association.

9. Propane. "Propane" means a hydrocarbon fuel with a chemical composition of predominantly C3H8, whether recovered from natural gas or from crude oil.

10. Self-service dispensing station. "Self-service dispensing station" means a licensed facility where propane or natural gas is dispensed into permanently mounted fuel containers on vehicles and is operated by the general public at a dispensing station.

11. Solid fuel. "Solid fuel" means coal, wood and other similar organic materials or any combination of them.

12. State fuel inspector. "State fuel inspector" means a person employed by the Department of Professional and Financial Regulation, Office of Licensing and Registration to enforce the provisions of this chapter.

13. Wood pellets. "Wood pellets" means a wood fuel product manufactured from compressed sawdust or other wood by-product that is pressed or extruded into pieces of uniform size and shape that are designed to be fed in bulk to a combustion chamber. "Wood pellets" does not include ground wood chips.

§18102. License required

A person who installs or services oil, solid fuel, propane or natural gas burner equipment and a facility where propane or natural gas is dispensed must be licensed under this chapter, except as provided under section 18104.

§18103. Violations; penalties

1. Unlicensed practice. A person, firm or corporation who makes an oil, solid fuel, propane or natural gas installation without being licensed as provided by subchapter 3 or who employs an unlicensed person to make installations is subject to the provisions of Title 10, section 8003-C.

2. Strict liability. Except as otherwise specifically provided, violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

§18104. Exceptions

The licensing provisions of this chapter do not apply to:

1. Electricians. An electrician duly licensed under chapter 17 insofar as the installation of electrical equipment or the performance of any electrical work involved in the installation of oil or solid fuel or propane or natural gas burners is concerned;

2. Engineers and operators. A person holding an engineer's license issued under section 15109, or working under the general supervision of one so licensed while performing oil or solid fuel burner repair and maintenance on propane or natural gas burning equipment as is necessary in the steam or heating plant where that person is employed, if that work is performed in compliance with section 18107, or a person employed by companies under the jurisdiction of the Public Utilities Commission;

3. Equipment. Solid fuel burning fireplace stoves, room heaters and stoves designed exclusively for heating and cooking and not attached to a central heating system and heating or cooling equipment operated by means of solar energy;

4. Highway transport drivers. A highway transport driver who drives a tractor-trailer commercial motor vehicle that has a cargo tank with a water capacity of 9,000 gallons or more and delivers propane to a bulk plant, as defined in NFPA standards, Number 58, or industrial customers;

5. Individual user of a self-service propane or natural gas dispensing station. An individual user of a self-service propane or natural gas dispensing station;

6. Mechanics. The installation of air-handling equipment, sheet metal and other specialized equipment and services associated with oil or solid fuel or propane or natural gas burning equipment made by qualified mechanics of those trades who do not hold a master oil and solid fuel burning technician's license under section 18132, journeyman oil and solid fuel burning technician's license under section 18133, apprentice oil and solid fuel burning technician's license under section 18134 or propane and natural gas technician's license under section 18135. Such an installation must conform to the standards and rules of the board and must be made under the supervision of a master oil and solid fuel burning technician or propane

and natural gas technician having responsibility for the installation;

7. Personal abode. A person making an oil, solid fuel, propane or natural gas burning installation in a single family residence occupied or to be occupied by that person as that person's bona fide personal abode, provided that the installation conforms with standards and rules of the board;

8. Persons working on internal combustion engines and associated gas trains. A person who works on internal combustion engines and associated gas trains;

9. Plumbers. A plumber duly licensed under chapter 49 insofar as the work covered by that chapter is involved; and

10. Regular employees of industrial facilities. Regular employees of industrial plants installing and servicing oil, solid fuel, propane or natural gas burning equipment of greater than 10,000,000 BTUs per hour input.

§18105. Municipal licenses not required; municipal permits

A municipality, notwithstanding any provision of a municipal charter, may not require an oil and solid fuel burning technician or a propane and natural gas technician to be municipally licensed. A municipality may not issue a permit for an oil, solid fuel, propane or natural gas burning installation unless satisfied that the person applying for the permit complies with the requirements of this chapter.

§18106. Major equipment sales information

Upon request by the board or its authorized agent, a wholesaler or retailer of major oil, solid fuel, propane and natural gas heating equipment shall provide sales information to the board regarding that equipment. Sales information regarding the equipment may include the identity of the purchaser, the date of purchase, the make, model and serial number, if applicable, and any other information requested.

§18107. Installations to conform to standards

Installation of oil, solid fuel, propane and natural gas burning equipment and chimneys may not be made in this State unless the installation complies with all the standards and rules adopted by the board. Whenever oil, solid fuel, propane and natural gas burning equipment, accessory equipment or its installation are separately contracted, the master oil and solid fuel burning technician or the propane and natural gas technician in charge of the installation is responsible for ascertaining total conformance to the standards and rules adopted by the board. Whenever a state fuel inspector authorized under section 18110 finds a person installing or assisting in an oil, solid fuel, propane or natural gas installation, that person shall, on request of the state fuel inspector, provide evidence of being properly licensed when required by this chapter and, if unable to provide the evidence, shall furnish the state fuel inspector with that person's full name and address and, if applicable, the full name and address of the master oil and solid fuel burning technician or the propane and natural gas technician in charge.

§18108. Disclosures; penalties

A person, firm or company that installs a chimney or fireplace for compensation must issue, prior to the installation taking place, a disclosure statement to a consumer that the chimney or fireplace complies with NFPA standards, Number 211. The disclosure statement must be in a format approved by the board and contain the information the board considers necessary. Any chimney or fireplace installer who fails to provide the required disclosure statement to a consumer prior to the installation of a chimney or fireplace commits a civil violation for which a fine of not less than $500 may be adjudged.

§18109. Inspection of aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers

The board shall inspect and issue permits to aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers to a person who applies and submits a fee under section 18143.

§18110. State fuel inspector

1. Inspection. A state fuel inspector, upon written complaint or whenever a state fuel inspector considers it necessary, for purposes of examination may enter into and upon and inspect all buildings, dispensing stations and premises within that state fuel inspector's jurisdiction at all reasonable hours. An inspector may enter a building, dispensing station or other premises within that state fuel inspector's jurisdiction only with the permission of the person having control of the building, dispensing station or other premises or, after hearing, upon order of the court. Whenever a state fuel inspector finds any installation of oil, solid fuel, propane or natural gas equipment or a chimney in a building or structure that does not comply with the requirements of this chapter, that inspector shall order that the installation be removed or remedied, and that order must be complied with immediately by the owner or occupant of the building, dispensing station or other premises or by the installer of the equipment in violation. If a state fuel inspector finds an installation that falls under the inspector's jurisdiction in a building, dispensing station or structure that creates a danger to other property or to the public, the inspector may serve a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

2. Order to correct deficiency; appeal. A person ordered by a state fuel inspector to correct a deficiency or to vacate a building or structure may appeal the order by filing a written notice of appeal with the board within 30 days after receipt of the order. The board shall schedule an appeal hearing as soon as practicable upon receipt of a timely notice of appeal. The appeal hearing must be conducted de novo and is governed by the provisions of the Maine Administrative Procedure Act applicable to adjudicatory hearings. The state fuel inspector who issued the order on appeal has the burden of proof at the appeal hearing. If the board upholds the order, it shall prescribe the time required for compliance. The person receiving the order under subsection 1 may appeal the board's decision by filing a petition for review in Superior Court in accordance with Title 5, chapter 375, subchapter 7 within 30 days after receipt of the board's written decision.

3. Final orders. The decision of the Superior Court on an appeal is final. An order by a state fuel inspector and an order by the board are final and subject to no further appeal upon failure to file a timely, written appeal as provided in subsection 2.

4. Injunction to enforce order. Upon the failure of any person to carry out a final order as provided in subsection 3, the board may petition the Superior Court for the county in which the building or dispensing station or structure is located for an injunction to enforce that order. If the court determines, on hearing such a petition, that a lawful final order was issued, it shall order compliance.

5. Authority of state fuel inspectors. A state fuel inspector has authority throughout the several counties of the State, similar to that of a sheriff's, relating to enforcement of this chapter and rules adopted under this chapter. These powers are limited to the issuing of citations, the serving of summonses, the conducting of investigations, the ordering of corrections of violations and the issuance of orders to vacate a building or structure in accordance with this chapter. A state fuel inspector may review the oil, solid fuel, propane or natural gas equipment or chimney installation records of any person licensed under this chapter or any person performing installations authorized under this chapter.

§18111. Failure to comply with order of a state fuel inspector

If the owner, occupant of any building or an installer neglects or refuses, without justification, for more than 10 days to comply with any order of a state fuel inspector, that person commits a civil violation for which a fine of not less than $100 for each day's neglect may be adjudged.

SUBCHAPTER 2

MAINE FUEL BOARD

§18121. Board established; membership; terms

The Maine Fuel Board, established by Title 5, section 12004-A, subsection 49, consists of 9 members. The Governor shall appoint the members described in subsections 1 to 4. All members must be residents of this State. The 7 members that are required to hold a license must have been licensed for at least the 7 years immediately prior to appointment to the board. The board consists of:

1. Oil and solid fuel burning technicians. Three members who each hold a valid license as a master oil and solid fuel burning technician, including one licensed by a solid fuel authority;

2. Propane and natural gas technicians. Three members who each hold a valid license as a propane and natural gas technician, including one who works in the natural gas industry;

3. Dual licensed member. One member who is licensed both as a master oil and solid fuel burning technician and a propane and natural gas technician;

4. Public member. One public member as defined in Title 5, section 12004-A; and

5. Member appointed by Commissioner of Public Safety. One member appointed by the Commissioner of Public Safety as that commissioner's representative.

Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A board member may be removed by the Governor for cause.

§18122. Meetings; chair; quorum

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings are held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum.

§18123. Powers and duties

The board has the following powers and duties.

1. Board to enforce this chapter. The board shall enforce the provisions of this chapter.

2. Rules. The board may, in accordance with the Maine Administrative Procedure Act, adopt rules commensurate with the authority vested in it by this chapter, including, but not limited to, rules adopting technical standards for the proper installation and servicing of oil, solid fuel, propane and natural gas burning equipment. The board may adopt by rule national or other technical standards, in whole or in part, that it considers necessary to carry out the provisions of this

chapter. Rules adopted pursuant to this chapter are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

3. Emerging technologies. The board may authorize specific pilot projects relating to emerging fuel fired heating technologies and may waive application of its rules to approved pilot projects. The board may request from the proponent of a pilot project such information as the board may require to evaluate the potential benefit of the pilot project. An order of the board approving a pilot project must describe the nature, scope and duration of the project; must contain such performance expectations, conditions and reporting requirements as the board considers necessary to ensure accountability and protect the public health and safety; and must identify the board rules waived in connection with the project. An emerging technologies pilot project authorized by the board is subject to the provisions of sections 18103 and 18111.

SUBCHAPTER 3

LICENSING

§18131. General qualifications

An applicant for a license under this subchapter must submit a properly completed application on forms furnished by the board, together with the fee established under section 18143.

§18132. Master oil and solid fuel burning technician

1. Scope of license. A master oil and solid fuel burning technician may install, clean, service, alter or repair oil and solid fuel burning equipment and must hold one or more of the following authorities: number one and number 2 oils up to 15 gallons per hour; number one and number 2 oils over 15 gallons per hour; number 4, number 5 and number 6 oils; number one to number 6 oils; and solid fuel.

2. Professional qualifications. Each applicant for a master oil and solid fuel burning license must meet the following qualifications:

A. The applicant must demonstrate 4 years of licensed practical experience as an apprentice oil and solid fuel burning technician and a journeyman oil and solid fuel burning technician and evidence that the licensed practical experience for at least 2 of those 4 years was as a licensed journeyman oil and solid fuel burning technician or other requirements the board may establish. Courses approved by the board that apply to a journeyman license cannot be applied toward the requirements for a master license; and

B. The applicant must pass an examination approved by the board.

An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing oil and solid fuel burning equipment.

§18133. Journeyman oil and solid fuel burning technician

1. Scope of license. A journeyman oil and solid fuel burning technician may install, clean, service, alter or repair oil and solid fuel burning equipment and must hold one or more of the following authorities: number one and number 2 oils up to 15 gallons per hour; number one and number 2 oils over 15 gallons per hour; number 4, number 5 and number 6 oils; number one to number 6 oils; and solid fuel. A journeyman oil and solid fuel burning technician may install oil and solid fuel burning equipment under the indirect supervision of a master oil and solid fuel burning technician who has the same authority or higher and must at all times be under the indirect supervision of, or in the employ of, a master oil and solid fuel burning technician.

2. Professional qualifications. Each applicant for a journeyman oil and solid fuel burning license must pass an examination approved by the board and must meet one of the following qualifications:

A. One year of licensed practical experience as an apprentice oil and solid fuel burning technician;

B. Six months of licensed practical experience as an apprentice oil and solid fuel burning technician and completion of an oil burner technician course at a community college, career and technical education center or career and technical education region or a comparable institute in the State or another state consisting, at a minimum, of 160 hours of study, of which at least 75 hours are made up of laboratory work on oil burner equipment and related systems; or

C. Successful completion of a minimum one-year accredited heating course at a community college in this State consisting at a minimum of 320 hours of study, of which at least 150 hours are made up of laboratory work on oil burner equipment and related systems.

An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing oil and solid fuel burning equipment.

§18134. Apprentice oil and solid fuel burning technician

1. Scope of license. An apprentice oil and solid fuel burning technician may:

A. Assist in making oil and solid fuel installations and repairing and servicing of oil and solid fuel burning equipment under the direct supervision of a master or journeyman oil and solid fuel burning technician who holds the same or higher

authority. License authorities include: number one and number 2 oils up to 15 gallons per hour; number one and number 2 oils over 15 gallons per hour; number 4, number 5 and number 6 oils; number one to number 6 oils; and solid fuel;

B. Clean oil and solid fuel burning equipment without direct supervision if the licensee has either successfully completed at least 160 hours of training approved by the board or completed at least one year of supervised oil and solid fuel burning work experience; and

C. Bleed an oil burner without direct supervision. If the oil burner fails to operate after bleeding, the apprentice shall refer the problem to a journeyman oil and solid fuel burning technician or master oil and solid fuel burning technician.

§18135. Propane and natural gas technician

1. Scope of license. A propane and natural gas technician may install, repair or service propane or natural gas equipment and must be authorized in one of the following authorities:

A. Appliance connection and service, which permits the technician to install and service propane and natural gas appliances up to 500,000 BTUs per appliance;

B. Delivery, which permits the technician to deliver propane, either by liquid transfer into a stationary container on the property of the consumer or by placing a portable container on the property of the consumer;

C. Large equipment connection and service, which permits the technician to install and service propane and natural gas appliances over 500,000 BTUs per appliance;

D. Plant operation, which permits the technician to work at a propane facility as defined in NFPA standards, Number 58; or

E. Tank setting and outside piping, which permits the technician to set and maintain propane tanks and outside piping.

2. Professional qualifications. Each applicant for a propane and natural gas technician license must meet one of the following qualifications:

A. Successful completion of the certified employee training program of a national propane gas association; or

B. Successful completion of a board-approved propane or natural gas course at a Maine community college, career and technical education center or career and technical education region or a comparable institute of this State or another state and passage of an examination approved by the board.

An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing propane and natural gas burning equipment.

§18136. Propane and natural gas helper

A propane and natural gas helper may assist in making propane and natural gas installations and repairing and servicing of propane and natural gas equipment under the direct supervision of a propane and natural gas technician who has the same authority as described under section 18135, subsection 1 as the supervising propane and natural gas technician.

§18137. Temporary license; plant operator or delivery technician

1. Scope of license. A temporary license may be issued to a plant operator or delivery technician to practice as follows:

A. Authority to practice as a plant operator is restricted to work at a propane facility as defined in NFPA standards, Number 58; and

B. Authority to practice as a delivery technician is restricted to the delivery of propane, either by liquid transfer into a stationary container on the property of a consumer or by placing a portable container on the property of a consumer.

2. License term. An applicant for a temporary plant operator or delivery technician license must apply for a temporary plant operator or delivery technician license within 90 days after first performing the functions listed in subsection 1 and may be issued a license for a 1-year term, which may not be renewed. A new temporary plant operator or delivery technician license may not be issued within 3 years following the date of issuance of the previous temporary plant operator or delivery technician license.

§18138. Limited oil energy auditor

1. Scope of license. A limited oil energy auditor's privileges to practice are restricted to the performance of combustion safety and efficiency testing on oil-fired space-heating equipment or water-heating equipment to ensure health and safety standards and do not include any adjustment of oil-fired space-heating equipment or water-heating equipment.

2. Professional qualifications. A limited oil energy auditor must provide to the board, at a minimum, satisfactory evidence of relevant training and written and field certification that conform to standards established by a nationally recognized building performance industry certification and quality assurance program, the equivalent residential energy auditor certification program in the State or an equivalent training and education program as determined by the board.

§18139. Limited propane and natural gas energy auditor

1. Scope of license. A limited propane energy auditor's privileges are restricted to the performance of combustion safety and efficiency testing on natural gas-fired or propane gas-fired space-heating equipment or water-heating equipment to ensure health and safety standards and do not include any adjustment of natural or propane gas-fired space-heating equipment or water-heating equipment.

2. Professional qualifications. A limited propane energy auditor must provide to the board, at a minimum, satisfactory evidence of relevant training and written and field certification that conform to standards established by a nationally recognized building performance industry certification and quality assurance program, the equivalent residential energy auditor certification program in the State or an equivalent training and education program as determined by the board.

§18140. Limited tank installer

1. Scope of license. A limited tank installer's privileges to practice are restricted to installing outside residential heating oil tanks at manufactured housing as defined by Title 10, section 9002, subsection 7, paragraph A.

2. Issuance of license. The following provisions govern the issuance of a limited tank installer's license.

A. A limited tank installer's license may be issued to:

(1) A licensed manufactured housing mechanic as defined in Title 10, section 9002; or

(2) The owner of a manufactured housing dealership for the limited purpose of installing heating oil tanks at manufactured housing that has been sold by the owner. The license is revoked upon the owner ceasing to operate as a manufactured housing dealer.

B. A limited tank installer's license may be issued jointly to a licensed manufactured housing dealer, as defined in Title 10, section 9002, and an individual employee of the dealer who is named as the corecipient of the joint limited tank installer's license. The corecipient dealer and employee are restricted to installing heating oil tanks at manufactured housing that was sold by the dealer. The joint limited tank installer's license is revoked upon termination of the employee named as the corecipient of the joint limited tank installer's license from the employ of the dealer.

3. Professional qualifications. A limited tank installer must provide satisfactory evidence to the board of completion of a board-approved training program of at least 4 hours for proper installation of an outside oil tank.

§18141. Limited wood pellet technician

A limited wood pellet technician's privileges to practice are restricted to cleaning the ash pan, cleaning the burn pot, scraping and cleaning the distribution tubes, emptying fines from the collection box and cleaning the fan.

§18142. Licensure; installation and maintenance standards; dispensing stations

The following licensing, maintenance and installation standards apply to dispensing stations operating in the State.

1. License required. An application for licensure of a dispensing station or self-service dispensing station must be made by the owner and, if approved by the board, the license must be issued in the name of the owner.

2. Responsibilities. The owner of a dispensing station or self-serving dispensing station is responsible for the following.

A. A dispensing station operating in the State must comply with section 18107 and the standards and rules adopted by the board, including, but not limited to, NFPA standards, Numbers 54 and 58, and amendments to and replacements of those standards.

B. The on-site operator of a dispensing station must be trained to be the limited operator of the facility. The limited operator is responsible for training other dispensing station employees and documenting that training. The training must include the use of a manual prepared by a regional propane gas association, a video prepared by a national propane gas association or equivalent materials approved by the board. The training documentation must be kept at the dispensing station.

C. The owner of a dispensing station must file a new application for licensure with the board within 30 days when:

(1) A dispensing station is relocated; or

(2) A dispensing station undergoes major repair or renovation.

§18143. Fees

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed $350 biennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

§18144. Renewals

A license expires on the date set by the Commissioner of Professional and Financial Regulation pursuant to Title 10, section 8003, subsection 4 for the licensing period for which the license was issued. A renewal license may be issued for each ensuing licensing period in the absence of any reason or condition that might warrant the refusal to grant a license upon receipt by the board of the written request of the applicant and the fee for the license set under section 18143. An expired license may be reissued up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 18143. An individual who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter and is subject to a renewal fee, late fee and additional late fee as set under section 18143, except that the board may, in its discretion and giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

PART D

Sec. D-1. 25 MRSA §2354, as amended by PL 1991, c. 714, §6, is further amended to read:

§2354. Inspection of buildings being repaired

Subject to Title 32, chapter ~~33~~ 139, the inspector of buildings shall inspect all buildings while in process of being repaired and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. The inspector may give directions in writing to the owner as necessary concerning such repairs to render the building safe from the catching and spreading of fire.

Sec. D-2. 25 MRSA §2465, sub-§2, as amended by PL 2005, c. 571, §1, is further amended to read:

2. Prohibitions. A person may not for compensation construct, install or maintain any vent or solid fuel burning appliance unless that vent or appliance is constructed, installed or maintained in accordance with this section or the rules adopted pursuant to this section. Construction and installation of chimneys and fireplaces are also governed by Title 32, chapter ~~33~~ 139.

Sec. D-3. 25 MRSA §2465, sub-§3, as corrected by RR 2007, c. 2, §12, is amended to read:

3. Enforcement. Subject to Title 32, chapter ~~33~~ 139, the Commissioner of Public Safety or the commissioner's designees, state ~~oil and solid fuel compliance officers~~ fuel inspectors, duly appointed fire chiefs or their designees and municipal building officials and code enforcement officers may enforce the requirements of this section, the rules adopted pursuant to this section and Title 32, section ~~2313-A~~ 18108.

Sec. D-4. 25 MRSA §2465, sub-§5, as amended by PL 2005, c. 571, §1, is further amended to read:

5. Home rule. Subject to Title 32, chapter ~~33~~ 139, any municipality may adopt ordinance requirements for the materials, installation, construction, maintenance or inspection of chimneys, fireplaces, vents or solid fuel burning appliances that exceed the requirements of this section and the rules adopted pursuant to this section.

Sec. D-5. 25 MRSA §2465, sub-§6, ¶A, as enacted by PL 2003, c. 452, Pt. N, §6 and affected by Pt. X, §2, is amended to read:

A. A person who, for compensation, constructs or installs vents or solid fuel burning appliances in violation of the standards and then permits such violation to remain uncorrected after 30 days' notice from an official empowered to enforce this section commits a civil violation for which a fine of not more than $500 for each violation may be adjudged. The court may waive any penalty or cost against a violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint. Construction and installation of chimneys and fireplaces are governed by Title 32, chapter ~~33~~ 139.

Sec. D-6. 30-A MRSA §4221, sub-§4, ¶B, as amended by PL 2003, c. 304, §1, is further amended to read:

B. Installation of domestic heating appliances by master oil ~~burner~~ and solid fuel burning technicians licensed pursuant to Title 32, chapter ~~33~~ 139; and

Sec. D-7. 32 MRSA §1102-A, sub-§7, as enacted by PL 1999, c. 386, Pt. F, §8, is amended to read:

7. Oil burner technicians. A person licensed under chapter ~~33~~ 139 subject to the restrictions of the license as issued;

Sec. D-8. 32 MRSA §1102-A, sub-§8, as enacted by PL 1999, c. 386, Pt. F, §8, is amended to read:

8. Propane and natural gas installers. A person licensed under chapter ~~130~~ 139, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

Sec. D-9. 32 MRSA §1102-B, sub-§5, ¶G, as enacted by PL 1999, c. 386, Pt. F, §9, is amended to read:

G. Work performed by any person licensed under chapter ~~33~~ 139 as an oil burner technician, subject to the restrictions of the license as issued;

Sec. D-10. 32 MRSA §1102-B, sub-§5, ¶H, as enacted by PL 1999, c. 386, Pt. F, §9, is amended to read:

H. Work performed by a person licensed under chapter ~~130~~ 139 as a propane and natural gas installer, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

Sec. D-11. 32 MRSA §3301, sub-§5-A, as amended by PL 1999, c. 386, Pt. L, §1, is further amended to read:

5-A. Propane and natural gas installer. A "propane and natural gas installer" means a person licensed under chapter ~~130~~ 139 when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license.

Sec. D-12. 32 MRSA §3302, sub-§1, ¶B, as amended by PL 1999, c. 386, Pt. L, §2, is further amended to read:

B. Plumbing by oil burner technicians, duly licensed under chapter ~~33~~ 139, and propane and natural gas installers, licensed under chapter ~~130~~ 139, except that this exception only applies to hot and cold water connections to existing piping in the same room where the installation is taking place and does not apply beyond any existing branch connection supplying water; and

Sec. D-13. 38 MRSA §1281, as amended by PL 2005, c. 52, §2, is further amended to read:

§1281. Emergency provisions

In an emergency that results from a sudden, unexpected event that is not a planned asbestos abatement project, including the emergency repair, installation, removal or servicing of heating equipment in single-unit residential buildings by persons licensed by the ~~Oil and Solid~~ Maine Fuel Board under Title 32, chapter ~~33~~ 139, the commissioner may waive the requirements for a license or certificate under this chapter. For the purposes of this section, emergency includes a sudden unexpected event that, if not immediately attended to, presents a safety or health hazard; operations necessitated by nonroutine failures of equipment or to protect equipment from damage; and actions of fire and emergency medical personnel pursuant to duties within their official capacities. Any person who performs an asbestos abatement activity, which activity would normally require notification pursuant to section 1273, subsection 2, under emergency conditions, shall notify the commissioner by phone within one working day and in writing within 3 days after performance of that activity.

Sec. D-14. 38 MRSA §1395, sub-§3, as enacted by PL 2007, c. 569, §6, is amended to read:

3. Licensed professional. Is installed by a journeyman or master oil ~~burner~~ and solid fuel burning technician licensed by the ~~Oil and Solid~~ Maine Fuel Board under Title 32, section ~~2401-B~~ 18132 or 18133 or, in the case of an outside tank serving manufactured housing, by any person licensed by the ~~Oil and Solid~~ Maine Fuel Board under Title 32, section ~~2401~~ 18140 to install such tanks.

Sec. D-15. Transition provisions. The following provisions govern the transition of the Oil and Solid Fuel Board and the Propane and Natural Gas Board to the Maine Fuel Board.

1. Board membership. The reconfiguration of the membership of the Maine Fuel Board must be achieved by attrition. All appointments to positions eliminated by this Act that become vacant or expire after January 1, 2010 may not be filled.

2. Board rulemaking. The rules adopted under the Maine Revised Statutes, Title 32, chapters 33 and 130 will remain in effect until the Maine Fuel Board adopts rules pursuant to this Act.

3. Licenses. With the exception of temporary licenses for delivery and plant operators, licenses issued by the Oil and Solid Fuel Board and the Propane and Natural Gas Board remain valid upon the effective date of this Act. Applicants for temporary delivery and plant operator licenses who apply after the effective date of this Act will be required to obtain a technician license with the appropriate authority. Temporary licenses for delivery and plant operators issued prior to the effective date of this Act remain valid until the expiration date and may not be reissued.

PART E

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

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Deallocates funds to reflect savings from reducing the number of board members from 15 to 8 as a result of combining the Oil and Solid Fuel Board and the Propane and Natural Gas Board to form the Maine Fuel Board.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($3,494)	($7,338)
OTHER SPECIAL REVENUE FUNDS TOTAL	($3,494)	($7,338)

Sec. E-2. Effective date. This Act takes effect January 1, 2010.

Effective January 1, 2010.

CHAPTER 345

H.P. 457 - L.D. 643

An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions

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

Sec. 1. 19-A MRSA §1653, sub-§2, ¶D, as amended by PL 2001, c. 329, §2, is further amended to read:

D. The order of the court awarding parental rights and responsibilities must include the following:

(1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other information on school activities, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access;

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7; ~~and~~

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities~~.~~ ; and

(7) If the court appoints a parenting coordinator pursuant to section 1659, a parenting plan defining areas of parental rights and responsibilities within the scope of the parenting coordinator's authority.

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

Sec. 2. 19-A MRSA §1659 is enacted to read:

§1659. Parenting coordination and assistance

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

A. "Parenting coordinator" means a neutral 3rd party appointed by the court to oversee and resolve disputes that arise between parents in interpreting and implementing the parenting plan set forth in the court's order and who:

(1) On July 1, 2009 is listed in the roster of guardians ad litem maintained by the Chief Judge of the District Court pursuant to rules adopted by the Supreme Judicial Court, or who holds one or more of the licenses listed in the rules and is listed on the roster after July 1, 2009 after completing the other requirements set forth in the rules; and

(2) Meets any other qualifications and requirements established by the Supreme Judicial Court.

B. "Parenting plan" means a plan defining areas of parental rights and responsibilities within the scope of a parenting coordinator's authority included in an order of the court pursuant to section 1653.

2. Appointment. A court may appoint a parenting coordinator pursuant to this subsection.

A. In a proceeding under this chapter, on the motion of a party or on the court's own motion, the court may appoint a parenting coordinator, with or without consent of the parties, in a case in which:

(1) The parents have demonstrated a pattern of persistent inability or unwillingness to:

(a) Make parenting decisions on their own;

(b) Comply with parenting agreements and orders;

(c) Reduce their child-related conflicts; or

(d) Protect their child from the effects of those conflicts; and

(2) Appointment of the parenting coordinator is in the best interest of the child.

B. The order of appointment must include apportionment of responsibility for payment of the parenting coordinator's fee, if any, between the parties. State funds may not be used to pay parenting coordinator fees.

C. Prior to appointing a parenting coordinator, the court shall consider any evidence of domestic abuse that may affect the parties' ability to engage in parenting coordination and shall tailor the order accordingly, including, without limitation, declining to appoint a parenting coordinator.

D. The order of appointment may include the length of the term of the appointment.

3. Timing of appointment; post-judgment. The appointment of a parenting coordinator is effective upon issuance of the final divorce judgment, the ruling on a post-judgment motion or the final parental rights and responsibilities judgment.

4. Authority; failure to comply. A parenting coordinator may make recommendations that interpret and implement the parenting plan. A party's failure to comply with the parenting coordinator's recommendations is admissible in a proceeding concerning compliance with an order of the court, including the parenting plan, and a contempt proceeding. A parenting coordinator's interpretation or implementation of the court order may not change the order.

5. Judicial review. If a party objects to the recommendations of the parenting coordinator, a party or the parenting coordinator may file a motion for review. Pending review, the parties shall follow the order as interpreted or implemented by the parenting coordinator.

6. Confidentiality. The activities of a parenting coordinator are not confidential, except that the parenting coordinator has discretion to keep any communications with children confidential.

7. Quasi-judicial immunity. An individual serving as a parenting coordinator acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the parenting coordinator as set forth in the court's order.

8. Other parenting assistance. Nothing in this section limits the court's authority to appoint a person who is not qualified as a parenting coordinator to assist the parties in implementing specifically identified issues in the parenting plan as set forth in the terms of the court's order if:

A. The parties consent to the appointment;

B. It is in the best interest of the child; and

C. The court considers any evidence of domestic abuse in the relationship between the parties before making the appointment.

9. Repeal. This section is repealed January 1, 2014.

Sec. 3. Accountability and complaint process. The Supreme Judicial Court may enter into an agreement with a professional organization of guardians ad litem, the purpose of which is to improve the practice of guardians ad litem, to establish a process to collect and review evaluations and complaints about parenting coordinators established pursuant to the Maine Revised Statutes, Title 19-A, section 1659. The organization may charge the parenting coordinators a fee, approved by the Supreme Judicial Court, for the work, but there may not be a cost to the judicial branch. A person who has not paid the required fee may not be designated as a parenting coordinator on the guardian ad litem roster established by the Supreme Judicial Court. The judicial branch is not required to establish a complaint process.

Beginning in 2010, the organization shall make an annual report by February 1st of each year to the Supreme Judicial Court and the joint standing committee of the Legislature having jurisdiction over judiciary matters. The report must include information about comments and complaints regarding parenting coordinators made to the organization, any investigation or review undertaken by the organization in response to comments and complaints and any recommendations for action by the Supreme Judicial Court and the Legislature.

Sec. 4. Report. Beginning March 1, 2010, the Supreme Judicial Court shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over judiciary matters describing the use of parenting coordinators in domestic relations actions pursuant to the Maine Revised Statutes, Title 19-A, section 1659. The committee may report out legislation relating to parenting coordinators to the 124th Legislature and the 125th Legislature based on information and any recommendations in the reports.

See title page for effective date.

CHAPTER 346

H.P. 713 - L.D. 1038

An Act Regarding Screening for Methicillin-resistant Staphylococcus Aureus

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

Sec. 1. 22 MRSA c. 1684-A is enacted to read:

CHAPTER 1684-A

SCREENING FOR METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS

§8761. Targeted surveillance for methicillin-resistant Staphylococcus aureus

All hospitals licensed under chapter 405 shall perform targeted surveillance for methicillin-resistant Staphylococcus aureus in high-risk populations, as defined by the Maine Quality Forum established pursuant to Title 24-A, section 6951, consistent with the federal Centers for Disease Control and Prevention guidelines.

See title page for effective date.

CHAPTER 347

H.P. 371 - L.D. 526

An Act To Clarify the Beano and Bingo Laws as They Apply to Federally Recognized Indian Tribes

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

Sec. 1. 17 MRSA §314-A, sub-§5, ¶C, as enacted by PL 2003, c. 452, Pt. I, §6 and affected by Pt. X, §2, is amended to read:

C. Conduct a game outside the Indian Territory of the licensed organization or for the Houlton Band of Maliseet Indians outside of the parcel of land listed in the Aroostook County Registry of Deeds Book 3621, page 239.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Licensing and Enforcement - Public Safety 0712

Initiative: Provides funding for one Public Safety Inspector II position and related All Other costs to inspect high-stakes beano games for compliance with laws and regulations.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$47,330	$66,852
All Other	$10,880	$14,621
OTHER SPECIAL REVENUE FUNDS TOTAL	$58,210	$81,473

See title page for effective date.

CHAPTER 348

H.P. 518 - L.D. 759

An Act To Require State-owned Solid Waste Disposal Facilities To Demonstrate a Public Benefit

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

Sec. 1. 38 MRSA §1310-AA, sub-§4, as amended by PL 2007, c. 414, §4, is further amended to read:

4. Application. This section does not apply to facilities described in section 1310-N, subsection 3-A, paragraph A ~~or to a facility owned by the State and in operation prior to June 1, 2007 or to an expansion of that facility~~.

Sec. 2. 38 MRSA §1310-AA, sub-§6 is enacted to read:

6. Substantial public benefit. The department may not process or act upon any application for a new or expanded solid waste disposal facility owned by the State pending before the department on or after January 15, 2009 unless the commissioner determines, in accordance with this section, that the proposed facility provides a substantial public benefit.

Sec. 3. Retroactivity. This Act is retroactive to January 15, 2009.

See title page for effective date.

CHAPTER 349

H.P. 647 - L.D. 944

An Act To Increase the Evidentiary Standard Required To Establish a Guardianship

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

Sec. 1. 18-A MRSA §5-304, sub-§(b), as amended by PL 2003, c. 323, §1, is further amended to read:

(b). The court may appoint a guardian or coguardians as requested if ~~it is satisfied~~ the court finds by clear and convincing evidence that the person for whom a guardian is sought is incapacitated~~,~~ and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the ~~person of the~~ incapacitated person ~~and, if the allegedly incapacitated person has not attended the hearing, that an inquiry has been made as to whether that person wished to attend the hearing. Alternatively, the court may dismiss the proceeding or enter any other appropriate order~~.

Sec. 2. 18-A MRSA §5-304, sub-§(b-1) is enacted to read:

(b-1). If the allegedly incapacitated person files voluntary written consent to the appointment of a guardian with the court or appears in court and consents to the appointment, unless the court finds the consent suspect, the court may appoint a guardian or coguardians as requested upon a finding by a preponderance of the evidence that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person. For the purposes of this subsection, voluntary written consent is valid only if the consent was obtained by a visitor, a guardian ad litem or an attorney representing the allegedly incapacitated person and the allegedly incapacitated person gave the consent outside the presence of the person or persons seeking guardianship.

Sec. 3. 18-A MRSA §5-304, sub-§(b-2) is enacted to read:

(b-2). If the allegedly incapacitated person has not attended the hearing, the court must determine if an inquiry has been made as to whether that person wished to attend the hearing.

Sec. 4. 18-A MRSA §5-304, sub-§(c), as enacted by PL 1985, c. 440, §§2 and 13, is amended to read:

(c). In its order, the court may make separate findings of fact and conclusions of law. If a party requests separate findings and conclusions, within 5 days of notice of the decision, the court shall make them. As an alternative to the appointment of a guardian under subsection (b) or (b-1), the court may dismiss the proceeding or enter any other appropriate order.

Sec. 5. 18-A MRSA §5-307, as amended by PL 1979, c. 690, §19, is further amended to read:

§5-307. Removal or resignation of guardian; termination of guardianship

(a). On petition of the ward or any person interested in ~~his~~ the ward's welfare, the court may remove a guardian and appoint a successor if in the best interests of the ward. On petition of the guardian, the court may accept ~~his resignanation~~ the guardian's resignation and make any other order ~~which~~ that may be appropriate.

(b). The ward or any person interested in ~~his~~ the ward's welfare may petition for an order that ~~he~~ the ward is no longer incapacitated, and for removal or resignation of the guardian. A request for this order may be made by informal letter to the court or judge and any person who knowingly interferes with transmission of this kind of request to the court or judge may be adjudged guilty of contempt of court.

(c). Before removing a guardian~~,~~ or accepting the resignation of a guardian, ~~or ordering that a ward's incapacity has terminated,~~ the court, following the same procedures to safeguard the rights of the ward as apply to a petition for appointment of a guardian, may send a visitor to the residence of the present guardian and to the place where the ward resides or is detained, to observe conditions and report in writing to the court.

(d). In an action by the ward, upon presentation by the petitioner of evidence establishing a prima facie case that the ward is not incapacitated or the appointment is no longer necessary or desirable as a means of providing continuing care and supervision of the ward, the court shall order the termination unless the respondent proves by clear and convincing evidence that the ward is incapacitated and guardianship is necessary or desirable as a means of providing continuing care and supervision of the ward.

Sec. 6. 18-A MRSA §5-310-A, sub-§(c), as amended by PL 1995, c. 203, §3, is further amended to read:

(c). At the expedited hearing, the court may render a judgment authorizing the temporary guardianship to continue for a period not to exceed 6 months from the date of entry of the ex parte order. The temporary guardianship terminates on the date specified in the order or, if no date is specified in the order, 6 months following the date of entry of the ex parte order or at any prior time if the court determines the circum-

stances leading to the order for temporary guardianship no longer exist or if a judgment has been entered following a hearing pursuant to section 5-303 ~~has been entered~~ with findings made pursuant to section 5-304.

Sec. 7. 18-A MRSA §5-401, sub-§(2), as enacted by PL 1979, c. 540, §1, is amended to read:

(2). Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines ~~that (i)~~: by clear and convincing evidence that the person is unable to manage ~~his~~ the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and ~~(ii)~~ by a preponderance of the evidence that the person has property ~~which~~ that will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by ~~him~~ the person and that protection is necessary or desirable to obtain or provide funds. If the allegedly incapacitated person files voluntary written consent to the appointment of a conservator with the court or appears in court and consents to the appointment, unless the court finds the consent suspect, the court may appoint a conservator or coconservator as requested upon a finding by a preponderance of the evidence that the person is unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance. For the purposes of this subsection, voluntary written consent is valid only if the consent was obtained by a visitor, a guardian ad litem or an attorney representing the allegedly incapacitated person and the allegedly incapacitated person gave the consent outside the presence of the person or persons seeking conservatorship.

Sec. 8. 18-A MRSA §5-408-A, sub-§(c), as amended by PL 1995, c. 203, §7, is further amended to read:

(c). At the expedited hearing, the court may render a judgment authorizing the temporary conservatorship to continue for a period not to exceed 6 months from the date of entry of the ex parte order. The temporary conservatorship terminates on the date specified in the order or, if no date is specified in the order, 6 months following the date of entry of the ex parte order, or at any prior time if the court determines the circumstances leading to the order for temporary conservatorship no longer exist or if a judgment has been entered following a hearing pursuant to section 5-407 ~~has been entered~~ with findings made pursuant to section 5-401.

Sec. 9. 18-A MRSA §5-430, as amended by PL 2007, c. 308, §2, is further amended to read:

§5-430. Termination of proceeding

The protected person, the protected person's personal representative, the conservator or any other interested person may petition the court to terminate the conservatorship. ~~A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order.~~ In an action to terminate a conservatorship brought by the protected person, upon presentation by the petitioner of evidence establishing a prima facie case that the person is able to manage the person's property and affairs, the court shall order the termination unless the respondent proves by clear and convincing evidence that the person is unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance. The court, upon determining ~~after notice and hearing that the minority or disability of the protected person has ceased~~ that a conservatorship is no longer necessary, shall terminate the conservatorship upon approval of a final account. Upon termination, title to assets of the estate passes to the former protected person or to the former protected person's successors subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected person or the former protected person's successors, to evidence the transfer.

See title page for effective date.

CHAPTER 350

S.P. 529 - L.D. 1444

An Act To Protect Consumers and Small Business Owners from Rising Health Care Costs

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

PART A

Sec. A-1. 22 MRSA §8712, sub-§2, as repealed and replaced by PL 2009, c. 71, §8, is amended to read:

2. Cost and quality. The organization shall create a publicly accessible interactive website that presents reports related to health care facility and practitioner payments for services rendered to residents of the State. The services presented must include, but not be limited to, imaging, preventative health, radiology and surgical services and other services that are predominantly elective and may be provided to a large number of patients who do not have health insurance or are underinsured. The website must also be constructed to display prices paid by individual commer-

cial health insurance companies, 3rd-party administrators and, unless prohibited by federal law, governmental payors.

A. The organization shall promote public transparency of the quality and cost of health care in the State, in conjunction with the Maine Quality Forum as established in Title 24-A, section 6951, and shall collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports shall, to the extent practicable, coordinate, link and compare information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider-specific information regarding quality of services required to be reported to the Maine Quality Forum.

Sec. A-2. 24-A MRSA §6951, sub-§4, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

4. Reporting. The forum shall work collaboratively with the Maine Health Data Organization, health care providers, health insurance carriers and others to report in useable formats comparative health care quality information to consumers, purchasers, providers, insurers and policy makers. The forum shall produce annual quality reports in conjunction with the Maine Health Data Organization pursuant to Title 22, section 8712. No later than September 1, 2010, the forum shall make provider-specific information regarding quality of services available on its publicly accessible website.

Sec. A-3. Advisory Council on Health Systems Development; payment reform. The Advisory Council on Health Systems Development shall solicit input and develop recommendations on payment reform. The council shall:

1. Solicit input from various stakeholders, including private purchasers of health care, working on the measurement and reporting of health care value;

2. Consult with state agencies with expertise in provider reimbursement and payment systems;

3. Integrate any reforms adopted by the United States Congress or federal agencies that affect provider reimbursement;

4. Review and consider payment reform proposals in other states; and

5. To the extent permitted by federal and state law, recommend unified payment systems across public and private sectors.

The council shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Insurance and Financial Services no later than January 15, 2010. After receipt and review of the report, the Joint Standing Committee on Health and Human Services or the Joint Standing Committee on Insurance and Financial Services may introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature.

PART B

Sec. B-1. 24-A MRSA §2694-A is enacted to read:

§2694-A. Physician performance measurement, reporting and tiering programs

1. Performance measurement, reporting and tiering programs. An insurer delivering or issuing for delivery within the State any individual health insurance policy or group health insurance policy or certificate shall annually file with the superintendent on or before October 1, 2010 and annually by October 1st in subsequent years a full and true statement of its criteria, standards, practices, procedures and programs that measure physician performance or tier physician performance. The statement must be on a form prepared by the superintendent and may be supplemented by additional information required by the superintendent. The statement must be verified by the oath of the insurer's president or vice-president, and secretary or chief medical officer. A filing and supporting information are public records notwithstanding Title 1, section 402, subsection 3, paragraph B.

2. Duties. The superintendent shall review the statements, if any, assemble the statements in one table using a side-by-side comparison format and provide an analysis identifying the commonalities and differences of the statements. Notwithstanding any provision of law to the contrary, the superintendent shall adopt by rule a program and performance measures designed to:

A. Ensure transparency and fairness and promote the continued strengthening of measurement programs to meet patients' needs;

B. Promote the consistency, efficiency and fairness of physician performance measurement; and

C. Promote an appropriate balance between innovation and standardization.

3. Advisory panel. The superintendent may consult with the Advisory Council on Health Systems

Development for advice to the superintendent regarding the proposed rule.

4. Rulemaking. The superintendent may 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.

PART C

Sec. C-1. 22 MRSA §1819-A, 2nd ¶, as enacted by PL 2005, c. 249, §1, is amended to read:

Information required to be disclosed under this section must be submitted by the hospital to the department within 5 months after the end of the hospital's fiscal year or within 5 months after the date on which the entity files the applicable form with the Internal Revenue Service. The department shall make available for public inspection and photocopying copies of all documents required by this section and shall post those documents on the department's publicly accessible website. The department shall post a chart on the website listing each hospital and providing a link to the documents filed pursuant to subsection 1.

Sec. C-2. Posting of documents. Within 30 days of the effective date of this Act, the Department of Health and Human Services shall post the federal Internal Revenue Service Form 990 and all related disclosable schedules for each hospital licensed in the State and filed with the department as required in the Maine Revised Statutes, Title 22, section 1819-A.

See title page for effective date.

CHAPTER 351

H.P. 292 - L.D. 385

An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders

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

Sec. 1. 30-A MRSA §3013 is enacted to read:

§3013. Ordinances regarding residency restrictions for sex offenders

1. Application and scope. The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

2. Residency restriction ordinance. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees.

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users.

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance.

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15.

See title page for effective date.

CHAPTER 352

H.P. 751 - L.D. 1089

An Act To Regulate Mixed Martial Arts Competitions, Exhibitions and Events

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

Sec. 1. 5 MRSA §12004-G, sub-§4-D is enacted to read:

4-D.

Amusements and Sports	Mixed Martial Arts Authority of Maine	Expenses only	8 MRSA c. 20

Sec. 2. 8 MRSA c. 20 is enacted to read:

CHAPTER 20

MIXED MARTIAL ARTS

§521. Definitions

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

1. Authority. "Authority" means the Mixed Martial Arts Authority of Maine created under section 522.

2. Authorized participants. "Authorized participants" means competitors, officials, referees, judges, promoters, managers, physicians, timekeepers and knock-down timekeepers.

3. Board. "Board" means the board of directors of the authority.

4. Mixed martial arts. "Mixed martial arts" means a combative sport for compensation that features a mixture of karate, jiu-jitsu, muay thai, tae kwon do, boxing, kick boxing, wrestling, judo and striking and grappling techniques.

§522. Mixed Martial Arts Authority of Maine

1. Establishment. The Mixed Martial Arts Authority of Maine, as established in Title 5, section 12004-G, subsection 4-D, is a body corporate and politic and a public instrumentality of the State. The exercise by the authority of the powers conferred by this chapter constitutes the performance of essential governmental functions.

2. Purpose. The authority is established to regulate and promote mixed martial arts competitions, exhibitions and events in the State as set forth in this chapter. A mixed martial arts competition, exhibition or event may not be held in the State prior to the adoption of rules pursuant to this chapter.

3. Board of directors. The authority is governed and its powers exercised by a board of directors. The board consists of 5 voting members appointed by the Governor. Immediately after their appointments, the members of the authority shall assume their duties. All board members serve as agents of the authority for purposes of service of process.

4. Officers. The board shall elect a chair, a secretary and a treasurer from among its members.

5. Terms; vacancy. Members of the authority are appointed to 3-year terms. A vacancy in the authority does not impair the right of a quorum of the members to exercise all the rights and perform all the duties of the authority. In the event of vacancy occurring in the membership, the Governor shall appoint a replacement member for the remainder of that term. Each member of the authority serves until that member's successor is appointed and qualified. A member of the authority is eligible for reappointment.

6. Bylaws and business plan. The board shall adopt bylaws for the governance of the authority and the conduct of its affairs and may amend and revoke the bylaws as necessary. The board shall adopt a business plan setting forth goals, desired outcomes and performance expectations for the authority and shall update the business plan on an annual basis.

7. Revenue and expenditures. The board may receive revenue from mixed martial arts competitions, exhibitions and events, as well as from the sale of goods and merchandise, in accordance with rules adopted pursuant to sections 523 and 524. The authority may apply for, solicit and receive grants, donations and gifts and may receive appropriations from the State and funds from other governmental authorities. All funds received must be spent solely to assist with operational expenses in furtherance of the purpose of the authority.

8. Annual report. By March 15th of each year, beginning in 2010, the authority shall provide an annual report on its activities to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include an evaluation of the authority's success in meeting the goals, outcomes and performance expectations contained in its business plan, as well as a summary of the revenue and expenditures of the authority pursuant to subsection 7 and section 525.

§523. Powers of authority

In furtherance of its purpose, the authority shall, no later than March 1, 2010:

1. Rules. Adopt rules to protect the health and safety of participants and the integrity of competition, as well as to set the fee schedules for all authorized participants. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. The authority's rules must include, but are not limited to, the following:

A. Rules of competition, weighing of participants and scoring of decisions;

B. Length of contests and rounds;

C. Availability of medical services;

D. Age limits, which must include a minimum age of not less than 18 years;

E. Weight limits and classification of participants;

F. Physical condition of participants;

G. Qualifications of referees and other authorized participants;

H. Uniforms, attire, safety gear and equipment of authorized participants;

I. Specifications of facilities and equipment; and

J. Requirements for health and accident insurance providing coverage in the event of injury or death to authorized participants. This coverage must comply with standards prescribed by the Superintendent of Insurance; and

2. Other action. Take all other lawful action necessary and incidental to its purposes.

§524. Promotion fees

In addition to the requirements set by rule pursuant to section 523, a promoter of a mixed martial arts competition, exhibition or event authorized under this chapter must pay a fee set by the authority in advance of the mixed martial arts competition, exhibition or event. A promoter who fails to pay the fee required pursuant to this section is prohibited from promoting the competition as well as any further competitions, exhibitions or events held under this chapter until the fee and any penalties are paid in full or satisfactory arrangements are made with the authority.

§525. Fund established; excess revenue to be deposited into General Fund

The authority shall establish and maintain a reserve fund called the "Mixed Martial Arts Reserve Fund" and shall deposit in the fund all money received pursuant to section 522, as well as any other money or funds from any other sources. At the close of each fiscal year, the State Controller shall transfer from the fund any revenue in excess of operating expenses to the General Fund.

§526. Prohibited interests of officers, directors and employees

A director of the authority or a spouse, domestic partner or dependent child of a director of the authority may not receive any direct personal benefit from the activities or undertakings of the authority. This section does not prohibit corporations or other entities with which a director is associated by reason of ownership or employment from participating in mixed martial arts activities if ownership or employment is made known to the authority and the director abstains from voting on matters relating to that participation.

§527. Limitations of powers

The authority may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies. No contract, obligation, commitment, agreement, debt, act or undertaking of the authority of any nature binds the State or any of its agencies.

§528. Penalty

A person who fails to comply with the rules adopted by the authority may be subject to disqualification from participation in, or promotion of, mixed martial arts events.

Sec. 3. 17-A MRSA §515, sub-§2-A is enacted to read:

2-A. Effective March 1, 2010, this section does not apply to any mixed martial arts competition, exhibition or event authorized pursuant to Title 8, chapter 20 as long as rules have been adopted by the Mixed Martial Arts Authority of Maine pursuant to Title 8, chapter 20.

Sec. 4. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 8, section 522, subsection 5, in making the original appointments to the board of directors of the Mixed Martial Arts Authority of Maine, the Governor shall appoint members to terms of less than 3 years in order to stagger the terms. A successor's term is 3 years from the date of the expiration of the original term, regardless of the date of appointment.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

MIXED MARTIAL ARTS AUTHORITY OF MAINE

Mixed Martial Arts Reserve Fund N079

Initiative: Provides a base allocation in the event that funds are received to support the operating expenses of the Mixed Martial Arts Authority of Maine.

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

See title page for effective date.

CHAPTER 353

S.P. 526 - L.D. 1442

An Act To Create the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies

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

Sec. 1. 5 MRSA §12004-I, sub-§74-F is enacted to read:

74-F.

Public Safety	Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies	Not Authorized	25 MRSA §3001

Sec. 2. 25 MRSA c. 355 is enacted to read:

CHAPTER 355

ADVISORY COMMITTEE ON BIAS-BASED PROFILING BY LAW ENFORCEMENT OFFICERS AND LAW ENFORCEMENT AGENCIES

§3001. Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies

1. Committee established. The Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies, referred to in this chapter as "the committee," is established by Title 5, section 12004-I, subsection 74-F to study the issue of bias-based profiling.

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

A. "Bias-based profiling" means the use by a law enforcement officer or law enforcement agency of race, ethnicity, religion or national origin, in the absence of a specific report or other identifying information, as a factor in determining the existence of probable cause or reasonable suspicion for an arrest, investigative detention, field identification or traffic stop.

B. "Commissioner" means the Commissioner of Public Safety.

3. Membership. The committee consists of the following members:

A. The commissioner or the commissioner's designee, who shall act as cochair;

B. One representative from each of the following law enforcement organizations, appointed by the commissioner from a list submitted by the organization to the commissioner:

(1) One representative of a statewide association of chiefs of police;

(2) One representative of a statewide association of sheriffs;

(3) One representative of police labor organizations in this State; and

(4) One at-large active line officer who is a member of a police labor organization in this State;

C. One at-large representative who is a current or former officer of the Maine State Police, appointed by the commissioner;

D. The Attorney General or the Attorney General's designee;

E. One representative appointed by the Board of Trustees of the Maine Criminal Justice Academy;

F. Seven representatives from different civil rights organizations in the State, each appointed by the commissioner and selected from a list submitted by civil rights organizations to the commissioner. Of the 7, at least one representative must be selected from the list submitted by chapters of the National Association for the Advancement of Colored People within the State, and that member shall act as cochair; and

G. One representative appointed by the commissioner and selected from lists submitted by federally recognized Indian tribes in this State.

4. Terms. Members shall serve for 3-year terms. When a vacancy occurs, the original appointing authority shall appoint a new member to serve for the remainder of the term.

5. Meetings. The committee may meet as often as necessary.

6. Compensation. Members of the committee are not entitled to compensation according to the provisions in Title 5, section 12004-I, subsection 74-F.

7. Duties. The committee shall:

A. Work with the Board of Trustees of the Maine Criminal Justice Academy to develop a model policy on bias-based profiling;

B. Work with law enforcement across the State on a voluntary basis to assess whether or not bias-based profiling occurs in this State and, if it does, to what extent and to offer proposals and make recommendations to address the matter;

C. Make recommendations to the Board of Trustees of the Maine Criminal Justice Academy on

curricula for basic and in-service law enforcement training on the subject of bias-based profiling;

D. Establish a mechanism for outreach and public awareness campaigns to educate advocacy organizations and the general public about modern law enforcement practices and procedures; and

E. Advise the Legislature on matters involving bias-based profiling on its own initiative or when requested.

8. Annual report. Beginning in 2010, the committee shall report annually by February 15th and as requested to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to the Board of Trustees of the Maine Criminal Justice Academy. The report may serve as a guide for the joint standing committee concerning the need for legislation on the issue of bias-based profiling. The joint standing committee is authorized to report out relevant legislation after receiving the committee's annual report.

§3002. Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies Fund

1. Fund established. The Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account and is nonlapsing. The commissioner may use the fund only to support the costs associated with committee administration and educational and training materials regarding bias-based profiling.

2. Revenue sources. The commissioner may accept private and public contributions intended to be used for the purposes of the fund.

3. Budget. The commissioner shall submit a budget for the fund for each biennium pursuant to Title 5, sections 1663 and 1666.

§3003. Repeal

This chapter is repealed November 1, 2012.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Criminal Justice Academy 0290

Initiative: Establishes the Advisory Committee on Bias-based Profiling by Law Enforcement Officers and Law Enforcement Agencies Fund with a base allocation of $500.

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

See title page for effective date.

CHAPTER 354

H.P. 709 - L.D. 1034

An Act To Increase Access to Farm Fresh Poultry

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

Sec. 1. 22 MRSA §2511, sub-§37-A is enacted to read:

37-A. Poultry producer. "Poultry producer" means a person who raises poultry offered for sale.

Sec. 2. 22 MRSA §2512, sub-§1, ¶A, as enacted by PL 1999, c. 777, §1, is amended to read:

A. Require ante mortem and post mortem inspections, quarantine, segregation and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock products and poultry products at all establishments in this State, except those exempted under section 2517-C or exempted by the commissioner under subsection 2, paragraph K, at which livestock or poultry are slaughtered or livestock products or poultry products are prepared for human food solely for distribution in intrastate commerce;

Sec. 3. 22 MRSA §2517-C is enacted to read:

§2517-C. Slaughter and inspection; exemption for poultry

1. Exemption. Notwithstanding section 2512 and whether or not the poultry are intended for human consumption, inspection is not required for the slaughter of poultry or the preparation of poultry products as long as the poultry are slaughtered or the poultry products are prepared on the farm where the poultry were raised and:

A. Fewer than 1,000 birds are slaughtered annually on the farm;

B. No birds are offered for sale or transportation in interstate commerce;

C. Any poultry products sold are sold only as whole birds;

D. The poultry producer has a valid license issued under section 2514;

E. The facilities for slaughtering and processing are in compliance with rules adopted under subsection 4;

F. The poultry producer assigns a lot number to all birds sold and maintains a record of assigned lot numbers and the point of sale; and

G. The poultry are sold in accordance with the restrictions in subsection 2.

2. Restrictions on point of sale. Poultry products sold under this section may only be sold by the poultry producer and in the following locations or manner:

A. At the farm on which the poultry were raised;

B. At a farmers' market as defined in Title 7, section 415;

C. Delivered to a consumer's home by the poultry producer whose name and license number appear on the label under subsection 3; or

D. Received by a person who is a member of a community supported agriculture farm that has a direct marketing relationship with the poultry producer. For the purposes of this section, "community supported agriculture" means an arrangement whereby individual consumers have agreements with a farmer to be provided with food or other agricultural products produced on that farm.

3. Labeling requirements for sales at farmers' markets. A poultry producer may not sell poultry products that have not been inspected at a farmers' market pursuant to subsections 1 and 2 unless the poultry products are labeled with:

A. The name of the farm, the name of the poultry producer and the address of the farm including the zip code;

B. The number of the license issued to the poultry producer in accordance with section 2514 and the lot number for the poultry products pursuant to subsection 1, paragraph F;

C. The statement "Exempt under the Maine Revised Statutes, Title 22, section 2517-C NOT INSPECTED." The statement must be prominently displayed with such conspicuousness that it is likely to be read and understood; and

D. Safe handling and cooking instructions as follows: "SAFE HANDLING INSTRUCTIONS: Keep refrigerated or frozen. Thaw in refrigerator or microwave. Keep raw poultry separate from other foods. Wash working surfaces, including cutting boards, utensils and hands, after touching raw poultry. Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds. Keep hot foods hot. Refrigerate leftovers immediately or discard."

4. Rules. The commissioner shall adopt rules to establish requirements for the physical facilities and sanitary processes used by poultry producers whose products are exempt from inspection under this section. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Enforcement. The commissioner shall enforce the provisions of this section.

6. Violation; penalty. A person who violates this section is subject to penalties under section 2524.

Sec. 4. 22 MRSA §2518, sub-§1, as enacted by PL 1999, c. 777, §1, is amended to read:

1. Review by inspector. The commissioner may cause establishments that are required to be licensed under section 2514 but are exempt from inspection under section 2512, subsection 2, paragraph K to be periodically reviewed by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected. The commissioner shall cause establishments that are required to be licensed under section 2514 but are exempt from inspection under section 2517-C to be reviewed annually by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected.

See title page for effective date.

CHAPTER 355

H.P. 953 - L.D. 1363

An Act To Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative

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

Sec. 1. 2 MRSA §103, sub-§3, ¶F, as amended by PL 2005, c. 369, §4, is further amended to read:

F. Provide recommendations to help purchasers and providers make decisions that improve public health and build an affordable, high-quality health care system; ~~and~~

Sec. 2. 2 MRSA §103, sub-§3, ¶G, as enacted by PL 2005, c. 369, §5, is amended to read:

G. Be consistent with the requirements of the certificate of need program described in Title 22, chapter 103-A.; and

Sec. 3. 2 MRSA §103, sub-§3, ¶H is enacted to read:

H. Include the report cards on health status by district issued by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Statewide Coordinating Council for Public Health pursuant to Title 22, section 413, subsection 3 to monitor progress in improving health. The plan must also use survey and other health tracking systems available in or to the Maine Center for Disease Control and Prevention to monitor rates of preventive risk factors and diseases among the uninsured.

Sec. 4. 5 MRSA §12004-G, sub-§14-G is enacted to read:

14-G.

Health Care	Statewide Coordinating Council for Public Health	Not Authorized	22 MRSA §412

Sec. 5. 22 MRSA c. 152 is enacted to read:

CHAPTER 152

PUBLIC HEALTH INFRASTRUCTURE

§411. Definitions

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

1. Accreditation. "Accreditation" means a national federally recognized credentialing process resulting in the approval of a public health system or a municipal health department by a national federally recognized review board certifying that a public health system or a municipal health department has met specific performance requirements and standards. Accreditation provides quality assurance, credibility and accountability to the public, to government officials and to public health fund sources.

2. Comprehensive community health coalition. "Comprehensive community health coalition" means a multisector coalition that serves a defined local geographic area and is composed of designated organizational representatives and interested community members who share a commitment to improving their communities' health and quality of life and that includes public health in its core mission.

3. District coordinating council for public health. "District coordinating council for public health" means a representative districtwide body of local public health stakeholders working toward collaborative public health planning and coordination to ensure effectiveness and efficiencies in the public health system.

4. District public health unit. "District public health unit" means a unit of public health staff set up whenever possible in a district in department offices. A staff must include when possible public health nurses, field epidemiologists, drinking water engineers, health inspectors and district public health liaisons.

5. District. "District" means one of the 8 districts of the department, including Aroostook District, composed of Aroostook County; Penquis District, composed of Penobscot County and Piscataquis County; Downeast District, composed of Washington County and Hancock County; Midcoast District, composed of Waldo County, Lincoln County, Knox County and Sagadahoc County; Central District, composed of Kennebec County and Somerset County; Western District, composed of Androscoggin County, Franklin County and Oxford County; Cumberland District, composed of Cumberland County; and York District, composed of York County.

6. Essential public health services. "Essential public health services" means core public health functions as defined from time to time by the United States Centers for Disease Control and Prevention that help provide the guiding framework for the work and accreditation of public health systems or municipal health departments.

7. Health risk assessment. "Health risk assessment" means a customized process by which an individual confidentially responds to questions and receives a feedback report to help that individual understand the individual's personal risks of developing preventable health problems, know what preventive actions the individual can take and learn what local and state resources are available to help the individual take these actions.

8. Healthy Maine Partnerships. "Healthy Maine Partnerships" means a statewide system of comprehensive community health coalitions that meet the standards for department funding that is established under section 412.

9. Local health officer. "Local health officer" means a municipal employee who has knowledge of the employee's community and meets educational, training and experience standards as set by the department in rule to comply with section 451.

10. Municipal health department. "Municipal health department" means a health department or division that is established pursuant to municipal charter or ordinance in accordance with Title 30-A, chapter 141 and accredited by a national federally recognized credentialing process.

11. Statewide Coordinating Council for Public Health. "Statewide Coordinating Council for Public Health" means the council established under Title 5, section 12004-G, subsection 14-G.

§412. Coordination of public health infrastructure components

1. Local health officers. Local health officers shall provide a link between the Maine Center for Disease Control and Prevention and every municipality. Duties of local health officers are set out in section 454-A.

2. Healthy Maine Partnerships. Healthy Maine Partnerships is established to provide appropriate essential public health services at the local level, including coordinated community-based public health promotion, active community engagement in local, district and state public health priorities and standardized community-based health assessment that inform and link to districtwide and statewide public health system activities.

Healthy Maine Partnerships must include interested community members; leaders of formal and informal civic groups; leaders of youth, parent and older adult groups; leaders of hospitals, health centers, mental health and substance abuse providers; emergency responders; local government officials; leaders in early childhood development and education; leaders of school administrative units and colleges and universities; community, social service and other nonprofit agency leaders; leaders of issue-specific networks, coalitions and associations; business leaders; leaders of faith-based groups; and law enforcement representatives.

The department and other appropriate state agencies shall provide funds as available to coalitions in Healthy Maine Partnerships that meet measurable criteria as set by the department for comprehensive community health coalitions.

3. District public health units. District public health units shall help to improve the efficiency of the administration and coordination of state public health programs and policies and communications at the district and local levels and shall ensure that state policy reflects the different needs of each district.

4. District coordinating councils for public health. The Maine Center for Disease Control and Prevention, in consultation with Healthy Maine Partnerships, shall maintain a district coordinating council for public health in each of the 8 districts as resources permit.

A. A district coordinating council for public health shall:

(1) Participate as appropriate in district-level activities to help ensure the state public health system in each district is ready and maintained for accreditation;

(2) Provide a mechanism for districtwide input to the state health plan under Title 2, section 103;

(3) Ensure that the goals and strategies of the state health plan are addressed in the district; and

(4) Ensure that the essential public health services and resources are provided for in each district in the most efficient, effective and evidence-based manner possible.

B. The Maine Center for Disease Control and Prevention, in consultation with Healthy Maine Partnerships, shall ensure the invitation of persons to participate on a district coordinating council for public health and shall strive to include persons who represent the Maine Center for Disease Control and Prevention, county governments, municipal governments, tribal governments, city health departments, local health officers, hospitals, health systems, emergency management agencies, emergency medical services, Healthy Maine Partnerships, school districts, institutions of higher education, physicians and other health care providers, clinics and community health centers, voluntary health organizations, family planning organizations, area agencies on aging, mental health services, substance abuse services, organizations seeking to improve environmental health and other community-based organizations.

A district coordinating council for public health, after consulting with the Maine Center for Disease Control and Prevention, shall develop membership and governance structures that are subject to approval by the Statewide Coordinating Council for Public Health.

5. Municipal health departments. Municipal health departments may enter into data-sharing agreements with the department for the exchange of public health data determined by the department to be necessary for protection of the public health. A data-sharing agreement under this subsection must protect the confidentiality and security of individually identifiable health information as required by state and federal law.

6. Statewide Coordinating Council for Public Health. The Statewide Coordinating Council for Public Health, established under Title 5, section 12004-G, subsection 14-G, is a representative statewide body of public health stakeholders for collaborative public health planning and coordination.

A. The Statewide Coordinating Council for Public Health shall:

(1) Participate as appropriate to help ensure the state public health system is ready and maintained for accreditation;

(2) Provide a mechanism for the Advisory Council on Health Systems Development under Title 2, section 104 to obtain statewide input for the state health plan under Title 2, section 103;

(3) Provide a mechanism for disseminating and implementing the state health plan; and

(4) Assist the Maine Center for Disease Control and Prevention in planning for the essential public health services and resources to be provided in each district and across the State in the most efficient, effective and evidence-based manner possible.

The Maine Center for Disease Control and Prevention shall provide staff support to the Statewide Coordinating Council for Public Health as resources permit. Other agencies of State Government as necessary and appropriate shall provide additional staff support or assistance to the Statewide Coordinating Council for Public Health as resources permit.

B. Members of the Statewide Coordinating Council for Public Health are appointed as follows.

(1) Each district coordinating council for public health shall appoint one member.

(2) The Director of the Maine Center for Disease Control and Prevention or the director's designee shall serve as a member.

(3) The commissioner shall appoint an expert in behavioral health from the department to serve as a member.

(4) The Commissioner of Education shall appoint a health expert from the Department of Education to serve as a member.

(5) The Commissioner of Environmental Protection shall appoint an environmental health expert from the Department of Environmental Protection to serve as a member.

(6) The Director of the Maine Center for Disease Control and Prevention, in collaboration with the cochairs of the Statewide Coordinating Council for Public Health, shall convene a membership committee. After evaluation of the appointments to the Statewide Coordinating Council for Public Health, the membership committee shall appoint no more than 10 additional members and ensure that the total membership has at least one member who is a recognized content expert in each of the essential public health services, has representation from populations in the State facing health disparities and has at least 2 members from the Advisory Council on Health Systems Development under Title 2, section 104. The membership committee shall also strive to ensure diverse representation on the Statewide Coordinating Council for Public Health from county governments, municipal governments, tribal governments, city health departments, local health officers, hospitals, health systems, emergency management agencies, emergency medical services, Healthy Maine Partnerships, school districts, institutions of higher education, physicians and other health care providers, clinics and community health centers, voluntary health organizations, family planning organizations, area agencies on aging, mental health services, substance abuse services, organizations seeking to improve environmental health and other community-based organizations.

C. The term of office of each member is 3 years. All vacancies must be filled for the balance of the unexpired term in the same manner as the original appointment.

D. Members of the Statewide Coordinating Council for Public Health shall elect annually a chair and cochair. The chair is the presiding member of the Statewide Coordinating Council for Public Health.

E. The Statewide Coordinating Council for Public Health shall meet at least quarterly, must be staffed by the department as resources permit and shall develop a governance structure, including determining criteria for what constitutes a member in good standing.

F. The Statewide Coordinating Council for Public Health shall report annually to the Advisory Council on Health Systems Development under Title 2, section 104 on progress made by the statewide public health system in addressing the designated public health goals, objectives and strategies in the state health plan under Title 2, section 103. In years when a new state health plan is being developed, the Statewide Coordinating Council for Public Health shall provide input from its own members and from the district coordinating councils for public health stating goals, objectives and strategies that should be addressed in the state health plan.

The Statewide Coordinating Council for Public Health shall report annually to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Governor's office on progress made toward achieving and maintaining accreditation of the state public health system and on districtwide and

statewide streamlining and other strategies leading to improved efficiencies and effectiveness in the delivery of essential public health services.

§413. Universal wellness initiative

The Maine Center for Disease Control and Prevention, the Statewide Coordinating Council for Public Health, the district coordinating councils for public health and Healthy Maine Partnerships shall undertake a universal wellness initiative to ensure that all people of the State have access to resources and evidence-based interventions in order to know, understand and address health risks and to improve health and prevent disease. A particular focus must be on the uninsured and others facing health disparities.

1. Resource toolkit for the uninsured. The Maine Center for Disease Control and Prevention and the Governor's office shall develop a resource toolkit for the uninsured with information on access to disease prevention, health care and other methods for health improvement. Healthy Maine Partnerships, the district coordinating councils for public health, the Maine Center for Disease Control and Prevention and the Statewide Coordinating Council for Public Health shall promote and distribute the toolkit materials, in particular through small businesses, schools, school-based health centers and other health centers. Healthy Maine Partnerships, each district coordinating council for public health and the Statewide Coordinating Council for Public Health shall report annually to the Maine Center for Disease Control and Prevention on strategies employed for promotion of the toolkit materials.

2. Health risk assessment. Healthy Maine Partnerships, the district coordinating councils for public health, the Statewide Coordinating Council for Public Health and the Maine Center for Disease Control and Prevention shall promote an evidence-based health risk assessment that is available to all people of the State, with a particular emphasis on outreach to the uninsured population and others facing health disparities. These health risk assessments and their promotion must provide linkages to existing local disease prevention efforts and be collaborative with and not duplicative of existing efforts.

3. Report card on health. The Maine Center for Disease Control and Prevention, in consultation with the Statewide Coordinating Council for Public Health, shall develop, distribute and publicize an annual brief report card on health status statewide and for each district by June 1st of each year. The report card must include major diseases, evidence-based health risks and determinants that impact health.

The Maine Center for Disease Control and Prevention and the Governor's Office of Health Policy and Finance shall provide staff support to implement the universal wellness initiative in this section as resources permit. Other agencies of State Government as necessary and appropriate shall provide additional staff support or assistance.

Sec. 6. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 22, section 412, subsection 6, paragraph C, of the members first chosen by the membership committee of the Statewide Coordinating Council for Public Health, 1/3 must be chosen for a term of one year, 1/3 must be chosen for the term of 2 years and 1/3 must be chosen for a term of 3 years.

See title page for effective date.

CHAPTER 356

S.P. 424 - L.D. 1133

An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland

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

PART A

Sec. A-1. 7 MRSA §162 is enacted to read:

§162. Designation of "Farming for Maine" farms

The commissioner shall establish a process for designating "Farming for Maine" farms. This designation provides farmers an opportunity to declare their commitment to commercial agriculture and to increase public awareness of farming in the State.

1. Application. An applicant for designation as a "Farming for Maine" farm shall submit a completed application that has been verified in accordance with subsection 3 to the clerk for the municipality in which the farm is located and a copy of the application to the department. If the land is within an area under the jurisdiction of the Maine Land Use Regulation Commission, the applicant shall submit the verified application to the executive director of the commission and a copy to the department. The department shall develop an application form and make the form available through the offices of the soil and water conservation districts and private organizations and public agencies that support or represent farmers in the State.

2. Eligibility. A farm is eligible for designation under this section if the following criteria are met:

A. The farm consists of land classified as prime farmland, land of statewide or local importance or unique farmland by the Natural Resources Conservation Service within the United States Department of Agriculture. In counties where land of local importance has not been identified, land that

is actively farmed may be eligible as provided in rules adopted under subsection 4;

B. The land is used for the commercial production of agricultural products; and

C. Additional criteria established in rules adopted under subsection 4.

A farm that is farmed under a lease may be designated as long as the landowner and the lessee sign the application.

3. Verification of eligibility. An applicant for designation as a "Farming for Maine" farm shall submit a completed application form together with support materials as required in rules adopted under subsection 4 to a soil and water conservation district office. Upon receipt of an application, a district office shall verify the eligibility of the farm or notify the applicant of the reasons why verification is denied. Upon request, the department shall assist a district in determining eligibility.

4. Rules; recognition. The commissioner may adopt rules to further define the verification process and establish additional eligibility criteria as needed for designation of "Farming for Maine" farms. The commissioner shall provide signs or certificates or develop other means of recognizing a farm that has attained designation as a "Farming for Maine" farm. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Fee. A municipality may charge a fee of not more than $20 for filing a verified designation application under this section.

Sec. A-2. 7 MRSA §163 is enacted to read:

§163. Pilot program for establishing agricultural districts and agriculture enhancement groups

The commissioner may establish a pilot program to examine the effectiveness of agricultural districts in keeping farmland in agricultural production and enhancing the profitability of farming. For the purposes of this section, "pilot program" means an agricultural districts program that allows farmers to propose that the department designate their farmland as an agricultural district where commercial agriculture is encouraged and farmland protected through collaborative efforts at the state and local level.

1. Eligibility criteria for agricultural districts. In order to be eligible to participate in the pilot program, farms must form agricultural districts. An agricultural district must be composed of 3 or more farms that are located in geographic proximity to each other, produce similar types of agricultural products or share common marketing interests. The commissioner shall review eligibility criteria for participants in agricultural districts in other states and may develop additional criteria for participation with the pilot program, including, but not limited to, minimum acreage and farm income thresholds.

2. Benefits. The commissioner shall review benefits accruing to participants in agricultural districts in other states. Prior to initiating the pilot program, the commissioner shall develop a description of potential benefits accruing to participants in a pilot program. Potential benefits may include, but are not limited to, scoring bonuses for competitive grants, loans or business assistance programs and for project proposals screened for submission to the Land for Maine's Future Fund under Title 5, section 6203. The commissioner shall consult with other agencies administering programs affected by the proposed benefits.

3. Selection of regions. The commissioner shall distribute a description of the purpose and potential benefits of forming an agricultural district. Distribution may be through public agencies and private organizations that have regular contact with farmers in the State. The description must be posted on the department's publicly accessible website. The description notice must include information on how to contact the department to express interest in learning more about or participating in an agricultural district.

Based on the response to the initial solicitation, the commissioner may designate one or more districts. Prior to making a selection, the commissioner shall communicate with local or regional planning commissions and state, local or regional land trusts to ascertain their willingness to participate in efforts to protect farmland in the proposed districts.

If more than one district is designated for the pilot program, the commissioner shall strive to select districts in different parts of the State or different sectors of the State's agricultural economy.

Sec. A-3. Duties of the Commissioner of Agriculture, Food and Rural Resources with regard to the designation of "Farming for Maine" farms. The Commissioner of Agriculture, Food and Rural Resources shall send a letter to municipal officials explaining the purpose of designating "Farming for Maine" farms under the Maine Revised Statutes, Title 7, section 162. The commissioner, in consultation with the Executive Department, State Planning Office, shall communicate ways that a municipality could use the record of designations to assist local planning boards and to solicit farmers' input in land use planning discussions.

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than February 1, 2011 on the development of any additional eligibility criteria, the number of farmers seeking designation as a "Farming for Maine" farm,

overall interest in the designation program and regions displaying the most interest. The commissioner shall present the committee with recommendations to increase participation, including possible incentives and an estimate of the cost to implement any of the commissioner's recommendations.

Sec. A-4. Report on pilot program. The Commissioner of Agriculture, Food and Rural Resources shall report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters no later than February 15, 2011 on any progress made in initiating a pilot program to examine the effectiveness of agricultural districts under the Maine Revised Statutes, Title 7, section 163. The commissioner shall summarize discussions on appropriate eligibility criteria and benefits for an agricultural districts program and the names and affiliations of people participating in these discussions. The commissioner shall provide an estimate of the resources needed to proceed with a pilot program if one has not been undertaken.

Sec. A-5. Monitoring federal estate tax changes. Beginning in calendar year 2009, the Department of Agriculture, Food and Rural Resources and the State Tax Assessor shall jointly monitor changes in the federal estate tax on an annual basis and identify the impact of the tax provisions on the preservation of farmland in the State. By January 15th of each year beginning in 2010, the department and the assessor shall provide the joint standing committees of the Legislature having jurisdiction over agricultural matters and taxation matters with a written update of their monitoring activity. The department may make recommendations for changes to the State's estate tax that will facilitate the preservation of farmland. The joint standing committee of the Legislature having jurisdiction over taxation matters may introduce legislation related to this review.

PART B

Sec. B-1. 12 MRSA §1812, first ¶, as amended by PL 2001, c. 466, §3, is further amended to read:

With the consent of the Governor and the commissioner, the director may acquire on behalf of the State land or any interests in land within this State, with or without improvements, by purchase, gift or eminent domain for purposes of holding and managing the same as parks or historic sites. When acquiring land or interest in land, the director shall examine options for obtaining public vehicular access rights to the land. If an acquisition is made that does not include guaranteed public vehicular access, the director shall describe the acquisition in the report required under section 1817 and the justification for that acquisition. The right of eminent domain may not be exercised to take any area or areas for any one park that singly or collectively exceed 200 acres, nor may it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith or any land being used for an industrial enterprise. The right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters.

Sec. B-2. 12 MRSA §1813, first ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

For the purpose of establishing, preserving or enhancing corridors for use for open space or recreation, the director may acquire with the consent of the Governor and the commissioner, by license, lease, purchase, gift or eminent domain, railroad rights-of-way upon which rail service is no longer operated except that the right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters. When railroad rights-of-way or interests in railroad rights-of-way are taken by eminent domain, the proceedings must be in accordance with this section and are not subject to Title 35-A, chapter 65. For purposes of these acquisitions, the term "owner" as used in this section means the person holding the dominant rights in the property immediately prior to the termination of the operation of rail service and that person's successors and assigns. Acquisitions pursuant to this subsection are not subject to any limitation in acreage.

Sec. B-3. 12 MRSA §1892, 2nd ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

If all reasonable efforts to acquire lands or interests therein by negotiation have failed and public exigency requires it, the director, with the consent of the Governor and the commissioner, may utilize the power of eminent domain to acquire any land determined necessary to provide passage via the most direct or practicable connecting trail right-of-way across such lands; however, not more than 25 acres in any one mile may be acquired without consent of the owner and that owner and adjacent landowners may not be precluded from using motorized vehicles across such trails to maintain reasonable access to their fee or other interests in land. The right of eminent domain may not be exercised without prior review by the joint standing committee of the Legislature having jurisdiction over conservation matters.

PART C

Sec. C-1. 30-A MRSA §4401, sub-§2-B is enacted to read:

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service

within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2.

Sec. C-2. 30-A MRSA §4404, sub-§14-A is enacted to read:

14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

Sec. C-3. The State Planning Office and the Department of Agriculture, Food and Rural Resources develop a model ordinance. The Executive Department, State Planning Office and the Department of Agriculture, Food and Rural Resources shall review existing municipal ordinances intended to protect farmland and provide examples of these provisions to municipal and regional planning committees. The Director of the State Planning Office and the Commissioner of Agriculture, Food and Rural Resources shall report on their progress and outcomes to the Joint Standing Committee on Agriculture, Conservation and Forestry by December 1, 2009.

See title page for effective date.

CHAPTER 357

H.P. 976 - L.D. 1397

An Act To Allow Efficient Health Insurance Coverage

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

Sec. 1. 24-A MRSA §4303, sub-§1, as amended by PL 2007, c. 199, Pt. B, §5, is further amended to read:

1. Demonstration of adequate access to providers. Except as provided in ~~paragraph~~ paragraphs A, B and C, a carrier offering or renewing a managed care plan shall provide to its members reasonable access to health care services in accordance with standards developed by rule by the superintendent. These standards must consider the geographical and transportational problems in rural areas. All managed care plans covering residents of this State must provide reasonable access to providers consistent with the access-to-services requirements of any applicable bureau rule.

A. Upon approval of the superintendent, a carrier may offer a health plan that includes financial provisions designed to encourage members to use designated providers in a network if:

(1) The entire network meets overall access standards pursuant to Bureau of Insurance Rule Chapter 850;

(2) The health plan is consistent with product design guidelines for Bureau of Insurance Rule Chapter 750;

(3) The health plan does not include financial provisions designed to encourage members to use designated providers of primary, preventive, maternity, obstetrical, ancillary or emergency care services, as defined in Bureau of Insurance Rule Chapter 850;

(4) The financial provisions may apply to all of the enrollees covered under the carrier's health plan;

(5) The carrier establishes to the satisfaction of the superintendent that the financial provisions permit the provision of better quality services and the quality improvements either significantly outweigh any detrimental impact to covered persons forced to travel longer distances to access services, or the carrier has taken steps to effectively mitigate any detrimental impact associated with requiring covered persons to travel longer distances to access services. The superintendent may consult with other state entities, including the Department of Health and Human Services, Bureau of Health and the Maine Quality Forum established in section 6951, to determine whether the carrier has met the requirements of this subparagraph. The superintendent shall provisionally adopt rules by January 1, 2004 regarding the criteria used by the superintendent to determine whether the carrier meets the quality requirements of this subparagraph and present those rules for legislative review during the Second Regular Session of the 121st Legislature; and

(6) The financial provisions may not permit travel at a distance that exceeds the standards established in Bureau of Insurance Rule Chapter 850 for mileage and travel time by 100%.

This paragraph takes effect January 1, 2004 and is repealed July 1, 2009.

B. Upon approval of the superintendent, a carrier may offer a health plan that includes financial provisions designed to encourage members to use designated providers in a network if:

(1) The entire network meets overall access standards pursuant to Bureau of Insurance Rule Chapter 850;

(2) The health plan is consistent with product design guidelines for Bureau of Insurance

Rule Chapter 750, but only if the health plan is offered by a health maintenance organization;

(3) The health plan does not include financial provisions designed to encourage members to use designated providers of primary, preventive, maternity, obstetrical, ancillary or emergency care services, as defined in Bureau of Insurance Rule Chapter 850;

(4) The financial provisions may apply to all of the enrollees covered under the carrier's health plan;

(5) The carrier establishes to the satisfaction of the superintendent that the financial provisions permit the provision of better quality services and the quality improvements either significantly outweigh any detrimental impact to covered persons forced to travel longer distances to access services, or the carrier has taken steps to effectively mitigate any detrimental impact associated with requiring covered persons to travel longer distances to access services. The superintendent may consult with other state entities, including the Department of Health and Human Services, Bureau of Health and the Maine Quality Forum established in section 6951, to determine whether the carrier has met the requirements of this subparagraph. The superintendent shall adopt rules regarding the criteria used by the superintendent to determine whether the carrier meets the quality requirements of this subparagraph; and

(6) The financial provisions may not permit travel at a distance that exceeds the standards established in Bureau of Insurance Rule Chapter 850 for mileage and travel time by 100%.

C. A carrier may develop and file with the superintendent for approval a pilot program that allows carriers to reward providers for quality and efficiency through tiered benefit networks and providing incentives to members. The upper tier, or the upper tiers if there are 3 or more tiers, under a pilot program approved pursuant to this paragraph is exempt from geographic access requirements set forth in this subsection or in rules adopted by the superintendent. Any carrier offering a health plan under the pilot program must collect data on the impact of the pilot program on premiums paid by enrollees, payments made to providers, quality of care received and access to health care services by individuals enrolled in health plans under the pilot program and must submit that data annually to the superintendent. The superintendent shall report annually beginning January 15, 2010 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on any approval of a pilot program pursuant to this paragraph.

The basis for tiering benefits under a pilot program must be to provide incentives for higher-quality care, improved patient safety or improved efficiency or a combination of those factors. The superintendent shall consult with the Maine Quality Forum under section 6951 in assessing quality. The superintendent shall disapprove or withdraw approval of a pilot program if the superintendent finds that approval or continued operation would cause undue hardship to enrollees in the pilot program or reduce their quality of care.

The superintendent shall consider the experience of approved pilot programs, including consumer complaints and examinations, provider behavior and efficiency, in determining whether or not to reapprove subsequent pilot program applications.

See title page for effective date.

CHAPTER 358

S.P. 519 - L.D. 1435

An Act To Amend Sentinel Events Reporting Laws To Reduce Medical Errors and Improve Patient Safety

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

Sec. 1. 22 MRSA §8752, as enacted by PL 2001, c. 678, §1 and affected by §3 and corrected by RR 2001, c. 2, Pt. A, §37 and affected by §38 and amended by PL 2007, c. 324, §17, is further amended to read:

§8752. Definitions

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

1. Division. "Division" means the Department of Health and Human Services, Division of Licensing and Regulatory Services ~~within the Bureau of Medical Services~~.

2. Health care facility. "Health care facility" or "facility" means a state institution as defined under Title 34-B, chapter 1 or a health care facility licensed by the division, except that it does not include a facility licensed as a nursing facility or licensed under chapter ~~1665~~ 1664. "Health care facility" includes a general and specialty hospital, an ambulatory surgical facility, an end-stage renal disease facility and an intermediate care facility for persons with mental retardation or developmental disabilities.

2-A. Immediate jeopardy. "Immediate jeopardy" means a situation in which the provider's noncompliance with one or more conditions of participation in the federal Medicare program has caused, or is likely to cause, serious injury, harm or impairment to or death of a patient.

3. Major permanent loss of function. "Major permanent loss of function" means sensory, motor, physiological or intellectual impairment that was not present at the time of admission and requires continued treatment or imposes persistent major restrictions in activities of daily living.

3-A. Near miss. "Near miss" means an event or situation that did not produce patient injury, but only because of chance, which may include, but is not limited to, robustness of the patient or a fortuitous, timely intervention.

3-B. Root cause analysis. "Root cause analysis" means a structured process for identifying the causal or contributing factors underlying adverse events. The root cause analysis follows a predefined protocol for identifying these specific factors in causal categories.

~~**4. Sentinel event.** "Sentinel event" means:~~

~~A. One of the following that is determined to be unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition or that results from the elopement of a hospitalized inpatient who lacks the capacity, as defined in Title 18-A, section 5-801, subsection (c), to make decisions:~~

~~(1) An unanticipated death; or~~

~~(2) A major permanent loss of function that is not present when the patient is admitted to the health care facility;~~

~~B. Surgery on the wrong patient or wrong body part;~~

~~C. Hemolytic transfusion reaction involving administration of blood or blood products having major blood group incompatibilities;~~

~~D. Suicide of a patient in a health care facility where the patient receives inpatient care;~~

~~E. Infant abduction or discharge to the wrong family; or~~

~~F. Rape of a patient.~~

4-A. Sentinel event. "Sentinel event" means:

A. An unanticipated death, or patient transfer to another health care facility, unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition in a health care facility;

B. A major permanent loss of function unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition in a health care facility that is present at the time of the discharge of the patient. If within 2 weeks of discharge from the facility, evidence is discovered that the major loss of function was not permanent, the health care facility is not required to submit a report pursuant to section 8753, subsection 2;

C. An unanticipated perinatal death or major permanent loss of function in an infant with a birth weight over 2,500 grams that is unrelated to the natural course of the infant's or mother's illness or underlying condition or proper treatment of that illness or underlying condition in a health care facility; and

D. Other serious and preventable events as identified by a nationally recognized quality forum and determined in rules adopted by the department pursuant to section 8756.

Sec. 2. 22 MRSA §8753, as enacted by PL 2001, c. 678, §1 and affected by §3, is amended to read:

§8753. Mandatory reporting of sentinel events

A health care facility shall ~~report to~~ notify the division ~~a sentinel event that occurs to a patient while the patient is in the health care facility as provided in this section~~ whenever a sentinel event has occurred, as provided in this chapter.

1. Notification. A health care facility shall notify the division of ~~the occurrence of~~ a sentinel event by the next business day after the ~~sentinel~~ event ~~has~~ occurred or the next business day after the facility ~~determines~~ discovers that the event occurred. The notification must include the date and time of notification, the name of the health care facility and the type of sentinel event pursuant to section 8752, subsection ~~4~~ 4-A.

2. Reporting. ~~A~~ The health care facility shall file a written report no later than 45 days following the notification of the occurrence of a sentinel event pursuant to subsection 1. The written report must be signed by the chief executive officer of the facility and must contain the following information:

A. Facility name and address;

B. Name, title and phone number of the contact person for the facility;

C. The date and time of the sentinel event;

D. The type of sentinel event and a brief description of the sentinel event; and

~~E. Identification of clinical and organizational systems or processes that may have contributed to the sentinel event;~~

~~F. Identification of changes that could be made that would reduce the risk of such a sentinel event occurring in the future; and~~

~~G. A brief description of any corrective action taken or planned.~~

H. A thorough and credible root cause analysis. A root cause analysis is thorough and credible only in accordance with the following.

(1) A thorough root cause analysis must include: a determination of the human and other factors most directly associated with the sentinel event and the processes and systems related to its occurrence; an analysis of the underlying systems and processes to determine where redesign might reduce risk; an inquiry into all areas appropriate to the specific type of event; an identification of risk points and their potential contributions to the event; a determination of potential improvement in processes or systems that would tend to decrease the likelihood of such an event in the future or a determination, after analysis, that no such improvement opportunities exist; an action plan that identifies changes that can be implemented to reduce risks or formulates a rationale for not undertaking such changes; and, where improvement actions are planned, an identification of who is responsible for implementation, when the action will be implemented and how the effectiveness of the action will be evaluated.

(2) A credible root cause analysis must include participation by the leadership of the health care facility and by the individuals most closely involved in the processes and systems under review, is internally consistent without contradictions or unanswered questions, provides an explanation for all findings, including those identified as "not applicable" or "no problem," and includes the consideration of any relevant literature.

(3) The root cause analysis submitted to the division may exclude protected professional competence review information pursuant to the Maine Health Security Act.

3. Cooperation. A health care facility that has filed a notification or a report of the occurrence of a sentinel event under this section shall cooperate with the division as necessary for the division to fulfill its duties under section 8754.

4. Immunity. A person who in good faith reports a near miss, a suspected sentinel event or a sentinel event or provides a root cause analysis pursuant to this chapter is immune from any civil or criminal liability for the act of reporting or participating in the review by the division. "Good faith" does not include instances when a false report is made and the person reporting knows the report is false. This subsection may not be construed to bar civil or criminal action regarding perjury or regarding the sentinel event that led to the report.

5. Near miss notification. A health care facility may notify the division of the occurrence of a near miss. Should a facility report a near miss, the notification must include the date and time of notification, the name of the health care facility and the type of event or situation pursuant to section 8752, subsection 4-A that is related to the near miss.

Sec. 3. 22 MRSA §8753-A is enacted to read:

§8753-A. Standardized procedure

A health care facility shall have a written standardized procedure for the identification of sentinel events. The division shall develop the standardized reporting and notification procedures by adoption of routine technical rules under Title 5, chapter 375, subchapter 2-A.

Sec. 4. 22 MRSA §8754, sub-§1, as enacted by PL 2001, c. 678, §1 and affected by §3, is amended to read:

1. Initial review; other action. Upon receipt of a notification or report of a sentinel event, the division shall complete an initial review and may take such other action as the division determines to be appropriate under applicable rules and within the jurisdiction of the division. Upon receipt of a notification or report of a suspected sentinel event the division shall determine whether the event constitutes a sentinel event and complete an initial review and may take such other action as the division determines to be appropriate under applicable rules and within the jurisdiction of the division. The division may conduct on-site reviews of medical records and may retain the services of consultants when necessary to the division.

A. The division may conduct on-site visits to health care facilities to determine compliance with this chapter.

B. Division personnel responsible for sentinel event oversight shall report to the division's licensing section only incidences of immediate jeopardy and each condition of participation in the federal Medicare program related to the immediate jeopardy for which the provider is out of compliance.

Sec. 5. 22 MRSA §8754, sub-§3, as enacted by PL 2001, c. 678, §1 and affected by §3, is amended to read:

3. Confidentiality. Notifications and reports ~~of sentinel events~~ filed pursuant to this chapter and all information collected or developed as a result of the filing and proceedings pertaining to the filing, regardless of format, are confidential and privileged information.

A. Privileged and confidential information under this subsection is not:

(1) Subject to public access under Title 1, chapter 13, except for data developed from the reports that do not identify or permit identification of the health care facility;

(2) Subject to discovery, subpoena or other means of legal compulsion for its release to any person or entity; or

(3) Admissible as evidence in any civil, criminal, judicial or administrative proceeding.

B. The transfer of any information to which this chapter applies by a health care facility to the division or to a national organization that accredits health care facilities may not be treated as a waiver of any privilege or protection established under this chapter or other laws of this State.

C. The division shall take appropriate measures to protect the security of any information to which this chapter applies.

D. This section may not be construed to limit other privileges that are available under federal law or other laws of this State that provide for greater peer review or confidentiality protections than the peer review and confidentiality protections provided for in this subsection.

E. For the purposes of this subsection, "privileged and confidential information" does not include:

(1) Any final administrative action;

(2) Information independently received pursuant to a 3rd-party complaint investigation conducted pursuant to department rules; or

(3) Information designated as confidential under rules and laws of this State.

This subsection does not affect the obligations of the department relating to federal law.

Sec. 6. 22 MRSA §8754, sub-§4, as enacted by PL 2001, c. 678, §1 and affected by §3, is amended to read:

4. Report. The division shall ~~develop~~ submit an annual report by February 1st each year to the Legislature, health care facilities and the public that includes summary data of the number and types of sentinel events of the prior calendar year by type of health care facility, rates of change and other analyses and an outline of areas to be addressed for the upcoming year. ~~The report must be submitted by February 1st each year.~~

Sec. 7. 22 MRSA §8755, as enacted by PL 2001, c. 678, §1 and affected by §3, is repealed and the following enacted in its place:

§8755. Compliance

1. Oversight. The division shall place primary emphasis on ensuring effective corrective action by the facility.

2. Penalties. When the division determines that a health care facility failed to report a sentinel event pursuant to this chapter, the health care facility is subject to a penalty imposed in conformance with Title 5, chapter 375, subchapter 4 and payable to the State of not more than $10,000 per violation. If the facility in good faith notified the division of a suspected sentinel event and the division later determines it is a sentinel event, the facility is not subject to a penalty for that event. Funds collected pursuant to this section must be deposited in a dedicated special revenue account to be used to support sentinel event reporting and education.

3. Administrative hearing and appeal. To contest the imposition of a penalty under this section, a health care facility must submit to the division a written request for an administrative hearing within 10 days of notice of imposition of a penalty pursuant to this section. Judicial appeal must be in accordance with Title 5, chapter 375, subchapter 7.

4. Injunction. Notwithstanding any other remedies provided by law, the Office of the Attorney General may seek an injunction to require compliance with the provisions of this chapter.

5. Enforcement. The Office of the Attorney General may file a complaint with the District Court seeking injunctive relief for violations of this chapter.

Sec. 8. Authority to submit legislation. After reviewing recommendations in the CY 2008 Sentinel Events report dated April 28, 2009, the Joint Standing Committee on Health and Human Services may submit legislation related to the recommendations of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 359

H.P. 883 - L.D. 1264

An Act To Stabilize Funding and Enable DirigoChoice To Reach More Uninsured

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

Sec. 1. 24-A MRSA §6908, sub-§2, ¶B, as amended by PL 2007, c. 629, Pt. L, §1, is further amended to read:

B. Collect the savings offset payments provided in former section 6913 and the ~~health~~ access ~~surcharge~~ payment provided in section ~~6913-A~~ 6917;

Sec. 2. 24-A MRSA §6913, as amended by PL 2007, c. 1, Pt. X, §§1 and 2 and affected by §3, is repealed.

Sec. 3. 24-A MRSA §6915, as amended by PL 2005, c. 386, Pt. D, §3, is further amended to read:

§6915. Dirigo Health Enterprise Fund

The Dirigo Health Enterprise Fund is created as an enterprise fund for the deposit of any funds advanced for initial operating expenses, payments made by employers and individuals, any savings offset payments made pursuant to former section 6913, any access payments made pursuant to section 6917 and any funds received from any public or private source. The fund may not lapse, but must be carried forward to carry out the purposes of this chapter.

Sec. 4. 24-A MRSA §6917 is enacted to read:

§6917. Access payment

1. Access payments required from health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers. All health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers shall pay an access payment of 2.14% on all paid claims, except claims under accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance. The following provisions govern access payments.

A. A health insurance carrier or employee benefit excess insurance carrier may not be required to pay an access payment on policies or contracts insuring federal employees.

B. Access payments apply to claims paid beginning on or after September 1, 2009.

C. Access payments must be made monthly to Dirigo Health and are due 30 days after the end of each month and must accrue interest at 12% per annum on or after the due date, except that access payments for 3rd-party administrators for groups of 500 or fewer members may be made annually not less than 60 days after the close of the plan year.

D. Access payments received by Dirigo Health must be pooled with other revenues of the agency in the Dirigo Health Enterprise Fund established in section 6915.

2. Failure to pay access payments. The superintendent may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any health insurance carrier or employee benefit excess insurance carrier or the license of any 3rd-party administrator to operate in this State that fails to pay an access payment. In addition, the superintendent may assess civil penalties in accordance with section 12-A against any health insurance carrier, employee benefit excess insurance carrier or 3rd-party administrator that fails to pay an access payment or may take any other enforcement action authorized under section 12-A to collect any unpaid access payments and may collect the cost of enforcement including attorney's fees from those who fail to pay an access payment.

3. Definitions. As used in this section, the following terms have the following meanings.

A. "Claims-related expenses" includes:

(1) Payments for utilization review, care management, disease management, risk assessment and similar administrative services intended to reduce the claims paid for health and medical services rendered to covered individuals, usually either by attempting to ensure that needed services are delivered in the most efficacious manner possible or by helping such covered individuals to maintain or improve their health; and

(2) Payments that are made to or by organized groups of providers of health and medical services in accordance with managed care risk arrangements or network access agreements and that are unrelated to the provision of services to specific covered individuals.

B. "Health and medical services" includes, but is not limited to, any services included in the furnishing of medical care, dental care to the extent covered under a medical insurance policy, pharmaceutical benefits or hospitalization, including but not limited to services provided in a hospital or other medical facility; ancillary services, including but not limited to ambulatory services; physician and other practitioner services, including but not limited to services provided by a physician's assistant, nurse practitioner or midwife; and behavioral health services, including but not limited to mental health and substance abuse services.

C. "Paid claims" means all payments made by health insurance carriers, 3rd-party administrators and employee benefit excess insurance carriers for health and medical services provided under policies that insure residents of this State or, in the

case of 3rd-party administrators, for health care for residents of this State, except that "paid claims" does not include:

(1) Claims-related expenses and general administrative expenses;

(2) Payments made to qualifying providers under a "pay for performance" or other incentive compensation arrangement if the payments are not reflected in the processing of claims submitted for services rendered to specific covered individuals;

(3) Claims paid by carriers and 3rd-party administrators with respect to accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance, except that claims paid for dental services covered under a medical policy are included;

(4) Claims paid for services rendered to nonresidents of this State;

(5) Claims paid under retiree health benefit plans that are separate from and not included within benefit plans for existing employees;

(6) Claims paid by an employee benefit excess insurance carrier that have been counted by a 3rd-party administrator for determining its access payment;

(7) Claims paid for services rendered to persons covered under a benefit plan for federal employees; and

(8) Claims paid for services rendered outside of this State to a person who is a resident of this State.

In those instances in which a health insurance carrier, employee benefit excess insurance carrier or 3rd-party administrator is contractually entitled to withhold certain amounts from payments due to providers of health and medical services in order to help ensure that the providers can fulfill any financial obligations they may have under a managed care risk arrangement, the full amounts due the providers before application of such withholds must be reflected in the calculation of paid claims.

4. Rulemaking. The board may adopt any rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 24-A MRSA §6951, first ¶, as amended by PL 2007, c. 629, Pt. L, §5, is further amended to read:

The Maine Quality Forum, referred to in this subchapter as "the forum," is established within Dirigo Health. The forum is governed by the board with advice from the Maine Quality Forum Advisory Council pursuant to section 6952. The forum must be funded, at least in part, through the savings offset payments made pursuant to former section 6913 and the ~~health~~ access ~~surcharge~~ payment pursuant to section ~~6913-A~~ 6917. Except as provided in section 6907, subsection 2, information obtained by the forum is a public record as provided by Title 1, chapter 13, subchapter 1. The forum shall perform the following duties.

Sec. 6. Changes to Dirigo Health. The Board of Trustees of Dirigo Health, or "the board," shall:

1. Develop products, procedures. Develop more affordable products and procedures that can reach uninsured and underinsured residents of the State to reduce uncompensated care;

2. Maximize federal initiatives. Use subsidies to maximize federal initiatives, including Medicaid and any national health reform;

3. Asset tests. Determine the impact of asset tests on determining eligibility;

4. Voucher program. Consider offering a voucher-based program to provide health insurance benefits; and

5. Redesign. Redesign the DirigoChoice product or products.

The board shall report to the Joint Standing Committee on Insurance and Financial Services regarding changes that will be made to the Dirigo Health Program consistent with this section by January 1, 2010.

Sec. 7. Savings offset payments calculated prior to effective date. Notwithstanding that section of this Act that repeals the Maine Revised Statutes, Title 24-A, section 6913; the savings offset payments that have been calculated and required under former Title 24-A, section 6913 for claims paid prior to the effective date of this Act are due and payable in the same manner and subject to the same procedures set forth in former Title 24-A, section 6913.

Sec. 8. Effective date. This Act takes effect October 1, 2009.

Effective October 1, 2009.

CHAPTER 360

S.P. 548 - L.D. 1471

An Act Concerning Debarment from Contracts with the Department of Environmental Protection

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

Sec. 1. 38 MRSA §349-B, sub-§1, ¶B is enacted to read:

B. "Business" means a corporation, business trust, trust, partnership, limited liability company, association, joint venture, firm, association, organization or any other legal or commercial entity.

Sec. 2. 38 MRSA §349-B, sub-§1, ¶C is enacted to read:

C. "Direct financial interest" means ownership or part ownership of a business, including lands, stocks, bonds, debentures, warrants, partnership shares or other holdings, and also means any other arrangement where the individual may benefit from that individual's holding in or salary from that business. "Direct financial interest" includes employment, pensions, creditor relationships, real property and other financial relationships.

Sec. 3. 38 MRSA §349-B, sub-§2, as enacted by PL 2007, c. 300, §1, is amended to read:

2. Debarment. The commissioner may, after hearing, debar from participation in contracts with the department for 2 years any ~~person~~ individual or business found to have committed a repeat violation when either the time for filing an appeal of the determination of that violation has expired or the appeals process has been exhausted.

A. If an individual is debarred under this section, any business in which that individual holds a direct financial interest may also be debarred if the commissioner finds that the individual is in a position to substantially influence the business's compliance with the laws and rules administered by the department.

B. If a business is debarred under this section:

(1) Any individual that holds a direct financial interest in that debarred business may also be debarred if the commissioner finds that the individual knew or should have known of the actions or inactions upon which the debarment of the business is based and was or is in a position to substantially influence the debarred business's compliance with the laws and rules administered by the department; and

(2) Any other business that holds a direct financial interest in that debarred business may also be debarred if the commissioner finds that either business was or is in a position to substantially influence compliance by the other business with the laws and rules administered by the department.

See title page for effective date.

CHAPTER 361

H.P. 980 - L.D. 1401

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 27 MRSA §511, sub-§2, as enacted by PL 2007, c. 539, Pt. WW, §1, is amended to read:

2. Certification. The director shall certify information necessary for applicants to demonstrate eligibility for an income tax credit under Title 36, section 5219-BB, including, but not limited to:

A. That rehabilitations of certified historic structures are consistent with the United States Secretary of the Interior's Standards for Rehabilitation; and

B. That historic structures are listed in or are eligible for listing in the National Register of Historic Places or are in certified local districts~~; and~~.

~~C. The amount of qualified rehabilitation expenditures associated with each project for which an income tax credit will be claimed.~~

When performing the certification required by this subsection, the director shall interpret the provisions of this subsection in a manner consistent with the provisions of the federal Internal Revenue Code, Section 47.

Sec. 2. 30-A MRSA §4722, sub-§1, ¶BB, as amended by PL 2007, c. 645, §2, is further amended to read:

BB. Make a loan, or contract with a financial institution to make a loan on behalf of the Maine State Housing Authority, to pay off an existing loan or to pay amounts past due on an existing loan on an owner-occupied single-family residence to assist a homeowner who is in default of the existing loan or in danger of losing the residence through foreclosure. Prior to receiving a loan under this paragraph, a homeowner must receive counseling with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the regulatory agency that has jurisdiction over the creditor; ~~and~~

Sec. 3. 30-A MRSA §4722, sub-§1, ¶CC, as enacted by PL 2007, c. 645, §3, is amended to read:

CC. Encourage and provide incentives to individuals and entities that conserve energy; support and participate, with resources derived from sources except the conservation program fund under Title 35-A, section 3211-A, subsection 5, in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and create and administer programs that encourage individuals and entities to conserve energy.; and

Sec. 4. 30-A MRSA §4722, sub-§1, ¶DD is enacted to read:

DD. Certify affordable housing projects for the purpose of the income tax credit increase under Title 36, section 5219-BB, subsection 3; administer and enforce the affordability requirements set forth in this paragraph; and perform other functions described in this paragraph and necessary to the powers and duties described in this paragraph.

(1) For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Affordable housing" means a decent, safe and sanitary dwelling, apartment or other living accommodation for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended.

(b) "Affordable housing project" means a project in which:

(i) At least 50% of the aggregate square feet of the completed project is housing of which at least 50% of the aggregate square feet of the completed housing creates new affordable housing; or

(ii) At least 33% of the aggregate square feet of the completed project creates new affordable housing.

(2) An affordable housing project for which the owner of the property received the income tax credit increase under Title 36, section 5219-BB, subsection 3 must remain an affordable housing project for 30 years from the date the affordable housing project is placed in service. If the property does not remain an affordable housing project for 30 years from the date the affordable housing project is placed in service, the owner of the property shall pay to the Maine State Housing Authority for application to the Housing Opportunities for Maine Fund established under section 4853 an amount equal to the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. The affordability requirements and the repayment obligation in this subparagraph must be set forth in a restrictive covenant executed by the owner of the property and the affordable housing project for the benefit of and enforceable by the Maine State Housing Authority and recorded in the appropriate registry of deeds before the owner of the property claims the income tax credit increase under Title 36, section 5219-BB, subsection 3.

(3) If the repayment obligation in subparagraph (2) is not fully satisfied after written notice is sent by certified mail or registered mail to the owner of the property at the owner's last known address, the Maine State Housing Authority may file a notice of lien in the registry of deeds of the county in which the real property subject to the lien is located. The notice of lien must specify the amount and interest due, the name and last known address of the owner, a description of the property subject to the lien and the Maine State Housing Authority's address and the name and address of its attorney, if any. The Maine State Housing Authority shall send a copy of the notice of lien filed in the registry by certified mail or registered mail to the owner of the property at the owner's last known address and to any person who has a security interest, mortgage, lien, encumbrance or other interest in the property that is properly recorded in the registry of deeds in which the property is located. The lien arises and becomes perfected at the time the notice is filed in the appropriate registry of deeds in accordance with this subparagraph. The lien constitutes a lien on all property with respect to which the owner receives the income tax credit increase under Title 36, Section 5219-BB, subsection 3 and the proceeds of any disposition of the property that occurs after notice to the owner of the repayment obligation. The lien is prior to any mortgage and security interest, lien, restrictive covenant or other encumbrance recorded, filed or otherwise perfected after the notice of lien is filed in the appropriate registry of deeds. The lien may be enforced by a turnover or sale order in accordance with Title 14, section 3131 or

any other manner in which a judgment lien may be enforced under the law. The lien must be in the amount of the income tax credit increase allowed under Title 36, section 5219-BB, subsection 3, plus interest on that amount at the rate of 7% per annum from the date the property is placed in service until the date of payment of all amounts due. Upon receipt of payment of all amounts due under the lien, the Maine State Housing Authority shall execute a discharge lien for filing in the registry or offices in which the notice of lien was filed.

(4) Annually by every August 1st until and including August 1, 2013, the Maine State Housing Authority shall review the report issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the percentage of the total aggregate square feet of completed projects that constitutes new affordable housing, rehabilitated and developed using:

(a) Either of the income tax credits under Title 36, section 5219-BB, subsection 2; and

(b) The income tax credit increase under Title 36, section 5219-BB, subsection 3.

If the total aggregate square feet of new affordable housing does not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed completed projects eligible for a credit under Title 36, section 5219-BB, the Maine State Housing Authority and Maine Historic Preservation Commission shall notify the State Tax Assessor of this fact.

Sec. 5. 36 MRSA §112, sub-§13 is enacted to read:

13. Set-off agreements. The assessor may enter into agreements with other taxing jurisdictions to provide for collection of tax debts by means of setoffs as provided in this subsection.

A. The assessor may enter into an agreement with the Federal Government pursuant to the Code, Section 6402(e) to set off against tax refunds payable by the Federal Government and pay to this State taxes owed to this State.

B. The assessor may enter into an agreement with another state or an agency of another state to set off against tax refunds payable by the other state and pay to this State taxes owed to this State.

C. In conjunction with an agreement authorized under paragraph B, the assessor may enter into an agreement that allows the other state to set off against tax refunds payable by this State taxes owed to the other state. The assessor may enter into an agreement authorized by this paragraph only if the other state allows this State to set off against tax refunds owed by the other state taxes owed to this State on substantially similar terms.

D. The assessor may enter into an agreement authorized by paragraph C only if the agreement provides that the other state may not set off against tax refunds payable by this State unless the other state has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt. The other state must certify to the assessor that it has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt before the setoff is exercised.

E. For purposes of this subsection, "tax" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

Sec. 6. 36 MRSA §183-A is enacted to read:

§183-A. Subsequent offenses

1. Prior conviction; Class D crimes. A person who commits a Class D crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class C crime.

2. Prior conviction; Class C crimes. A person who commits a Class C crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class B crime.

3. Allegation of prior conviction when sentence enhanced. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence under this section.

Sec. 7. 36 MRSA §184, sub-§2, as enacted by PL 2003, c. 452, Pt. U, §1 and affected by Pt. X, §2, is repealed.

Sec. 8. 36 MRSA §184-A, sub-§1-A, as enacted by PL 2003, c. 452, Pt. U, §2 and affected by Pt. X, §2, is repealed.

Sec. 9. 36 MRSA §184-A, sub-§2-A, as enacted by PL 2003, c. 452, Pt. U, §2 and affected by Pt. X, §2, is repealed.

Sec. 10. 36 MRSA §185, sub-§4 is enacted to read:

4. Restitution. For purposes of this section, "liquidated tax liability" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

Sec. 11. 36 MRSA §191, sub-§2, ¶K, as repealed and replaced by PL 1987, c. 769, Pt. A, §145, is amended to read:

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on ~~the~~ a declaration of value ~~form required by~~ filed pursuant to section ~~4641-B~~ 4641-D or the Internet publication by the State Tax Assessor of information, other than taxpayer identification numbers, obtained from declarations of value filed pursuant to section 4641-D;

Sec. 12. 36 MRSA §191, sub-§2, ¶JJ, as amended by PL 2007, c. 539, Pt. M, §3 and Pt. OO, §6; c. 693, §8; and c. 694, §2, is further amended to read:

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14; ~~and~~

Sec. 13. 36 MRSA §191, sub-§2, ¶KK, as enacted by PL 2007, c. 539, Pt. M, §4, is amended to read:

KK. The disclosure of information necessary to administer the setoff of liquidated tax debts pursuant to section 185, subsection 3~~.~~;

Sec. 14. 36 MRSA §191, sub-§2, ¶KK, as enacted by PL 2007, c. 539, Pt. OO, §7, is reallocated to 36 MRSA §191, sub-§2, ¶LL.

Sec. 15. 36 MRSA §191, sub-§2, ¶KK, as enacted by PL 2007, c. 693, §9, is reallocated to 36 MRSA §191, sub-§2, ¶MM.

Sec. 16. 36 MRSA §191, sub-§2, ¶KK, as enacted by PL 2007, c. 694, §3, is reallocated to 36 MRSA §191, sub-§2, ¶NN.

Sec. 17. 36 MRSA §191, sub-§2, ¶OO is enacted to read:

OO. The disclosure to duly authorized officers of the Federal Government and of other state governments of information necessary to administer a set-off agreement pursuant to section 112, subsection 13. The information may not be disclosed unless the officer's government permits a substantially similar disclosure of information to the taxing officials of this State and protects the confidentiality of the information in a manner substantially similar to that provided by this section.

Sec. 18. 36 MRSA §1760, sub-§25, as amended by PL 2007, c. 438, §39, is further amended to read:

25. Watercraft sold to nonresidents. Sales of watercraft to a person that is not a resident of this State, when the watercraft is ~~intended to be~~ sailed or transported outside the State ~~immediately upon~~ within 30 days of delivery by the seller; sales to a person that is not a resident of this State, under contracts for the construction of a watercraft ~~intended to be~~ that is sailed or transported outside the State ~~immediately upon~~ within 30 days of delivery by the seller, of materials to be incorporated in the watercraft; and sales to a person that is not a resident of this State, for the repair, alteration, refitting, reconstruction, overhaul or restoration of a watercraft ~~intended to be~~ that is sailed or transported outside the State ~~immediately upon~~ within 30 days of delivery by the seller, of materials to be incorporated in the watercraft. Unless the watercraft is present in the State, for a purpose other than temporary storage, for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax.

Sec. 19. 36 MRSA §1760, sub-§41, as amended by PL 1999, c. 759, §3 and affected by §4, is further amended to read:

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

B. For purposes of this subsection, personal property is not in use as an instrumentality of interstate or foreign commerce when carrying only cargo that both originates and terminates within the State.

C. The exemption provided by this subsection is not limited to instrumentalities otherwise required to be exempt under the United States Constitution.

Sec. 20. 36 MRSA §2554, sub-§4 is enacted to read:

4. Purchases for resale not resold. When a service provider purchases a service subject to tax under this chapter from another service provider using a resale certificate approved by the assessor and claims that it will resell the service, and then subsequently uses the service itself rather than reselling it, the purchaser becomes liable for any unpaid tax on that service on the date of such use.

Sec. 21. 36 MRSA §2557, sub-§3, ¶G-1 is enacted to read:

G-1. Incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured;

Sec. 22. 36 MRSA §4366-A, sub-§1, as amended by PL 2007, c. 438, §§91 and 92, is repealed.

Sec. 23. 36 MRSA §4366-A, sub-§2, as amended by PL 2007, c. 438, §93, is further amended to read:

2. Provided to sellers. The State Tax Assessor shall provide stamps to a licensed distributor upon submission by the licensed distributor of a cigarette tax return in a form prescribed by the assessor. The stamps must be of a design suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The assessor may permit a licensed distributor to pay for the stamps within 30 days after the date of purchase, if a bond satisfactory to the assessor in an amount not less than 50% of the sale price of the stamps has been filed with the assessor conditioned upon payment for the stamps. Such a distributor may continue to purchase stamps on a 30-day deferral basis only if it remains current with its cigarette tax obligations. The assessor may not sell additional stamps to a distributor that has failed to pay in full within 30 days for stamps previously purchased until such time as the overdue payment is received. The assessor shall sell cigarette stamps to licensed distributors at the following discounts from their face value:

D. For stamps at the face value of 100 mills, the discount rate is 1.15%.

Sec. 24. 36 MRSA §4366-A, sub-§3, as enacted by PL 1997, c. 458, §10, is amended to read:

3. Affixed to cigarettes. A distributor shall affix~~, or cause to be affixed, in such manner as the assessor may specify,~~ stamps of the proper denominations to individual packages of cigarettes sold or distributed by the distributor in this State. The distributor shall affix the stamps ~~prior to the time~~ in the manner specified by the assessor before the cigarettes are transferred out of the possession of the distributor. A distributor may not sell, offer for sale or display for sale in this State cigarettes that do not bear stamps evidencing the payment of the tax imposed by this chapter, except that a licensed distributor may sell unstamped cigarettes to another licensed distributor if the sales are documented in a form prescribed by the assessor. The face value of the stamps must be considered as part of the retail cost of the cigarettes.

Sec. 25. 36 MRSA §4366-A, sub-§6, as repealed and replaced by PL 2003, c. 452, Pt. U, §13 and affected by Pt. X, §2, is amended to read:

6. Penalties. The following penalties apply to violations of this section.

A. A person who sells, offers for sale, displays for sale or possesses with intent to sell unstamped cigarettes in violation of this section commits a Class D crime.

~~B. A person who violates paragraph A when the person has 2 or more prior convictions for violation of this chapter commits a Class C crime.~~

C. A person who sells ~~or~~, transfers, reaffixes or reuses cigarette stamps ~~or uses stamps more than once~~ in violation of this section commits a Class D crime.

~~D. A person who violates paragraph C when the person has one or more prior convictions for violation of this chapter commits a Class C crime.~~

Except as otherwise specifically provided, violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

~~Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.~~

Sec. 26. 36 MRSA §4641-C, sub-§7, as amended by PL 2003, c. 344, Pt. D, §26, is further amended to read:

7. Deeds pursuant to mergers or consolidations. Deeds made pursuant to mergers or consolidations ~~carried out pursuant to Title 13-C, chapter 11~~ of business entities, from which no gain or loss is recognized under the ~~Internal Revenue~~ Code. For purposes of this subsection, "business entity" means an association or legal entity organized to conduct business, including, without limitation, a domestic or foreign corporation, a limited partnership, a general partnership, a limited liability partnership, a limited liability company, a joint venture, a joint stock company or a business trust;

Sec. 27. 36 MRSA §4715, as enacted by PL 1987, c. 513, §10 and amended by PL 1991, c. 376, §61, is repealed and the following enacted in its place:

§4715. Dealer reports of purchases and payment of taxes

Every dealer shall keep, as a part of its permanent records, a record of all mahogany quahogs purchased at point of first sale. These records must be open for inspection by the State Tax Assessor at all times. On or before the last day of each month, every dealer shall

file a return with the assessor on a form furnished by the assessor stating the number of bushels of mahogany quahogs purchased by the dealer during the preceding calendar month. At the same time, the dealer shall pay to the assessor a tax of $1.20 per bushel on all mahogany quahogs purchased by the dealer during the preceding calendar month. A dealer whose annual tax liability under this chapter does not exceed $1,000 may file an annual return with payment on or before January 31st covering the prior calendar year. If the assessor determines that additional tax is due or that an overpayment of tax has been made, assessments or refunds must be made by the assessor to the dealer.

Sec. 28. 36 MRSA §5219-BB, as amended by PL 2007, c. 693, §32 and affected by §37, is further amended to read:

§5219-BB. Credit for rehabilitation of historic properties after 2007

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

A. "~~Affordable~~ Certified affordable housing project" means a decent, safe and sanitary dwelling, apartment or other living accommodation ~~for a household whose income does not exceed 60% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 412, 50 Stat. 888, Section 8, as amended~~ that has been certified by the Maine State Housing Authority as an affordable housing project pursuant to Title 30-A, section 4722, subsection 1, paragraph DD.

B. "Certified historic structure" means a structure that has been certified by the Director of the Maine Historic Preservation Commission as a historic structure under Title 27, section 511.

C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation expenditure, as defined by the Code, Section 47(c)(2), made between January 1, 2008 and December 31, 2013 ~~certified by the director under Title 27, section 511~~. For purposes of subsection 2, paragraph B, qualified rehabilitation expenditures incurred in the certified rehabilitation of a certified historic structure located in the State do not include a requirement that the certified historic structure be substantially rehabilitated.

~~D. "Director" means the director of the Maine Historic Preservation Commission.~~

2. Credit allowed. A taxpayer is allowed a credit against the tax imposed under this Part:

A. Equal to 25% of the taxpayer's certified qualified rehabilitation expenditures for which a tax credit is claimed under Section 47 of the Code for a certified historic structure located in the State; or

B. Equal to 25% of the certified qualified rehabilitation expenditures of a taxpayer who incurs not less than $50,000 and up to $250,000 in certified qualified rehabilitation expenditures in the rehabilitation of a certified historic structure located in the State and who does not claim the federal credit with regard to those expenditures. The credit may be claimed for the taxable year in which the certified historic structure is placed in service~~, except that a credit may not be claimed for expenditures incurred before January 1, 2008 or after December 31, 2013~~.

A taxpayer is allowed a credit under paragraph A or B but not both. A credit may not be claimed for expenditures incurred before January 1, 2008 or after December 31, 2013.

3. Increased credit for a certified affordable housing project. The credit allowed under this section is increased to 30% of certified qualified rehabilitation expenditures ~~if the project is also an~~ for a certified affordable housing project. ~~The 30% credit is available only for projects for which at least 50% of the aggregate square feet of the completed project is housing of which at least 50% of the aggregate square feet of the completed housing creates new affordable housing or for which at least 33% of the aggregate square feet of the completed project creates new affordable housing. Affordable housing created using the 30% credit must remain affordable for 30 years pursuant to a mechanism acceptable to the Maine State Housing Authority. The mechanism must provide that if the property does not remain affordable for 30 years, the owner of the property must pay to the Housing Opportunities for Maine Fund under Title 30-A, section 4853 an amount equal to the credit increase allowed to the taxpayer under this subsection plus interest at the rate of 7% per annum beginning when the property is placed in service and ending upon payment.~~ If the certified affordable housing project for which an increased credit was allowed under this subsection does not remain an affordable housing project for 30 years from the date the affordable housing project is placed in service, the owner of the property is subject to the repayment provisions of Title 30-A, section 4722, subsection 1, paragraph DD. Upon notification by the Maine Historic Preservation Commission and the Maine State Housing Authority pursuant to Title 30-A, section 4722, subsection 1, paragraph DD, subparagraph 4, the State Tax Assessor shall raise the credit increase amount allowed under this subsection by one percentage point for tax years beginning in the calendar year of that notification. The maximum total credit allowed under this subsection may not exceed 35% of the taxpayer's certified qualified rehabilitation expenditures.

~~By August 1, 2009 and annually every August 1st thereafter to 2013, the Maine Historic Preservation Commission and the Maine State Housing Authority shall review the report issued pursuant to Title 27, section 511, subsection 5, paragraph A to determine the percentage of the total aggregate square feet rehabilitated and developed using both the 25% credit under subsection 2 and the 30% credit under this subsection that constitutes new affordable housing. If the total aggregate square feet of new affordable housing does not equal or exceed 30% of the total aggregate square feet of rehabilitated and developed completed projects eligible for a credit under this section, the commission and the authority shall notify the State Tax Assessor and the credit authorized in subsection 2, paragraph B is increased by 1% for that tax year and for each succeeding year in which the 30% affordable housing threshold is not reached until a maximum credit rate of 35% is reached.~~

4. Maximum credit. The credit allowed pursuant to this section may not exceed $5,000,000 for each certified rehabilitation project under Section 47 of the Code placed into service in the State during the taxable year for which a credit is claimed under this section.

5. Timing of credit. Twenty-five percent of the credit allowed pursuant to this section must be taken in the taxable year the ~~property is placed into service~~ credit may be first claimed and 25% must be taken in each of the next 3 taxable years.

6. Credit refundable. The credit allowed under this section is fully refundable.

7. Allocation of credit. Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property must be passed through to the partners, members or owners respectively pro rata in the same manner as under section 5219-G, subsection 1 or pursuant to an executed agreement among the partners, members or owners documenting an alternate allocation method. Credits may be allocated to partners, members or owners that are exempt from taxation under Section 501 (c)(3), Section 501 (c)(4) or Section 501 (c)(6) of the Code, and those partners, members or owners must be treated as taxpayers for the purposes of this subsection.

8. Recapture. A credit received under ~~this section~~ subsection 2 is subject to the same recapture provisions as apply to a credit received under Section 47 of the Code.

9. Limitation. A taxpayer who is eligible to claim a credit under section 5219-R, whether or not a credit is actually claimed, may not claim a credit under this section. In addition, a credit may not be claimed under this section with respect to expenditures incurred for rehabilitation of Building No. 2 in the Lockwood Mill Historic District in the City of Waterville.

Sec. 29. 36 MRSA §5220, sub-§7 is enacted to read:

7. Exceptions. A resident individual who does not have a Maine income tax liability pursuant to this Part for the taxable year and who filed a federal income tax return for the taxable year for the sole purpose of claiming a credit under the Code, Section 32 is not required to file a Maine income tax return for that taxable year. The assessor, by rule, may identify other exceptions to the requirements of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 30. 36 MRSA §5276, sub-§1, as amended by PL 2005, c. 332, §25, is further amended to read:

1. General rule. The State Tax Assessor, within the applicable period of limitations, may credit an overpayment of income tax, including an overpayment reported on a joint return, and interest on the overpayment against any liability arising from a redetermination pursuant to section 6211 or any liability in respect of any tax imposed under this Title owed by the taxpayer, or by the taxpayer's spouse in the case of a joint return. The balance, after any setoff pursuant to section 5276-A or pursuant to an agreement entered into under section 112, subsection 13, must be refunded by the Treasurer of State. For purposes of this subsection, "any tax imposed under this Title" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

Sec. 31. 36 MRSA §5332, sub-§2, as enacted by PL 2003, c. 452, Pt. U, §17 and affected by Pt. X, §2, is repealed.

Sec. 32. 36 MRSA §5333, sub-§2, as enacted by PL 2003, c. 452, Pt. U, §18 and affected by Pt. X, §2, is repealed.

Sec. 33. 36 MRSA §6665, as enacted by PL 2005, c. 12, Pt. BBB, §5, is repealed.

Sec. 34. 36 MRSA §6758, sub-§3, as enacted by PL 1995, c. 669, §5, is amended to read:

3. Deposit and payment of revenue. On or before June 30th of each year, the ~~Commissioner of Administrative and Financial Services~~ assessor shall ~~deposit an amount equal~~ certify to the State Controller the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs ~~in~~ to be transferred to the state employment tax increment contingent account established, maintained and administered by the ~~Commissioner of Administrative and Financial Services~~ State Controller from General Fund undedi-

cated revenue within the withholding tax category. On or before July 31st of each year, the ~~Commissioner of Administrative and Financial Services~~ assessor shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues of that qualified business for the preceding calendar year.

Sec. 35. 36 MRSA §6902, sub-§2, as amended by PL 2007, c. 693, §36, is further amended to read:

2. Procedure for reimbursement. Within 6 weeks following receipt of a tax reimbursement and credit certificate pursuant to Title 5, section 13090-L, subsection 4, a media production company shall report to the State Tax Assessor that portion of certified production wages paid during the project period, together with any additional information the assessor may reasonably require. The assessor shall certify to the ~~commissioner the reimbursement amount to which a media production company is entitled~~ State Controller the amounts to be transferred to the media production reimbursement account established, maintained and administered by the State Controller from General Fund undedicated revenue within the withholding tax category. The ~~commissioner shall deposit the amounts certified by the~~ assessor ~~in a media production reimbursement account established, maintained and administered by the commissioner and~~ shall pay those amounts to each media production company within 90 days of the receipt by the assessor of the media production company's report.

Sec. 36. Application. That section of this Act that repeals and replaces Title 36, section 4715 applies to tax periods beginning on or after January 1, 2010.

Sec. 37. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 36, section 2557, subsection 3, paragraph N applies retroactively to October 1, 2007. That section of this Act that amends Title 36, section 4641-C, subsection 7 applies retroactively to July 1, 2003. Those sections of this Act that amend Title 27, section 511, subsection 2; Title 30-A, section 4722, subsection 1, paragraphs BB and CC; and Title 36, section 5219-BB; and that section that enacts Title 30-A, section 4722, subsection 1, paragraph DD apply retroactively to June 30, 2008. The portion of this Act that enacts Title 36, section 1760, subsection 41, paragraph B applies retroactively to January 1, 2008. The portion of this Act that enacts Title 36, section 1760, subsection 41, paragraph C applies retroactively to June 15, 2001.

See title page for effective date.

CHAPTER 362

S.P. 523 - L.D. 1439

An Act To Conform State Mortgage Laws with Federal Laws

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

Whereas, certain changes to federal mortgage laws and regulations will become effective sooner than 90 days after adjournment; and

Whereas, failure to begin implementation of corresponding changes to state laws would result in disruption of mortgage lending in this State; and

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

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

PART A

Sec. A-1. 9-A MRSA §8-103, sub-§1-A, ¶L, as enacted by PL 2007, c. 273, Pt. A, §4 and affected by §§37 and 41, is repealed and the following enacted in its place:

L. "Creditor" has the same meaning as set forth in section 1-301, subsection 17, and in addition includes those entities defined as "lender" as set forth in 24 Code of Federal Regulations, Section 3500.2 and includes a mortgage broker.

Sec. A-2. 9-A MRSA §8-103, sub-§1-A, ¶Q-1 is enacted to read:

Q-1. "Higher-priced mortgage loan" means either:

(1) A residential mortgage loan that is a "nontraditional mortgage" as defined in paragraph T; or

(2) A "rate spread home loan" as defined in paragraph V.

Sec. A-3. 9-A MRSA §8-103, sub-§1-A, ¶S, as enacted by PL 2007, c. 273, Pt. A, §4 and affected by §§37 and 41, is amended to read:

S. "Mortgage broker" has the same meaning as set forth in 24 Code of Federal Regulations, Section 3500.2, except as otherwise provided in this Article.

Sec. A-4. 9-A MRSA §8-103, sub-§1-A, ¶U, as amended by PL 2007, c. 471, §5 and affected by §18, is repealed and the following enacted in its place:

U. "Points and fees" has the same meaning as set forth in 12 Code of Federal Regulations, Section 226.32(b)(1). In addition, "points and fees" includes:

(1) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents;

(2) All prepayment fees and penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and

(3) All compensation paid directly or indirectly to a mortgage broker from any source, including a mortgage broker that originates a loan in its own name in a table-funded transaction.

For open-end loans, points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties that may be charged or collected under the terms of the loan documents and the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.

Sec. A-5. 9-A MRSA §8-103, sub-§1-A, ¶V, as enacted by PL 2007, c. 273, Pt. A, §4 and affected by §§37 and 41, is amended to read:

V. "Rate spread home loan" means any loan for which the rate spread must be reported under the Home Mortgage Disclosure Act of 1975, Regulation C except that, beginning October 1, 2009, "rate spread home loan" has the same meaning as set forth for "higher-priced mortgage loans" in 12 Code of Federal Regulations, Section ~~203.4(a)(12); and~~ 226.35(a). In addition, "rate spread home loan" means any loan that meets the criteria of a high-rate, high-fee mortgage.

Sec. A-6. 9-A MRSA §8-103, sub-§1-A, ¶BB, as amended by PL 2007, c. 471, §7 and affected by §18, is repealed.

Sec. A-7. 9-A MRSA §8-104, sub-§1, as amended by PL 1989, c. 502, Pt. D, §4, is repealed and the following enacted in its place:

1. The administrator shall adopt rules to carry out the purposes of this Article.

A. The rules may contain classifications, differentiations or other provisions, and may provide for those adjustments and exceptions for any class of transactions, that in the judgment of the administrator are necessary or proper to effectuate the purposes of this Article, to prevent circumvention or evasion of this Article and to facilitate compliance with this Article. Rules adopted pursuant to this Article are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. The administrator is authorized to adopt rules substantially similar to, or that afford more protection for consumers than, those codified in 12 Code of Federal Regulations, Part 226, except where this Article expressly directs otherwise. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-8. 9-A MRSA §8-206, sub-§3, as amended by PL 2007, c. 273, Pt. A, §5 and affected by §41, is repealed and the following enacted in its place:

3. The following provisions apply to an extension of credit secured by the consumer's dwelling, other than an open-end credit plan:

A. Except as provided in paragraph G, in the case of any extension of credit that is secured by the dwelling of a consumer, which is also subject to the Real Estate Settlement Procedures Act of 1974, 12 United States Code, Section 2601 et seq., good faith estimates of the disclosures required under subsection 1 must be made in accordance with rules of the administrator under section 8-201, subsection 3 and must be delivered or placed in the mail not later than 3 business days after the creditor receives the consumer's bona fide application, which must be at least 7 business days before consummation of the transaction.

B. If the disclosure statement furnished within 3 days of the bona fide application indicates that the consumer will not be assessed a prepayment penalty, and if that statement is subsequently rendered inaccurate, the creditor shall notify the consumer of that change as soon as practicable and shall also furnish a corrected statement prior to the time of settlement or consummation.

C. In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under paragraph A are in addition to the other disclosures required by subsection 1, and must:

(1) Include in conspicuous type size and format, the following statement: "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application."; and

(2) Be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

D. Beginning December 30, 2010, in the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection 1, the disclosures provided under this subsection must:

(1) Label the payment schedule as follows: "Payment Schedule: Payments Will Vary Based on Interest Rate Changes."; and

(2) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this subparagraph is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the administrator. Prior to issuing any rules pursuant to this subparagraph, the administrator shall review consumer testing conducted by the Board of Governors of the Federal Reserve System to determine the appropriate format for providing the disclosures required under this subparagraph to consumers so that such disclosures can be easily understood, including the fact that the initial regular payments are for a specific time period that will end on a certain date, that payments will adjust afterwards potentially to a higher amount and that there is no guarantee that the borrower will be able to refinance to a lower amount.

E. In any case in which the disclosure statement under paragraph A contains an annual percentage rate of interest that is no longer accurate, as determined under section 8-106, subsection 3, the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.

F. The consumer must receive the disclosures required under this subsection before paying any fee to the creditor or other person in connection with the consumer's application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer's credit report before the consumer has received the disclosures under this subsection, provided the fee is bona fide and reasonable in amount.

G. To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under paragraph A, as long as:

(1) The term "bona fide personal emergency" may be further defined in rules issued by the administrator;

(2) The consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement must bear the signature of all consumers entitled to receive the disclosures required by this subsection; and

(3) The creditor provides to the consumer at or before the time of such waiver or modification the final disclosures required by subsection 1.

H. The requirements of paragraphs C to G do not apply to extensions of credit relating to time-share estates as described in Title 33, section 591, subsection 7, or time-share plans as described in 11 United States Code, Section 101(53D).

Sec. A-9. 9-A MRSA §8-206-C, as corrected by RR 2007, c. 1, §4, is repealed.

Sec. A-10. 9-A MRSA §8-206-D, as amended by PL 2007, c. 471, §§11 and 12 and affected by §18, is repealed.

Sec. A-11. 9-A MRSA §8-206-E, as corrected by RR 2007, c. 1, §5, is amended to read:

§8-206-E. Special liability for violations of residential mortgage loan, higher-priced mortgage loan and high-rate, high-fee mortgage loan requirements

1. This section applies to any violation of section 8-206-A, ~~8-206-C~~ 8-206-H, 8-206-I or ~~8-206-D~~ 8-206-J in connection with the origination, brokering or servicing of a residential mortgage loan. This section does not apply to a purchaser or assignee of a residential mortgage loan except as permitted in section ~~8-206-C~~ 8-206-H, subsection 2.

2. Any person who has been found in violation of section 8-206-A, ~~8-206-C~~ 8-206-H, 8-206-I or ~~8-206-D~~ 8-206-J by a court may be liable to the borrower for the following:

A. Actual damages, including consequential and incidental damages. The borrower may not be required to demonstrate reliance in order to receive actual damages;

B. Statutory damages as follows:

(1) For violations described in section ~~8-206-C~~ 8-206-H, statutory damages equal to 2 times the finance charge paid under the loan and forfeiture of the remaining interest under the loan; and

(2) For violations described in section ~~8-206-D~~ 8-206-J, statutory damages in the amount of $5,000 per violation;

C. Punitive damages for violations of section ~~8-206-C~~ 8-206-H or section ~~8-206-D~~ 8-206-I, subsection 1, paragraph ~~B~~ D when the violation was malicious or reckless; and

D. Costs, including reasonable attorney's fees.

3. A borrower may be granted injunctive, declaratory and other equitable relief the court determines appropriate in an action to enforce compliance with this section and sections 8-206-A, ~~8-206-C~~ 8-206-H, 8-206-I and ~~8-206-D~~ 8-206-J.

4. The right of rescission granted under 15 United States Code, Chapter 41, Subchapter I, Part A for a violation of that law is available to a borrower acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a residential mortgage loan at any time during the term of the loan. Any recoupment claim asserted pursuant to this provision is limited to amounts required to reduce or extinguish the borrower's liability under the residential mortgage loan plus amounts required to recover costs, including reasonable attorney's fees. This section may not be construed to limit recoupment rights available to the borrower under any other law.

5. The remedies provided in this section are not intended to be the exclusive remedies available to a borrower, nor must the borrower exhaust any administrative remedies provided under this section or any other applicable law before proceeding under this section.

6. Any person who knowingly violates section 8-206-A or ~~8-206-C~~ 8-206-H is guilty of a Class E crime.

7. A creditor in a residential mortgage loan who, when acting in good faith, fails to comply with the provisions of section 8-206-A, ~~8-206-C~~ 8-206-H, 8-206-I or ~~8-206-D~~ 8-206-J is deemed not to have violated those sections if the creditor establishes that either:

A. Within 30 days of the loan closing and prior to receiving any notice of the compliance failure, the creditor has made appropriate restitution to the borrower and appropriate adjustments have been made to the loan; or

B. Within 60 days of the loan closing and prior to receiving any notice of the compliance failure, when the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower and appropriate adjustments are made to the loan. Examples of a bona fide error include clerical, calculation, computer malfunction and programming and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

8. The remedies provided in this section are cumulative.

9. Notwithstanding any other provision of law, a residential mortgage loan agreement may not include any provision that waives any borrower's remedies available at law or equity, whether acting individually or on behalf of others similarly situated, or the borrower's rights to civil discovery or appeal. Any such provision is unenforceable and void as a matter of law.

10. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, any provision of a residential mortgage loan agreement that allows a person to require a borrower to assert any claim or defense in a forum that is less convenient, more costly or more dilatory for the resolution of a dispute than a judicial forum established in this State where the borrower may otherwise properly bring a claim or defense or that limits in any way any claim or defense the borrower may have is unconscionable and void as a matter of law.

11. It is a violation of section 8-206-A, ~~8-206-C~~ 8-206-H, 8-206-I or ~~8-206-D~~ 8-206-J for any person to attempt in bad faith to avoid the application of those sections by dividing any loan transaction into separate parts or structuring a residential mortgage loan transaction as an open-end loan for the purpose of evading the provisions of those sections when the loan would have been a high-rate, high-fee mortgage if the loan had been structured as a closed-end loan or by engaging in any other subterfuge with the intent of evading any provision of this section.

Sec. A-12. 9-A MRSA §8-206-H is enacted to read:

§8-206-H. High-rate, high-fee mortgages

1. The making of a high-rate, high-fee mortgage is subject to the following prohibitions, except that, notwithstanding any other provision of law, a residential mortgage loan made by the Maine State Housing Authority pursuant to Title 30-A, chapter 201 is not subject to the following prohibitions.

A. High-rate, high-fee mortgages are subject to the following restrictions.

(1) A high-rate, high-fee mortgage may not include payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the loan because the regularly scheduled periodic payments do not cover the full amount of interest due.

(2) A high-rate, high-fee mortgage may not contain a provision that increases the interest rate after default. This subparagraph does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, as long as the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(3) If the date of maturity of a high-rate, high-fee mortgage is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate must be computed by a method that is not less favorable than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d)106 Stat. 3672, 3892 (1992) and 15 United States Code, Section 1615.

(4) A high-rate, high-fee mortgage may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(5) A creditor may not make a payment to a contractor under a home improvement contract from amounts extended as credit under a high-rate, high-fee mortgage except:

(a) In the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

(b) At the election of the consumer, by a 3rd-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor and the contractor before the date of payment.

(6) All high-rate, high-fee mortgage documents that create a debt or pledge property as collateral must contain the following notice on the first page in a conspicuous manner: "Notice: This is a mortgage subject to special rules under the federal Truth in Lending Act. Purchasers or assignees of this mortgage could be liable for all claims and defenses with respect to the mortgage that the borrower could assert against the creditor. Maine law also provides for the liability of purchasers or assignees of this high-rate, high-fee loan."

(7) For a high-rate, high-fee mortgage loan with a term of less than 5 years, the payment schedule may not include regular payments that when aggregated do not fully amortize the outstanding principal balance.

(8) A high-rate, high-fee mortgage loan may not include a demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance except in the following circumstances:

(a) There is fraud or material misrepresentation by the consumer in connection with the loan;

(b) The consumer fails to meet the repayment terms of the agreement for any outstanding balance; or

(c) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan or any right of the creditor in such security.

(9) A creditor may not extend a high-rate, high-fee mortgage to a consumer based on the value of the consumer's collateral without regard to the consumer's ability to pay as described in section 8-206-I, subsection 1, paragraph A.

(10) High-rate, high-fee mortgages are subject to rules relating to escrows as described in section 8-206-I, subsection 1, paragraph C.

B. High-rate, high-fee mortgages are subject to the following enhanced restrictions.

(1) In connection with a high-rate, high-fee mortgage, a creditor may not directly or indirectly finance any points or fees.

(2) In addition to the limitation found in paragraph A, subparagraph (7), a high-rate, high-fee mortgage may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subparagraph does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(3) A creditor may not make a high-rate, high-fee mortgage without first receiving certification from a counselor with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the Bureau of Consumer Credit Protection that the borrower has

received counseling on the advisability of the loan transaction.

(4) A prepayment fee or penalty may not be included in the loan documents or charged under the terms of a high-rate, high-fee mortgage.

2. The following provisions apply to a claim made by a borrower against a purchaser or assignee of a high-rate, high-fee mortgage.

A. Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage is subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against a creditor of the loan, except that this paragraph does not apply if the purchaser or assignee demonstrates by a preponderance of the evidence that it:

(1) Has in place, at the time of the purchase or assignment of the subject loan, policies that expressly prohibit its purchase or acceptance of assignment of any high-rate, high-fee mortgages;

(2) Requires by contract that a seller or assignor of residential mortgage loans to the purchaser or assignee represent and warrant to the purchaser or assignee that either the seller or assignor will not sell or assign any high-rate, high-fee mortgages to the purchaser or assignee, or the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect; and

(3) Exercises reasonable due diligence, at the time of purchase or assignment of residential mortgage loans or within a reasonable period of time after the purchase or assignment of such residential mortgage loans, intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high-rate, high-fee mortgages. For purposes of this subparagraph, reasonable due diligence must provide for sampling and may not require loan-by-loan review.

Notwithstanding this paragraph, liability pursuant to this subsection may not accrue to a purchaser or assignee of a high-rate, high-fee mortgage as a result of an alleged violation by a creditor of section 8-206-I, subsection 1, paragraph D.

B. A borrower acting only in an individual capacity may assert claims that the borrower could assert against a creditor of the high-rate, high-fee mortgage against any subsequent holder or assignee of the high-rate, high-fee mortgage as follows:

(1) Within 5 years of the closing of a high-rate, high-fee mortgage, the borrower may assert a violation of this section in connection with the loan as an original action; and

(2) Within 10 years of the closing of a high-rate, high-fee mortgage, after an action to collect on the residential mortgage loan or foreclose on the collateral securing the residential mortgage loan has been initiated or the debt arising from the residential mortgage loan has been accelerated or the residential mortgage loan has become 60 days in default, the borrower may assert any defense, claim or counterclaim or action to enjoin foreclosure or preserve or obtain possession of the property that secures the loan.

A claim asserted by a borrower under this paragraph is limited to amounts required to reduce or extinguish the borrower's liability under the high-rate, high-fee mortgage, plus amounts required to recover costs, including reasonable attorney's fees.

3. This section applies notwithstanding any other provision of law, except that nothing in this section may be construed to limit the substantive rights, remedies or procedural rights available to a borrower against any creditor, assignee or holder of a high-rate, high-fee mortgage under any other law. The rights conferred on borrowers in subsection 2, paragraphs A and B are independent of each other and do not limit each other.

Sec. A-13. 9-A MRSA §8-206-I is enacted to read:

§8-206-I. Higher-priced mortgage loans

1. Higher-priced mortgage loans are subject to the following restrictions:

A. A creditor may not extend a higher-priced mortgage to a consumer based on the value of the consumer's collateral without regard to the consumer's repayment ability as of consummation, including the consumer's current and reasonably expected income, employment, assets other than the collateral, credit history, debt-to-income ratio, current obligations and mortgage-related obligations.

(1) For purposes of this paragraph, mortgage-related obligations are expected property taxes, premiums for mortgage-related insurance required by the creditor as set forth in paragraph C and similar expenses.

(2) Under this paragraph, a creditor must verify the consumer's repayment ability as follows.

(a) A creditor must verify amounts of income or assets that it relies on to de-

termine repayment ability, including expected income or assets, by the consumer's federal Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records or other 3rd-party documents that provide reasonably reliable evidence of the consumer's income or assets. For the purposes of this division, "reasonably reliable evidence of the consumer's income or assets" includes, but is not limited to, statements from investment advisors, broker-dealers and others in a fiduciary relationship with the consumer as long as the statements reflect the consumer's actual income and not estimated, projected or anticipated income or a range of earnings for a consumer's type or class of employment.

(b) A creditor must verify the consumer's current obligations.

(3) A creditor is presumed to have complied with this paragraph with respect to a transaction if the creditor:

(a) Verifies the consumer's repayment ability as provided in subparagraphs (1) and (2);

(b) Determines the consumer's repayment ability using the largest payment of principal and interest scheduled in the first 7 years following consummation and taking into account current obligations and mortgage-related obligations; and

(c) Assesses the consumer's repayment ability taking into account at least one of the following:

(i) The ratio of total debt obligations to income; and

(ii) The income the consumer will have after paying debt obligations.

(4) Notwithstanding subparagraph (3), no presumption of compliance is available for a transaction for which:

(a) The regular periodic payments for the first 7 years would cause the principal balance to increase; or

(b) The term of the loan is less than 7 years and the regular periodic payments when aggregated do not fully amortize the outstanding principal balance.

(5) This paragraph does not apply to a temporary or so-called "bridge" loan with a term of 12 months or less, such as a loan to purchase a new dwelling when the consumer plans to sell a current dwelling within 12 months.

B. Beginning October 1, 2009, a higher-priced mortgage loan may not include a penalty for paying all or part of the principal before the date on which the principal is due except as allowed under subparagraph (1). The exception under subparagraph (1) does not apply to high-rate, high-fee mortgages, which are subject to section 8-206-H, subsection 1, paragraph B, subparagraph (4), and alternative mortgage transactions, which are subject to section 9-308.

(1) A higher-priced mortgage loan may provide for a prepayment penalty, including a refund calculated according to the sum of the balances method, as defined in section 2-503, subsection 7, under the terms of the loan if:

(a) The penalty will not apply after the 2-year period following consummation;

(b) The penalty will not apply if the source of the prepayment funds is a refinancing by the creditor or an affiliate of the creditor; and

(c) The amount of the periodic payment of principal or interest or both may not change during the 4-year period following consummation.

C. Beginning April 1, 2010, higher-priced loans are subject to the following requirements relating to escrow accounts:

(1) A creditor may not extend a loan secured by a first lien on a principal dwelling unless an escrow account is established before consummation for payment of property taxes and premiums for mortgage-related insurance required by the creditor, such as insurance against loss of or damage to property, or against liability arising out of the ownership or use of the property or insurance protecting the creditor against the consumer's default or other credit loss.

(2) Notwithstanding the requirements set forth in subparagraph (1):

(a) Escrow accounts need not be established for loans secured by shares in a cooperative; and

(b) Insurance premiums described in subparagraph (1) need not be included in escrow accounts for loans secured by condominium units when the condominium association has an obligation to the condominium unit owners to maintain a

master policy insuring condominium units.

(3) A creditor or servicer may permit a consumer to cancel the escrow account required in subparagraph (1) only in response to a consumer's dated written request to cancel the escrow account that is received no earlier than 365 days after consummation.

(4) For purposes of this paragraph, "escrow account" has the same meaning set forth in 24 Code of Federal Regulations, Section 3500.17(b).

D. A creditor may not knowingly or intentionally engage in the act or practice of flipping a residential mortgage loan when making a higher-priced mortgage loan. The administrator is authorized to adopt rules defining with reasonable specificity the requirements for compliance with this paragraph. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. A-14. 9-A MRSA §8-206-J is enacted to read:

§8-206-J. Residential mortgage loan requirements

1. Beginning October 1, 2009, residential mortgage loans are subject to the following restrictions.

A. In connection with a consumer credit transaction secured by a consumer's principal dwelling, no creditor or mortgage broker, and no affiliate of a creditor or mortgage broker, shall directly or indirectly coerce, influence or otherwise encourage an appraiser to misstate or misrepresent the value of such dwelling.

(1) In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of this paragraph in connection with an appraisal may not extend credit based on such appraisal unless the creditor documents that it has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling.

(2) For purposes of this paragraph, "mortgage broker" means a person, other than an employee of a lender, who for compensation or other monetary gain, or in expectation of compensation or other monetary gain, arranges, negotiates or otherwise obtains an extension of consumer credit for another person. "Mortgage broker" includes a person meeting this definition, even if the consumer credit obligation is initially payable to such person, unless the person provides the funds for the transaction at consummation out of the person's own resources, out of deposits held by the person or by drawing on a bona fide warehouse line of credit.

(3) For the purposes of this paragraph, "appraiser" means a person who engages in the business of providing assessments of the value of dwellings. "Appraiser" includes a person that employs, refers or manages appraisers and affiliates of such persons.

B. In connection with a consumer credit transaction secured by a consumer's principal dwelling, a servicer may not:

(1) Fail to credit a payment to the consumer's loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the consumer or in the reporting of negative information to a consumer reporting agency or except as provided in subparagraph (4);

(2) Impose on the consumer any late fee or delinquency charge in connection with a payment, when the only delinquency is attributable to late fees or delinquency charges assessed on an earlier payment and the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace period;

(3) Fail to provide, within a reasonable time after receiving a request from the consumer or any person acting on behalf of the consumer, an accurate statement of the total outstanding balance that would be required to satisfy the consumer's obligation in full as of a specified date; or

(4) Fail to credit a payment as of 5 days after receipt if a servicer specifies in writing requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements.

For purposes of this paragraph, "servicer" and "servicing" have the same meanings as provided in 24 Code of Federal Regulations, Section 3500.2(b).

C. This subsection does not apply to a home equity line of credit subject to section 8-205.

2. Residential mortgage loans are subject to the following enhanced restrictions.

A. A creditor may not recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a residential mortgage loan that refinances all or a portion of the existing loan or debt.

B. A borrower may not be charged for a late payment unless the loan documents specifically

authorize the charge, the charge is not imposed unless the payment is past due for 10 days or more and the charge does not exceed 5% of the amount of the late payment. A late payment charge may not be imposed more than once with respect to a particular late payment. If a late payment charge is deducted from a payment made on the residential mortgage loan and that deduction results in a subsequent default on a subsequent payment, a late payment charge may not be imposed for that default. A creditor or servicer may apply any payment made in the order of maturity to a prior period's payment due even if the result is late payment charges accruing on subsequent payments due.

C. A residential mortgage loan may not contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This paragraph does not prohibit the acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

D. A creditor making a residential mortgage loan may not finance directly or indirectly any credit life insurance, credit disability insurance, credit unemployment insurance or credit property insurance or any other life or health insurance or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis or through regularly scheduled periodic payments may not be considered financed by the creditor.

E. A borrower may not be charged a fee in addition to the actual public discharge fee to provide a release upon prepayment. Payoff balances must be provided in accordance with section 9-305-B.

F. The following provisions apply with respect to a right to cure default of a residential mortgage loan.

(1) If all defaults in connection with a residential mortgage loan are cured after the initiation of any action to foreclose, the creditor or the servicer shall take steps as necessary to terminate the foreclosure proceeding or other action. The borrower shall pay any reasonable costs incurred by the creditor or servicer before the cure of default. Cure of default reinstates the borrower to the same position as if the default had not occurred and nullifies, as of the date of the cure, any acceleration of any obligation under the security instrument or note arising from the default.

(2) A borrower has the right to cure a default once in a 12-month period.

3. The administrator, by rule or order, shall prohibit acts or practices in connection with:

A. Residential mortgage loans that the administrator finds unfair, deceptive or designed to evade the provisions of this section; and

B. Refinancing of residential mortgage loans that the administrator finds are associated with abusive lending practices or that are otherwise not in the interest of the borrowing public.

4. The Attorney General has jurisdiction to enforce this section against loan brokers and supervised lenders who are not supervised financial organizations through their general regulatory powers and through civil process. The administrator, through the Attorney General, may bring a civil action to restrain any person from violating this section.

5. The rights conferred by this section are independent of and in addition to any other rights under this Title and other state and federal laws.

Sec. A-15. 9-A MRSA §8-208, sub-§1, ¶B, as corrected by RR 1995, c. 2, §18, is amended to read:

B. In an individual action:

(i) Twice the amount of any finance charge in connection with the transaction; or

(ii) In the case of a consumer lease, 25% of the total amount of monthly payments under the lease.

Liability under this paragraph may not be less than $100 nor greater than $1,000; except that in the case of a credit transaction not under an open-end credit plan that is secured by real property or a dwelling, liability under this paragraph may not be less than ~~$200~~ $400 nor greater than ~~$2,000~~ $4,000;

Sec. A-16. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 9-A, section 8-206, subsection 3 and section 8-208, subsection 1, paragraph B take effect July 30, 2009.

PART B

Sec. B-1. 9-A MRSA Art. 13 is enacted to read:

ARTICLE 13

MAINE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2009

§13-101. Short title

This Article may be known and cited as "the Maine Secure and Fair Enforcement for Mortgage Licensing Act of 2009."

§13-102. Definitions

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

1. Clerical or support duties. "Clerical or support duties" may include subsequent to the receipt of an application:

A. The receipt, collection, distribution and analysis of information common for the processing, underwriting or modification of a residential mortgage loan; and

B. Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

2. Depository institution. "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

3. Dwelling. "Dwelling" has the same meaning as in the federal Truth in Lending Act, Section 103(v).

4. Immediate family member. "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild. "Immediate family member" includes stepparents, stepchildren, stepsiblings and adoptive relationships.

5. Individual. "Individual" means a natural person.

6. Loan processor or underwriter. "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under the provisions of this Title. An individual engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a mortgage loan originator.

7. Mortgage loan originator. "Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include:

A. An individual engaged solely as a loan processor or underwriter except as otherwise provided in section 13-103, subsection 3, paragraph A;

B. A person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with the laws of this State, unless the person or entity is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker or other mortgage loan originator; or

C. A person or entity solely involved in extensions of credit relating to time-share plans, as that term is defined in Title 11 United States Code, Section 101(53D).

8. Nationwide mortgage licensing system and registry. "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by a national organization dedicated to advancing the state banking system and a national association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators.

9. Nontraditional mortgage product. "Nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

10. Person. "Person" means a natural person, corporation, company, limited liability company, partnership or association.

11. Real estate brokerage activity. "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

A. Acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property;

B. Bringing together parties interested in the sale, purchase, lease, rental or exchange of real property;

C. Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction;

D. Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

E. Offering to engage in any activity or act in any capacity, described in this subsection.

12. Registered mortgage loan originator. "Registered mortgage loan originator" means an individual who:

A. Meets the definition of mortgage loan originator and is an employee of:

(1) A depository institution;

(2) A subsidiary that is:

(a) Owned and controlled by a depository institution; and

(b) Regulated by a federal banking agency; or

(3) An institution regulated by the federal Farm Credit Administration; and

B. Is registered with, and maintains a unique identifier through the nationwide mortgage licensing system and registry.

13. Residential mortgage loan. "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling.

14. Residential real estate. "Residential real estate" means any real property located in the State, upon which is constructed or intended to be constructed a dwelling.

15. Unique identifier. "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

§13-103. License and registration required

1. Requirement. An individual, unless specifically exempted from this Article under subsection 2, may not engage in the business of a mortgage loan originator without obtaining and maintaining annually a license under this Article. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

2. Exemption. The following persons are exempt from this Article.

A. Registered mortgage loan originators, when acting for a depository institution; a subsidiary that is owned and controlled by a depository institution and that is regulated by a federal banking agency; or an institution regulated by the federal Farm Credit Administration.

B. An individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

C. An individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence.

D. A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker or other mortgage loan originator.

E. An employee of a nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) and engaged in the financing of housing for low-income people under a program designed specifically for that purpose, to the extent exempted by the administrator by rule, advisory ruling or interpretation, after taking into consideration any rule, advisory ruling or interpretation issued by the United States Department of Housing and Urban Development.

F. A retail seller of a manufactured home to the extent determined by any rule, advisory ruling or interpretation issued by the United States Department of Housing and Urban Development.

3. Loan processor or underwriter; license not required. A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or by providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator is not required to obtain and maintain a license under subsection 1.

A. An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless that independent contractor obtains and maintains a license under subsection 1. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

4. Rules; interim procedures and accept applications. For the purposes of implementing an orderly and efficient licensing process, the administrator may establish licensing rules and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the administrator may establish expedited review and licensing procedures. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§13-104. State license and registration application and issuance

1. Application form. An applicant for a license as a mortgage loan originator shall apply using a form prescribed by the administrator. The form must contain content as set forth by rule, instruction or procedure of the administrator and may be changed or updated as necessary by the administrator in order to carry out the purposes of this Article.

2. Relationships or contracts. In order to fulfill the purposes of this Article, the administrator is authorized to establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities designated by the nationwide mortgage licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Article.

3. Waive or modify requirements. For the purpose of participating in the nationwide mortgage licensing system and registry, the administrator is authorized to waive or modify, in whole or in part, by rule or order, any or all of the requirements of this Article and to establish new requirements as reasonably necessary to participate in the nationwide mortgage licensing system and registry.

4. Background checks. In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the nationwide mortgage licensing system and registry information concerning the applicant's identity, including:

A. Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

B. Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, including the submission of authorization for the nationwide mortgage licensing system and registry and the administrator to obtain:

(1) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, Section 603(p) except that information on a credit report may not be used as the sole basis for the denial of a mortgage loan originator license pursuant to section 13-105; and

(2) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

5. Agent for purposes of requesting and distributing criminal information. For the purposes of this section and in order to reduce the points of contact that the administrator or the Federal Bureau of Investigation may have to maintain for purposes of subsection 4, the administrator may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency and from any source directed by the administrator.

§13-105. Issuance of license

The administrator may not issue an applicant a mortgage loan originator license unless the applicant meets the following requirements.

1. No license revocation. The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction.

2. No felony conviction. Except if the administrator determines that a conviction as described in paragraph A does not affect the applicant's demonstration of good character and fitness under subsection 3, the applicant has not been convicted of, or pleaded guilty or nolo contendere to, a felony in a domestic, foreign or military court:

A. During the 7-year period preceding the date of the application for licensing and registration; or

B. At any time preceding the date of application, if the felony involved an act of fraud, dishonesty or a breach of trust or money laundering.

3. Character and fitness. The applicant has demonstrated financial responsibility, good character and general fitness commanding the confidence of the community and warranting a determination that the mortgage loan originator will operate honestly, fairly and efficiently in accordance with this Article.

4. Prelicensing education. The applicant has completed the prelicensing education requirement described in section 13-106.

5. Written test. The applicant has passed a written test that meets the requirement described in section 13-107.

6. Surety bond or minimum net worth requirement. The applicant has met the surety bond requirement or the net worth requirement as required pursuant to section 13-113.

§13-106. Prelicensing education for mortgage loan originators

1. Minimum education requirements. In order to meet the prelicensing education requirement set forth in section 13-105, subsection 4, a person must complete at least 20 hours of education approved in accordance with subsection 2, which must include at least:

A. Three hours of instruction in federal law and regulations;

B. Three hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues; and

C. Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

2. Approved education courses. For purposes of subsection 1, prelicensing education courses must be reviewed and approved by the nationwide mortgage licensing system and registry based on reasonable standards. Review and approval of a prelicensing education course must include review and approval of the course provider.

3. Approval of employer and affiliate education courses. Nothing in this section precludes any prelicensing education course, as approved by the nationwide mortgage licensing system and registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract or any subsidiary or affiliate of such employer or entity.

4. Venue of education. Prelicensing education may be offered either in a classroom, online or by any other means approved by the nationwide mortgage licensing system and registry.

5. Reciprocity of education. The completion of the prelicensing education requirements approved by the nationwide mortgage licensing system and registry under this section for any state must be accepted as credit towards completion of prelicensing education requirements in this State.

6. Relicensing education requirements. A person previously licensed under this Article who applies to be licensed again must prove that that person has completed all of the continuing education requirements for the year in which the license was last held.

§13-107. Testing of loan mortgage originators

1. Written test. In order to meet the written test requirement required under section 13-105, subsection 5, an individual must pass, in accordance with the standards established under this section, a qualified written test developed by the nationwide mortgage licensing system and registry and administered by a test provider approved by the nationwide mortgage licensing system and registry based upon reasonable standards.

2. Qualified test. A written test may not be treated as a qualified written test for purposes of subsection 1 unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

A. Ethics;

B. Federal laws and regulations pertaining to mortgage origination;

C. State laws and rules pertaining to mortgage origination;

D. Federal and state laws, rules and regulations, including instruction on fraud, consumer protection, the nontraditional mortgage product marketplace and fair lending issues.

3. Testing location. Nothing in this section prohibits a test provider approved by the nationwide mortgage licensing system and registry from providing a test at the location of the employer of the applicant, or any subsidiary or affiliate of the employer of the applicant, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

4. Minimum competence. An individual is not considered to have passed a qualified written test unless the individual achieves a test score of not less than 75% correct answers to questions.

A. An individual may retake a test 3 consecutive times, undergoing each consecutive test at least 30 days after the preceding test.

B. After failing 3 consecutive tests, an individual must wait at least 6 months before taking the test again.

C. A licensed mortgage loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test.

§13-108. Standards for license renewal

1. Minimum standards. The minimum standards for license renewal for mortgage loan originators include the following:

A. The mortgage loan originator continues to meet the minimum standards for license issuance under section 13-105, subsections 1 to 5;

B. The mortgage loan originator has satisfied the annual continuing education requirements described in section 13-109; and

C. The mortgage loan originator has paid all required fees for renewal of the license.

2. Failure to satisfy minimum standards of license renewal. If a mortgage loan originator fails to satisfy the minimum standards for license renewal, that individual's license expires. The administrator may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the nationwide mortgage licensing system and registry.

§13-109. Continuing education for mortgage loan originators

1. Requirement. In order to meet the annual continuing education requirements set forth in section 13-108, subsection 1, paragraph B, a licensed mortgage loan originator must complete at least 8 hours of education approved in accordance with subsection 2, which must include at least:

A. Three hours of federal laws and regulations;

B. Two hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues; and

C. Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

2. Approved education courses. For purposes of subsection 1, continuing education courses must be reviewed and approved by the nationwide mortgage licensing system and registry based upon reasonable standards. Review and approval of a continuing education course includes review and approval of the course provider.

3. Approval of employer and affiliate education courses. Nothing in this section precludes any education course, as approved by the nationwide mortgage licensing system and registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract or any subsidiary or affiliate of such employer or entity.

4. Venue of education. Continuing education may be offered either in a classroom, online or by any other means approved by the nationwide mortgage licensing system and registry.

5. Calculation of continuing education credits. A licensed mortgage loan originator may:

A. Notwithstanding subsection 9 and section 13-108, subsection 2, receive credit for a continuing education course only in the year in which the course is taken; and

B. Not repeat an approved course in the same or successive years to meet the annual requirements for continuing education.

6. Instructor credit. A licensed mortgage loan originator who is an instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of 2 hours credit for every one hour taught.

7. Reciprocity of education. The completion of the education requirements approved by the nationwide mortgage licensing system and registry under this section for any state must be accepted as credit towards completion of continuing education requirements in this State.

8. Lapse in license. A person previously licensed under this Article as a licensed mortgage loan originator who subsequently becomes unlicensed must prove that the person has completed all of the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

9. Deficiency in continuing education. A person meeting the requirements of section 13-108, subsection 1, paragraphs A and C may make up any deficiency in continuing education as established by rule of the administrator.

§13-110. Authority to require license

In addition to any other duties imposed upon the administrator by law, the administrator shall require mortgage loan originators to be licensed and registered through the nationwide mortgage licensing system and registry. In order to carry out this requirement, the administrator is authorized to participate in the nationwide mortgage licensing system and registry. For this purpose, the administrator may establish, by rule or order, requirements as necessary, including but not limited to:

1. Background checks. Background checks for:

A. Criminal history through fingerprint or other databases;

B. Civil or administrative records;

C. Credit history; or

D. Any other information determined necessary by the nationwide mortgage licensing system and registry;

2. Fees. The payment of fees to apply for or renew licenses through the nationwide mortgage licensing system and registry;

3. Dates. The setting or resetting as necessary of renewal or reporting dates; and

4. Other requirements. Other requirements for amending or revoking a license or any other such activities as the administrator considers necessary for participation in the nationwide mortgage licensing system and registry.

§13-111. Nationwide mortgage licensing system and registry information challenge process

The administrator shall establish a process by which mortgage loan originators may challenge information entered into the nationwide mortgage licensing system and registry by the administrator.

§13-112. Enforcement authorities, violations and penalties

1. Enforcement. In order to ensure the effective supervision and enforcement of this Article, the administrator may, pursuant to this Title and the Maine Administrative Procedure Act:

A. Deny, suspend, revoke, condition or decline to renew a license for a violation of this Article or rules issued under this Article or an order or a directive entered under this Article;

B. Deny, suspend, revoke, condition or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of section 13-105 or section 13-108, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

C. Order restitution against persons subject to this Article for violations of this Article;

D. Impose fines on persons subject to this Article pursuant to subsections 2 to 4; and

E. Issue orders or directives under this Article as follows:

(1) Order or direct persons subject to this article to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(2) Order or direct persons subject to this article to cease any harmful activities or violations of this article, including immediate temporary orders to cease and desist;

(3) Enter immediate temporary orders to cease business under a license issued pursuant to the authority granted under section 13-103, subsection 4 if the administrator determines that such a license was erroneously granted or the licensee is in violation of this Article; and

(4) Order or direct other affirmative action that the administrator considers necessary.

2. Penalty. The administrator may impose a civil fine on a mortgage loan originator or person subject to this Article if the administrator finds on the record after notice and opportunity for hearing, that such mortgage loan originator or person subject to this Article has violated or failed to comply with any requirement of this Article or any rule prescribed by the administrator under this Article or order issued under authority of this Article.

3. Maximum fine. A person who violates this section commits a civil violation for each act or omission described in subsection 2, a fine for which no more than $25,000 must be adjudged.

4. Separate violation. Each violation or failure to comply with any directive or order of the administrator is a separate and distinct violation or failure.

§13-113. Surety bond or minimum net worth requirements

Mortgage loan originators must comply with either subsection 1 or subsection 2.

1. Surety bond. Unless in compliance with subsection 2, a mortgage loan originator must be covered by a surety bond in accordance with this subsection.

A. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this Article, the surety bond of that person subject to this Article can be used in lieu of the mortgage loan originator's surety bond requirement.

(1) The surety bond must provide coverage for each mortgage loan originator in an amount prescribed in paragraph B.

(2) The surety bond must be in a form prescribed by the administrator.

(3) The administrator may adopt rules with respect to the requirements for surety bonds necessary to accomplish the purposes of this Article.

B. The penal sum of the surety bond must be maintained in an amount established by rule.

C. When an action is commenced on a licensee's bond, the administrator may require the filing of a new bond.

D. Immediately on recovery upon any action on the bond the licensee shall file a new bond.

2. Minimum net worth. Unless in compliance with subsection 1, a minimum net worth must be continuously maintained for mortgage loan originators in accordance with this subsection and section 13-105, subsection 6. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this Article, the net worth of that person subject to this Article can be used in lieu of the mortgage loan originator's minimum net worth requirement.

A. Minimum net worth must be maintained in an amount determined by the administrator.

B. The administrator may adopt rules with respect to the requirements for minimum net worth necessary to accomplish the purposes of this Article.

§13-114. Confidentiality

1. Protections. Notwithstanding any provision of law to the contrary and except as otherwise provided in federal Public Law 110-289, Section 1512, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the nationwide mortgage licensing system and registry and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, continue to apply to that information or material after the information or material has been disclosed to the nationwide mortgage licensing system and registry. That information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privi-

lege or the loss of confidentiality protections provided by federal law or state law.

2. Agreements and sharing arrangements. The administrator is authorized to enter agreements or sharing arrangements with other governmental agencies, a national organization dedicated to advancing the state banking system, a national association of residential mortgage regulators or other associations representing governmental agencies as established by rule or order of the administrator.

3. Nonapplicability of certain requirements. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

A. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective state; or

B. Subpoena, discovery or admission into evidence in any private civil action or administrative process, unless with respect to a privilege held by the nationwide mortgage licensing system and registry regarding that information or material, the person to whom such information or material pertains waives, in whole or in part, that privilege.

4. Public access to information. This section does not apply to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.

§13-115. Investigation and examination authority

In addition to any authority allowed under this Article, the administrator may conduct an investigation and examination as follows.

1. Authority to access information. For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination or general or specific inquiry or investigation to determine compliance with this Article, the administrator may access, receive and use any books, accounts, records, files, documents, information or evidence, including but not limited to:

A. Criminal, civil and administrative information, including nonconviction data as defined in Title 16, section 611, subsection 9;

B. Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in the federal Fair Credit Reporting Act, Section 603(p); and

C. Any other documents, information or evidence the administrator determines relevant to the inquiry or investigation regardless of the location, possession, control or custody of those documents, information or evidence.

2. Investigation, examination and subpoena authority. For the purposes of investigating violations or complaints arising under this Article or for the purposes of examination the administrator may review, investigate or examine any licensee, individual or person subject to this Article as often as necessary. The administrator may direct, subpoena or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of an examination or investigation and may direct, subpoena or order those persons to produce books, accounts, records, files and any other documents the administrator considers relevant to the inquiry.

3. Availability of books and records. Each licensee, individual or person subject to this Article shall make available to the administrator upon request the books and records relating to the operations of that licensee, individual or person. The administrator has access to such books and records and may interview the officers, principals, mortgage loan originators, employees, independent contractors, agents and customers of the licensee, individual or person concerning their business.

4. Reports and other information as directed. Each licensee, individual or person subject to this Article shall make or compile reports or prepare other information as directed by the administrator in order to carry out the purposes of this section, including but not limited to:

A. Accounting compilations;

B. Information lists and data concerning loan transactions in a format prescribed by the administrator; and

C. Other information considered necessary to carry out the purposes of this section.

5. Control access to records. In making any examination or investigation authorized by this Article, the administrator may control access to any documents and records of the licensee or person under examination or investigation. The administrator may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person may remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the administrator. Unless the administrator has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Article, the licensee or owner of the documents and records may have access

to the documents or records as necessary to conduct ordinary business affairs.

6. Additional authority. In order to carry out the purposes of this section, the administrator may:

A. Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in examinations or investigations;

B. Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures and documents, records, information or evidence obtained pursuant to this section;

C. Use, hire, contract or employ public analytic methods or privately available analytic methods or software to examine or investigate the licensee, individual or person subject to this Article;

D. Accept and rely on examination or investigation reports made by other government officials within or without this State;

E. Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this Article in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the administrator; or

F. Assess the cost of the services described in paragraph A against the licensee, individual or person subject to this Article.

7. Effect of authority. The authority of this section remains in effect, whether such a licensee, individual or person subject to this Article acts or claims to act under any licensing or registration law of this State or claims to act without such authority.

8. Withhold records. A licensee, individual or person subject to investigation or examination under this section may not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

§13-116. Prohibited acts and practices

It is a violation of this Article for an individual or a person subject to this Article to:

1. Defraud; mislead. Directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud a person;

2. Unfair or deceptive practice. Engage in any unfair or deceptive practice toward a person;

3. Fraud; misrepresentation. Obtain property by fraud or misrepresentation;

4. Fee despite absence of loan obtained. Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this Article may earn a fee or commission through best efforts to obtain a loan even though a loan is not actually obtained for the borrower;

5. Terms available. Solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

6. Valid license. Conduct any business covered by this Article without holding a valid license as required under this Article or assist or aide and abet any person in the conduct of business under this Article without a valid license required under this Article;

7. Disclosures. Fail to make disclosures required by this Article and any other applicable state laws or rules or federal laws or regulations;

8. Compliance. Fail to comply with this Article or rules adopted under this Article or fail to comply with any other state or federal law, including the rules and regulations applicable to any business authorized or conducted under this Article;

9. False or deceptive statement. Make any false or deceptive statement or representation, including with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising;

10. False statement; material omission. Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a government agency or the nationwide mortgage licensing system and registry or in connection with any investigation conducted by the administrator or another government agency;

11. Improper influence. Make any payment, threat or promise directly or indirectly to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise directly or indirectly to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

12. Prohibited fee. Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by this Article;

13. Excessive insurance. Cause or require a borrower to obtain property insurance coverage in an

amount that exceeds the replacement cost of the improvements as established by the property insurer;

14. Account. Fail to truthfully account for money belonging to a party to a residential mortgage loan transaction; or

15. Good faith and fair dealing. Fail to comply with the duties of good faith and fair dealing as required in section 10-303-A.

§13-117. Report to nationwide mortgage licensing system and registry

The administrator shall regularly report violations of this Article, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry.

§13-118. Unique identifier shown

The unique identifier of any person originating a residential mortgage loan must be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or publicly accessible websites and any other documents as established by rule or order of the administrator.

§13-119. Rulemaking

Rules adopted pursuant to this Article are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§13-120. Effective date

This Article takes effect July 31, 2010.

PART C

Sec. C-1. 9-A MRSA §2-509, as amended by PL 2007, c. 273, Pt. C, §2, is further amended to read:

§2-509. Right to prepay

Subject to the provisions on rebate upon prepayment, section 2-510, the consumer may prepay, in full or in part, the unpaid balance of a consumer credit transaction at any time without penalty, except for minimum charges as permitted by law. Notwithstanding any other provision of this Title, a reasonable charge may be assessed upon a consumer related to prepayment of a consumer loan made by a supervised financial organization and secured by an interest in land, other than a high-rate, high-fee mortgage, as defined in section 8-103, subsection 1-A, paragraph ~~P~~ Q, if the charge is reasonably calculated to offset the cost of origination of the loan. The administrator shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. C-2. 9-A MRSA §8-105, sub-§6, ¶B, as amended by PL 2007, c. 273, Pt. C, §4, is further amended to read:

B. For purposes of section 8-204:

(i) If, except as provided in subparagraph (ii), the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1/2 of 1% of the total amount of credit extended; or

(ii) In the case of a transaction, other than a high-rate, high-fee mortgage as defined in section 8-103, subsection 1-A, paragraph ~~P~~ Q, that:

(a) Is a refinancing of the principal balance then due and any accrued and unpaid finance charges of a residential mortgage transaction, as defined in section 8-103, subsection 1-A, paragraph W, or is any subsequent refinancing of such a transaction; and

(b) Does not provide any new consolidation or new advance, if the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1% of the total amount of credit extended.

Sec. C-3. 9-A MRSA §8-209, sub-§4-A, as enacted by PL 2007, c. 471, §15 and affected by §18, is amended to read:

4-A. Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage is subject to all claims and defenses with respect to that mortgage that the consumer may assert against the creditor of the mortgage to the extent set forth in section ~~8-206-C~~ 8-206-H, subsection 2.

Sec. C-4. 32 MRSA §6198, sub-§1, ¶E, as enacted by PL 2007, c. 596, §1, is amended to read:

E. The foreclosure purchaser complies with the requirements for disclosure, loan terms and conduct in Title 9-A, sections 8-206-A, ~~8-206-C~~ 8-206-I and ~~8-206-D~~ 8-206-J for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed, land installment contract or bond for deed, regardless of whether the terms of the contract for deed, land installment contract or bond for deed meet the annual percentage rate or points and fees requirements for a covered loan.

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

Effective June 11, 2009, unless otherwise indicated.

CHAPTER 363

H.P. 970 - L.D. 1380

An Act To Amend the Maine Clean Election Laws Governing Gubernatorial Candidates

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

Whereas, this legislation makes changes to the Maine Clean Election Act for funding of gubernatorial candidates, including increasing seed money contributions; and

Whereas, the window within which prospective candidates for the 2010 gubernatorial race must make a decision concerning whether to accept Maine Clean Election Act funds is closing rapidly; and

Whereas, in order for a prospective gubernatorial candidate to make a fully informed decision regarding participation as a Maine Clean Election Act candidate, it is imperative that the changes made by this legislation take effect as soon as possible; and

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

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

Sec. 1. 21-A MRSA §1122, sub-§8, ¶A, as amended by PL 2001, c. 465, §3, is further amended to read:

A. For a gubernatorial participating candidate, the qualifying period begins ~~November 1st~~ October 15th immediately preceding the election year and ends at 5:00 p.m. on April ~~15th~~ 1st of the election year ~~unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year~~.

Sec. 2. 21-A MRSA §1125, sub-§2, ¶A, as enacted by IB 1995, c. 1, §17, is amended to read:

A. ~~Fifty~~ Two hundred thousand dollars for a gubernatorial candidate;

Sec. 3. 21-A MRSA §1125, sub-§2-B is enacted to read:

2-B. Seed money required for gubernatorial candidates; documentation. For seed money contributions that a candidate for Governor collects to satisfy the requirement in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name, residence address, mailing address, telephone number if provided by the contributor and other information required for reporting under section 1017, subsection 5. For these contributions, the candidate shall submit to the commission during the qualifying period:

A. A contribution acknowledgment form as determined by the commission, to be completed by each person that contributes seed money, that includes the name, residence address, mailing address, optional telephone number and signature of the person making the seed money contribution acknowledging that the contribution was made with the person's personal funds and will not be reimbursed by any source;

B. A list of the seed money contributions in a format determined by the commission that includes the name and mailing address of the contributor;

C. For seed money contributions received by check or money order, photocopies of the check or money order; and

D. For seed money contributions received by debit or credit card, a bank or merchant account statement that contains the cardholder's name and that otherwise meets the requirements specified by the commission in order to verify compliance with subsection 5, paragraph C-1.

The commission may permit the submission of an online or electronic acknowledgment form as required by paragraph A for seed money contributions made via the Internet.

Sec. 4. 21-A MRSA §1125, sub-§4, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

4. Filing with commission. A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11. ~~Candidates for Governor shall also submit photocopies of all seed money contributions received by check or money order, bank or merchant account statements of contributions received by credit or debit card and bank or other account statements for the campaign account.~~

Sec. 5. 21-A MRSA §1125, sub-§5, ¶C-1 is enacted to read:

C-1. As a gubernatorial candidate, collected at least $40,000 in seed money contributions from registered voters in the State;

Sec. 6. 21-A MRSA §1125, sub-§5-A, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

5-A. Revocation of certification. The certification of a participating candidate may be revoked at any time if the commission determines that the candidate or an agent of the candidate:

A. Did not submit the required number of valid qualifying contributions;

B. Failed to qualify as a candidate by petition or other means;

C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;

D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form;

E. Failed to fully comply with the seed money restrictions;

F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; ~~or~~

H. Otherwise substantially violated the provisions of this chapter or chapter 13~~.~~; or

I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

Sec. 7. 21-A MRSA §1125, sub-§7, ¶B, as amended by PL 2001, c. 465, §4, is further amended to read:

B. Within 3 days after certification, for all candidates certified between March 15th and ~~April 15th~~ the end of the qualifying period of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

Sec. 8. 21-A MRSA §1125, sub-§8, ¶E, as enacted by PL 2003, c. 453, §1, is amended to read:

E. For contested gubernatorial primary elections, the amount of revenues distributed is ~~$200,000~~ $400,000 per candidate in the primary election.

Sec. 9. 21-A MRSA §1125, sub-§8, ¶E-1 is enacted to read:

E-1. For uncontested gubernatorial primary elections, the amount of revenues distributed is $200,000 per candidate in the primary election.

Sec. 10. 21-A MRSA §1125, sub-§9, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

9. Matching funds. When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent expenditures, the commission shall issue immediately to the opposing certified candidate an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection 8, paragraph A or C, whichever is applicable. Matching funds for certified gubernatorial candidates in a primary election are limited to ~~2 times~~ 1/2 the amount originally distributed under subsection 8, paragraph E for contested candidates and subsection 8, paragraph E-1 for uncontested candidates. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8, paragraph F.

Sec. 11. 21-A MRSA §1125, sub-§10, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

10. Candidate not enrolled in a party. An unenrolled candidate for the Legislature who submits the required number of qualifying contributions and other required documents under subsection 4 by 5:00 p.m. on April 15th preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. Otherwise, an unenrolled candidate for the Legislature must submit the required number of qualifying contributions and the other required documents under subsection 4 by 5:00 p.m. on June 2nd preceding the general election. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsection 8. Revenues for the general election must be distributed to the candidate no later than 3 days after certification. An un-

enrolled candidate for Governor who submits the required number of qualifying contributions and other required documents under subsections 2-B and 4 by 5:00 p.m. on April 1st preceding the primary election and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election gubernatorial candidate and a general election gubernatorial candidate as specified in subsections 7 and 8. Revenues for the general election must be distributed to the candidate for Governor no later than 3 days after the primary election results are certified.

Sec. 12. Routine technical rules. Notwithstanding the Maine Revised Statutes, Title 21-A, section 1126, rules adopted by the Commission on Governmental Ethics and Election Practices to implement this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 13. Application. This Act applies to gubernatorial candidates seeking certification under the Maine Clean Election Act beginning with primary and general elections in 2010, regardless of when a gubernatorial candidate registered as a candidate with the Commission on Governmental Ethics and Election Practices or when the candidate filed a declaration of intent with the commission under the Maine Revised Statutes, Title 21-A, section 1125, subsection 1.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Reduces funding for the Maine Clean Election Fund based upon changes in seed money requirements and matching funds for gubernatorial candidates.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($800,000)	($600,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	($800,000)	($600,000)

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

Effective June 11, 2009.

CHAPTER 364
H.P. 861 - L.D. 1242

An Act To Streamline the Regulatory Process for Commercial Building Construction Projects

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

Whereas, construction projects require a variety of permits from a variety of permitting agencies; and

Whereas, consolidating the permitting review to a single authority will expedite the review process and thereby improve the regulatory environment in this State and improve the efficiency of State Government; and

Whereas, currently some municipalities review commercial construction projects for compliance with building, plumbing, zoning and electrical code and those municipalities exercise the principle authority for issuing construction permits in this State; and

Whereas, some municipalities currently enforce the Life Safety Code of the National Fire Protection Association for residential construction; and

Whereas, the Office of the State Fire Marshal conducts plan reviews for compliance with the Life Safety Code of the National Fire Protection Association for commercial construction; and

Whereas, some municipalities are well positioned to serve as the Life Safety Code of the National Fire Protection Association permitting authority for commercial construction in this State; and

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

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

Sec. 1. 25 MRSA §2448, as repealed and replaced by PL 1983, c. 232, §1 and amended by PL 2003, c. 689, Pt. B, §6 and PL 2007, c. 324, §17, is further amended to read:

§2448. Construction permit; when required

~~No~~ A property owner, agent or representative of the owner may not construct, alter or change the use of any structure to become a public building without first obtaining from the Commissioner of Public Safety or from a municipality designated pursuant to section 2448-A a permit ~~therefor~~ for that purpose. A request

for a permit ~~shall~~ must be accompanied by a true copy of the plans and specifications for that construction, reconstruction or change of use. The commissioner shall issue a permit only if the plans comply with statutes and lawful ~~regulations promulgated~~ rules adopted to reduce fire hazards.

The term "public building" ~~shall include~~ includes any building or structure constructed, operated or maintained for use by the general public, which ~~shall include~~ includes, but is not ~~be~~ limited to, all buildings or portions of buildings used for a schoolhouse, hospital, convalescent, nursing or boarding home to be licensed by the Department of Health and Human Services, Division of Licensing and Regulatory Services; theater or other place of public assembly, mercantile occupancy over 3,000 square feet, hotel, motel or business occupancy of 2 or more stories; or any building to be ~~state-owned~~ state-owned or ~~operated~~ state-operated.

The term "true copy" means an accurate representation by dimensioned plans and specifications of the final construction documents.

Sec. 2. 25 MRSA §2448-A is enacted to read:

§2448-A. Municipal review of development

The Commissioner of Public Safety, referred to in this section as "the commissioner," may register municipalities for authority to issue permits required by section 2448 under the following conditions. For purposes of this section, "municipal reviewing authority" has the same meaning as defined in Title 30-A, section 4366, subsection 7.

1. Projects. A municipality registered pursuant to this section may review projects of public buildings that constitute a mercantile occupancy over 3,000 square feet, a hotel, a motel or a business occupancy of 2 or more stories.

2. Registration. The commissioner shall register municipalities to grant permits for projects under subsection 1 if the commissioner finds that the municipality meets all of the following criteria.

A. A municipal inspector of buildings has been appointed pursuant to section 2351.

B. The municipality has an employee that is certified as a plan reviewer by the National Fire Protection Association.

C. The municipality has adopted by reference the fire codes adopted by the Office of the State Fire Marshal pursuant to sections 2452 and 2465.

D. The municipality has adequate resources to administer and enforce the provisions of the fire codes under paragraph C.

E. The procedures for public hearing and notification have been established including:

(1) Notice to the commissioner upon receipt of an application, including a description of the project;

(2) Notice of issuance and denial to the applicant and commissioner, including the reason for denial;

(3) Public notification of the application and any hearings; and

(4) Procedures for public hearing.

F. The procedures for appeal of local decisions by aggrieved parties are defined.

G. A registration form, provided by the commissioner, has been completed and submitted by the municipality, demonstrating compliance with the criteria under this subsection.

H. The municipality is currently enforcing the Maine Uniform Building and Energy Code.

The Department of Public Safety shall publish on its publicly accessible website a list of those municipalities that are registered pursuant to this subsection.

3. Current requirements. A municipality registered under this section shall ensure that its municipal regulations continue to meet the criteria listed in subsection 2.

A. The commissioner shall immediately notify a registered municipality of new or amended rules.

B. A municipality shall adopt amendments to its municipal regulations within one calendar year of the effective date of new or amended rules adopted by the Department of Public Safety. Within 45 days of the adoption of the amended municipal regulations, the municipality shall submit the amendments for approval by the commissioner.

4. Suspension of registration. If the commissioner finds that a municipality no longer meets the criteria under subsection 2, or is not adequately implementing those requirements, the commissioner may suspend the registration under subsection 2 and shall immediately notify the municipality. The notice must contain findings of fact and conclusions of law. If the registration is suspended, the commissioner shall provide the municipality with the necessary procedures to come into compliance with this section.

5. Central list of pending projects. The commissioner shall maintain and make available a list of projects that are pending municipal review under this section.

6. Technical assistance. The commissioner may provide technical assistance to municipalities upon request for projects reviewed under this section.

7. Application review process. Upon determination by the municipal reviewing authority that an application for a permit or permit amendment under this section is complete for processing:

A. The municipal reviewing authority shall submit to the commissioner within 14 days of that determination one copy of the project application; and

B. The commissioner shall review the application and, within 30 days of its receipt or within 30 days of receipt of any subsequent amendment to the application, notify the municipality if the Department of Public Safety intends to exercise jurisdiction as provided in subsection 9.

A failure of the commissioner to act within the 30-day period following receipt of the application for a permit or within 30 days of receipt of any amendment to the application constitutes a decision not to exercise jurisdiction as provided in subsection 9.

8. Record of review and basis for decision. The municipality shall submit to the commissioner one copy of the record of the review of the application for a permit or permit amendment and basis of the decision for each permit or permit amendment granted pursuant to this section within 40 working days of final action by the municipal reviewing authority.

9. State jurisdiction. The Department of Public Safety shall review projects and exercise jurisdiction for a registered municipality if:

A. The municipal reviewing authority in which the project is located petitions the commissioner in writing; or

B. The proposed project is located in more than one municipality.

10. Joint enforcement. A permit or permit amendment issued by a municipal reviewing authority may be enforced by either the commissioner or the municipality that issued the permit or permit amendment.

Sec. 3. 25 MRSA §2450, as amended by PL 2007, c. 699, §12, is further amended to read:

§2450. Examinations by Department of Public Safety

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the Department of Public Safety. The fee schedule for new construction or new use is 5¢ per square foot for occupied spaces and 2¢ per square foot for bulk storage occupancies, except that a fee for review of a plan for new construction by a public school may not exceed $450. The fee schedule for reconstruction, repairs or renovations is based on the cost of the project and may not exceed $450, except as provided in section 2450-A. ~~The~~ Except for projects reviewed by a municipality pursuant to section 2448-A, the fees must be credited to a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years. For projects reviewed by a municipality that include occupied spaces, a 1¢ fee per square foot must be remitted to the Department of Public Safety and a 4¢ fee per square foot must be paid to the municipality.

A municipality is prohibited from charging a developer a fee that is in excess of the 4¢ fee per square foot for fire code permits. This limitation does not prohibit a municipality from charging fees for other construction-related permits.

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

Effective June 11, 2009.

CHAPTER 365

S.P. 429 - L.D. 1157

An Act To Improve the Use of Information Regarding Sex Offenders

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

PART A

Sec. A-1. 17-A MRSA §261, sub-§1, as enacted by PL 2007, c. 393, §1, is amended to read:

1. A person is guilty of prohibited contact with a minor if that person:

A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

~~B. Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~

C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class E crime.

Sec. A-2. 17-A MRSA §261, sub-§2, as amended by PL 2007, c. 518, §6, is further amended to read:

2. A person is guilty of prohibited contact with a minor in a sex offender restricted zone if that person:

A. ~~Has previously been~~ Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or ~~has previously been~~ was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and

~~B. Has a duty to register under Title 34-A, chapter 15, subchapters 1 and 2; and~~

C. Intentionally or knowingly ~~has~~ initiates direct or indirect contact in a sex offender restricted zone with another person who has not in fact attained 14 years of age.

Violation of this subsection is a Class D crime.

Sec. A-3. 17-A MRSA §1152, sub-§2-C, as amended by PL 2003, c. 711, Pt. B, §13, is repealed.

Sec. A-4. 17-A MRSA §1204, sub-§1-C, as amended by PL 2005, c. 488, §5, is repealed.

PART B

Sec. B-1. 34-A MRSA §11201, as amended by PL 2003, c. 711, Pt. C, §4 and affected by Pt. D, §2, is further amended to read:

§11201. Short title

This chapter may be known and cited as the "Sex Offender Registration and Notification Act of 1999." The purpose of this chapter is to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning those registrants and offenders.

Sec. B-2. 34-A MRSA §11202, as repealed and replaced by PL 2005, c. 423, §1, is further amended to read:

§11202. Application

~~This~~ Unless excepted under section 11202-A, this chapter applies to:

1. Maine. A person sentenced in this State on or after January 1, 1982 for a sex offense or a sexually violent offense as an adult or as a juvenile sentenced as an adult; and

2. Other jurisdictions. A person sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult:

A. At any time of an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there; ~~or~~

B. On or after January 1, 1982, of an offense that contains the essential elements of a sex offense or sexually violent offense.; or

C. At any time for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-3. 34-A MRSA §11202-A is enacted to read:

§11202-A. Exception

1. Exception. Notwithstanding section 11202, a person sentenced on or after January 1, 1982 and prior to June 30, 1992 is not required to register under this chapter if that person submits to the bureau, in a form to be determined by the bureau, documentation to establish the following:

A. The person was finally discharged from the correctional system prior to September 1, 1998;

B. The person's convictions do not include more than one Class A sex offense or sexually violent offense or more than one conviction in another jurisdiction for an offense that contains the essential elements of a Class A sex offense or sexually violent offense, whether or not the convictions occurred on the same date;

C. At the time of the offense, the person had not been previously sentenced in this State as an adult or as a juvenile sentenced as an adult for a sex offense or a sexually violent offense;

D. At the time of the offense, the person had not been previously sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult for an offense that contains the essential elements of a sex offense or a sexually violent offense;

E. Subsequent to the commission of the offense, the person has not been convicted of a crime under Title 17 or Title 17-A in this State that is punishable by imprisonment for a term of one year or more; and

F. Subsequent to the commission of the offense, the person has not been convicted under the laws of any other jurisdiction of a crime that is punishable by a term of imprisonment exceeding one year. This paragraph does not include a crime

under the laws of another jurisdiction that is classified by the laws of that jurisdiction as a misdemeanor and is punishable by a term of imprisonment of 2 years or less.

2. Duty continues. A person's duty to register continues until the bureau determines that the documentation meets the requirements of this section and any rules adopted by the bureau.

3. Costs. A person who submits documentation under this section is responsible for the costs of any criminal history record checks required.

4. Restoration of registration status. The registration obligation of a person sentenced on or after January 1, 1982 and prior to June 30, 1992 that is discharged pursuant to this section is restored by any subsequent conviction for a crime described in subsection 1, paragraph E or F.

Sec. B-4. 34-A MRSA §11203, sub-§1-A, as amended by PL 2005, c. 423, §2, is further amended to read:

1-A. Conditional release. "Conditional release" means supervised release of a registrant or an offender from institutional confinement for placement on probation, parole, intensive supervision, supervised release for sex offenders, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 54-G.

Sec. B-5. 34-A MRSA §11203, sub-§4, as amended by PL 2003, c. 711, Pt. C, §9 and affected by Pt. D, §2, is further amended to read:

4. Law enforcement agency having jurisdiction. "Law enforcement agency having jurisdiction" means the chief of police in the municipality where a registrant or an offender expects to be or is domiciled. If the municipality does not have a chief of police, "law enforcement agency having jurisdiction" means the sheriff of the county where the municipality is located. "Law enforcement agency having jurisdiction" also means the sheriff of the county in an unorganized territory.

Sec. B-6. 34-A MRSA §11203, sub-§4-A, as amended by PL 2005, c. 423, §3, is further amended to read:

4-A. Risk assessment instrument. "Risk assessment instrument" means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a registrant or an offender, living conditions and environment of a registrant or an offender and other factors predisposing a person to become a registrant or an offender, for the ongoing purpose of identifying risk factors.

Sec. B-7. 34-A MRSA §11203, sub-§4-D, as enacted by PL 2003, c. 711, Pt. C, §11 and affected by Pt. D, §2, is amended to read:

4-D. Residence. "Residence" means that place or those places, other than a domicile, in which a person may spend time living, residing or dwelling. Proof that an offender has lived in the State for 14 days continuously or an aggregate of 30 days within a period of one year gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person has established a residence for the purposes of registration requirements imposed by this chapter.

Sec. B-8. 34-A MRSA §11203, sub-§4-E is enacted to read:

4-E. Offender. "Offender" means a person to whom this chapter applies pursuant to section 11202.

Sec. B-9. 34-A MRSA §11203, sub-§5, as amended by PL 2003, c. 711, Pt. C, §12 and affected by Pt. D, §2, is further amended to read:

5. Ten-year registrant. "Ten-year registrant" means a person who ~~is~~ has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

Sec. B-10. 34-A MRSA §11203, sub-§6, ¶B, as repealed and replaced by PL 2003, c. 711, Pt. C, §13 and affected by Pt. D, §2, is amended to read:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; ~~Title 17-A, section 302, unless the actor is a parent of the victim;~~ Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855; ~~or~~

Sec. B-11. 34-A MRSA §11203, sub-§6, ¶C, as amended by PL 2005, c. 423, §5, is further amended to read:

C. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph B~~.~~; or

Sec. B-12. 34-A MRSA §11203, sub-§6, ¶D is enacted to read:

D. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-13. 34-A MRSA §11203, sub-§7, as amended by PL 2005, c. 423, §6, is further amended to read:

7. Sexually violent offense. "Sexually violent offense" means:

A. A conviction for one of the offenses or for an attempt to commit one of the offenses under former Title 17-A, section 252; under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section 255, subsection 1, paragraph B or D, if the crime was elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph D, E, E-1, F, F-1, H, O or P; ~~or~~

B. A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction that includes the essential elements of an offense listed in paragraph A~~.~~; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

Sec. B-14. 34-A MRSA §11203, sub-§8, as amended by PL 2005, c. 423, §7, is further amended to read:

8. Lifetime registrant. "Lifetime registrant" means a person who ~~is~~ has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

A. Sexually violent offense; or

B. Sex offense when the person has ~~a prior~~ another conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense. For purposes of this paragraph, ~~prior conviction means a conviction that occurred at any time. More than one conviction may occur on the same day. Multiple convictions that result from or are connected with the same act or that result from offenses committed at the same time are considered one conviction unless the offenses were committed against more than one victim.~~ "another conviction" means:

(1) For persons convicted and sentenced before September 17, 2005, a conviction for an offense for which sentence was imposed prior to the occurrence of the new offense; and

(2) For persons convicted and sentenced on or after September 17, 2005, a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if:

(a) There is more than one victim; or

(b) The convictions are for offenses based on different conduct or arising from different criminal episodes.

Sec. B-15. 34-A MRSA §11222, as amended by PL 2005, c. 683, Pt. B, §28, is further amended to read:

§11222. Duty of offender to register

1. Notification by court, the department, the bureau or a law enforcement agency. ~~The court shall determine at the time of sentencing if a defendant is a 10-year registrant or lifetime registrant. A person who the court determines is a 10-year registrant or lifetime registrant shall register according to this subchapter.~~ An offender has a duty to register under this chapter after notification has been given to the offender by a court of jurisdiction, the department, the bureau or a law enforcement agency. A court shall notify the offender at the time of sentence of the duty to register pursuant to this chapter. Notification of the duty to register under this chapter also may be given to the offender at any time after the imposition of sentence.

At any time, the bureau may correct the term of a registration erroneously assigned to an offender or registrant. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.

1-A. When duty to register must be exercised. Following ~~determination by the~~ notification by a court, the department, the bureau or a law enforcement agency under subsection 1, ~~a registrant~~ an offender shall register as follows.

A. If the ~~registrant~~ offender is sentenced to a wholly suspended sentence with probation or administrative release, or to a punishment alternative not involving imprisonment, the duty to register is triggered at the time the person commences in actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment is imposed, unless the court orders a stay of execution, in which event the duty is triggered by the termination of the stay.

B. If the ~~registrant~~ offender is sentenced to a straight term of imprisonment or to a split sentence, the duty to register is triggered by discharge or conditional release.

C. If the ~~registrant~~ offender is committed under Title 15, section 103, the duty to register is triggered by discharge or conditional release under Title 15, section 104-A.

D. If the events stated in paragraphs A to C have passed, an offender must register within 5 days after having received notice of that duty from a court, the department, the bureau or a law enforcement agency.

E. Proof that the name and date of birth of the person notified of the duty to register pursuant to this chapter are the same as those of a person who has been convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person notified of the duty to register is the same person as that person convicted of the offense requiring registration.

1-B. Duty to notify law enforcement agency. ~~A registrant who has a duty to register pursuant to this subchapter~~ An offender shall notify the law enforcement agency having jurisdiction in those areas where the ~~registrant~~ offender is domiciled, resides, works or attends school within 24 hours of becoming a domiciliary or a resident or beginning work or attending school. If the location is a municipality with an organized municipal police department, the law enforcement agency having jurisdiction is the municipal police department. If the location is a school having an organized police department, the law enforcement agency having jurisdiction is the campus police department. If the location is neither a municipality nor a school with an organized police department, the law enforcement agency having jurisdiction is the sheriff's department.

2. Responsibility of ensuring initial registration. The department, the county jail or the state mental health institute that has custody of ~~a registrant required to register under this subchapter~~ an offender shall inform the ~~registrant~~ offender, prior to discharge or conditional release, of the duty to register. If ~~a registrant~~ an offender does not serve a period of institutional confinement, the court shall inform the ~~registrant~~ offender at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

A. Inform the ~~registrant~~ offender of the duty to register and obtain the information required for the initial registration;

A-1. Inform the ~~registrant~~ offender of the requirement to notify the law enforcement agency having jurisdiction pursuant to subsection 1-B;

B. Inform the ~~registrant~~ offender that if the ~~registrant~~ offender changes domicile or changes residence, place of employment or college or school being attended, the ~~registrant~~ offender shall give the new address to the bureau in writing within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours;

C. Inform the ~~registrant~~ offender that if that ~~registrant~~ offender changes domicile to another state, the ~~registrant~~ offender shall register the new address with the bureau and if the new state has a registration requirement, the ~~registrant~~ offender shall register with a designated law enforcement agency in the new state not later than 5 days after establishing domicile in the new state;

D. Inform the ~~registrant~~ offender that if that ~~registrant~~ offender has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that ~~registrant~~ offender enrolls in any type of school in another state on a part-time or full-time basis, the ~~registrant~~ offender shall give the bureau the ~~registrant's~~ offender's place of employment or school to be attended in writing within 5 days after beginning work or attending school and if the other state has a registration requirement, shall register with the designated law enforcement agency in the other state;

E. Obtain fingerprints and a photograph of the ~~registrant~~ offender or the court may order the ~~registrant~~ offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency within 3 days if the fingerprints and photograph have not already been obtained in connection with the offense that necessitates registration; and

F. Enforce the requirement that the ~~registrant~~ offender read and sign a form provided by the bu-

reau that states that the duty of the ~~registrant~~ offender to register under this section has been explained.

2-A. Duty of registrant sentenced from June 30, 1992 to September 17, 1999 to register. Notwithstanding subsection 1 and except as provided in subsection 2-B, a person coming within the definition of a 10-year registrant or lifetime registrant who has been sentenced on or after June 30, 1992 but before September 18, 1999 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or lifetime registrant, whichever is applicable, ~~with the bureau by September 1, 2002~~ if the duty to register has been triggered under subsection 1-A, paragraph A, B or C~~, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender shall register with the bureau within 5 days of notice.

2-B. Duty to register for new crimes. For a person otherwise subject to subsection 2-A who has been sentenced for a crime added by an amendment to the definition of sex offense or sexually violent offense in section 11203 since September 1, 2002, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C~~, that~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency, that person shall register as a 10-year registrant or a lifetime registrant, whichever is applicable~~, with the bureau by June 1, 2005, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person~~. The offender shall register with the bureau within 5 days of notice.

2-C. Duty of registrant sentenced from January 1, 1982 to June 29, 1992 to register. Notwithstanding subsection 1, a person who meets the definition of a 10-year registrant or a lifetime registrant who has been sentenced on or after January 1, 1982 but before June 30, 1992 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or a lifetime registrant, whichever is applicable, ~~with the bureau by October 15, 2005~~ if the duty to register has been triggered under subsection 1-A, paragraph A, B or C~~, unless sooner notified in writing of a duty to register under subsection 1-A, paragraph A, B or C by the bureau, the department or a law enforcement officer, in which case the person~~ and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender shall register with the bureau within 5 days of notice.

3. Transfer of initial registration information to bureau and FBI. The department, county jail, state mental health institute or court within 3 days of receipt of the information described in subsection 2 shall forward the information to the bureau. If the court orders the ~~registrant~~ offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency, the law enforcement agency shall submit the fingerprints and photograph to the bureau within 3 days. The bureau shall immediately enter the information into the registration system, notify the law enforcement agencies having jurisdiction where the ~~registrant~~ offender expects to be domiciled and reside and transmit the information to the FBI for inclusion in the national FBI sex offender database.

4. Verification. During the period a registrant is required to register, the bureau shall require the registrant to verify registration information including domicile, residence, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant on each anniversary of the 10-year registrant's initial registration date and shall verify a lifetime registrant's registration information every 90 days after that lifetime registrant's initial registration date. Verification of the registration information of a 10-year registrant or lifetime registrant occurs as set out in this subsection.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

C. The registrant shall take the completed verification form and a photograph of the registrant to the law enforcement agency having jurisdiction within 5 days of receipt of the form.

D. The law enforcement agency having jurisdiction shall verify the registrant's identity, have the registrant sign the verification form, take the registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

5. Change of domicile, residence, place of employment or college or school being attended. ~~A~~ An offender or registrant shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours after changing that domicile, residence, place of employment or college or school being attended.

A. If the offender or registrant establishes a new domicile, residence, place of employment or college or school being attended in the State, the bu-

reau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

B. If the offender or registrant establishes a domicile, residence, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

Sec. B-16. 34-A MRSA §11223, as amended by PL 2005, c. 423, §19, is further amended to read:

§11223. Duty of person establishing domicile or residence to register

A person sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248; or in a jurisdiction other than this State who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in the jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours of establishing domicile or residence in this State. The person shall contact the bureau, which shall provide the person with the registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

Sec. B-17. 34-A MRSA §11224, sub-§1, as enacted by PL 2005, c. 423, §20, is amended to read:

1. Time. A person who has been sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248; or in a jurisdiction other than this State and who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in that jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

A. Within 24 hours of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year in this State; or

B. Within 24 hours of beginning college or school on a full-time or part-time basis in this State.

Sec. B-18. 34-A MRSA §11225-A, sub-§6, as enacted by PL 2005, c. 423, §22, is amended to read:

6. Relief from duty to register. The following provisions apply to an offender's, a 10-year registrant's or a lifetime registrant's duty to register.

A. ~~A~~ An offender's or a 10-year registrant's duty to register for a period of 10 years pursuant to subsection 2 is not required if the circumstances triggering the registration requirements under section 11223, section 11224 or both no longer exist.

B. ~~A~~ An offender's or a lifetime registrant's duty to register for the duration of that person's life pursuant to subsection 4 is not required if the circumstances triggering the registration requirements under section 11223, section 11224 or both no longer exist.

C. If the underlying conviction in this State or in another jurisdiction that triggers the registration requirement is reversed, vacated or set aside, or if the offender or registrant is pardoned for the crime, registration is no longer required.

Sec. B-19. 34-A MRSA §11227, sub-§6, as repealed and replaced by PL 2005, c. 423, §23, is amended to read:

6. Affirmative defense. It is an affirmative defense that the failure to comply with a duty imposed under this chapter or a rule adopted pursuant to this chapter resulted from just cause~~, except that a person to whom section 11222, subsection 2-A, 2-B or 2-C applies may not raise a defense under just cause that~~

~~the person was not aware of the registration requirement~~.

Sec. B-20. 34-A MRSA §11227, sub-§7 is enacted to read:

7. **Permissible inference.** Proof that the name and date of birth of the person charged with a violation of this section are the same as those of a person who has been convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with a violation of this section is the same person as that person convicted of the offense requiring registration.

Sec. B-21. 34-A MRSA §11228, as enacted by PL 2003, c. 371, §12, is amended to read:

§11228. Certification by record custodian

Notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the bureau, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

Sec. B-22. Retroactivity. This Part applies retroactively to January 1, 1982.

See title page for effective date.

CHAPTER 366

S.P. 411 - L.D. 1100

An Act To Preserve Government Documents

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

Sec. 1. 21-A MRSA §1011, as amended by PL 2007, c. 571, §8, is further amended to read:

§1011. Application

This subchapter applies to candidates for all state and county offices and all candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 and to campaigns for their nomination and election.

~~Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 and referenda as defined in Title 30-A, section 2502, subsection 2 are governed by this subchapter, with the following provisions:~~

~~**1. Role of the municipal clerk; commission.** For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. Notwithstanding any other deadline set forth in this chapter, candidates must file their reports by the close of business on the filing deadline established for the office of the municipal clerk. The commission retains the sole authority to prescribe the content of all reporting forms.~~

~~**2. Exemptions.** Exemptions for municipal candidates from the reporting requirements of this subchapter are governed by this subsection.~~

~~A. At the time a municipal candidate registers under section 1013-A, the candidate may notify the municipal clerk in writing that the candidate will not accept contributions, make expenditures or incur financial obligations associated with that person's candidacy. A candidate who provides this written notice is not required to appoint a treasurer or to meet the filing requirements of this section as long as the candidate complies with the commitment.~~

~~B. The notice provided to the municipal clerk in paragraph A may be revoked. A written revocation must be presented to the municipal clerk before the candidate may accept contributions, make expenditures or incur obligations associated with that person's candidacy. A candidate who has filed a notice with the municipal clerk under paragraph A and accepts contributions, makes expenditures or incurs obligations associated with that person's candidacy prior to filing a revocation may be assessed a penalty of $10 for each business day that the revocation is late, up to a maximum of $500. This penalty may be imposed in addition to the penalties assessed under other sections of this Title.~~

Sec. 2. 21-A MRSA §1013-A, sub-§1, ¶A, as amended by PL 2007, c. 642, §9 and affected by §14, is further amended to read:

A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state ~~or,~~ county or municipal office ~~or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2, paragraph A~~ shall appoint a treasurer. The candidate may serve as treasurer, except that a candidate certified in accordance with section 1125 may not serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures per-

sonally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A candidate certified in accordance with section 1125 may not serve as deputy treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

Sec. 3. 21-A MRSA §1017, sub-§3-A, as amended by PL 2007, c. 642, §10, is further amended to read:

3-A. Other candidates. A treasurer of a candidate for state ~~or,~~ county or municipal office other than the office of Governor shall file reports with the commission ~~and municipal candidates shall file reports with the municipal clerk~~ as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of $500 or made or authorized expenditures in excess of $500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

C. Contributions aggregating $1,000 or more from any one contributor or single expenditures of $1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 5 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of $100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of $100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

Sec. 4. 21-A MRSA §1017-A, sub-§8, as enacted by PL 1995, c. 483, §10, is amended to read:

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office ~~subject to~~ in a town or city that has chosen to be governed by this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

Sec. 5. 21-A MRSA §1019-B, sub-§3, as enacted by PL 2003, c. 448, §3, is amended to read:

3. Report required; content; rules. A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of $100 during any one candidate's election shall file a report with the commission. In the case of a municipal election in a town or city that has chosen to be governed by this subchapter, a

copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of $100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

Sec. 6. 21-A MRSA §1020-A, sub-§3, as amended by PL 1995, c. 625, Pt. B, §5, is further amended to read:

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk in a town or city that has chosen to be governed by this subchapter on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

Sec. 7. 21-A MRSA §1056-B, first ¶, as amended by PL 2007, c. 477, §4, is further amended to read:

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. ~~In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.~~ Within 7 days of receiving contributions or making expenditures that exceed $5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee.

Sec. 8. 21-A MRSA §1058, as amended by PL 2007, c. 477, §5, is further amended to read:

§1058. Reports; qualifications for filing

A political action committee that is required to register with the commission shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum in a municipality subject to this subchapter, the report must be filed with the ~~clerk in the subject municipality~~ commission.

Sec. 9. 21-A MRSA §1059, first ¶, as amended by PL 2007, c. 571, §9, is further amended to read:

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk in a town or city that has chosen to be governed by this subchapter must be filed by the close of business on the filing deadline.

Sec. 10. 30-A MRSA §2502, as amended by PL 1999, c. 645, §15, is further amended to read:

§2502. Campaign reports in municipal elections

1. Reports by candidates. A candidate for municipal office of a town or city with a population of 15,000 or more is governed by Title 21-A, sections 1001 to 1020-A, ~~except that notices of appointment of a treasurer and campaign reports must be filed with the municipal clerk instead of~~ and must register and file campaign reports with the Commission on Governmental Ethics and Election Practices. A town or city

with a population of less than 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its legislative body at least 90 days before an election for office. A candidate in a town or city with a population of less than 15,000 that has adopted those provisions must register and file campaign finance reports with the municipal clerk instead of the Commission on Governmental Ethics and Election Practices. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to those sections.

~~A. Notwithstanding Title 17-A, section 4-A, a candidate who fails to file a notice or report as required by this section is guilty of a Class E crime and may be punished by a fine of $5 for every day the candidate is in default or by imprisonment for not more than 30 days, or both.~~

2. Municipal referenda campaigns. Municipal referenda campaigns in towns or cities with a population of 15,000 or more are governed by Title 21-A, chapter 13, subchapter ~~IV~~ 4. The registrations and reports of political action committees and ballot question committees must be filed with the ~~municipal clerk~~ Commission on Governmental Ethics and Election Practices. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, chapter 13, subchapter ~~IV~~ 4 by vote of its legislative body at least 90 days before a referendum election. The registrations and reports of political action committees and ballot question committees in a town or city that has adopted those provisions must be filed with the municipal clerk instead of the Commission on Governmental Ethics and Election Practices. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to that subchapter.

3. Preservation and destruction of records. A town or city with a population of less than 15,000 that has adopted the provisions of Title 21-A, chapter 13 pursuant to this section must keep the campaign reports for at least 8 years.

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

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Provides one-time funding for programming changes to the electronic filing system.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$24,800	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$24,800	$0

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Increases the number of months worked for one Planning and Research Assistant position from 9 to 11 months.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$8,325	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$8,325	$0

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$33,125	$0
DEPARTMENT TOTAL - ALL FUNDS	$33,125	$0

Sec. 12. Effective date. This Act takes effect August 1, 2011.

Effective August 1, 2011.

CHAPTER 367

S.P. 483 - L.D. 1337

An Act To Protect Maine Citizens and Franchised New Motor Vehicle Dealers

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

Whereas, Maine has regulated the terms of franchise agreements between franchised new motor vehicle dealers and their manufacturers for decades; and

Whereas, the manufacture, distribution and sale of motor vehicles in this State and the ability of franchised new motor vehicle dealers to provide for the distribution, sale and repair of vehicles vitally affect

the general economy of the State, the transportation system and the public interest and public welfare; and

Whereas, recent economic circumstances have created a crisis in the automobile industry, most particularly among domestic automobile manufacturers; and

Whereas, the solvency and economic vitality of Maine dealerships are jeopardized by current economic conditions; and

Whereas, Maine new motor vehicle dealerships provide thousands of high-paying jobs in Maine; and

Whereas, revenues crucial to the operation of state and local government, including property, excise and income taxes and in excess of 20% of all sales taxes, are collected as a result of the sale of motor vehicles; and

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

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

Sec. 1. 10 MRSA §1171, sub-§9-B is enacted to read:

9-B. Line make. "Line make" means motor vehicles that are offered for sale, lease or distribution under a common name, trademark, service mark or brand name.

Sec. 2. 10 MRSA §1174, sub-§3, ¶N, as enacted by PL 1981, c. 331, §6, is amended to read:

N. To require any new motor vehicle dealer to change the location of the new motor vehicle dealership or during the course of the agreement or as a condition of renewal of a franchise agreement to make any substantial alterations to the dealership premises when to do so would be unreasonable;

Sec. 3. 10 MRSA §1174, sub-§3, ¶P, as amended by PL 1997, c. 521, §16, is further amended to read:

P. To terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, unless good cause exists. Good cause may not be shown or based solely on the desire of the manufacturer, distributor, distributor branch or division or officer, agent or other representative thereof for market penetration. Good cause exists for the purposes of a termination, cancellation, nonrenewal or noncontinuance when:

(1) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise, which provision is both reasonable and of material significance to the franchise relationship, as long as compliance on the part of the new motor vehicle dealer is reasonably possible and the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days prior to the date on which notification is given pursuant to paragraph R.

When the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, the failure of the new motor vehicle dealer to effectively carry out the performance provisions of the franchise is good cause if:

(a) The new motor vehicle dealer was apprised by the manufacturer in writing of that failure; the notification stated that notice was provided of failure of performance pursuant to this section; and the new motor vehicle dealer was afforded a reasonable opportunity for a period of not less than ~~6 months~~ 180 days to exert good faith efforts to carry out the performance provisions;

(b) The failure thereafter continued within the period that began not more than 180 days before the date notification of termination, cancellation, noncontinuance or nonrenewal was given pursuant to paragraph R; and

(c) The new motor vehicle dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to the dealer; or

(3) The dealer and the manufacturer or distributor agree not to renew the franchise, although the dealer is entitled to the protections set forth in paragraph S in any termination, cancellation, nonrenewal or noncontinuance, whether by the manufacturer or the dealer; however, a termination, cancellation, nonrenewal or noncontinuance resulting from a sale of the assets or stock of the dealer or when a franchisee of motor homes, as defined in Title 29-A, section 101, subsection 40, voluntarily terminates a motor home franchise is exempt from the requirements of paragraph S; ~~or~~

~~(4) The manufacturer discontinues production or distribution of the franchise product;~~

Sec. 4. 10 MRSA §1174, sub-§3, ¶S, as amended by PL 1997, c. 521, §18, is further amended to read:

S. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer without providing fair and reasonable compensation to the licensed new motor vehicle dealer for:

(1) All unsold new model motor vehicle inventory of the current and previous model year purchased from the manufacturer;

(2) Supplies and parts purchased from the manufacturer or its approved sources that are listed in the current parts catalog or identical to a part in the current parts catalog except for the number assigned to the part, and that can be used for repairs under the terms of a manufacturer's new motor vehicle warranty;

(3) Equipment and furnishings purchased from the manufacturer or its approved sources less a reasonable allowance for normal wear and tear; and

(4) Special tools and automotive service equipment owned by the dealer that were designated as special tools or equipment and required by and purchased from the manufacturer or its approved sources, if the tools and equipment are in useable and good condition, normal wear and tear excepted.

~~If~~ Except for a termination related to a conviction and imprisonment for a felony involving moral turpitude that is substantially related to the ~~involuntary termination, cancellation or nonrenewal is due to a failure of performance of the new motor vehicle dealer in sales or service and~~ qualifications, functions or duties of a franchisee, if the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to ~~the rent for the unexpired term of the lease or~~ one year's rent~~, whichever is less,~~ or, if the new motor vehicle dealer owns the facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the facilities for one year, prorated for each line make at the facility based on total sales volume of each line make at the facility for the calendar year prior to the involuntary termination, cancellation, noncontinuance or nonrenewal. The manufacturer shall pay the new motor vehicle dealer the sum equivalent to the rent or the reasonable rental value of the facilities when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal if the new motor vehicle dealer has notified the manufacturer of the amount of rent or reasonable rental value to which the dealer is entitled.

The fair and reasonable compensation for the items listed in subparagraphs (1) to (4) may in no instance be less than the acquisition price and must be paid by the manufacturer when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal, provided that the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer. These items must be paid for by the manufacturer when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal.

In order to be entitled to rental assistance from the manufacturer, the dealer is obligated to mitigate rental assistance by listing the dealership facilities for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with the real estate agent in the performance of the agent's duties and responsibilities. In the event that the dealer is able to lease or sublease the dealership facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's lease, the dealer is required to pay the manufacturer the net revenue received from such mitigation, but only following receipt of rental assistance payments pursuant to this paragraph and only up to the total amount of rental assistance payments that the dealer has received. If the facility is used for the operations of more than one franchise, the dealer does not have a duty to list the dealership facilities, and the reasonable rental assistance must be paid based upon the portion of the facility used by the franchise being terminated, cancelled, noncontinued or nonrenewed for one year unless the space is filled with another product line, in which case no rental payments are required.

In lieu of any injunctive relief or any other damages, if the manufacturer fails to prove there was good cause for the termination, cancellation, noncontinuance or nonrenewal, or if the manufacturer fails to prove that it acted in good faith, then the manufacturer may pay the new motor vehicle dealer fair and reasonable compensation for the value of the dealership as an ongoing business; ~~or~~

Sec. 5. 10 MRSA §1174, sub-§3, ¶T, as enacted by PL 1997, c. 521, §19, is amended to read:

T. To act as, offer to act as or purport to be a broker; or

Sec. 6. 10 MRSA §1174, sub-§3, ¶U is enacted to read:

U. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer not less than 180 days prior to the effective date of such termination, cancellation, noncontinuance or nonrenewal that occurs in whole or in part as a result of any change in ownership, operation or control of all or any part of the business of the manufacturer, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise; or the termination, suspension or cessation of a part or all of the business operations of the manufacturer; or discontinuance of the sale of the product line or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

In addition to any other payments or requirements in this chapter, if a termination, cancellation, noncontinuance or nonrenewal was premised in whole or in part upon any of the occurrences set forth in this paragraph, the manufacturer is liable to the licensed new motor vehicle dealer in an amount at least equivalent to the fair market value of the franchise arising from the termination, cancellation, noncontinuance or nonrenewal of the franchise.

(1) If liability is based on the fair market value of the franchise, which must include diminution in value of the facilities leased or owned by the dealer as a result of the loss of the franchise to operate in the facilities, the fair market value must be computed on the date in divisions (a) to (c) that yields the highest fair market value:

(a) The date the manufacturer announces the action that results in termination, cancellation, noncontinuance or nonrenewal;

(b) The date the action that results in termination, cancellation, noncontinuance or nonrenewal first becomes general knowledge; or

(c) The date 12 months prior to the date on which the notice of termination, cancellation, noncontinuance or nonrenewal is issued.

If the termination, cancellation, noncontinuance or nonrenewal is due to the manufacturer's change in distributors, the manufacturer may avoid paying fair market value to the licensed new motor vehicle dealer if the new distributor or the manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

If an entity other than the original manufacturer of a line make becomes the manufacturer for the line make and intends to distribute motor vehicles of that line make in this State, that entity shall honor the franchise agreements of the original manufacturer and its licensed new motor vehicle dealers or offer those dealers of that line make, or of motor vehicles historically of that line make that are substantially similar in their design and specifications and are manufactured in the same facility or facilities, a new franchise agreement with substantially similar terms and conditions; and

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

Effective June 11, 2009.

CHAPTER 368

H.P. 420 - L.D. 582

An Act To Amend the Statute of Limitations for Actions against the Estate of a Decedent

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

Sec. 1. 18-A MRSA §3-108, sub-§(a), ¶(2), as enacted by PL 1983, c. 256, is amended to read:

(2). Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed, at any time within 3 years after the conservator becomes able to establish the death of the protected person; ~~and~~

Sec. 2. 18-A MRSA §3-108, sub-§(a), ¶(3), as amended by PL 2005, c. 683, Pt. C, §5, is further amended to read:

(3). A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within the later of 12 months from the informal probate or 3 years from the decedent's death.; and

Sec. 3. 18-A MRSA §3-108, sub-§(a), ¶(4) is enacted to read:

(4). Appropriate probate, appointment or testacy proceedings may be commenced in relation to a claim for personal injury made against the decedent by a person without actual notice of the death

of the decedent at any time within 6 years after the cause of action accrues. If the proceedings are commenced more than 3 years after the decedent's death, any recovery is limited to applicable insurance.

See title page for effective date.

CHAPTER 369
H.P. 873 - L.D. 1254

An Act To Repeal Inactive Boards and Commissions

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

PART A

Sec. A-1. 5 MRSA c. 165, as amended, is repealed.

Sec. A-2. 5 MRSA c. 316, as amended, is repealed.

Sec. A-3. 5 MRSA §12004-A, sub-§6, as repealed and replaced by PL 1991, c. 397, §1, is repealed.

Sec. A-4. 5 MRSA §12004-G, sub-§4, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-5. 5 MRSA §12004-G, sub-§14-E, as enacted by PL 2005, c. 12, Pt. PP, §2, is repealed.

Sec. A-6. 5 MRSA §12004-I, sub-§18-E, as enacted by PL 2003, c. 710, §1, is repealed.

Sec. A-7. 5 MRSA §12004-I, sub-§24, as amended by PL 2003, c. 414, Pt. B, §9 and affected by c. 614, §9, is repealed.

Sec. A-8. 5 MRSA §12004-I, sub-§47-F, as enacted by PL 2003, c. 465, §2, is repealed.

Sec. A-9. 5 MRSA §12004-I, sub-§57-D, as enacted by PL 1999, c. 85, §1, is repealed.

Sec. A-10. 5 MRSA §12004-J, sub-§10, as enacted by PL 1991, c. 417, §2, is repealed.

Sec. A-11. 5 MRSA §12006, sub-§2, as amended by PL 2007, c. 395, §23, is further amended to read:

2. Legislative repeal of inactive boards. The Secretary of State shall submit suggested legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before January ~~15th~~ 30th in the first regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A during either of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the first regular session of each biennium to repeal those boards.

Sec. A-12. 5 MRSA §12006, sub-§3, ¶C, as enacted by PL 2003, c. 643, §6, is amended to read:

C. State Poet Laureate Advisory Selection Committee, as established in section 12004-I, subsection 5-A; ~~and~~

Sec. A-13. 5 MRSA §12006, sub-§3, ¶D, as enacted by PL 2003, c. 643, §6, is amended to read:

D. Board of Emergency Municipal Finance, as established in Title 30-A, section 6101~~.~~;

Sec. A-14. 5 MRSA §12006, sub-§3, ¶E is enacted to read:

E. State Compensation Commission, as established in Title 3, section 2-B;

Sec. A-15. 5 MRSA §12006, sub-§3, ¶F is enacted to read:

F. Maine-Canadian Legislative Advisory Commission, as established in Title 3, section 227;

Sec. A-16. 5 MRSA §12006, sub-§3, ¶G is enacted to read:

G. New England and Eastern Canada Legislative Commission, as established in Title 3, section 231;

Sec. A-17. 5 MRSA §12006, sub-§3, ¶H is enacted to read:

H. State House and Capitol Park Commission, as established in Title 3, section 901-A; and

Sec. A-18. 5 MRSA §12006, sub-§3, ¶I is enacted to read:

I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956.

Sec. A-19. 5 MRSA c. 407, sub-c. 2, as amended, is repealed.

Sec. A-20. 7 MRSA §1, as amended by PL 1995, c. 693, §3, is further amended to read:

§1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural Resources, is established and is maintained for the improvement of agriculture and the advancement of the interests of husbandry. The Department of Agriculture, Food and Rural Resources is referred to in this Title as the "department" and consists of the Commissioner of Agriculture, Food and Rural Resources, in this Title called the "commissioner," and the following: ~~The Aroostook Water and Soil Management Board,~~ the Board of Pesticide Control, the Maine Milk Commission, the Maine Potato Board, the Seed Potato

Board, the Harness Racing Commission and the Board of Veterinary Medicine. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and to confirmation by the Legislature, and holds office during the pleasure of the Governor. The commissioner is entitled to receive actual expenses incurred in the performance of the commissioner's official duties. The commissioner may employ such clerical labor as may be required, subject to the Civil Service Law, and may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of the commissioner's duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. A-21. 7 MRSA c. 11, as amended, is repealed.

Sec. A-22. 10 MRSA §8001, sub-§38, as amended by PL 2007, c. 369, Pt. B, §§2 to 6 and affected by Pt. C, §5 and amended by c. 402, Pt. C, §1, is further amended to read:

38. Office of Licensing and Registration. Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

A. Board of Accountancy;

D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers;

E. Maine Athletic Commission;

F. Board of Licensing of Auctioneers;

~~G. Board of Barbering and Cosmetology;~~

H. Board of Chiropractic Licensure;

H-1. Board of Complementary Health Care Providers;

I. Board of Driver Education;

J. Board of Counseling Professionals Licensure;

K. Board of Licensing of Dietetic Practice;

L. Electricians' Examining Board;

M. Board of Licensure of Foresters;

N. State Board of Funeral Service;

O. State Board of Certification for Geologists and Soil Scientists;

Q. Board of Licensure for Professional Land Surveyors;

R. Manufactured Housing Board;

S. Nursing Home Administrators Licensing Board;

T. Board of Occupational Therapy Practice;

U. Oil and Solid Fuel Board;

V. Maine Board of Pharmacy;

W. Board of Examiners in Physical Therapy;

Y. Plumbers' Examining Board;

Z. Board of Licensure of Podiatric Medicine;

AA. State Board of Examiners of Psychologists;

BB. Radiologic Technology Board of Examiners;

CC. Board of Real Estate Appraisers;

DD. Board of Respiratory Care Practitioners;

EE. State Board of Social Worker Licensure;

GG. State Board of Alcohol and Drug Counselors;

HH. State Board of Veterinary Medicine;

II. Propane and Natural Gas Board;

JJ. Real Estate Commission;

KK. Board of Boiler Rules;

LL. Board of Elevator and Tramway Safety; and

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting.

The Office of Licensing and Registration also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; ~~and~~ licensure of transient sellers, including door-to-door home repair transient sellers; and licensure of persons pursuant to the Barbering and Cosmetology Licensure Act.

Sec. A-23. 12 MRSA §6024, sub-§1-A, as amended by PL 2007, c. 695, Pt. K, §1, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 16 members. The chair of the Lobster Advisory Council, ~~the chair of the Marine Recreational Fishing Advisory Council,~~ the chair of the Sea Run Fisheries and Habitat Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the

Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster harvesters. The remaining ~~6~~ 7 members must include one public member, 4 persons who hold a nonharvesting-related license under this Part, one person representing recreational saltwater anglers and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, ~~the chair of the Marine Recreational Fishing Advisory Council,~~ the chair of the Sea Run Fisheries and Habitat Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster Advisory Council, ~~a new chair of the Marine Recreational Fishing Advisory Council,~~ a new chair of the Sea Run Fisheries and Habitat Advisory Council, a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

Sec. A-24. 12 MRSA §6033, as enacted by PL 1999, c. 85, §4, is repealed.

Sec. A-25. 12 MRSA §6034, sub-§1, as amended by PL 2005, c. 505, §1, is further amended to read:

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of ~~17~~ 16 members, 15 of whom are appointed by the commissioner as follows:

A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;

B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;

C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;

D. Five members who are license holders under this Part and who represent commercial marine harvesting activities;

E. An educator experienced in community-based adult education and volunteer safety training;

F. An expert in fishing industry risk analysis and occupational health;

G. An expert in marine safety equipment;

H. A representative of the marine insurance industry;

I. A marine surveyor;

J. A spouse or domestic partner of a license holder under this Part; and

K. A member of the public.

The chair of the Marine Resources Advisory Council ~~and the chair of the Marine Recreational Fishing Advisory Council are~~ is an ex officio ~~members~~ member of the council. The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

Sec. A-26. 12 MRSA §10051, 2nd ¶, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the Bureau of Administrative Services, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides~~, the Junior Maine Guides and Trip Leaders' Curriculum Board~~ and whatever state agencies that are designated. The department is under the control and supervision of the commissioner.

Sec. A-27. 12 MRSA §10154, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9 and amended by c. 689, Pt. B, §6, is repealed.

Sec. A-28. 12 MRSA §12860, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Curriculum. ~~With the advice of the Junior Maine Guides and Trip Leaders Curriculum Advisory Board, the~~ The commissioner shall review and adopt a trip leader safety course curriculum that includes, but is not limited to:

A. Training in first aid;

B. Training in water safety, including lifesaving techniques as appropriate; and

C. Trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum ~~adopted or approved by the Junior Maine Guides and Trip Leaders Curriculum Advisory Board~~ and a current list of courses, with the ~~approved~~ curriculum, by name and address.

Sec. A-29. 20-A MRSA §9501, sub-§2, as amended by PL 1997, c. 266, §11, is further amended to read:

2. Exemptions. Educational programs related to the real estate professions that are subject to approval under Title 32, chapter 59, commercial driver education schools subject to approval by the Secretary of State under Title 29-A, chapter 11, subchapter ~~III~~ 3, schools of barbering and schools of cosmetology subject to approval by the ~~Board of Barbering and Cosmetology~~ Director of the Office of Licensing and Registration under Title 32, chapter 126, educational programs offered by any Maine nonprofit corporation, any educational programs offered by any professional or trade association primarily for the benefit of its own members and any educational institution authorized by the laws of this State to grant a degree are exempt from the requirements of this chapter.

Sec. A-30. 20-A MRSA §12523, as enacted by PL 2003, c. 710, §2, is repealed.

Sec. A-31. 20-A MRSA §12531, sub-§2, as enacted by PL 2005, c. 427, §1, is amended to read:

2. Eligible employment position. "Eligible employment position" means a full-time position within the State as the founder or employee of a ~~technology-based business developed within the Applied Technology Development Center System, as established in Title 5, section 15321, or other~~ statewide recognized economic development entity.

Sec. A-32. 22 MRSA §5107-J, as enacted by PL 2003, c. 465, §4, is repealed.

Sec. A-33. 24-A MRSA §6981, sub-§2, as enacted by PL 2007, c. 447, §11, is amended to read:

2. Cooperative agreements. Dirigo Health may enter into voluntary cooperative agreements with a public purchaser for purchasing purposes and administrative functions. If a cooperative agreement is entered into pursuant to this subsection, the self-administered plan and any public purchaser shall maintain separate and distinct risk pools and reserves and may not commingle risk pools or reserve funds under any circumstances. For the purposes of this subsection, "public purchaser" means an entity that purchases health coverage in whole or in part with public funds, including, but not limited to, the state employee health insurance program, the University of Maine System, the Maine Community College System, the Maine Education Association benefits trust, the Maine School Management Association benefits trust and municipal and county governments. For the purposes of this subsection, "public purchaser" does not mean the Department of Health and Human Services, Office of MaineCare Services ~~except for cooperative agreements for the purchasing of pharmaceuticals pursuant to Title 5, section 2031~~.

Sec. A-34. 34-B MRSA §5439, sub-§8, ¶A, as reallocated by PL 2007, c. 695, Pt. A, §41, is amended to read:

A. The commissioner shall:

(1) Ensure the input of consumers, personal assistants and any organization that represents personal assistants regarding providing a livable wage for personal care assistance services. The commissioner may seek input through one or more public hearings or by other means determined reasonable by the commissioner~~; and~~.

~~(2) Seek advice and input from the Long-term Care Oversight Committee established in Title 22, section 5107-J to determine whether the rates of reimbursement are sufficient for consumers to recruit, hire and retain personal care assistants.~~

Sec. A-35. 38 MRSA §470-F, as enacted by PL 2001, c. 619, §1, is amended to read:

§470-F. Local water use policies encouraged

The department shall encourage and cooperate with state, regional or municipal agencies, boards or organizations in the development and adoption of regional or local water use policies that protect the environment from excessive drawdown of water sources during low-flow periods. The department shall encourage those entities, in developing those policies, to review previously adopted low-flow policies~~, including any such policies adopted by the Aroostook Water and Soil Management Board established in Title 7, section 332~~.

PART B

Sec. B-1. 32 MRSA §14202, sub-§2, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. B-2. 32 MRSA §14202, sub-§3-A, as enacted by PL 1995, c. 80, §1, is amended to read:

3-A. Demonstrator. "Demonstrator" means a person who is licensed to practice cosmetology, barbering, aesthetics or manicuring and engages in performing demonstrations outside establishments licensed by the ~~board~~ director in the use of machines, articles or techniques pertaining to practices licensed

under this chapter. The term "demonstrator" does not include one who performs demonstrations solely for persons currently licensed to practice cosmetology, barbering, aesthetics or manicuring under this chapter or under the licensing provision of any other state.

Sec. B-3. 32 MRSA §14202, sub-§4-A is enacted to read:

4-A. Director. "Director" means the Director of the Office of Licensing and Registration within the department.

Sec. B-4. 32 MRSA §14202, sub-§11, as amended by PL 1997, c. 210, §14, is further amended to read:

11. Student. "Student" means any person duly enrolled in a school licensed by the ~~board~~ director and engaged in learning and acquiring a knowledge of the practice of:

A. Cosmetology;

B. Barbering;

C. Aesthetics; or

D. Manicuring.

Sec. B-5. 32 MRSA §14202, sub-§13, as amended by PL 2007, c. 402, Pt. HH, §2, is further amended to read:

13. Trainee. "Trainee" means any person who, under the direct supervision of a person licensed under this chapter in the same category as the training performed and in accordance with ~~board~~ rules adopted by the director, is engaged in learning and acquiring a knowledge of the practice of:

A. Cosmetology;

B. Barbering;

C. Aesthetics; or

D. Manicuring.

Sec. B-6. 32 MRSA §14203, sub-§2, as amended by PL 2009, c. 48, §§1 to 3, is further amended to read:

2. Exceptions. The practice of cosmetology, barbering, aesthetics or manicuring may be carried on only by persons duly licensed to practice in this State and only in an establishment licensed by the ~~board~~ director, except as provided in this subsection. Duly licensed persons may practice their respective practices:

A. On patients in hospitals or nursing homes;

B. On residents of summer camps;

C. On inmates or residents of institutions of the Department of Health and Human Services;

D. On invalids or handicapped persons in those persons' places of residence;

E. On residents of nursing homes;

F. On hotel or motel occupants in their hotel or motel rooms;

G. On persons in their residences;

H. On persons in their private businesses;

I. On human remains in licensed funeral establishments; and

J. On persons at special events with a special event services permit. Services rendered pursuant to this paragraph must be rendered for compensation. A person may not perform special event services without first obtaining a special event services permit from the ~~board~~ director. The services provided pursuant to the special event services permit must comply with any applicable public health and safety requirements, the requirements of this chapter and all federal, state and local laws.

Sec. B-7. 32 MRSA §14204, 2nd ¶, as amended by PL 2007, c. 402, Pt. HH, §4, is repealed.

Sec. B-8. 32 MRSA §14211-A, as amended by PL 2007, c. 402, Pt. HH, §7, is repealed.

Sec. B-9. 32 MRSA §14212, as amended by PL 2007, c. 402, Pt. HH, §8, is repealed.

Sec. B-10. 32 MRSA §14212-A is enacted to read:

§14212-A. Director's powers and duties

1. Duties. The director shall administer, coordinate and enforce this chapter. The director may appoint an advisory committee to assist the director on any matter that may arise under this chapter, as needed.

2. Rule-making authority. The director shall establish guidelines and adopt rules necessary for the proper administration and enforcement of this chapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must address, but are not limited to, the following:

A. Requirements for the licensure of aestheticians, barbers, cosmetologists, manicurists, demonstrators, instructors, students and trainees;

B. Requirements for licensing, operating and inspecting schools. At a minimum, the rules must include standards relating to educational programs, instructor qualifications, school operation, academic and student records and record keeping, health, safety and sanitation, physical facilities of the school and off-site classrooms, payment of refunds, notices and information to be provided to

students and credit for education obtained in subjects that are considered substantially equivalent to applied courses offered and consistent with this chapter;

C. Requirements for licensing and operation of physical facilities and inspection of establishments and booths consistent with this chapter; and

D. The establishment of sanitation, health and safe practice standards, including but not limited to blood spill procedures and proper use of tools, implements, equipment and electrical and nonelectrical machines and devices used in connection with the practices authorized under this chapter.

3. Inspections. The director or a designee of the director may enter licensed premises to conduct random inspections for compliance with this chapter and rules adopted pursuant to this chapter.

4. Diseases. The director may require the physical examination of any person offering service to members of the public who is suspected of having any communicable disease. A person who has a communicable disease may not give service to members of the public, including service within licensed establishments or schools licensed by the director. Failure to submit to such an examination is grounds for suspension or revocation of the person's registration, certification, permit or license.

Sec. B-11. 32 MRSA §14224, sub-§2, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

2. Operation of shop; license required. A person, firm or corporation may not provide services in, operate or cause to be operated a shop where cosmetology, barbering, manicuring or aesthetics is practiced unless that shop has been duly licensed by the ~~board~~ director. A license issued pursuant to this subsection authorizes the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location is unlawful unless a license for the new location has been obtained in compliance with this chapter and applicable ~~board~~ rules.

The ~~board~~ director shall furnish to each licensed cosmetologist, barber, manicurist or aesthetician a license certifying that the holder of that license is entitled to practice in this State. The licensee shall post the license in a conspicuous place where it may be readily seen and read by all persons served. The reproduction, altering or defacing of any license is prohibited.

Booths attached to or within a licensed shop that are operated independently are subject to licensure, fees and applicable rules in the same manner as independent shops. ~~The board may establish rules for the operation of booths.~~

~~Shop licenses must be renewed biennially unless otherwise provided by the commissioner. The renewal fee is set under section 14238.~~

The exceptions listed in section 14203, subsection 3 do not permit the practice of cosmetology, barbering, manicuring or aesthetics in food establishments or food preparation areas.

Sec. B-12. 32 MRSA §14224, sub-§2-B, as enacted by PL 1997, c. 622, §2, is amended to read:

2-B. Change of ownership; change of location. The owner of a new shop is required to apply to the ~~board~~ director for licensure of that shop. The owner of a licensed shop that undergoes a change in location is required to reapply to the ~~board~~ director for licensure. The owner or owners of a licensed shop that undergoes a change in ownership shall notify the ~~board~~ director within 7 days of the change. If a shop has more than one owner and the change in ownership results from the death or divorce of one of the owners, the notice must be provided to the ~~board~~ director as set forth in subsection 2-C. Whenever there is a change of ownership, the shop license is valid for 30 days from the transaction date to allow the new owner to comply with this section.

Sec. B-13. 32 MRSA §14224, sub-§2-C, as enacted by PL 1997, c. 622, §2, is amended to read:

2-C. Ownership changes resulting from death or divorce of an owner. If a licensed shop has more than one owner and ownership changes as a result of the death or divorce of one of the owners, the ~~board~~ director shall reissue the license for the remaining license period as long as a remaining owner is named on the existing license and the ~~board~~ director is notified within 30 days of the divorce decree or the date of death. A shop license is valid for 60 days following the death of the person in whose name the shop is licensed.

Sec. B-14. 32 MRSA §14224, sub-§3, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

3. Trainee. A trainee cosmetologist, barber, manicurist or aesthetician licensed pursuant to section 14232 may not independently conduct a practice but may, as a trainee, do any or all acts constituting the practice under the immediate personal supervision of a person duly licensed and approved by the ~~board~~ director in a licensed shop.

Sec. B-15. 32 MRSA §14224, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

4. Student license required. A student enrolled in the study of cosmetology, barbering, manicuring or aesthetics must be licensed with the ~~board~~ director pursuant to section 14233.

Sec. B-16. 32 MRSA §14225, first ¶, as amended by PL 2007, c. 402, Pt. HH, §11, is further amended to read:

The ~~board~~ director may, subject to section ~~14112~~ 14212-A, subsection 2, adopt rules authorizing the issuance of special mobile shop licenses, including requirements for mobile shops, locations for these shops and any other rules that the ~~board~~ director considers necessary. The fee for a special mobile shop license is set under section 14238.

Sec. B-17. 32 MRSA §14226, sub-§3, as amended by PL 1997, c. 210, §24, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in cosmetology of 1,500 hours in not less than 9 months in a school licensed by the ~~board~~ director or has experience in the practice of cosmetology as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-18. 32 MRSA §14226, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §12, is further amended to read:

4. Examination. Has ~~satisfactorily~~ passed an approved examination ~~approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board may establish the passing score for all examinations~~.

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-19. 32 MRSA §14226, 2nd ¶, as amended by PL 1997, c. 210, §27, is further amended to read:

Any person licensed as a barber pursuant to this chapter and who has satisfactorily completed a course of instruction in cosmetology of at least 500 hours in a school licensed by the ~~board~~ director or has experience in the practice of cosmetology as a trainee of at least 900 hours is eligible for examination.

Sec. B-20. 32 MRSA §14227, sub-§3, as amended by PL 1997, c. 210, §28, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in barbering of 1,500 hours in not less than 9 months in a school licensed by the ~~board~~ director or has experience in the practice of barbering as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-21. 32 MRSA §14227, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §13, is further amended to read:

4. Examination. Has ~~satisfactorily~~ passed an approved examination ~~approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board may establish the passing score for all examinations~~.

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-22. 32 MRSA §14227, 2nd ¶, as amended by PL 1997, c. 210, §31, is further amended to read:

Any person licensed as a cosmetologist pursuant to this chapter and who has satisfactorily completed a course of instruction in barbering of at least 500 hours in a school licensed by the ~~board~~ director or has experience in the practice of barbering as a trainee of at least 900 hours is eligible for examination.

Sec. B-23. 32 MRSA §14228, sub-§3, as amended by PL 2001, c. 260, Pt. G, §1, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in aesthetics of 600 hours in not less than 3 months in a school licensed by the ~~board~~ director or has experience in the practice of aesthetics as a trainee of up to 1,000 hours distributed over a period of at least 6 months. The ~~board shall establish by rule the~~ specific number of hours of course work required up to a maximum of 600 hours must be specified by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A; and

Sec. B-24. 32 MRSA §14228, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §14, is further amended to read:

4. Examination. Has ~~satisfactorily~~ passed an approved examination ~~approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board may establish the passing score for all examinations~~.

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-25. 32 MRSA §14229, sub-§3, as amended by PL 1997, c. 210, §35, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in manicuring of 200 hours in not less than 5 weeks in a school licensed by the ~~board~~ director or has experience in the practice of manicuring as a trainee of 400 hours distributed over a period of at least 10 weeks; and

Sec. B-26. 32 MRSA §14229, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §15, is further amended to read:

4. Examination. Has ~~satisfactorily~~ passed an approved examination ~~approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board may establish the passing score for all examinations~~.

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-27. 32 MRSA §14229-A, as enacted by PL 2007, c. 402, Pt. HH, §16, is amended to read:

§14229-A. First license; reexamination

Within 90 days of notification of passing an examination, the applicant must pay a fee as set under section 14238 to receive a first license. The first license is valid until the next renewal period. The ~~board~~ director has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. B-28. 32 MRSA §14230, as amended by PL 2007, c. 402, Pt. HH, §17, is further amended to read:

§14230. Temporary permit

If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies for examination, the ~~board~~ director may issue to that applicant a permit to practice under the direct supervision of a qualified supervisor, as determined by ~~board~~ rules, within a licensed shop. The applicant must pay the fee as set under section 14238. A permit expires 6 months from the date of issuance and is not renewable. The applicant is not considered a trainee.

Sec. B-29. 32 MRSA §14231, as amended by PL 2007, c. 402, Pt. HH, §18, is further amended to read:

§14231. Endorsement

The ~~board~~ director may waive the examination and grant a license to any applicant who presents proof of being authorized to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the ~~board~~ director to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section 14236-A. Such an applicant must pay the fee as provided in section 14238.

Sec. B-30. 32 MRSA §14232, as amended by PL 2007, c. 402, Pt. HH, §19, is further amended to read:

§14232. Trainees

1. License. Each trainee must submit an application for licensure to the ~~board~~ director. The application must be accompanied by a fee as set under section 14238. The license for each type of training expires as indicated below.

A. A cosmetology trainee license expires 18 months from date of issuance.

B. A barber trainee license expires 18 months from date of issuance.

C. A manicurist trainee license expires 6 months from date of issuance.

D. An aesthetician trainee license expires 12 months from date of issuance.

2. Filing with the director. Before beginning training, a trainee must file with the ~~board~~ director:

A. The employer's name, shop name and address;

B. The date that the training will begin;

C. The type of training, such as cosmetology, barbering, manicuring or aesthetics;

D. Evidence of age;

E. Evidence of satisfactory completion of the 10th grade or its equivalent; and

F. The name of the licensee who will directly supervise the trainee in compliance with section 14224, subsection 3.

Trainees who change their place of employment must notify the ~~board,~~ director within 10 days of the change and must file a new trainee application.

3. Courses of instruction. A trainee may take courses of instruction in a licensed school without having to register as a student as provided in this chapter. Hours or time accumulated in a school may be applied to the training program in accordance with rules adopted ~~by the board~~ pursuant to this chapter.

4. Renewal; display; examination. The ~~board~~ director shall furnish a trainee license to each trainee. A trainee license is renewable upon payment of the fee as set under section 14238. The license must be displayed as provided for licenses in section 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed as a cosmetologist, barber, aesthetician or manicurist, a trainee, upon completion of the required training in accordance with this chapter, must pass an approved examination ~~approved by the board~~.

Sec. B-31. 32 MRSA §14233, as amended by PL 2007, c. 402, Pt. HH, §20, is further amended to read:

§14233. Licensed students

Schools licensed by the ~~board~~ director shall license students in accordance with rules adopted by the ~~board~~ director and upon payment of the fee as set under section 14238.

To be eligible for licensure, the student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. Evidence of the student's eligibility and enrollment in the school must be provided on a form provided by the ~~board~~ director.

All training or services rendered to a member of the public by a student must be under the direct supervision of a duly licensed instructor in a licensed school or as otherwise proved by rule.

Sec. B-32. 32 MRSA §14234, as amended by PL 2007, c. 402, Pt. HH, §21, is further amended to read:

§14234. Demonstrators

A person may not perform demonstrations unless licensed by the ~~board~~ director and upon payment of the fee as set under section 14238. The ~~board~~ director shall adopt rules that describe the articles, machines or techniques that may be demonstrated outside the licensed establishment. All demonstrations must be performed in a safe and sanitary manner for the protection of the public. Licenses must be renewed biennially or at such other times as the commissioner may designate. A license is not required for persons who perform demonstrations in a licensed establishment or solely to licensed persons.

Sec. B-33. 32 MRSA §14235, as amended by PL 2007, c. 402, Pt. HH, §22, is further amended to read:

§14235. Licenses; renewal

Licensees must renew their licenses on or before July 1st biennially by filing an application and paying the renewal fee as set under section 14238. The expiration dates for licenses issued under this chapter may be established by the commissioner.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee as set under section 14238 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, including a late fee, renewal fee and additional late fee as set under section 14238, except that the ~~board~~ director, after giving due consideration to the protection of the public, may waive requirements.

Notwithstanding any other provision of this chapter, the ~~board~~ director must waive examination if a renewal application is made by a person within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, if that person failed to renew a license because of active duty in the armed forces. The waiver of examination may not be granted if the person served more than 4 years in the armed forces, unless ~~the board is presented with satisfactory~~ evidence is presented to demonstrate that the applicant was required by law to serve that period.

Sec. B-34. 32 MRSA §14235-A is enacted to read:

§14235-A. Licenses; initial

An applicant for initial licensure must submit an application together with the fee set under section 14238 and meet the requirements set forth under this chapter.

Sec. B-35. 32 MRSA §14236-A, as enacted by PL 2007, c. 402, Pt. HH, §24, is amended to read:

§14236-A. Denial or refusal to renew license; disciplinary action

1. Disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the ~~board~~ director may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee's being unable to perform duties or being unable to perform those duties in a manner that would not endanger the health or safety of the public to be served;

B. A professional diagnosis of mental incompetence;

C. Engaging in false, misleading or deceptive advertising;

D. Employing a person to practice cosmetology, barbering, manicuring or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or

E. Any negligence or misconduct in any of the practices licensed under this chapter.

~~**2. Reinstatement.** The board may reissue a license to any person whose license has been revoked if 5 or more members of the board vote in favor of that reissuance.~~

Sec. B-36. 32 MRSA §14245, sub-§1, as amended by PL 2007, c. 402, Pt. HH, §27, is further amended to read:

1. Requirement of license. Any person, partnership, association or corporation located either within or outside the State must obtain a license as specified under section 14246 ~~from the board~~ before:

A. Operating, maintaining or instructing at a school within the State; or

B. Collecting any tuition, fee or other charge for education, instruction or other services provided or to be provided by a school.

Sec. B-37. 32 MRSA §14246, sub-§1, as amended by PL 2007, c. 402, Pt. HH, §28, is further amended to read:

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this subchapter must be accompanied by an application fee as set under section 14238 and a surety bond. For applicants that participate in state or federal financial aid programs, except the Federal Direct Student Loan Program under the federal Higher Education Act of 1965, 20 United States Code, Section 1087a et seq., the bond must be in favor of the Finance Authority of Maine. For all other applicants, the bond must be in favor of the ~~board~~ director. The amount of the bond for a new applicant is $20,000. For renewal applicants, the amount of the bond must be equal to the greater of 10% of the applicant's gross receipts from tuition in the 12 months prior to the application for renewal or $20,000.

A. A license is valid for a period of 12 months from the date of issuance or as otherwise determined by the commissioner.

B. The bond must be continuous and must provide indemnification to any student suffering loss as a result of any fraud, misrepresentation, violation of this subchapter or rules adopted under this subchapter or breach of contract. The bond must provide for written notification by the surety to the ~~board~~ director in the event of cancellation. Cancellation of the bond by the surety, or payment under the bond by the surety to the ~~board~~ director or the Finance Authority of Maine, results in the revocation of the license. The bond must also specifically provide that proceeds are available to pay tuition refunds to students or to student loan lenders on behalf of students eligible for those refunds pursuant to the policies of the school or state or federal law, rule or regulation.

C. If one or more students notify the ~~board~~ director or the Finance Authority of Maine of a claim the student has against the school for fraud, misrepresentation, breach of contract or refund due, or that the school has violated the provisions of this subchapter or applicable rules, or if any such event is discovered by the ~~board~~ director or the Finance Authority of Maine from other sources and the holder of the bond has reason to believe the claim is valid, the holder may make a claim against the bond on behalf of the student or students affected, or on behalf of the ~~board~~ director. The ~~board~~ director and the Finance Authority of Maine have the concurrent right at any time to review the school's operations and all its records to determine if the school is in compliance with this subchapter and rules adopted under this subchapter, or to determine if any claim of a student against the school is valid.

Sec. B-38. 32 MRSA §14246, sub-§2, as amended by PL 2007, c. 402, Pt. HH, §29, is further amended to read:

2. License fee; renewal fee; renewal requirements. A fee as set under section 14238 is charged for the initial license and for the annual renewal of a license. Each submission for a license renewal must include the school's most recent financial audit conducted by a certified public accountant unaffiliated with the school. When a school does not participate in federal or state financial aid programs, internally prepared financial statements signed by the applicant are acceptable. Every renewal application must include a bond in the required amount. The ~~board~~ director shall provide copies of the audit or financial statements and, in cases in which the bond is not in favor of the ~~board~~ director, the original bond to the Finance Authority of Maine and may provide financial information regarding the school to other state agencies with an interest in the operation of the school. When a school applies for renewal of a license the school must certify that:

A. The school has included information in all school brochures and handbooks provided to students, and has posted information in a location in the school frequented by students advising students of their rights to receive refunds and where to direct any complaints the students have concerning their education; and

B. The school is in compliance with all applicable federal and state laws and regulations.

Sec. B-39. 32 MRSA §14247, as amended by PL 2007, c. 402, Pt. HH, §30, is repealed.

Sec. B-40. 32 MRSA §14248, as enacted by PL 1997, c. 266, §18, is amended to read:

§14248. On-site evaluations

The ~~board~~ director shall conduct biennial on-site evaluations of schools to ensure compliance with this subchapter and applicable rules. The expense of the on-site evaluation must be borne by the school examined. ~~This expense includes only the reasonable, necessary and proper hotel and travel expenses of the board member evaluators and staff and board member per diem. A school evaluated pursuant to this section must promptly pay to the board the expenses of the evaluation upon presentation of a reasonably detailed written statement of the expenses.~~

Sec. B-41. 32 MRSA §14249, as amended by PL 2007, c. 402, Pt. HH, §31, is further amended to read:

§14249. Complaints

The ~~board~~ director may investigate complaints involving a school including any allegation of noncompliance with or violation of this subchapter and applicable rules. The ~~board~~ director shall promptly notify the Finance Authority of Maine of any complaints involving student financial assistance. After a hearing in conformance with Title 5, chapter 375, subchapter 4, the ~~board~~ director may amend or modify any license and may suspend or refuse to renew a license as provided in Title 5, section 10004.

~~A board member may not participate in any on-site evaluation, complaint, hearing or license-related action that involves a school with which the board member has or has had a direct relationship as a student, instructor, administrator or director or in which the board member has a direct pecuniary interest.~~

Sec. B-42. 32 MRSA §14250, as repealed and replaced by PL 2007, c. 402, Pt. HH, §32, is amended to read:

§14250. Denial or refusal to renew school license; disciplinary action

The ~~board~~ director may deny a school license, refuse to renew a school license or impose the disciplinary sanctions authorized by Title 10, section 8003, ~~subsecton~~ subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

Sec. B-43. Transition provisions. The following provisions govern the elimination of the Board of Barbering and Cosmetology and the transfer of its authority to enforce this Act to the Department of Professional and Financial Regulation.

1. Successor. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation is the successor in every way to the powers, duties and functions of the Board of Barbering and Cosmetology.

2. Rules. The rules adopted by the Board of Barbering and Cosmetology remain in effect until the director adopts rules pursuant to this Act.

3. Licenses. All licenses issued by the Board of Barbering and Cosmetology remain valid and are subject to license renewal requirements.

4. Board membership. Terms of members of the Board of Barbering and Cosmetology expire on the effective date of this Act.

Sec. B-44. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 126, subchapter 2 in the subchapter headnote, the words "board of barbering and cosmetology" are amended to read "director's powers and duties" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-45. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Deallocates funds as a result of the Board of Barbering and Cosmetology being repealed.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($1,890)	($1,890)
All Other	($5,322)	($5,322)
OTHER SPECIAL REVENUE FUNDS TOTAL	($7,212)	($7,212)

See title page for effective date.

CHAPTER 370

H.P. 1037 - L.D. 1484

An Act Regarding the Central Voter Registration System

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

Sec. 1. 21-A MRSA §161, sub-§2-A, as enacted by PL 2005, c. 453, §32, is amended to read:

2-A. Maintenance of voter registration information. The registrar in each municipality shall keep the central voter registration system current at all times for the voters in the registrar's municipality. The Secretary of State is authorized to conduct maintenance of the central voter registration system. The Secretary of State shall by rule determine the program for voter list maintenance required by the National Voter Registration Act of 1993. A registrar may not cancel a voter's registration in the central voter registration system solely because the registered voter did not vote in previous elections. A voter's registration record in the central voter registration system must be cancelled by either the registrar for the voter's municipality or by the Secretary of State as follows:

A. When it is determined that a voter has registered to vote in another jurisdiction in the State, the voter registration record from the former jurisdiction must be cancelled; and

B. When it is determined that the voter has registered to vote in another jurisdiction outside of the

State, the voter registration record in the State must be cancelled.

Sec. 2. 21-A MRSA §162-A, sub-§1, as enacted by PL 1993, c. 695, §17, is amended to read:

1. Change of address confirmation notice. Except as provided in section 122, subsection 3, a registrar, or the Secretary of State when conducting maintenance of the central voter registration system, shall send by forwardable mail a change of address confirmation notice, with a postage prepaid and preaddressed return notice, to the last known place of residence of each person the registrar or the Secretary of State has identified as having a change of address. If a registrant has moved within the municipality's jurisdiction, a registrar shall change the voter's record to reflect the new address before sending the change of address confirmation notice. If a registrant has moved outside the municipality's jurisdiction, a registrar shall also include information on voter registration procedures in the new jurisdiction.

Sec. 3. 21-A MRSA §162-A, sub-§2, as amended by PL 2005, c. 453, §33, is further amended to read:

2. Change of voter's status. A voter's registration may be cancelled in the central voter registration system if the voter confirms that the voter has moved from the municipality's jurisdiction. If a voter fails to respond to the change of address confirmation notice, the voter must be designated on the incoming voting list and in the central voter registration system as inactive. A voter who has been designated as inactive and fails to vote for the next 2 general elections must be cancelled in the central voter registration system. If a voter who is designated as inactive votes at any election prior to cancellation in the central voter registration system, the inactive designation of the voter must be changed to active. Address verification may be requested at the polls before allowing a voter designated as inactive to vote. Cancellation of a voter's registration record in the central voter registration system pursuant to this subsection may be performed by either the registrar for the voter's municipality or the Secretary of State.

Sec. 4. 21-A MRSA §196, sub-§3, as amended by PL 2007, c. 397, §2 and c. 455, §12, is repealed and the following enacted in its place:

3. Other reports. The Secretary of State shall make available to any person upon request and free of charge the following voter record information in electronic form: either the voter's first name or last name, but not both names in the same report; year of birth; enrollment status; electoral districts to include congressional district and county only; voter status; the date of registration or the date of change of the voter record if applicable; the date of the last statewide election in which each voter voted; and any special designations indicating uniformed service voters, overseas voters or township voters. The Secretary of State or the registrar also may make available to any person upon request and free of charge any other reports that do not contain the names, dates of birth or addresses of individual voters.

Sec. 5. 21-A MRSA §196, last ¶, as amended by PL 2007, c. 397, §2, is further amended to read:

This section is repealed September 30, ~~2009~~ 2011.

See title page for effective date.

CHAPTER 371

H.P. 1048 - L.D. 1489

An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011

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

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

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

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

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

PART A

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Administration - Human Resources 0038

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($696)	$0	$0
GENERAL FUND TOTAL	($696)	$0	$0

Budget - Bureau of the 0055

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,500)	$0	$0
All Other	($137)	$0	$0
GENERAL FUND TOTAL	($9,637)	$0	$0

Buildings and Grounds Operations 0080

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,285)	$0	$0
GENERAL FUND TOTAL	($2,285)	$0	$0

Debt Service - Government Facilities Authority 0893

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($227)	$0	$0
GENERAL FUND TOTAL	($227)	$0	$0

Office of the Commissioner - Administrative and Financial Services 0718

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($34)	$0	$0
GENERAL FUND TOTAL	($34)	$0	$0

Purchases - Division of 0007

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($132)	$0	$0
GENERAL FUND TOTAL	($132)	$0	$0

Revenue Services - Bureau of 0002

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($60,000)	$0	$0
All Other	($4,429)	$0	$0
GENERAL FUND TOTAL	($64,429)	$0	$0

State Controller - Office of the 0056

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($30,000)	$0	$0
All Other	($415)	$0	$0
GENERAL FUND TOTAL	($30,415)	$0	$0

Statewide Radio Network System 0112

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($526)	$0	$0
GENERAL FUND TOTAL	($526)	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($108,381)	$0	$0

DEPARTMENT TOTAL - ALL FUNDS	**($108,381)**	**$0**	**$0**

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Beverage Container Enforcement Fund 0971

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($683)	$0	$0
GENERAL FUND TOTAL	($683)	$0	$0

Division of Animal Health and Industry 0394

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($196)	$0	$0
GENERAL FUND TOTAL	($196)	$0	$0

Division of Market and Production Development 0833

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($12,360)	$0	$0
GENERAL FUND TOTAL	($12,360)	$0	$0

Food Assistance Program 0816

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($207)	$0	$0
GENERAL FUND TOTAL	($207)	$0	$0

Harness Racing Commission 0320

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($928)	$0	$0
GENERAL FUND TOTAL	($928)	$0	$0

Office of the Commissioner 0401

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($8,796)	$0	$0
GENERAL FUND TOTAL	($8,796)	$0	$0

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	**($23,170)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($23,170)**	**$0**	**$0**

ATTORNEY GENERAL, DEPARTMENT OF THE

Civil Rights 0039

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($35,736)	$0	$0
GENERAL FUND TOTAL	($35,736)	$0	$0

ATTORNEY GENERAL, DEPARTMENT OF THE

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	**($35,736)**	**$0**	**$0**

DEPARTMENT TOTAL - ALL FUNDS	**($35,736)**	**$0**	**$0**

CONSERVATION, DEPARTMENT OF

Administration - Forestry 0223

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($363)	$0	$0
GENERAL FUND TOTAL	($363)	$0	$0

Forest Health and Monitoring 0233

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($11,194)	$0	$0
GENERAL FUND TOTAL	($11,194)	$0	$0

Forest Policy and Management - Division of 0240

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($10,000)	$0	$0
GENERAL FUND TOTAL	($10,000)	$0	$0

Office of the Commissioner 0222

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($5,812)	$0	$0
GENERAL FUND TOTAL	($5,812)	$0	$0

CONSERVATION, DEPARTMENT OF			
DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($27,369)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($27,369)**	**$0**	**$0**

CORRECTIONS, DEPARTMENT OF

Administration - Corrections 0141

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($5,147)	$0	$0
All Other	($125,455)	$0	$0
GENERAL FUND TOTAL	($130,602)	$0	$0

Adult Community Corrections 0124

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($3,531)	$0	$0
GENERAL FUND TOTAL	($3,531)	$0	$0

Central Maine Pre-release Center 0392

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($4,287)	$0	$0
GENERAL FUND TOTAL	($4,287)	$0	$0

Charleston Correctional Facility 0400

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($5,273)	$0	$0
GENERAL FUND TOTAL	($5,273)	$0	$0

Correctional Center 0162

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($10,979)	$0	$0
All Other	($10,290)	$0	$0
GENERAL FUND TOTAL	($21,269)	$0	$0

Correctional Medical Services Fund 0286

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,165)	$0	$0
GENERAL FUND TOTAL	($2,165)	$0	$0

Downeast Correctional Facility 0542

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($2,239)	$0	$0
All Other	($1,450)	$0	$0
GENERAL FUND TOTAL	($3,689)	$0	$0

Justice - Planning, Projects and Statistics 0502

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($545)	$0	$0
GENERAL FUND TOTAL	($545)	$0	$0

Juvenile Community Corrections 0892

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($8,777)	$0	$0
All Other	($4,702)	$0	$0
GENERAL FUND TOTAL	($13,479)	$0	$0

Long Creek Youth Development Center 0163

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($5,506)	$0	$0
All Other	($6,445)	$0	$0
GENERAL FUND TOTAL	($11,951)	$0	$0

Mountain View Youth Development Center 0857

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($2,388)	$0	$0
All Other	($6,356)	$0	$0
GENERAL FUND TOTAL	($8,744)	$0	$0

Office of Victim Services 0046

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($616)	$0	$0
All Other	($1,071)	$0	$0
GENERAL FUND TOTAL	($1,687)	$0	$0

State Prison 0144

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,616)	$0	$0
All Other	($8,883)	$0	$0
GENERAL FUND TOTAL	($18,499)	$0	$0

CORRECTIONS, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($225,721)	$0	$0

DEPARTMENT TOTAL - ALL FUNDS	**($225,721)**	**$0**	**$0**

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

Administration - Defense, Veterans and Emergency Management 0109

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($356)	$0	$0
GENERAL FUND TOTAL	($356)	$0	$0

Administration - Maine Emergency Management Agency 0214

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($730)	$0	$0
GENERAL FUND TOTAL	($730)	$0	$0

Veterans Services 0110

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($47,074)	$0	$0
GENERAL FUND TOTAL	($47,074)	$0	$0

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	**($48,160)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($48,160)**	**$0**	**$0**

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Administration - Economic and Community Development 0069

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,625)	$0	$0
GENERAL FUND TOTAL	($2,625)	$0	$0

Business Development 0585

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,000)	$0	$0
GENERAL FUND TOTAL	($9,000)	$0	$0

International Commerce 0674

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($14,000)	$0	$0
GENERAL FUND TOTAL	($14,000)	$0	$0

Maine Small Business and Entrepreneurship Commission 0675

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($241)	$0	$0
GENERAL FUND TOTAL	($241)	$0	$0

Office of Innovation 0995

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($4,000)	$0	$0

GENERAL FUND TOTAL	($4,000)	$0	$0

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($29,866)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($29,866)	$0	$0

EDUCATION, DEPARTMENT OF

Child Development Services 0449

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($11,107)	$0	$0
GENERAL FUND TOTAL	($11,107)	$0	$0

Support Systems 0837

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($3,620)	$0	$0
GENERAL FUND TOTAL	($3,620)	$0	$0

EDUCATION, DEPARTMENT OF

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($14,727)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($14,727)	$0	$0

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Land and Water Quality 0248

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($7,600)	$0	$0
GENERAL FUND TOTAL	($7,600)	$0	$0

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($7,600)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($7,600)	$0	$0

EXECUTIVE DEPARTMENT

Administration - Executive - Governor's Office 0165

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($41,000)	$0	$0
All Other	($749)	$0	$0
GENERAL FUND TOTAL	($41,749)	$0	$0

Blaine House 0072

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($23,000)	$0	$0
GENERAL FUND TOTAL	($23,000)	$0	$0

Planning Office 0082

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($7,000)	$0	$0

All Other	($1,773)	$0	$0
GENERAL FUND TOTAL	($8,773)	$0	$0

EXECUTIVE DEPARTMENT

DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($73,522)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($73,522)**	**$0**	**$0**

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)

Disproportionate Share - Dorothea Dix Psychiatric Center 0734

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
All Other	($2,498)	$0	$0
GENERAL FUND TOTAL	($2,498)	$0	$0

Disproportionate Share - Riverview Psychiatric Center 0733

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
All Other	($2,643)	$0	$0
GENERAL FUND TOTAL	($2,643)	$0	$0

Dorothea Dix Psychiatric Center 0120

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
All Other	($1,547)	$0	$0
GENERAL FUND TOTAL	($1,547)	$0	$0

Driver Education and Evaluation Program - Substance Abuse 0700

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
Personal Services	($15,500)	$0	$0
All Other	($250,000)	$0	$0
GENERAL FUND TOTAL	($265,500)	$0	$0

Elizabeth Levinson Center 0119

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
Personal Services	($35,000)	$0	$0
GENERAL FUND TOTAL	($35,000)	$0	$0

Mental Health Services - Children 0136

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
All Other	($1,767)	$0	$0
GENERAL FUND TOTAL	($1,767)	$0	$0

Mental Health Services - Community 0121

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
Personal Services	($22,000)	$0	$0
All Other	($314)	$0	$0
GENERAL FUND TOTAL	($22,314)	$0	$0

Mental Retardation Services - Community 0122

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	**2008-09**	**2009-10**	**2010-11**
Personal Services	($29,000)	$0	$0
GENERAL FUND TOTAL	($29,000)	$0	$0

Office of Advocacy - BDS 0632

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($11,000)	$0	$0
GENERAL FUND TOTAL	($11,000)	$0	$0

Office of Substance Abuse 0679

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($18,000)	$0	$0
All Other	($2,129)	$0	$0
GENERAL FUND TOTAL	($20,129)	$0	$0

Riverview Psychiatric Center 0105

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($13,250)	$0	$0
GENERAL FUND TOTAL	($13,250)	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS) DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($404,648)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($404,648)	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Additional Support for People in Retraining and Employment 0146

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($29,500)	$0	$0
GENERAL FUND TOTAL	($29,500)	$0	$0

Bureau of Child and Family Services - Central 0307

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($3,000)	$0	$0
All Other	($37)	$0	$0
GENERAL FUND TOTAL	($3,037)	$0	$0

Bureau of Child and Family Services - Regional 0452

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($8,000)	$0	$0
All Other	($1,327)	$0	$0
GENERAL FUND TOTAL	($9,327)	$0	$0

Bureau of Family Independence - Regional 0453

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($29,500)	$0	$0
All Other	($1,740)	$0	$0
GENERAL FUND TOTAL	($31,240)	$0	$0

Bureau of Medical Services 0129

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($7,000)	$0	$0
All Other	($221)	$0	$0
GENERAL FUND TOTAL	($7,221)	$0	$0

Child Support 0100

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($17,000)	$0	$0
All Other	($2,794)	$0	$0
GENERAL FUND TOTAL	($19,794)	$0	$0

Division of Licensing and Regulatory Services Z036

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($20,000)	$0	$0
GENERAL FUND TOTAL	($20,000)	$0	$0

Division of Purchased Services Z035

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($6,000)	$0	$0
GENERAL FUND TOTAL	($6,000)	$0	$0

Health - Bureau of 0143

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,000)	$0	$0
GENERAL FUND TOTAL	($9,000)	$0	$0

Low-cost Drugs To Maine's Elderly 0202

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($90,000)	$0	$0
GENERAL FUND TOTAL	($90,000)	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($10,000)	$0	$0
GENERAL FUND TOTAL	($10,000)	$0	$0

Multicultural Services Z034

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($22,000)	$0	$0
GENERAL FUND TOTAL	($22,000)	$0	$0

Office of Elder Services Central Office 0140

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,500)	$0	$0
GENERAL FUND TOTAL	($9,500)	$0	$0

Office of Integrated Access and Support - Central Office Z020

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($19,000)	$0	$0
GENERAL FUND TOTAL	($19,000)	$0	$0

Office of Management and Budget 0142

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($9,000)	$0	$0
All Other	($92,134)	$0	$0
GENERAL FUND TOTAL	($101,134)	$0	$0

OMB Division of Regional Business Operations 0196

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,835)	$0	$0
GENERAL FUND TOTAL	($2,835)	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)			
DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($389,588)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($389,588)**	**$0**	**$0**

HUMAN RIGHTS COMMISSION, MAINE

Human Rights Commission - Regulation 0150

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($12,226)	$0	$0
All Other	($134)	$0	$0
GENERAL FUND TOTAL	($12,360)	$0	$0

HUMAN RIGHTS COMMISSION, MAINE			
DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($12,360)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($12,360)**	**$0**	**$0**

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Administrative Services - Inland Fisheries and Wildlife 0530

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($13,354)	$0	$0
GENERAL FUND TOTAL	($13,354)	$0	$0

Licensing Services - Inland Fisheries and Wildlife 0531

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($4,000)	$0	$0
GENERAL FUND TOTAL	($4,000)	$0	$0

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF			
DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($17,354)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($17,354)**	**$0**	**$0**

LABOR, DEPARTMENT OF

Blind and Visually Impaired - Division for the 0126

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($30,000)	$0	$0
GENERAL FUND TOTAL	($30,000)	$0	$0

Labor Relations Board 0160

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,000)	$0	$0
GENERAL FUND TOTAL	($2,000)	$0	$0

Regulation and Enforcement 0159

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($18,000)	$0	$0
GENERAL FUND TOTAL	($18,000)	$0	$0

Rehabilitation Services 0799

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($219)	$0	$0
GENERAL FUND TOTAL	($219)	$0	$0

LABOR, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($50,219)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($50,219)	$0	$0

LIBRARY, MAINE STATE

Administration - Library 0215

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($38,000)	$0	$0
GENERAL FUND TOTAL	($38,000)	$0	$0

LIBRARY, MAINE STATE DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($38,000)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($38,000)	$0	$0

MARINE RESOURCES, DEPARTMENT OF

Bureau of Resource Management 0027

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($23,851)	$0	$0
GENERAL FUND TOTAL	($23,851)	$0	$0

Office of the Commissioner 0258

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($9,355)	$0	$0
GENERAL FUND TOTAL	($9,355)	$0	$0

Sea Run Fisheries and Habitat Z049

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($681)	$0	$0
GENERAL FUND TOTAL	($681)	$0	$0

MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($33,887)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($33,887)	$0	$0

PROPERTY TAX REVIEW, STATE BOARD OF

Property Tax Review - State Board of 0357

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($4,000)	$0	$0
GENERAL FUND TOTAL	($4,000)	$0	$0

PROPERTY TAX REVIEW, STATE BOARD OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($4,000)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($4,000)	$0	$0

PUBLIC SAFETY, DEPARTMENT OF

Administration - Public Safety 0088

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($3,446)	$0	$0
GENERAL FUND TOTAL	($3,446)	$0	$0

Background Checks - Certified Nursing Assistants 0992

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($91)	$0	$0
GENERAL FUND TOTAL	($91)	$0	$0

Gambling Control Board Z002

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($67,937)	$0	$0
GENERAL FUND TOTAL	($67,937)	$0	$0

State Police 0291

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($681)	$0	$0
GENERAL FUND TOTAL	($681)	$0	$0

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($72,155)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($72,155)	$0	$0

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
All Other	($2,152)	$0	$0
GENERAL FUND TOTAL	($2,152)	$0	$0

PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS	2008-09	2009-10	2010-11
GENERAL FUND	($2,152)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($2,152)	$0	$0

SECRETARY OF STATE, DEPARTMENT OF

Bureau of Administrative Services and Corporations 0692

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2008-09	2009-10	2010-11
Personal Services	($25,000)	$0	$0

GENERAL FUND TOTAL	($25,000)	$0	$0
SECRETARY OF STATE, DEPARTMENT OF			
DEPARTMENT TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($25,000)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($25,000)**	**$0**	**$0**
SECTION TOTALS	**2008-09**	**2009-10**	**2010-11**
GENERAL FUND	**($1,643,615)**	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**($1,643,615)**	**$0**	**$0**

PART B

Sec. B-1. PL 2009, c. 213, Pt. MMM, §1 is amended read:

Sec. MMM-1. Transfer; Maine Budget Stabilization Fund. Notwithstanding any other provision of law, the State Controller shall transfer ~~$51,455,943~~ $75,455,943 from the Maine Budget Stabilization Fund in the Department of Administrative and Financial Services to General Fund unappropriated surplus by the close of fiscal year 2008-09 ~~and shall transfer $24,000,000 by the close of fiscal year 2009-10~~ to offset a General Fund revenue shortfall.

Sec. B-2. PL 2009, c. 213, Pt. MMM, §2 is enacted to read:

Sec. MMM-2. Transfer; Maine Budget Stabilization Fund. Notwithstanding the Maine Revised Statutes, Title 5, section 1536 or any other provision of law, $3,643,615 of the balance in General Fund unappropriated surplus on June 30, 2010 must be transferred to the Maine Budget Stabilization Fund no later than June 20, 2011 after all budgeted financial commitments and adjustments considered necessary by the State Controller have been made.

PART C

Sec. C-1. Balance forward. Notwithstanding the Maine Revised Statutes, Title 5, section 1536 or any other provision of law, up to $52,233,724 of the balance in General Fund unappropriated surplus on June 30, 2009 must be made available as a balance forward resource to be applied to the 2009-10 budget to fund the appropriations authorized in Public Law 2009, chapter 213 before any other commitments.

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

Effective June 11, 2009.

CHAPTER 372

H.P. 1038 - L.D. 1485

An Act Regarding Maine's Energy Future

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 Efficiency Maine Trust to operate an integrated suite of energy efficiency and renewable energy programs; and

Whereas, it is necessary that the changes made by this legislation take effect as soon as possible for the maximum benefit of the people of the State to aid them in developing efficient uses of energy; and

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

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

PART A

Sec. A-1. 5 MRSA §949, sub-§1, ¶D, as amended by PL 2009, c. 122, §5, is further amended to read:

D. Director of electric and gas utility industries; and

Sec. A-2. 5 MRSA §949, sub-§1, ¶D-1, as enacted by PL 2007, c. 482, §4, is repealed.

Sec. A-3. 5 MRSA §3327, as amended by PL 2007, c. 656, Pt. C, §§3 to 5, is repealed.

Sec. A-4. 5 MRSA §12004-G, sub-§13-F, as enacted by PL 2007, c. 317, §1, is repealed.

Sec. A-5. 5 MRSA §12004-I, sub-§20-B, as enacted by PL 2007, c. 317, §2, is repealed.

Sec. A-6. 35-A MRSA §3211-A, as amended by PL 2007, c. 317, §§3 to 13, is repealed.

Sec. A-7. 35-A MRSA §3211-C, as amended by PL 2009, c. 88, §1, is repealed.

Sec. A-8. 35-A MRSA §4711, as amended by PL 2009, c. 122, §17, is repealed.

Sec. A-9. 35-A MRSA c. 95, as amended, is repealed.

Sec. A-10. Effective date. This Part takes effect July 1, 2010.

PART B

Sec. B-1. 5 MRSA §12004-G, sub-§10-C is enacted to read:

10-C.

Energy	Efficiency Maine Trust Board	Expenses Only	35-A MRSA §10103

Sec. B-2. 30-A MRSA §4741, sub-§15, as amended by PL 1991, c. 871, §2, is further amended to read:

15. State weatherization, conservation and fuel assistance agency. The Maine State Housing Authority is designated the weatherization, energy conservation and fuel assistance agency for the State and, in accordance with Title 35-A, section 10104, subsection 8, may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act;

Sec. B-3. 35-A MRSA c. 97 is enacted to read:

CHAPTER 97

EFFICIENCY MAINE TRUST ACT

§10101. Short title

This chapter may be known and cited as "the Efficiency Maine Trust Act."

§10102. Definitions

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

1. Administrative costs. "Administrative costs" means costs of the trust in carrying out its responsibilities under this chapter, including, but not limited to, costs of:

A. Securing necessary expertise;

B. Contracting for program delivery; and

C. Monitoring and enforcing contractual obligations.

2. Administration fund. "Administration fund" means the administration fund established pursuant to section 10103, subsection 5.

3. Alternative energy resources. "Alternative energy resources" means nonfossil fuel energy resources, including, but not limited to, biomass, wood, wood pellets and solar, wind or geothermal resources.

4. Board. "Board" means the Efficiency Maine Trust Board.

5. Director. "Director" means the Director of the Efficiency Maine Trust.

6. Forward capacity market. "Forward capacity market" means the program established by the regional transmission organization that is in effect on the effective date of this subsection and compensates providers of electrical capacity with payments for the availability or reduction of capacity as determined by the regional transmission organization.

7. Program funds. "Program funds" means any of the funds established pursuant to this chapter, other than the administration fund, to fund Efficiency Maine Trust programs.

8. Regional transmission organization. "Regional transmission organization" means the independent systems operator that administers and oversees the wholesale electricity markets in which the State participates.

9. Triennial plan. "Triennial plan" means the plan required under section 10104, subsection 4.

10. Trust. "Trust" means the Efficiency Maine Trust established in section 10103.

11. Trustee. "Trustee" means a member of the board.

§10103. Efficiency Maine Trust

1. Establishment; purpose. The Efficiency Maine Trust is established for the purposes of developing, planning, coordinating and implementing energy efficiency and alternative energy resources programs in the State to:

A. Provide uniform, integrated planning, program design and administration of programs pursuant to this chapter and any other provisions of law administered by the trust;

B. Reduce energy costs and improve security of the state and local economies. The trust shall administer cost-effective energy efficiency programs consistent with applicable requirements of this chapter or other law to help individuals and businesses meet their energy needs at the lowest cost

and generally to improve the economic security of the State by:

(1) Maximizing the use of cost-effective weatherization and energy efficiency measures, including measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems and system upgrades to energy efficient systems that rely on alternative energy resources;

(2) Reducing economic insecurity from overdependence on price-volatile fossil fuels;

(3) Increasing new jobs and business development to deliver energy efficiency and alternative energy resources products and services;

(4) Enhancing heating benefits for households of all income levels through implementation of cost-effective efficiency programs, including weatherization programs, that will produce comfort, improve indoor air quality, reduce energy costs for those households and reduce the need for future fuel assistance;

(5) Simplifying and enhancing consumer access to technical assistance and financial incentives relating to energy efficiency and the use of alternative energy resources by merging or coordinating dispersed programs under a single administrative unit possessing independent management and expertise; and

(6) Using cost-effective energy efficiency investments to reduce greenhouse gas emissions;

C. Ensure that all expenditures of the trust are cost-effective in terms of avoided energy costs; and

D. Actively promote investment in cost-effective energy efficiency measures and systems that use alternative energy resources that reduce overall energy costs for consumers in the State.

Nothing in this chapter is intended or may be construed to constitute a mandate that would prevent the sale of carbon emission reductions into a voluntary carbon market.

2. Governance; board. The trust is governed by the independent Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, in accordance with this section.

A. The board consists of the following 9 voting members:

(1) The director of the Governor's Office of Energy Independence and Security;

(2) The director of the Maine State Housing Authority; and

(3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who posses the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

B. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the members. Each officer serves for a one-year term and is eligible for reelection.

C. A majority of the trustees constitutes a quorum.

D. The board may elect an executive committee of not fewer than 5 trustees who, in intervals between meetings of the board, may transact such business of the trust as the board may authorize from time to time.

3. Administration of trust; director. The board shall appoint, using a full and competitive search process, a qualified full-time director of the trust. The Director of the Efficiency Maine Trust serves at the pleasure of the board. The director must have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that plan, design or deliver those programs. The board shall establish the rate and amount of compensation of the director and all other employees of the trust. The director:

A. Serves as the president of the trust and as the liaison between the board and any committee of the Legislature having jurisdiction over energy matters;

B. Is responsible for:

(1) Establishing an office for the trust;

(2) Hiring and organizing staff for the trust and determining their qualifications and duties; and

(3) Managing the trust's programs, services and staff and performing other duties as the board considers appropriate; and

C. May delegate to employees of the trust any powers and duties that the director considers proper.

4. Program funding. The board may apply for and receive grants from state, federal and private sources for deposit into appropriate program funds. The board may deposit in appropriate program funds the proceeds of any bonds issued for the purposes of programs administered by the trust. The board may receive and shall deposit in appropriate program funds revenue resulting from any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded those by funds. The board may also deposit any grants or other funds received by or from any entity with which the trust has an agreement or contract pursuant to this chapter if the board determines that receipt of those funds is consistent with the purposes of this chapter.

5. Administration fund. The board shall establish an administration fund to be used solely to defray administrative costs. The trust may annually deposit funds authorized to be used for administrative costs under this chapter into the administration fund. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to program funds.

§10104. Duties

1. Generally. In accordance with this section and other applicable law, the trust administers and disburses funds and coordinates programs to promote energy efficiency and increased use of alternative energy resources in the State. The trust is responsible for accounting for, evaluating and monitoring all activities of the trust and all programs funded in whole or in part by the trust.

2. Programs. The trust shall plan, design and administer programs to ensure that funds are expended for uses consistent with applicable state and federal law and so that the following principles of administration are met:

A. Programs are consumer-oriented such that the processes for participation and program design are targeted to serve the multiple needs of energy consumers in this State;

B. The effectiveness of programs is maximized by building up and centralizing expertise, addressing conflicts of interest, mitigating the influence of politics, promoting flexible, timely program management and providing a champion for funding cost-effective energy efficiency;

C. The efficiency with which programs are planned, designed, overseen and delivered is maximized; and

D. Sufficient checks and balances are provided to ensure consistency with public policy and accountability for meeting the principles set out in paragraphs A to C so that energy efficiency programs in the State are sustainable for the long term.

3. Measures of performance. The trust shall develop quantifiable measures of performance for all programs it administers and to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy efficiency and weatherization programs administered or funded by the trust. Such measures may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, reduced capacity demand for natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.

4. Triennial plan. The board shall vote on a detailed, triennial, energy efficiency, alternative energy resources and conservation plan that includes the quantifiable measures of performance developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation programs under section 10111, the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal funds or publicly directed funds accepted by or allocated to the trust for the purposes of this chapter. The triennial plan must include provisions for the application of appropriate program funds to support workforce development efforts that are consistent with and promote the purposes of the trust. The plan must be consistent with the comprehensive state energy plan pursuant to Title 2, section 9, subsection 3, paragraph C.

A. The triennial plan must be developed by the trust, in consultation with entities and agencies

engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, the state energy efficiency targets in paragraph F and the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open a proceeding and issue an order either approving the plan or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve or reject any elements of the triennial plan within 60 days of its delivery to the commission. The board, within 15 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission.

F. It is an objective of the triennial plan to design, coordinate and integrate sustained energy efficiency and weatherization programs that are available to all energy consumers in the State, regardless of fuel type, that advance the targets of:

(1) Weatherizing 100% of residences and 50% of businesses by 2030;

(2) Reducing peak-load electric energy consumption by 100 megawatts by 2020;

(3) Reducing the State's consumption of liquid fossil fuels by at least 30% by 2030;

(4) By 2020, achieving electricity and natural gas savings of at least 30% and heating fuel savings of at least 20% as defined in and determined pursuant to the measures of performance ratified by the commission under section 10120;

(5) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;

(6) Saving residential and commercial heating consumers not less than $3 for every $1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;

(7) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and

(8) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

The trust shall preserve when possible and appropriate the opportunity for carbon emission reductions to be monetized and sold into a voluntary

carbon market. Any program of the trust that supports weatherization of buildings must be voluntary and may not constitute a mandate that would prevent the sale of emission reductions generated through weatherization measures into a voluntary carbon market.

5. Report. The trust shall report by December 1st of each year to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters. The report must include:

A. A description of actions taken by the trust pursuant to this section, including descriptions of all energy efficiency, weatherization and conservation programs implemented during the prior 12 months and all programs that the trust plans to implement during the next 12 months, a description of how the trust determines the cost-effectiveness of each program and its assessment of the cost-effectiveness of programs implemented during the prior 12 months;

B. An accounting of:

(1) Assessments made on each transmission and distribution utility pursuant to section 10110 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the program fund during the prior 12 months and projected deposits into and expenditures from the program funds during the next 12 months;

(2) Assessments made pursuant to section 10111 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the natural gas conservation fund during the prior 12 months and projected deposits into and expenditures from the natural gas conservation fund during the next 12 months;

(3) Any heating fuel assessments made for the purposes of section 10119 during the prior 12 months and projected assessments during the next 12 months and total deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the prior 12 months and projected deposits into and expenditures from the Heating Fuels Efficiency and Weatherization Fund during the next 12 months;

(4) Total funds received and expended by the State on energy efficiency and weatherization pursuant to the Weatherization Assistance for Low-income Persons Program of the United States Department of Energy and the Low-income Home Energy Assistance Program of the United States Department of Health and Human Services;

(5) The amount and source of any grants or funds deposited in the program fund pursuant to section 10110 during the previous 12 months and the projected amount and source of any such funds during the next 12 months; and

(6) Total deposits into and expenditures from the conservation administration fund under section 10110 during the prior 12 months and projected deposits into and expenditures from the conservation administration fund during the next 12 months;

C. Any recommendations for changes to the laws relating to energy conservation; and

D. The performance of the trust and individual programs and program delivery agents or service providers in meeting the objectives, targets and measures of performance approved by the commission and contained in the triennial plan.

The report must be approved by the board before the report is presented to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters.

6. Updated plans. Within 30 days of completion of the annual report under subsection 5, the director shall submit to the board an annual update plan describing any significant changes to the triennial plan under subsection 4 related to program budget allocations, goals, targets, measures of performance, program designs, implementation strategies, timelines and other relevant information for the year ahead for all funds administered and managed by the trust. The director or any contractor, grantee or agency delivering programs may not execute any significant changes until the changes are approved by the board and, in the case of significant changes to programs using funds generated by assessments under this chapter, until the changes are also approved by the commission using the same standard as for the triennial plan.

All annual update plans must be presented to the commission and the joint standing committee of the Legislature having jurisdiction over energy matters.

7. Certification. The board shall by rule establish certification standards for energy auditors, installers of energy efficiency measures or other service providers that provide services under programs administered by the trust. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

8. Approval of Maine State Housing Authority plans. After July 1, 2010, the Maine State Housing Authority, prior to applying for federal funds on behalf of the State pursuant to Title 30-A, section 4741, subsection 15 for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assis-

tance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services, shall submit to the board for its review and input the authority's implementation plans for the use of such funds. The plans must provide for coordination by the Maine State Housing Authority in its use of such funds with the programs administered by the trust under this chapter. The Maine State Housing Authority shall include in its plans any recommendations of the board to the extent the recommendations are consistent with the applicable federal guidelines governing the use of the funds.

9. Coordination with other entities. Consistent with the requirements of this chapter and other applicable laws, the board shall coordinate with the activities and programs of state agencies and authorities that relate to the purposes of this chapter in order to align such activities and programs with the plans and programs of the trust. For purposes of this subsection, activities and programs of state agencies and authorities that relate to the purposes of this chapter include but are not limited to energy efficiency programs relating to state facilities administered by the Department of Financial and Administrative Services, Bureau of General Services, the adoption, amendment and maintenance of the Maine Uniform Building and Energy Code by the Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A within the Department of Public Safety, energy efficiency or green energy workforce development activities of the Department of Labor or the Maine Jobs Council and energy efficiency and weatherization programs administrated by the Maine State Housing Authority.

10. Independent analysis of programs. The trust shall arrange for an independent evaluation of each major program implemented under this section. Each major program must be evaluated at least once every 5 years. The evaluation must include an accounting audit of the program and an evaluation of the program's effectiveness in meeting the goals of this section. The evaluations must be conducted by a competent professional with expertise in energy efficiency matters, including the management of cost-effective energy efficiency programs. The trust shall include the results of all evaluations conducted under this subsection in the annual report submitted pursuant to subsection 5. For purposes of this subsection, "major program" means a program with an annual budget of more than $500,000.

11. Other duties. The trust shall do all things necessary or convenient to carry out the lawful purposes of the trust.

§10105. Powers, duties and limitations

1. Funds. The trust shall administer programs and funds in accordance with this chapter and other applicable laws.

2. Efficiency Maine projects; bonds. The board shall propose, develop and approve revenue bond projects as Efficiency Maine projects under Title 10, section 963-A, subsection 10-A.

3. Bylaws. The trust shall adopt bylaws, through the board, consistent with this section for the governance of its affairs.

4. Purchasing agent rules. Notwithstanding Title 5, section 1831, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this chapter. The trust shall consider delivery of programs by means of contracts with service providers that participate in competitive bid processes for providing services within individual market segments or for particular end uses.

5. Rules. The board shall adopt rules for establishing and administering the trust and its programs. These rules must include:

A. Provisions for the expenditure of trust funds, including, but not limited to, the development of program budgets, criteria for energy efficiency and conservation programs and other consumer benefit programs, the process for project selection and approval, minimum requirements for project monitoring and verification and the cost-effectiveness tests to be used for measuring and comparing program benefits and costs; and

B. Provisions for the independent evaluation of program expenditures to ensure cost-effectiveness of projects to improve energy efficiency or to reduce greenhouse gases.

Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

6. Self-dealing prohibited. In the operation or dissolution of the trust, no part of the net earnings of the trust may benefit any trustee, officer or employee except that the trust may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the trust.

7. Recommendations; advisory groups. The trust may make recommendations to the Governor, the Legislature and other public officials regarding energy efficiency, weatherization and renewable energy programs. The trust may establish technical advisory groups as needed for the purposes of gathering technical knowledge on any aspect of energy conservation or policy.

§10106. Freedom of access; confidentiality

The proceedings of the board and records of the trust are subject to the freedom of access laws, Title 1, chapter 13, except as specifically provided in this subsection.

1. Confidential records. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the trust that:

(1) A person, including the trust, to whom the record belongs or pertains has requested be designated confidential; and

(2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through the trust's records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the trust, to any person to whom the record belongs or pertains; and

B. A financial statement or tax return.

The trust shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.

2. Exceptions. Notwithstanding subsection 1, the following are not confidential and are public records:

A. Any otherwise confidential information the confidentiality of which the board determines to have been satisfactorily and effectively waived;

B. Any otherwise confidential information that has already lawfully been made available to the public; and

C. Impersonal, statistical or general information.

3. Disclosure prohibited; further exceptions. The director or a trustee, officer, employee, agent, other representative of the trust or other person may not knowingly divulge or disclose records designated confidential by this section, except that the board, in its discretion and in conformity with legislative freedom of access criteria in Title 1, chapter 13, subchapter 1-A, may make or authorize any disclosure of information of the following types or under the following circumstances:

A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person;

B. To a financing institution or credit reporting service;

C. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

D. If necessary to ensure collection of any obligation in which the trust has or may have an interest;

E. In any litigation or proceeding in which the trust has appeared, introduction for the record of any information obtained from records designated confidential by this section; and

F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as any such order appears on its face or otherwise to have been issued or made upon lawful authority.

§10107. Conflicts of interest; financial disclosure statements

Each trustee is an "executive employee" for purposes of Title 5, sections 18, 18-A and 19. A trustee or employee of the trust or a spouse or dependent child of any of those individuals may not receive any direct personal benefit from the activities of the trust in assisting any private entity. This section does not prohibit corporations or other entities with which a trustee is associated by reason of ownership or employment from participating in program activities with the trust if ownership or employment is made known to the board and the board or director abstains from voting on matters relating to that participation.

§10108. Liability

All officers, directors, employees and other agents of the trust entrusted with the custody of funds of the trust or authorized to disburse the funds of the trust must be bonded either by a blanket bond or by individual bonds with a minimum limitation of $100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the trust.

§10109. Regional Greenhouse Gas Initiative Trust Fund

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

A. "Carbon dioxide allowance" has the same meaning as in Title 38, section 580-A, subsection 2.

B. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts.

C. "Trust fund" means the Regional Greenhouse Gas Initiative Trust Fund established in subsection 2.

2. Establishment of Regional Greenhouse Gas Initiative Trust Fund. The Regional Greenhouse Gas Initiative Trust Fund is established and is the successor to the fund that was established under former section 10008. The trust fund is established to support the goals and implementation of the carbon dioxide cap-and-trade program established under Title 38, section 580-B. The trust fund is established as a nonlapsing fund administered by the trust for the purposes established in this section. The trust is authorized to receive, and shall deposit in the trust fund and expend in accordance with this section, revenue resulting from the sale of carbon dioxide allowances, pursuant to Title 38, section 580-B, and any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded by the trust under this section. The trust fund may not be used for any other purpose and money in the trust fund is considered to be held in trust for the purposes of benefiting consumers.

A. The trustees have a fiduciary duty to the customers of the State's transmission and distribution utilities in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the trust fund only for the purposes set forth in this section.

B. The trustees shall ensure that the goals and objectives of the trust fund, as established in this section and in rules adopted by the trust, are carried out. The trustees shall represent the interests of the trust fund in the development of the triennial plan.

3. Ceiling on energy efficiency spending. There is established a ceiling on energy efficiency spending from the trust fund equal to $5 per carbon dioxide allowance. Until that price ceiling is adjusted or removed, only the first $5 of each carbon dioxide allowance sold and deposited in the trust fund may be awarded to or directed to qualified projects for purposes of energy efficiency improvements. While the ceiling is in place, revenue received by the trust from an allowance valued above $5 must be transferred to the commission for use by the commission pursuant to sections 301 and 1322 for rebates to electric ratepayers calculated on a per-kilowatt-hour basis. The commission shall adopt rules to implement this subsection. The rules must establish a system under which proceeds from the sale of carbon dioxide allowances may be returned to electric ratepayers as direct credits on their bills at times of heightened price pressure in regional carbon dioxide allowance markets due to an extraordinary circumstance. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Expenditures; projects. The trust fund must be expended in accordance with this subsection.

A. During the years 2009, 2010 and 2011, not less than 85% of the trust fund must be allocated for measures, investments and arrangements that reduce electricity consumption, and not more than 15% must be allocated for fossil fuel conservation measures, investments and arrangements. Subject to the apportionment between fossil fuel and electricity conservation pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

(1) Reliably reduce greenhouse gas production by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or

(2) Reliably reduce the consumption of electricity in the State at the lowest cost in funds from the trust fund per kilowatt-hour saved.

B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the board under section 10105. Rules adopted by the board to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation.

C. The board may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied.

D. Nonelectric savings programs must be used to maximize fossil fuel energy efficiency and conservation and associated greenhouse gas reductions, subject to the apportionment between fossil fuel and electricity conservation set forth in paragraph A.

E. The size of a project funded by the trust fund is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial plan.

F. No more than $800,000 of trust fund receipts in any one year may be used for the costs of administering the trust fund pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust fund:

(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter.

H. The trust shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses.

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

J. Trust fund receipts may fund research approved by the Department of Environmental Protection in an amount of up to $100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F.

5. Effective date. This section takes effect July 1, 2010.

§10110. Electric efficiency and conservation programs

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

A. "Administrative costs" means costs of the trust that are funded pursuant to and associated with the implementation of this section, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations.

B. "Administration fund" means the conservation administration fund established by the trust pursuant to subsection 8.

C. "Conservation programs" means programs developed by the trust pursuant to this section designed to reduce inefficient electricity use.

D. "Prior conservation efforts" means programs to promote conservation undertaken at the direction or with the authorization of the commission prior to March 1, 2002.

E. "Program fund" means the conservation program fund established by the trust pursuant to subsection 7.

F. "Service provider" means a public or private provider of energy conservation services or an entity selected by the trust to contract with such providers or otherwise arrange the delivery of conservation programs.

G. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts.

2. Programs. The trust shall develop and implement conservation programs to help reduce energy costs for electricity consumers in the State by the maximum amount possible. The trust shall establish and, on a schedule determined by the trust, revise objectives and an overall energy strategy for conservation programs. Conservation programs implemented by the trust must be consistent with the objectives and an overall energy strategy developed by the trust and approved by the commission and be cost-effective, as defined by the board by rule. In defining "cost-effective," the board may consider the extent to which a program promotes sustainable economic development or reduces environmental damage to the extent

the board can quantify or otherwise reasonably identify such effects. Consistent with the other requirements of this section, the trust, in adopting and implementing conservation programs, shall seek to encourage efficiency in electricity use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State.

A. The trust shall consider, without limitation, conservation programs that:

(1) Increase consumer awareness of cost-effective options for conserving energy;

(2) Create more favorable market conditions for the increased use of energy-efficient products and services;

(3) Promote sustainable economic development and reduce environmental damage;

(4) Reduce the price of electricity over time for all consumers by achieving reductions in demand for electricity during peak use periods; and

(5) Reduce total energy costs for electricity consumers in the State by increasing the efficiency with which electricity is consumed.

B. The trust, with regard to the assessment imposed under subsection 4, shall:

(1) Target at least 20% of funds to programs for low-income residential consumers, as defined by the board by rule;

(2) Target at least 20% of funds to programs for small business consumers, as defined by the board by rule; and

(3) To the greatest extent practicable, apportion remaining funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

C. The trust shall hold at least one public hearing and invite, accept, review and consider comments and suggestions from interested parties prior to adopting or substantially revising conservation programs or the objectives and overall strategy for conservation programs.

D. The trust shall monitor conservation planning and program development activities in the region and around the country.

E. The trust shall implement conservation programs by contracting with service providers in accordance with subsection 3.

F. The trust shall monitor and evaluate the delivery of conservation programs by service providers and assess the cost-effectiveness of programs in meeting the objectives and overall strategy established by the trust.

G. The trust, to the extent possible, shall coordinate its efforts with other agencies of the State with energy-related responsibilities.

H. The trust shall secure sufficient technical and administrative expertise to carry out its responsibilities pursuant to this section by:

(1) Contracting with appropriate entities with relevant expertise and experience;

(2) Establishing one or more advisory groups composed of persons with relevant expertise and experience; or

(3) Any other reasonable means developed by the trust.

I. The trust may coordinate its efforts under this section with similar efforts in other states in the northeast region and enter into agreements with public agencies or other entities in or outside of the State for joint or cooperative conservation planning or conservation program delivery, if the trust finds that such coordination or agreements would provide demonstrable benefits to citizens of the State and be consistent with this section, the conservation programs and the objectives and overall strategy for the conservation programs.

J. The trust shall encourage school facility managers to complete an energy efficiency training and certification program established and conducted by the trust under this section. To the extent the trust determines necessary and appropriate to meet the goals of this paragraph, the trust may, in accordance with the requirements of this section, establish incentive mechanisms to encourage participation in this program. For purposes of this paragraph, "school facility managers" means persons employed by school administrative units in this State who are responsible for the design or operation of school administrative unit facilities or the heating, ventilation or air conditioning systems or equipment used in such facilities.

3. Implementation. The trust shall seek to implement the delivery of conservation programs in all regions of the State on an equitable basis and to citizens at all income levels. The trust may arrange the delivery of conservation programs by contracting with service providers. The trust shall select service providers in accordance with this subsection.

A. The trust shall select service providers through a competitive bidding process.

B. To the extent practicable, the trust shall encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers.

C. Notwithstanding paragraph A:

(1) The trust may select a service provider for one or more conservation programs without employing a competitive bidding process if the trust finds that the selection of the service provider will promote the efficient and effective delivery of conservation programs and is consistent with the objectives and overall strategy of the conservation programs; and

(2) For the delivery of conservation programs to low-income residential consumers, the commission, without employing a competitive bidding process, may use the delivery system for the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the network of for-profit and not-for-profit entities who have held contracts with transmission and distribution utilities to deliver conservation services to low-income and residential customers.

In accordance with section 10105, the trust is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this subsection. The board shall adopt rules establishing procedures governing the selection of service providers under this subsection. The board shall consult with the State Purchasing Agent in developing the rules.

A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

4. Funding level; base assessment. The commission shall assess transmission and distribution utilities to collect funds for conservation programs and administrative costs in accordance with this subsection and shall make other assessments in accordance with subsection 5. The amount of all assessments by the commission under this subsection plus expenditures of a transmission and distribution utility associated with prior conservation efforts must result in conservation expenditures by each transmission and distribution utility, not including expenditures on assessments under subsection 5, that are fixed at a rate of 0.145 cent per kilowatt-hour.

5. Other assessments on transmission and distribution utilities. In accordance with the triennial plan, the commission shall assess each transmission and distribution utility based on the utility's gross operating revenue as necessary to realize all available energy efficiency and demand reduction resources in this State that are cost-effective, reliable and feasible after consideration of the following:

A. The amount of assessments pursuant to subsection 4 and their payment schedule;

B. The funding for conservation programs provided by the Regional Greenhouse Gas Initiative Trust Fund pursuant to section 10109;

C. The amount of payments received from a forward capacity market as a result of conservation programs funded under this chapter; and

D. Any other predictable sources of funding for or investment in conservation programs.

For the purposes of this subsection, "gross operating revenue" means revenue derived from filed rates, except from sales for resale. The commission may correct any errors in the assessments under this subsection by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year. The commission shall determine the assessments under this subsection annually prior to May 1st and assess each utility for its pro rata share for expenditure, including funds for energy conservation programs, during the fiscal year beginning July 1st. The commission may not charge any assessment under this subsection until the Legislature has approved the commission's budget in accordance with section 116. The commission shall separately identify any recommended assessment under this subsection in its presentation of budget recommendations contained in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters pursuant to section 116. Each utility shall pay the assessment charged to that utility under this subsection on the same schedule that payment of assessments under subsection 4 is required.

6. Transmission and subtransmission voltage level. After July 1, 2007, electricity customers receiving service at transmission and subtransmission voltage levels are not eligible for new conservation programs undertaken under this section, and those customers are not required to pay in rates any amount associated with the assessment imposed on transmission and distribution utilities under subsection 4 or subsection 5. To remove the amount of the assessment under subsection 4, the commission shall reduce the rates of such customers by 0.145 cent per kilowatt-hour. For the purposes of this section, "transmission voltage levels" means 44 kilovolts or more, and "subtransmission voltage levels" means 34.5 kilovolts.

7. Conservation program fund. The trust shall establish a conservation program fund to be used solely for conservation programs.

A. The commission shall deposit all assessments collected pursuant to this section, other than funds deposited in the administration fund, into the program fund.

B. Any interest earned on funds in the program fund must be credited to the program fund.

C. Funds not spent in any fiscal year remain in the program fund to be used for conservation programs.

D. The commission or the trust may apply for and receive grants from state, federal and private sources for deposit in the program fund and also may deposit in the program fund any grants or other funds received by or from any entity with which the commission or trust has an agreement or contract pursuant to this section if the commission receives prior written consent from the trust that receipt of those funds would be consistent with the purposes of this section. If the commission or trust receives any funds pursuant to this paragraph, it shall establish a separate account within the program fund to receive the funds and shall keep those funds and any interest earned on those funds segregated from other funds in the program fund.

8. Conservation administration fund. The trust shall establish a conservation administration fund to be used solely to defray administrative costs. The commission, at the direction of the trust, may annually deposit funds collected pursuant to this section into the administration fund up to a maximum in any fiscal year of up to 9% of total funds received pursuant to subsections 4 and 5. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

9. Prior conservation efforts. Except as otherwise directed by the commission, transmission and distribution utilities shall continue to administer contracts associated with prior conservation efforts. Such contracts may not be renewed, extended or otherwise modified by transmission and distribution utilities in a manner that results in any increased expenditures associated with those contracts.

10. Funds held in trust. All funds collected from electricity consumers pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting electricity consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to subsection 4.

11. Resolution of disputes. Upon receipt of an appropriate filing by a party to a contract relating to prior conservation efforts, the commission shall adjudicate a dispute relating to the interpretation or administration of the contract by the transmission and distribution utility.

In the case of a dispute filed after April 5, 2002, the commission shall refer the dispute to commercial arbitration in accordance with this paragraph. Each party to the contract shall select an arbitrator who is not a current employee of the party. The selected arbitrators shall then select a 3rd arbitrator. If the arbitrators cannot agree on the 3rd arbitrator, each party shall submit to the commission a list of at least 3 arbitrators who have no previous or current interest in the contract and, to the extent practicable, have special competence and experience with respect to the subject matter involved in the dispute. The commission shall choose the 3rd arbitrator from among the persons on the lists provided by the parties. After their selection, the arbitrators shall promptly hear and determine the controversy pursuant to the rules of the American Arbitration Association for the conduct of commercial arbitration proceedings, except that if such rules conflict with any procedural rules established by the commission or applicable provisions of the laws of this State relating to arbitration, the applicable commission rules or provisions of state law govern the arbitration. The arbitrators shall submit their decision to the commission.

A. The commission shall accept or reject the decision within 30 days of its submission, unless the commission requires additional time, in which case it may extend its review for another 30 days.

B. If the commission does not reject the decision within 30 days or, if it extends its review period an additional 30 days, within 60 days, the decision is deemed accepted.

C. If the commission rejects the decision, the commission shall adjudicate the dispute.

A decision by the commission under this subsection, including a decision by the arbitrators that is deemed accepted by the commission pursuant to paragraph B, is enforceable in a court of law.

12. Ratemaking and cost recovery. The assessments charged to transmission and distribution utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of transmission and distribution utilities.

13. Rules. The trust shall adopt rules necessary to implement this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

14. Effective date. This section takes effect July 1, 2010.

§10111. Natural gas conservation program

1. Program established. In accordance with the goals and objectives of the triennial plan, the trust shall establish a cost-effective conservation program to

promote the efficient use of natural gas. Each gas utility in the State that serves at least 5,000 residential customers shall contribute data and other relevant information to assist in the development of the program. In determining whether the program is cost-effective, the trust may consider whether it promotes sustainable economic development or reduces greenhouse gas emissions to the extent the trust can quantify or otherwise reasonably identify such effects. The trust shall seek to encourage efficiency in natural gas use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the cost and benefits of energy efficiency and conservation to existing business activity in the State.

A. The trust shall consider, without limitation, a natural gas conservation program that:

(1) Increases consumer awareness of cost-effective options for conserving energy;

(2) Creates more favorable market conditions for the increased use of efficient products and services; and

(3) Promotes sustainable economic development and reduces environmental damage.

B. The trust shall apportion available funds such that:

(1) A reasonable percentage of the available funds is directed to programs for low-income residential consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers, including an assessment of the number of low-income residential consumers that may be eligible for such programs;

(2) A reasonable percentage of the available funds is directed to programs for small business consumers, as defined by the trust. The trust shall establish the percentage based on an assessment of the opportunity for cost-effective conservation measures for such consumers. In defining "small business" for the purposes of this subparagraph, the trust shall consider definitions of that term used for other programs in this State that assist small businesses; and

(3) To the greatest extent practicable, the remaining available funds are apportioned in a manner that allows all other consumers to have a reasonable opportunity to participate in one or more conservation programs.

2. Funding level. The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility that serves at least 5,000 residential customers an amount that is no less than 3% of the gas utility's delivery revenues as defined by commission rule. In accordance with the triennial plan, the commission may assess a higher amount. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to this subsection.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Rules. The trust may adopt rules necessary to implement this section. Rules adopted by the trust under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Effective date. This section takes effect July 1, 2010.

§10112. Solar and wind energy rebate program

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

A. "Qualified solar energy system" means a solar photovoltaic system or a solar thermal system.

B. "Qualified solar thermal water system installer" means a person who has been certified by the trust to install solar thermal systems designed to heat water and who holds a current license from the State as a master plumber, as a master oil burner technician or as a propane and natural gas technician or has been certified as a type II, type III or universal heating, ventilation and air conditioning refrigeration technician through a certification program approved by the United States Environmental Protection Agency.

C. "Qualified wind energy system" means any device, such as a wind charger, windmill or wind turbine and associated facilities, with a peak generating capacity of 100 kilowatts or less that converts wind energy to electrical energy for use primarily in a residence, public facility or place of

business that is located in an area with demonstrated wind power potential.

D. "Solar photovoltaic system" means a solar energy device with a peak generating capacity of 100 kilowatts or less used for generating electricity for use in a residence or place of business.

E. "Solar thermal system" means a configuration of solar collectors and a pump, heat exchanger and storage tank or fans designed to heat water or air for the purpose of space heating, domestic water heating or both space and domestic water heating. Solar thermal system types include forced circulation, integral collector storage, thermosyphon and self-pumping systems.

2. Solar and wind energy rebate program. To the extent that funds are available in the fund established in subsection 5 and the requirements of subsection 3 are satisfied, an owner or tenant of residential or commercial property located in the State is entitled to a rebate for a qualified solar energy system that is installed in accordance with this subsection after July 1, 2005 that will be connected to the electrical grid or a qualified wind energy system that is installed in accordance with this subsection after January 1, 2009 that will be connected to the electrical grid. The trust shall set rebate levels for qualified solar energy systems and qualified wind energy systems. In setting rebate levels, the trust may consider market demand for qualified solar energy systems and qualified wind energy systems, program implementation experience and other factors relevant to the solar and wind energy rebate program.

A. To qualify for a rebate, a solar photovoltaic system must be installed by a master electrician who has been certified by a North American board of certified energy practitioners or by a master electrician working in conjunction with a person who has been certified by a North American board of certified energy practitioners.

B. To qualify for a rebate, a solar thermal system designed to heat water must be installed by a qualified solar thermal water system installer and, if the solar thermal system is designed to heat potable water, it must be installed by a qualified solar thermal water system installer who holds a current license as a master plumber or by a qualified solar thermal water system installer working in conjunction with a master plumber.

C. To qualify for a rebate, the electrical components of a qualified wind energy system must be installed by a master electrician or by a factory-trained and approved dealer for the qualified wind energy system working under the supervision of a master electrician.

In the case of a newly constructed residence, the rebate must be available to the original owner or occupant.

3. Energy audit requirement; solar photovoltaic system. To qualify for a rebate for a solar photovoltaic system under this section, an owner or tenant of residential or commercial property located in the State must demonstrate to the satisfaction of the trust that an energy audit has been completed.

4. Limitation to residents of State. Participation in the solar and wind energy rebate program established in this section is limited to residents of the State.

5. Funding. The commission shall assess transmission and distribution utilities to collect funds for the solar and wind energy rebate program established in this section. The amount of all assessments by the commission under this subsection must result in total program expenditures by each transmission and distribution utility that do not exceed 0.005 cent per kilowatt-hour. To the extent practicable, the commission shall establish and collect the assessment in a manner that is consistent with the assessment made under section 10110. There is established a solar and wind energy rebate program fund to be used by the trust solely for the purposes of this section. All assessments made under this section must be transferred to the solar and wind energy rebate program fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. The trust shall determine the allotment of the fund in each fiscal year between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates.

6. Effective date. This section takes effect July 1, 2010.

7. Repeal. This section is repealed December 31, 2010.

§10113. Training for installers of solar equipment

1. Installation training. To the extent that funds and resources allow, the trust shall establish training programs for installers of solar equipment that most effectively meet the needs of the public. The trust:

A. May develop separate programs for different solar technologies or applications when the trust determines that the skills or training for the installation of those technologies or applications merit the distinction;

B. Shall confer with the Plumbers' Examining Board and the Electricians' Examining Board when it develops the course content and requirements;

C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in solar equipment installation;

D. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

E. May establish reasonable course fees. All fees must be paid to the Treasurer of State to be used by the trust for the purposes of this section;

F. Shall determine terms for the expiration and renewal of an applicant's certificate of completion; and

G. Shall determine an appropriate means of maintaining recognition of the training received by persons holding certificates issued pursuant to former section 10002 or former Title 32, chapter 87.

2. Qualifications for installing solar equipment. A certificate of completion issued by the trust pursuant to subsection 1 does not exempt the holder from any applicable licensing requirements for activities involved in installing solar equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

3. Effective date. This section takes effect July 1, 2010.

§10114. Training for energy auditors

1. Auditor training. To the extent that funds and resources allow, the trust shall set standards for training programs for energy auditors that most effectively meet the needs of the public and that satisfy the requirements of funding sources. For the purposes of this subsection, an energy auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. The trust:

A. May develop separate programs for audits of different building types and functions when the trust determines that the skills or training needed to perform these audits merit the distinction;

B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants must demonstrate proficiency in energy auditing;

C. Shall issue a certificate of completion to individuals who meet the requirements the trust has established;

D. May establish reasonable course fees. All fees collected by the trust must be used for the purposes of this section;

E. Shall determine terms for the expiration and renewal of an applicant's certificate of completion;

F. Shall determine an appropriate means of maintaining recognition of the training received by persons holding a certification;

G. Shall work with state agencies and other interested parties to establish certification standards for energy auditors who perform work under programs administered by the trust; and

H. Shall recognize other established training programs that offer certification consistent with the trust's energy auditor training standards.

2. Effective date. This section takes effect July 1, 2010.

§10115. Federal energy programs

1. Programs. The trust shall oversee and administer:

A. The United States Department of Energy State Energy Program; and

B. Other federally funded programs and projects related to trust programs.

2. Effective date. This section takes effect July 1, 2010.

§10116. Energy Conservation Small Business Revolving Loan Program

1. Program and fund. The trust shall establish the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as "the program," and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as "the fund." The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is established; any amounts that the trust deposits in the fund from the assessment on transmission and distribution utilities pursuant to section 10110 or from other program funds, to the extent that use of such funds for the program will be consistent with the requirements governing the use of such funds; principal and interest received from the repayment of loans made from the fund; any interest earned on investment of fund balances; and other funds from any public or private source received for the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

A. The trust shall credit all repayments of loans made to businesses, including interest, penalties and other fees and charges related to fund loans, to the fund account.

B. Money in the fund not needed to meet the current obligations of the program must be deposited with the Treasurer of State to the credit of the fund account and may be invested in such manner as is provided by law. Interest received on that investment must be credited to the fund account.

C. At the end of each fiscal year, all unencumbered balances in the fund account may be carried forward to be used for the purposes specified in this subsection.

2. Effective date. This section takes effect July 1, 2010.

§10117. Energy efficiency of rental properties

1. Residential energy efficiency disclosure statement. The trust and the Maine State Housing Authority shall prepare a residential energy efficiency disclosure statement form for landlords and other lessors of residential properties to use to disclose to tenants and lessees information about the energy efficiency of the property in order to comply with Title 14, section 6030-C. The trust and the Maine State Housing Authority shall post and maintain the statement form required by this subsection on the Internet in a format that is easily accessible by the public.

2. Suggested energy efficiency standards. The trust and the Maine State Housing Authority shall prepare suggested energy efficiency standards for landlords and other lessors of residential property that is used by a tenant or lessee as a primary residence. The trust and the Maine State Housing Authority shall post and maintain the standards required by this subsection on the Internet in a format that is easily accessible by the public.

3. Effective date. This section takes effect July 1, 2010.

§10118. Public information and outreach

1. General. The trust shall provide to the public information about renewable energy technologies and energy efficiency practices. In providing this information, the trust shall consider:

A. The aspects of renewable energy technologies and energy efficiency practices about which the public needs information;

B. The most effective means of providing the information; and

C. The members of the public who would most benefit from the information.

2. Funding. The trust may seek federal funding for the purposes of this section and, to the extent necessary, may charge reasonable fees to cover the costs of training or other services provided pursuant to this section. All fees must be paid to the trust and used to reimburse the trust for its expenses in providing the service for which the fee is charged.

3. Effective date. This section takes effect July 1, 2010.

§10119. Heating Fuels Efficiency and Weatherization Fund

1. Fund established; use of money. The Heating Fuels Efficiency and Weatherization Fund, referred to in this section as "the fund" is established. The fund is a nonlapsing fund and is administered by the trust in accordance with this section. Any interest earned on funds in the fund must be credited to the fund, and funds not spent in any fiscal year remain in the fund to be used in accordance with this section. The trust may receive and deposit in the fund funds from the following sources:

A. Any funds collected from an assessment on heating fuels;

B. Federal funds and awards may be used for the purposes of this section;

C. The proceeds of any bonds issued for the purposes of this section;

D. Principal and interest received from the repayment of loans made from the fund;

E. Any interest earned on investment of fund balances; and

F. Any other funds from public or private sources received in support of the purposes for which the fund is established.

The trust may annually deposit funds received pursuant to this section into the administration fund, to a maximum in any fiscal year of 10% of the revenues received under this section.

2. Program. All funds deposited in the fund must be administered by the trust in accordance with the following.

A. All funds deposited in the fund must be administered by the trust to reduce heating fuel consumption consistent with the purpose and targets of the trust and the triennial plan to achieve the following goal:

(1) By 2030, to provide cost-effective energy efficiency and weatherization measures to substantially all homes and businesses whose owners wish to participate in programs established by the trust under this section.

B. Funds from the fund may be used only for programs that provide cost-effective energy efficiency and weatherization measures for the benefit of heating fuel customers or to efficiency service providers serving those customers and in accordance with the following.

(1) Program categories must include low-income, single-family and 2-family residential units, multifamily residential units, small business, commercial and institutional and

such other categories as the trust determines appropriate;

(2) Within program categories, the trust may differentiate between programs for new construction and existing buildings; and

(3) Cost-effective energy efficiency measures must include measures that improve the energy efficiency of energy-using systems, such as heating and cooling systems, through system upgrades or conversions, including conversions to energy-efficient systems that rely on renewable energy sources or systems that rely on effective energy efficiency technologies.

C. Program designs approved by the trust must contain:

(1) Incentives to consumers to purchase and install cost-effective efficiency and weatherization products and services identified by a certified energy auditor, except in the case of programs to deliver education, training or certifications;

(2) A schedule of customer copayments and loan options for prescribed products and services. Programs for low-income consumers may provide exemptions from the copayment and schedule;

(3) A plan for integrating delivery of heating fuel efficiency and weatherization measures with electric efficiency measures; and

(4) A system for the equitable allocation of costs among the contributing funds or subaccounts administered by the trust when more than one efficiency opportunity is identified.

D. Other eligible program measures may include, but are not limited to, training or certification of energy auditors, insulation installers, mechanical heating system installers and maintenance technicians and building energy inspectors.

3. Rulemaking. The board may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Effective date. This section takes effect July 1, 2010.

§10120. Commission oversight of Efficiency Maine Trust

1. Measures of performance. The trust shall incorporate measures of performance in the triennial plan. The measures of performance must define the electricity, natural gas and heating fuel savings targets established in section 10104, subsection 4, paragraph F and specify the measures for assessing progress in meeting the targets. The commission shall ratify measures of performance incorporated in the triennial plan if it finds that these measures satisfy the requirements of this chapter, including the principles described in section 10104, subsection 2, and are in the public interest. The commission and the trust may revise one or more of the measures of performance in the triennial plan at any time by mutual agreement.

2. Regulation. The trust may not expend any funds from assessments made under this chapter until the commission approves the triennial plan. The commission upon recommendation of the Public Advocate or the Attorney General may open an investigation of practices or acts of the trust. If the commission, upon investigation, finds that the trust has failed to comply with any requirement of this chapter or other requirements of law in the use or expenditure of any funds from assessments made under this chapter, the commission may issue an appropriate order directing the trust to take necessary actions to bring the trust into compliance with the law and may suspend or limit the authority of the trust to expend or encumber any funds derived from assessments made under this chapter until the commission finds the trust has come into compliance with the law. The commission may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Oversight and evaluation fund. The commission may establish an oversight and evaluation fund to be used solely to defray the commission's projected costs of overseeing the trust, including but not limited to reviewing and approving the triennial plan and contracting with expert 3rd-party resources to provide technical assistance or impartial evaluation of the performance of energy efficiency programs administered by the trust. The commission may assess the trust an amount not to exceed 1% of the total funds administered by the trust, and the trust shall transfer that amount to the commission to be deposited into the oversight and evaluation fund. Any interest on funds in the oversight and evaluation fund must be credited to the oversight and evaluation fund and any funds unspent in any fiscal year must either remain in the oversight and evaluation fund to be used for the purposes specified in this subsection or be transferred to the trust for deposit in appropriate program funds.

Sec. B-4. 38 MRSA §580-B, sub-§7, as enacted by PL 2007, c. 317, §17, is amended to read:

7. Allocation of carbon dioxide emissions allowances. The department shall allocate 100% of the annual carbon dioxide emissions allowances for public benefit to produce funds for carbon reduction and energy conservation, as specified in Title 35-A, section ~~10008~~ 10109. Except as provided in subsection 8, the department shall sell the carbon dioxide emissions allowances at public auction, in accordance with rules

adopted under subsection 4. Revenue resulting from the sale of allowances must be deposited in the ~~Energy and Carbon Savings~~ Regional Greenhouse Gas Initiative Trust Fund established under Title 35-A, section ~~10008~~ 10109.

Sec. B-5. 38 MRSA §580-B, sub-§7-A, as enacted by PL 2007, c. 608, §7, is amended to read:

7-A. Voluntary renewable energy market set-aside. The department shall set aside a portion of the State's annual carbon dioxide emissions budget in a voluntary renewable market set-aside account. The allowances from this account must be retired in an amount equal to the amount of carbon dioxide emissions reduced by the voluntary purchase of eligible renewable energy credits by persons in the State up to the amount held in the set-aside account. For purposes of this subsection, "eligible renewable energy credits" means renewable energy credits generated within the states that are participating in the regional greenhouse gas initiative.

Before February 1, 2010, the portion of the State's annual carbon dioxide emissions budget that is set aside in a voluntary renewable market set-aside account pursuant to this subsection may not exceed 2% of that budget. The department shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2010 as to whether that 2% cap is appropriate. By January 31, 2010, the ~~Energy and Carbon Savings~~ Efficiency Maine Trust, established under Title 35-A, section ~~10008~~ 10103, in consultation with the department, shall establish the cap on the portion of the State's annual carbon dioxide emissions budget that is set aside in a set-aside account.

Sec. B-6. 38 MRSA §580-B, sub-§10, as enacted by PL 2007, c. 317, §17, is amended to read:

10. Annual report. The department and the trustees of the ~~Energy and Carbon Savings~~ Efficiency Maine Trust established pursuant to Title 35-A, section ~~10008~~ 10103 shall submit a joint report to the joint standing committees of the Legislature having jurisdiction over natural resources matters and utilities and energy matters by March 15, 2009 and each year thereafter. The report must assess and address:

A. The reductions of greenhouse gas emissions from carbon dioxide budget units, conservation programs funded by the ~~Energy and Carbon Savings~~ Regional Greenhouse Gas Initiative Trust Fund pursuant to Title 35-A, section ~~10008~~ 10109 and carbon dioxide emissions offset projects;

B. The improvements in overall carbon dioxide emissions and energy efficiency from sources that emit greenhouse gases including electrical generation and fossil fuel fired units;

C. The maximization of savings through systemic energy improvements statewide;

D. Research and support of new carbon dioxide offset allowance categories for development in the State;

E. Management and cost-effectiveness of the State's energy conservation and carbon reduction programs and efforts funded by the ~~Energy and Carbon Savings~~ Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section ~~10008~~ 10109; ~~and~~

F. The extent to which funds from the ~~Energy and Carbon Savings~~ Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section ~~10008~~ 10109, serve customers from all classes of the State's transmission and distribution utilities.; and

G. The revenues and expenditures of the Regional Greenhouse Gas Initiative Trust Fund, established pursuant to Title 35-A, section 10109.

The department and the trustees of the ~~Energy and Carbon Savings~~ Efficiency Maine Trust may include in the report any proposed changes to the program established under this chapter.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to areas within the committee's jurisdiction in connection with the program.

PART C

Sec. C-1. 5 MRSA §17001, sub-§40, as amended by PL 2007, c. 134, §3, is further amended to read:

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Community College System except those who make the election provided under Title 20-A, section 12722, any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf except as provided in Title 20-A, section 7407, subsection 3-A, any employee of the Maine Military Authority, any employee of the Northern New England Passenger Rail Authority, any employee of the Maine Port Authority, any employee of the Efficiency Maine Trust who on June 30, 2009 is an employee of the Public Utilities Commission energy efficiency or renewable energy programs who elects to remain a state employee, any employee of the Efficiency Maine Trust who accepts employment with the Efficiency Maine Trust prior to July 1, 2010 who was a state employee immediately prior to accepting such

employment who elects to remain a state employee and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29;

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29.

Sec. C-2. Transition. The following provisions apply to the establishment of the Efficiency Maine Trust pursuant to the Maine Revised Statutes, Title 35-A, chapter 97.

1. Board appointed. Within 30 days of the effective date of this Act, the Governor shall post nominations for the appointment of the members of the Efficiency Maine Trust Board. As soon as practicable after Senate confirmation of board members the board shall appoint the Director of the Efficiency Maine Trust, and within 90 days of the board members' confirmation the board shall establish bylaws.

2. Staggered terms. Notwithstanding Title 35-A, section 10103, subsection 2, in making the initial appointments of members to the Efficiency Maine Trust Board pursuant to section 10103, subsection 2, paragraph A, the Governor shall appoint 2 members to serve an initial term of one year, 2 members to serve an initial term of 2 years and 3 members to serve an initial term of 3 years. Members appointed to initial 3-year terms must include persons who represent the interests of business consumers and individual consumers.

3. Triennial plan. The Director of the Efficiency Maine Trust shall hire or contract staff as needed to support the Efficiency Maine Trust and to prepare the triennial plan according to Title 35-A, section 10104 for commission approval by July 1, 2010. The Efficiency Maine Trust may study existing rules, conduct research, appoint technical advisory groups and hold public meetings in preparation for transitioning to the new structure and to support the development of the triennial plan.

4. Interim budget. The Director of the Efficiency Maine Trust shall prepare a budget for the period retroactive to the director's first day of employment to July 1, 2010 and submit it to the Efficiency Maine Trust Board for approval. The Efficiency Maine Trust Board shall submit the approved budget to the Public Utilities Commission, which shall provide full funding for the activities indicated in the budget from the Public Utilities Commission Reimbursement Fund established under Title 35-A, section 117. Use of such funds for such purposes is deemed by the Legislature to be consistent with the purposes of the Public Utilities Commission Reimbursement Fund. The commission and the Efficiency Maine Trust may enter into any arrangements necessary to achieve a smooth and efficient transition under this Act.

5. Rules. On July 1, 2010, all rules adopted by the Public Utilities Commission pursuant to Title 35-A, section 3210, subsection 5 and Title 35-A, sections 3211-A, 3211-C and 4711 and Title 35-A, chapter 95 and rules adopted by the Energy and Carbon Savings Trust pursuant to Title 35-A, section 10008 are deemed to be rules of the Efficiency Maine Trust and continue in effect until amended or rescinded by the Efficiency Maine Trust.

6. Contracts. All contracts of the Public Utilities Commission entered into pursuant to Title 35-A, sections 3211-A and 3211-C and Title 35-A, chapter 95 remain in effect, and the commission shall administer those contracts in accordance with the law in effect at the time the contracts were entered into except as otherwise may be directed by the Efficiency Maine Trust. On July 1, 2010, the Efficiency Maine Trust is the successor to the conservation programs managed under the name Efficiency Maine at the Public Utilities Commission. Contracts that are in place on July 1, 2010 may be extended for up to 2 years, subject to the approval of the trust, in order to maintain a smooth transition to the new program structure.

7. Transfer of funds. All accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account pertinent to energy efficiency, energy conservation or renewable energy programs must be transferred to the corresponding account in the Efficiency Maine Trust by July 1, 2010. After July 1, 2010, fees that are collected under Title 35-A, chapter 97 must be transferred to the Efficiency Maine Trust on a monthly basis.

8. Program staff and contracting. The Director of the Efficiency Maine Trust shall hire program management staff and contract for services to implement this Act. In hiring and contracting, the director shall give preference to state employees and contractors who were employed by the Public Utilities Commission and working on energy efficiency and renewable energy programs as of June 30, 2009.

9. Employees of the Public Utilities Commission. Employees of the Public Utilities Commission energy efficiency or renewable energy programs on June 30, 2009 who accept employment with the Efficiency Maine Trust may, at their option, elect whether to continue as state employees or to work under new agreements. Other persons who accept employment with the Efficiency Maine Trust prior to July 1, 2010

who were state employees immediately prior to accepting such employment may, at their option, elect whether to continue as state employees or to work under new agreements. Persons who accept employment with the Efficiency Maine Trust and who elect to remain state employees under this subsection retain their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements. Persons who accept employment with the Efficiency Maine Trust and who elect to remain state employees under this subsection remain members of the Maine Public Employees Retirement System as long as they continue as state employees, and the Efficiency Maine Trust shall reimburse the State for all costs related to employees who elect to remain state employees, including the employer's share of contributions to the Maine Public Employees Retirement System. Positions of employees who remain state employees under this subsection are terminated when vacated by those employees, unless filled by other persons eligible to remain state employees under this subsection who elect to remain state employees. Positions similar to those terminated may be established by the Efficiency Maine Trust. For employees who are not offered or who do not accept employment at the Efficiency Maine Trust, the Department of Administrative and Financial Services, Bureau of Human Resources shall provide employment assistance. Nothing in this Act may be construed to interfere with the rights of employees of the Efficiency Maine Trust to organize for collective bargaining purposes in accordance with applicable law.

10. Records. All records pertaining to duties that are performed by the Public Utilities Commission and are transferred to the Efficiency Maine Trust effective July 1, 2010 must be transferred to the Efficiency Maine Trust by July 1, 2010.

11. Property and equipment. All property and equipment pertaining to the duties that are performed by the Public Utilities Commission and are transferred to the Efficiency Maine Trust effective July 1, 2010 must be transferred to the Efficiency Maine Trust by July 1, 2010.

12. American Recovery and Reinvestment Act. Funds that are allocated to the State pursuant to the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5 prior to July 1, 2010 to programs or funds that are repealed in Part A of this Act must be transferred by July 1, 2010 to the corresponding funds or programs established in Part B of this Act. The Public Utilities Commission staff shall cooperate with, consult with and jointly plan with the Director of the Efficiency Maine Trust for the expansion of existing programs and establishment of new programs related to new funding for the state energy program resulting from the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5.

13. Adoption of state standards. In accordance with Title 35-A, section 10104, subsection 7 and section 10114, before January 1, 2012 the Efficiency Maine Trust Board shall adopt certification standards for energy auditors, installers of energy efficiency measures and other service providers that provide services under programs administered by the trust. The board shall review and use any standards developed by the Public Utilities Commission as the starting point for standards it adopts.

14. Heating fuel weatherization and efficiency program. The Efficiency Maine Trust Board, in consultation with stakeholders, shall develop a proposed heating fuel weatherization and efficiency program to implement Title 35-A, section 10119 and appropriate funding mechanisms. In developing proposed funding mechanisms, the board shall consider a comprehensive list of options, including, but not limited to, a system benefits charge on #2 heating oil, kerosene and propane; bonds; federal funds and grants; funds in the Energy and Carbon Savings Trust Fund; General Fund appropriations; and potential revenues from the leasing of state-owned lands for energy facilities. To the extent the proposal includes a system benefits charge, it must include specific assessment and collection mechanisms and amounts for the funding options identified, identification of the appropriate entities to be assessed and provisions for appropriate exceptions and rebates, including, but not limited to, exceptions or rebates for vulnerable consumers. The proposal must also include recommendations for any appropriate changes to the assessment on natural gas under Title 35-A, section 10111 as a result of the establishment of the system benefits charge. The board shall identify changes in the proposed program and funding mechanism that would be required to obtain all achievable cost-effective energy efficiencies and alternative energy resources as identified by studies conducted by the trust and others. By the first Monday in January 2011, the board shall submit its proposal together with draft legislation to implement the proposal to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters, which, after receiving the report, may submit legislation relating to a heating fuel weatherization and efficiency program and the ongoing sustainable funding mechanism that will support the realization of the State's energy efficiency and alternative energy resources goals.

PART D

Sec. D-1. 10 MRSA §963-A, sub-§10, ¶R, as corrected by RR 1999, c. 1, §8, is amended to read:

R. Any paper industry job retention project; ~~and~~

Sec. D-2. 10 MRSA §963-A, sub-§10, ¶S, as reallocated by RR 1999, c. 1, §9, is amended to read:

S. Any transmission facilities project~~.~~; and

Sec. D-3. 10 MRSA §963-A, sub-§10, ¶T is enacted to read:

T. An Efficiency Maine project.

Sec. D-4. 10 MRSA §963-A, sub-§10-A is enacted to read:

10-A. Efficiency Maine project. "Efficiency Maine project" means a project approved by the Efficiency Maine Trust Board, as established in Title 5, section 12004-G, subsection 10-C, to carry out the purposes of Title 35-A, chapter 97 relating to increasing energy efficiency or conservation.

Sec. D-5. 10 MRSA §1043, sub-§2, ¶K, as amended by PL 2003, c. 506, §3, is further amended to read:

K. In the case of a paper industry job retention project, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. To assist in making its determination the authority may engage, at the borrower's expense, independent consultants to assist in the evaluation of the project. In making this determination, the authority shall consider factors it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the securities, including:

(1) Whether individuals or entities obligated to repay the securities have demonstrated sufficient revenues from the project or from other sources to repay the securities and a strong probability that those revenues will continue to be available for the term of the securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and to provide the public benefits projected to be created for the term of the securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financial assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability and the applicant's plan for marketing products or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry. In assessing projected financial performance, the authority must consider the value and effect of any contractual labor cost reductions that will be in effect at the time the financial assistance is provided;

(6) Whether collateral securing the repayment obligation, valued in place and in use, is reasonably sufficient under the circumstances;

(7) Whether the owner will make an important equity contribution to the project. If the applicant requests financing assistance from the authority in an amount greater than $25,000,000, the amount financed by the authority may not exceed $25,000,000 plus 50% of the total project costs in excess of $25,000,000. If other financing is subordinate to the financing provided by the authority, the amount financed by the authority may not exceed $25,000,000 plus 70% of the total project costs in excess of $25,000,000; and

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; ~~and~~

Sec. D-6. 10 MRSA §1043, sub-§2, ¶L, as enacted by PL 2003, c. 506, §4, is amended to read:

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

(1) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(8) Whether the proposed project enhances the opportunities for economic development;

(9) The effect that the proposed project financing has on the authority's financial resources; and

(10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132.; and

Sec. D-7. 10 MRSA §1043, sub-§2, ¶M is enacted to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97.

PART E

Sec. E-1. 30-A MRSA c. 201, sub-c. 7-A is enacted to read:

SUBCHAPTER 7-A

MAINE ENERGY, HOUSING AND ECONOMIC RECOVERY PROGRAM

§4861. Definitions

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

1. Authority. "Authority" means the Maine State Housing Authority.

2. Fund. "Fund" means the Maine Energy, Housing and Economic Recovery Fund established in section 4863.

3. Program. "Program" means the Maine Energy, Housing and Economic Recovery Program established in section 4862.

§4862. Maine Energy, Housing and Economic Recovery Program

1. Operator of program. The Maine Energy, Housing and Economic Recovery Program is established. The authority shall operate the program. The program may be operated in conjunction with other programs of the authority.

2. Purposes of the program. The program is established to:

A. Establish stable, reliable, long-term capital funding sources dedicated to providing affordable housing for families in the State;

B. Substantially increase the supply of housing that is affordable, safe, appropriately sized and located near jobs and services;

C. Improve the energy efficiency of residential housing in the State through construction of new units, replacement of older substandard units and substantial rehabilitation of existing units;

D. Stimulate the State's economy and create jobs through investment in the construction and rehabilitation of affordable rental housing;

E. Replace hazardous, unhealthy and inefficient manufactured homes that do not meet the United States Department of Housing and Urban Development standards under 24 Code of Federal Regulations, Part 3280; and

F. Reduce the State's greenhouse gas emissions, lower dependence on foreign oil and ease the energy burden on households in the State by increasing the energy efficiency of housing in the State.

3. Program elements. The authority shall achieve the purposes of the program by applying the resources of the program to support construction or substantial rehabilitation of multifamily affordable rental housing units and replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280. The authority in allocating the resources of the program shall seek to achieve the following targets over time:

A. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving seniors, as defined by the authority;

B. At least 30% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving persons of any age;

C. At least 10% to the construction or substantial rehabilitation of multifamily affordable rental housing units serving populations with special needs, as defined by the authority; and

D. At least 10% to the replacement of manufactured housing units that do not meet the United States Department of Housing and Urban Development regulations under 24 Code of Federal Regulations, Part 3280.

In designing and implementing the program, the authority shall provide for the needs of rural communities through flexible standards for development size and income eligibility. No more than 30% of program resources may be allocated to projects of all types under these flexible standards.

§4863. Maine Energy, Housing and Economic Recovery Fund

The Maine Energy, Housing and Economic Recovery Fund is established under the jurisdiction and control of the authority. The fund is nonlapsing and may be invested in the same manner as permitted for investment of other state funds.

1. Use of fund. Money in the fund may be applied by the authority:

A. To reduce the rate of interest on or the principal amount of such mortgage loans as the authority determines;

B. To make mortgage loans and such other types of loans or grants as the authority determines;

C. To fund reserve funds for, pay capitalized interest on, pay costs of issuance of or otherwise secure and facilitate the sale of the bonds issued under section 4864;

D. To pay the administrative costs of the program;

E. To pay, in whole or in part, principal, interest, sinking fund payments or other costs on bonds issued by the authority under section 4864 for the purposes of this program; and

F. In any other reasonable manner to support the purposes of the program.

2. Sources of funds. The fund consists of:

A. All money transferred to the fund pursuant to Title 36, section 4641-B, subsection 4-A;

B. Subject to any pledge, contract or other obligation under this subchapter, any money the authority receives in repayment of advances from the fund;

C. Subject to any pledge, contract or other obligation under this subchapter, all interest, dividends and pecuniary gains from the investment of money of the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Fund as security. Money in the fund may, in whole or in part, be pledged or transferred and deposited as security for and applied in payment of principal of, interest on or redemption premiums on bonds issued under section 4864 for the purposes of this subchapter.

4. Division of fund. The authority may divide the fund into any separate accounts that it finds necessary to accomplish the purposes of this subchapter.

5. Reporting. Not later than March 1, 2011 and March 1st of each year thereafter, the director of the authority shall report to the joint standing committee of the Legislature having jurisdiction over affordable housing matters on the status of the fund. The report must include, but is not limited to, the amount of revenue bonds issued under this subchapter, the type, location and cost of projects receiving bond proceeds, the number of housing units created by each project, the number of direct construction jobs created or maintained by each project, the amount of direct construction wages paid in creating or maintaining those jobs and the total amount of building materials purchased in the development of each project.

§4864. Bonds

Beginning in fiscal year 2010-11, pursuant to its authority under this chapter, the authority may issue revenue bonds from time to time, to be known as Maine Energy, Housing and Economic Recovery Fund revenue bonds, to carry out the purposes of the program. Notwithstanding any other provision of law, the authority may have in the aggregate principal amount outstanding at any one time Maine Energy, Housing and Economic Recovery Fund revenue bonds up to but not exceeding $200,000,000, excluding refunding bonds. The authority may issue in any fiscal year revenue bonds under this subchapter in an amount of $30,000,000 or more, as determined appropriate by the authority for the purposes of the program.

Sec. E-2. 36 MRSA §4641-B, sub-§4, as repealed and replaced by PL 2007, c. 539, Pt. WW, §2, is repealed.

Sec. E-3. 36 MRSA §4641-B, sub-§4-A is enacted to read:

4-A. Distribution of State's share of proceeds. The State Tax Assessor shall pay all net receipts received pursuant to this section to the Treasurer of State and shall at the same time provide the Treasurer of State with documentation showing the amount of revenues derived from the tax imposed by section 4641-A, subsection 1 and the amount of revenues derived from the tax imposed by section 4641-A, subsection 2.

A. In fiscal year 2009-10, the Treasurer of State shall:

(1) Credit to the General Fund 50% of the revenues derived from the tax imposed by section 4641-A, subsection 1; and

(2) Credit an additional $3,320,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer of State shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

B. In fiscal year 2010-11, the Treasurer of State shall:

(1) Credit to the General Fund 50% of the revenues derived from the tax imposed by section 4641-A, subsection 1; and

(2) Credit an additional $3,720,000 of the revenues derived from the tax imposed by section 4641-A, subsection 1 to the General Fund, after which the Treasurer of State shall pay on a monthly basis the remaining revenues derived from the tax imposed by section 4641-A, subsection 1 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

C. In fiscal year 2011-12, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

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

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

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

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $3,830,000 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

D. In fiscal year 2012-13, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

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

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

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit $3,950,000 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

E. In fiscal year 2013-14 and each fiscal year thereafter, the Treasurer of State shall credit the revenues derived from the tax imposed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

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

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

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

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

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

Sec. E-4. Report. By March 1, 2010, the Director of the Maine State Housing Authority shall report to the Joint Standing Committee on Business and

Economic Development regarding the authority's actions taken to implement the provisions of the Maine Revised Statutes, Title 30-A, chapter 201, subchapter 7-A.

PART F

Sec. F-1. 5 MRSA §282, sub-§7, as amended by PL 2001, c. 333, §2, is further amended to read:

7. Value of fringe benefits. To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability; ~~and~~

Sec. F-2. 5 MRSA §282, sub-§8, as enacted by PL 2001, c. 333, §3, is amended to read:

8. Serve as director of Clean Government Initiative. To serve as a director, along with the Commissioner of Environmental Protection, of the Clean Government Initiative established in Title 38, section 343-H.~~;~~ and

Sec. F-3. 5 MRSA §282, sub-§9 is enacted to read:

9. Energy independence fund; revenues from occupancy of state assets. To establish an energy independence fund for revenues derived from the use of state assets for energy transmission systems. Each fiscal year, the first $50,000,000 in revenues collected from such use must be transferred by the Treasurer of State to the Efficiency Maine Trust for deposit by the trust in program funds pursuant to Title 35-A, section 10103, subsection 4. After the initial transfer each fiscal year, the Treasurer shall deposit additional revenues received into an energy independence fund, which must be used for the following purposes:

A. To ensure the methodical transition to energy independence and security for the people, communities, economy and environment of the State;

B. To invest in and transform the ways homes and businesses are heated, energy is used and people and cargo are transported;

C. To gain independence from foreign oil and to maximize energy efficiency, to enhance renewable energy sources and to invest in an economic development strategy to ensure a vibrant, environmentally sound and prosperous future; and

D. To reduce energy costs statewide.

Sec. F-4. Commission established. The Commission to Study Energy Infrastructure, referred to in this section as "the commission," is established.

1. Membership. The commission consists of 13 members appointed as follows:

A. Three 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;

B. Five members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature; and

C. Five members appointed by the Governor.

2. Chairs. The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this section. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission.

4. Duties; corridors; plan. The commission shall examine the feasibility and effects of the State entering into agreements for leasing or otherwise allowing the use of state-owned lands or assets, including submerged lands, the rights-of-way of the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors, for the installation of lines, cables, pipelines or other structures for the transmission of energy resources, communication transmission systems or related facilities. The commission shall develop a plan governing such agreements that addresses at least the following:

A. Appropriate valuation, pricing and allocation methodologies to maximize the long-term public value through the most efficient and effective use of the state-owned lands and assets; and

B. The potential effect of such agreements on renewable energy development in the State, on the development of other energy projects in the State, including but not limited to liquefied natural gas terminals, on energy consumers and ratepayers and on natural resources and the environment.

The commission shall also examine the policy issues relating to the construction or installation in this State of energy facilities greater than 75 miles in length. The commission shall evaluate the need for changes in methods of taxation to ensure protection of the public health, safety and welfare.

In developing the plan, the commission shall review and analyze relevant reports and information, including but not limited to the information, analysis and

results of the New England States Regional Energy Blueprint being prepared by ISO-NE for the New England Governors and the New England States' Committee on Electricity. The commission shall also examine and monitor proposed or pending federal energy legislation that may significantly affect energy policy in this State. The commission may also consider ways in which the State's electric transmission systems, including new lines, system upgrades or the development of a smart-grid, or the development of natural gas systems, including pipelines and liquefied natural gas terminals, can help the State achieve its energy goals.

5. Staff; consultants; other assistance. The Legislative Council shall provide staffing services to the commission. The commission shall seek input from relevant agencies, stakeholders and persons with expertise. All agencies with relevant expertise shall provide technical or other assistance requested by the commission. The commission may retain consultants and other experts to assist the commission in its work.

6. Report. No later than December 2, 2009, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Utilities and Energy may submit a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature after receipt of the report.

Sec. F-5. Legislative review of corridor plans.

1. Definitions. For purposes of this section, the following terms have the following meanings:

A. "Energy facilities" means lines, cables, pipelines or other structures for the transmission of energy resources, including but not limited to electricity, natural gas or oil.

B. "Significant occupancy agreement" means an occupancy agreement that:

(1) Involves a high-voltage direct current electric transmission line;

(2) Involves energy facilities greater than 75 miles in length; or

(3) Is substantially different from any previous occupancy agreement entered into by a state authority, including, but not limited to, with respect to the type of transportation corridors to be occupied, the manner of occupancy by energy facilities, the physical extent of occupancy by energy facilities, the type of energy facilities involved or the amount or calculation of any required consideration.

C. "State authority" includes but is not limited to the Governor, the Department of Transportation, the Maine Turnpike Authority or any other state entity, agency or authority.

D. "Transportation corridors" means the state highway system, the federal interstate highway system, state-owned or state-controlled rail corridors or other state transportation corridors.

2. Prohibition. A state authority may not enter into a significant occupancy agreement allowing the installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. A state authority may not issue a permit for an energy facility greater than 75 miles in length on land other than the submerged lands of this State or outside the territorial waters of this State as defined in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is repealed, except that:

A. An application from such an energy facility may be processed by a state authority up to, but not including, final decision on the application;

B. Any applications processed by the Department of Environmental Protection or the Public Utilities Commission that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and

C. Any action, proceeding or decision by a state authority pertaining to such an application is governed by any law enacted pursuant to section 4, subsection 6.

A state authority may not sell or lease public lands as that term is used in Title 35-A, section 3132, subsection 13 for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted or until the energy facility receives a certificate of public convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain a certificate of public convenience and necessity as required by Title 35-A, section 3132.

3. Limitations; exceptions. Nothing in this section prohibits a state authority from undertaking feasibility studies or exploratory negotiations for a significant occupancy agreement. Nothing in this section prohibits a state authority from entering into a limited agreement to engage in further negotiations regarding a significant occupancy agreement after enactment of law approving a plan governing such agreements, provided that any such limited agreement is subject to the express condition that all such further negotiations will

occur only if permitted by and only in accordance with all provisions, terms, conditions and limitations of that plan. A state authority shall ensure that any study, negotiation or preliminary agreement is undertaken or entered into with the full awareness of all parties of the provisions of this section. Nothing in this section prohibits a state authority from entering into an agreement allowing occupancy of state transportation corridors by energy facilities for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009, provided the occupancy agreement does not involve substantially different terms or conditions from any previous occupancy agreement entered into by a state authority with respect to the type of transportation corridors to be occupied, the manner of occupancy, the physical extent of occupancy or the amount or calculation of any required consideration. Nothing in this section prohibits a state authority from issuing permits for energy facilities for which an application for a certificate of public convenience or necessity was pending before the Public Utilities Commission on April 1, 2009. Nothing in this section is intended to apply to the operation, maintenance or alteration of licensed or permitted operating pipeline facilities or their appurtenances, including but not limited to tanks, piers, pumps and valves, that were installed prior to the effective date of this Act, even if such operation, maintenance or alteration activity requires a permit from a state authority. Nothing in this section prohibits any state authority from entering into a submerged lands lease for any pier and appurtenances related to a licensed marine oil terminal facility, as long as the application for such lease was pending prior to the effective date of this Act. Nothing in this section amends or alters the jurisdiction of any state authority or agency, including but not limited to the Public Utilities Commission and the Board of Environmental Protection, regarding the siting or determination of need for any energy facilities that may be the subject of a significant occupancy agreement or exempts any energy facilities from obtaining approvals required by applicable law. Nothing in this section prohibits a state authority from issuing a permit or license pursuant to authority delegated to the State by federal law. This section does not apply to an energy facility that is an eligible project under Title IV of the federal American Recovery and Reinvestment Act of 2009 if that project has received notification from the United States Department of Energy or its agents that the energy facility has been granted a federal loan guarantee under that Act.

4. Repeal. This section is repealed upon the effective date of a law approving plans in accordance with subsection 2 that specifically indicates legislative intent to repeal this section or 90 days after the adjournment of the Second Regular Session of the 124th Legislature, whichever is earlier.

Sec. F-6. Transfers from Public Utilities Commission for legislative study. The State Controller shall transfer $200,000 from the Public Utilities - Administrative Division, Other Special Revenue Funds program in the Public Utilities Commission to the Study Commissions - Funding, Other Special Revenue Funds program in the Legislature on the effective date of this Act.

Sec. F-7. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds transferred from the Public Utilities Commission for the Commission to Study Energy Infrastructure.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$2,640	$0
All Other	$197,360	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$200,000	$0

PART G

Sec. G-1. Workforce development. The Department of Labor, the Public Utilities Commission and the Maine State Housing Authority shall:

1. Perform an assessment of the energy efficiency and green industry workforce development needs in this State;

2. Develop, in consultation with the Department of Education, the Maine Jobs Council, the University of Maine System, the Maine Community College System and appropriate private sector entities, a specific, detailed plan for providing classroom training, on-the-job training and other workforce development strategies to meet the identified needs. The plan must provide for the use of federal weatherization, United States Department of Energy State Energy Program and federal Workforce Investment Act of 1998 funds received by the State pursuant to the federal American Reinvestment and Recovery Act of 2009 as well as long-term funding to support energy efficiency and green industry workforce development. The plan must specify specific long-term funding requirements to meet the identified needs, available and proposed funding sources and a specific plan for the use of the funding to meet the identified needs; and

3. Submit to the Joint Standing Committee on Utilities and Energy by January 1, 2010 a report detailing the energy efficiency and green industry workforce development needs in this State as determined under

subsection 1, the plan developed under subsection 2 and a status report on the implementation of the plan using federal weatherization, United States Department of Energy State Energy Program and federal Workforce Investment Act of 1998 funds received by the State pursuant to the federal American Reinvestment and Recovery Act of 2009. The report must include recommended legislation to implement the proposed plan on a sustained, long-term basis.

The Joint Standing Committee on Utilities and Energy may submit legislation on the subject matter of the report to the Second Regular Session of the 124th Legislature.

PART H

Sec. H-1. 2 MRSA §9, sub-§2-A is enacted to read:

2-A. Powers. The director may request from the Efficiency Maine Trust, established in Title 35-A, chapter 97, and the trust may provide from funds available to it funding sufficient to carry out the duties of the office under section 3 and any other applicable law.

Sec. H-2. 2 MRSA §9, sub-§3, as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read:

3. Duties. The director is responsible for the execution of the duties of the office. The director shall:

A. ~~Chair~~ Serve as a member of the ~~Energy Resources Council~~ Efficiency Maine Trust Board, established under Title 5, section ~~3327~~ 12004-G, subsection 10-C;

B. In collaboration with the ~~Energy Resources Council and other~~ relevant state agencies, coordinate state energy policy and actively foster cooperation with the Efficiency Maine Trust, established in Title 35-A, chapter 97;

C. ~~Prepare~~ In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and every 2 years thereafter;

C-1. By February 1st of each year, prepare and submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report that describes the activities of the office during the previous calendar year in carrying out its duties under this subsection and describes the State's progress in implementation of the state energy plan prepared pursuant to paragraph C. After receipt and review of the annual report required under this paragraph, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to energy policy;

D. In collaboration with other relevant state agencies, private industry and nonprofit organizations, collect and analyze energy data, including, but not limited to, data on energy supply, demand and costs in this State with consideration of all available energy sources;

E. Coordinate the dissemination of energy information to the public and the media;

F. Provide technical assistance and information to the Governor and the Legislature regarding the State's short-range and long-range energy needs and the resources to meet those needs;

G. Seek funds and partnerships with public and private sources to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;

H. Work with transmission and distribution utilities, state agencies involved in the permitting of energy generation facilities and other relevant entities to negotiate agreements that create value for electricity consumers with developers of renewable generation who are interested in building energy generation facilities or developing or utilizing energy transmission infrastructure in this State. This paragraph does not authorize the director to be a signatory to any such agreement unless that authority is otherwise granted by law. The director shall report on activities undertaken pursuant to this paragraph by February 1, 2009, and annually thereafter, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters;

I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and

J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C.

PART I

Sec. I-1. Task force established. The Commissioner of Administrative and Financial Services shall establish a task force, referred to in this Part as "the task force," to advance energy efficiency, conservation and independence at state facilities. The members of the task force include:

1. The Commissioner of Administrative and Financial Services, who serves as chair;

2. The Director of the Governor's Office of Energy Independence and Security within the Executive Department or the director's designee;

3. The Commissioner of Environmental Protection or the commissioner's designee;

4. The director of the property management division within the Department of Administrative and Financial Services;

5. The chair of the Public Utilities Commission or the chair's designee;

6. The Director of the State Planning Office within the Executive Department or the director's designee; and

7. Other individuals appointed by the Commissioner of Administrative and Financial Services to serve on the task force who have demonstrated an interest in the energy issues of the State from the private, public or nonprofit sector.

Sec. I-2. Chair to convene task force. The task force shall meet at times and places called by the chair. The task force may accept staffing, financial and other administrative or program support from the agencies of State Government or from outside sources as it determines appropriate to its duties. Members serve without compensation.

Sec. I-3. Task force responsibilities. The task force shall examine ways of advancing the goals of improving energy efficiency, increasing energy conservation and increasing the energy independence of the State by better management of state facilities. The task force shall develop recommendations that, to the extent possible, do not require additional state positions or increased appropriations from the General Fund.

Sec. I-4. Reporting date established. The task force shall report its findings and recommendations to the Governor and to the Joint Standing Committee on State and Local Government and to the Joint Standing Committee on Utilities and Energy no later than December 1, 2009.

Sec. I-5. Authority to submit legislation. The task force is authorized to submit legislation to the Second Regular Session of the 124th Legislature.

PART J

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

EFFICIENCY MAINE TRUST

Conservation Administration Fund 0966

Initiative: Allocates funds to reflect the transfer of the Conservation Administration Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$0	$432,774
FEDERAL EXPENDITURES FUND TOTAL	$0	$432,774

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$1,200,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$1,200,000

FEDERAL EXPENDITURES FUND ARRA	2009-10	2010-11
All Other	$0	$4,576,500
FEDERAL EXPENDITURES FUND ARRA TOTAL	$0	$4,576,500

FEDERAL BLOCK GRANT FUND ARRA	2009-10	2010-11
All Other	$0	$557,725
FEDERAL BLOCK GRANT FUND ARRA TOTAL	$0	$557,725

Conservation Program Fund 0967

Initiative: Allocates funds to reflect the transfer of the Conservation Program Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$14,135,334
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$14,135,334

Efficiency Maine Trust N081

Initiative: Allocates funds to reflect the elimination of the Maine Energy Conservation Board at the Public Utilities Commission and the transfer of related funds to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$263,400
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$263,400

Efficiency Maine Trust N081

Initiative: Allocates funds to reflect a transfer from the reimbursement fund at the Public Utilities Commission to the Efficiency Maine Trust for the trust's operating costs during the transition year in fiscal year 2009-10.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$700,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$700,000	$0

Energy and Carbon Savings Trust Fund N027

Initiative: Allocates funds to reflect the transfer of the Energy and Carbon Savings Trust Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$30,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$30,000,000

Energy Conservation Small Business Revolving Loan Fund N087

Initiative: Allocates funds to reflect the transfer of the Energy Conservation Small Business Revolving Loan Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$410,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$410,000

Heating Fuels Efficiency and Weatherization Fund N088

Initiative: Provides a base allocation to authorize expenditures of any funds received for the program.

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

Natural Gas Conservation Fund N085

Initiative: Allocates funds from an assessment of up to 3% of certain gas utilities' delivery revenues.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$891,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$891,000

Solar Rebate Program Fund Z012

Initiative: Allocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$750,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$750,000

Solar Rebate Program Fund Z012

Initiative: Allocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

FEDERAL EXPENDITURES FUND ARRA	2009-10	2010-11
All Other	$0	$500,000
FEDERAL EXPENDITURES FUND ARRA TOTAL	$0	$500,000

EFFICIENCY MAINE TRUST DEPARTMENT TOTALS	2009-10	2010-11
FEDERAL EXPENDITURES FUND	$0	$432,774
OTHER SPECIAL REVENUE FUNDS	$700,000	$47,650,234

FEDERAL EXPENDITURES FUND ARRA	**$0**	**$5,076,500**
FEDERAL BLOCK GRANT FUND ARRA	**$0**	**$557,725**
DEPARTMENT TOTAL - ALL FUNDS	**$700,000**	**$53,717,233**

PUBLIC UTILITIES COMMISSION

Conservation Administration Fund 0966

Initiative: Deallocates funds to reflect the transfer of 17 positions and associated costs of the Conservation Administration Fund program at the Public Utilities Commission to the Efficiency Maine Trust.

FEDERAL EXPENDITURES FUND	**2009-10**	**2010-11**
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	$0	($137,054)
All Other	$0	($295,720)
FEDERAL EXPENDITURES FUND TOTAL	$0	($432,774)

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
POSITIONS - FTE COUNT	0.000	(9.000)
Personal Services	$0	($921,469)
All Other	$0	($278,531)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($1,200,000)

FEDERAL EXPENDITURES FUND ARRA	**2009-10**	**2010-11**
Personal Services	$0	($421,302)
All Other	$0	($4,155,198)
FEDERAL EXPENDITURES FUND ARRA TOTAL	$0	($4,576,500)

FEDERAL BLOCK GRANT FUND ARRA	**2009-10**	**2010-11**
Personal Services	$0	($132,393)
All Other	$0	($425,332)
FEDERAL BLOCK GRANT FUND ARRA TOTAL	$0	($557,725)

Conservation Administration Fund 0966

Initiative: Deallocates funds to reflect the transfer of the Energy Conservation Small Business Revolving Loan Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
All Other	$0	($410,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($410,000)

Conservation Program Fund 0967

Initiative: Deallocates funds to reflect the transfer of the Conservation Program Fund program at the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
All Other	$0	($14,135,334)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($14,135,334)

Energy and Carbon Savings Trust Fund N027

Initiative: Deallocates funds to reflect the transfer of the Energy and Carbon Savings Trust Fund program from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
All Other	$0	($30,000,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($30,000,000)

Maine Energy Conservation Board Z076

Initiative: Deallocates funds to reflect the elimination of the Maine Energy Conservation Board at the Public Utilities Commission and the transfer of related funds to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
All Other	$0	($263,400)

OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($263,400)

Oversight and Evaluation Fund N089

Initiative: Provides a base allocation to authorize expenditures of funds that may be assessed for the commission to oversee and evaluate the Efficiency Maine Trust.

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

Solar Rebate Program Fund Z012

Initiative: Deallocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	($750,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($750,000)

Solar Rebate Program Fund Z012

Initiative: Deallocates funds to reflect the transfer of the Solar Rebate Program Fund from the Public Utilities Commission to the Efficiency Maine Trust.

FEDERAL EXPENDITURES FUND ARRA	2009-10	2010-11
All Other	$0	($500,000)
FEDERAL EXPENDITURES FUND ARRA TOTAL	$0	($500,000)

PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS	2009-10	2010-11
FEDERAL EXPENDITURES FUND	$0	($432,774)
OTHER SPECIAL REVENUE FUNDS	$0	($46,758,234)
FEDERAL EXPENDITURES FUND ARRA	$0	($5,076,500)
FEDERAL BLOCK GRANT FUND ARRA	$0	($557,725)
DEPARTMENT TOTAL - ALL FUNDS	$0	($52,825,233)

SECTION TOTALS	2009-10	2010-11
FEDERAL EXPENDITURES FUND	$0	$0
OTHER SPECIAL REVENUE FUNDS	$700,000	$892,000
FEDERAL EXPENDITURES FUND ARRA	$0	$0
FEDERAL BLOCK GRANT FUND ARRA	$0	$0
SECTION TOTAL - ALL FUNDS	$700,000	$892,000

PART K

Sec. K-1. 35-A MRSA §3210, sub-§5, as amended by PL 2007, c. 644, §§1 to 3, is further amended to read:

5. Funding for research and development; community demonstration projects. The commission and the Efficiency Maine Trust, established pursuant to chapter 97, by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund community demonstration projects using renewable energy technologies. ~~The program must:~~

A. ~~Include~~ The commission shall establish a mechanism for customers to indicate their willingness to make contributions~~;~~.

B. ~~Provide~~ The commission shall provide that transmission and distribution utilities collect and account for the contributions and forward them to the commission~~;~~.

C. ~~Provide~~ The commission shall provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development~~;~~.

D. ~~Provide~~ The Efficiency Maine Trust shall provide for a distribution of the funds to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities,

quasi-municipal corporations or districts as defined in Title 30-A, section 2351 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using renewable energy technologies~~; and~~.

E. ~~Provide~~ The Efficiency Maine Trust shall provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of renewable energy technologies.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. K-2. 35-A MRSA §3210, sub-§6, as amended by PL 2007, c. 18, §2, is further amended to read:

6. Fund. There is established the Renewable Resource Fund, referred to in this subsection as the "fund." The fund is a nonlapsing fund administered by the ~~commission~~ Efficiency Maine Trust, established pursuant to chapter 97. All funds collected by the commission pursuant to subsection 5 must be transferred to the Efficiency Maine Trust and deposited in the fund for distribution by the commission and the Efficiency Maine Trust in accordance with subsection 5. The ~~commission~~ Efficiency Maine Trust may seek and accept funding for the program established pursuant to subsection 5 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 5 must be deposited in the fund.

Sec. K-3. 35-A MRSA §3210, sub-§6-A, as enacted by PL 2007, c. 18, §3, is amended to read:

6-A. Renewable Resource Fund report. The ~~commission~~ Efficiency Maine Trust, established pursuant to chapter 97, shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the Renewable Resource Fund established in subsection 6 and referred to in this subsection as "the fund." The report must include:

A. A description of actions taken by the ~~commission~~ Efficiency Maine Trust pursuant to subsections 5 and 6 during the prior 12 months;

B. An accounting of total deposits into and expenditures from the fund during the prior 12 months; and

C. A description of any research and development or community demonstration project that received a distribution from the fund during the prior 12 months, including its objectives, current status and results.

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

EFFICIENCY MAINE TRUST

Renewable Resource Fund Z052

Initiative: Allocates funds to reflect the transfer of the Renewable Resource Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$75,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$75,000

EFFICIENCY MAINE TRUST DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	**$0**	**$75,000**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$75,000**

PUBLIC UTILITIES COMMISSION

Renewable Resource Fund Z052

Initiative: Deallocates funds to reflect the transfer of the Renewable Resource Fund from the Public Utilities Commission to the Efficiency Maine Trust.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	($75,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($75,000)

PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	**$0**	**($75,000)**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**($75,000)**

SECTION TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$0	$0
SECTION TOTAL - ALL FUNDS	$0	$0

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

Effective June 12, 2009, unless otherwise indicated.

CHAPTER 373

H.P. 696 - L.D. 1008

An Act To Increase Consumer Choice for Wine

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

Sec. 1. 28-A MRSA §1403-A is enacted to read:

§1403-A. Direct shipment of wine

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

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection 2.

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

2. Direct shipment of wine. A farm winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than $200 and a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a $100 registration fee.

4. Direct shipment requirements. A direct shipper may only ship wine that was produced by the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient for personal use and not for resale. A direct shipper may not ship wine products commonly known as "wine coolers." A direct shipper shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

6. Bottle size and case limit. A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

8. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a $50 renewal fee and providing the bureau with a true copy of its current alcoholic beverage license issued in this State or another state.

9. Sales tax registration and payment required. As a condition of receiving a certificate of approval, a shipper located outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any other provision of law of the State.

10. Payment of excise and premium taxes. A direct shipper located outside the State shall quarterly pay to the bureau all excise and premium taxes due on sales to residents of the State in the preceding quarter, the amount of such taxes to be calculated as if the sales were in the State.

11. Report. A direct shipper shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the total number of cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State, the name and residence address of shipment recipients in the State, the common carrier used to deliver the shipments and the date, quantity and purchase price of each shipment.

12. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days of that request.

13. Violation. A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to $500 for a first offense and up to $1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to $5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

14. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

15. Not subject to beverage container law. Notwithstanding Title 32, chapter 28, wine shipped pursuant to this section does not require a refund value for beverage container control purposes.

16. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 28-A MRSA §2077, sub-§1-A, as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

1-A. Importation of malt liquor or wine into State. ~~A~~ Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or farm winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than $500 must be adjudged.

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 3. 28-A MRSA §2077, sub-§2, as amended by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is further amended to read:

2. Transportation of malt liquor and wine within State. ~~A~~ Except as provided in section 1403-A, a person other than a licensee may not transport malt liquor, in a quantity greater than 3 gallons, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

A. A person who illegally transports within the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than $500 must be adjudged.

B. A person who illegally transports within the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 4. 28-A MRSA §2077-B, sub-§1, as enacted by PL 1997, c. 501, §6, is amended to read:

1. Prohibition. ~~A~~ Except as provided in section 1403-A, a person may not sell, furnish, deliver or purchase liquor from an out-of-state company by mail order.

Sec. 5. 36 MRSA §1754-B, sub-§1, ¶H, as amended by PL 2007, c. 328, §6, is further amended to read:

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; ~~and~~

Sec. 6. 36 MRSA §1754-B, sub-§1, ¶I, as enacted by PL 2007, c. 328, §7, is amended to read:

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B~~.~~; and

Sec. 7. 36 MRSA §1754-B, sub-§1, ¶J is enacted to read:

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A.

Sec. 8. Bureau to implement within budgeted resources. The Department of Public Safety's bureau as defined in the Maine Revised Statutes, Title

28-A, section 2, subsection 6 shall implement the provisions of this Act within budgeted resources.

See title page for effective date.

CHAPTER 374

S.P. 518 - L.D. 1434

An Act Regarding Asbestos Abatement Work

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

Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 2007, c. 558, §1, is further amended to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	$250	$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20

TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
344, sub-§7, Permit by rule	$50	$0
413, Waste discharge licenses	See section 353-B	
420-D, Storm water management		
A. If structural means of storm water control are used	$400 for the first acre of disturbed area, plus $200 for each additional whole acre of disturbed area	$100 for the first acre of disturbed area, plus $50 for each additional whole acre of disturbed area
B. If solely vegetative means of storm water control are used	$200 for the first acre of disturbed area, plus $100 for each additional whole acre of disturbed area	$50 for the first acre of disturbed area, plus $25 for each additional whole acre of disturbed area
C. When a permit by rule is required	$55	none
If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the total applicable fee is reduced to a processing fee of $100 for the first acre of disturbed area, plus a license fee of $50 for each additional whole acre of disturbed area.		
480-E, Natural resources protection		
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60
C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	.005/sq. ft. alteration
C-1. Significant groundwater well	4,577	1,961

C-2. Activity within a community public water supply primary protection area	183	64
D. Any alteration of a coastal sand dune	3,500	1,500
E. Condition compliance	84	0
F. Minor modification	184	0
485-A, Site location of development		
A. Residential subdivisions		
1. Affordable housing	50/lot	50/lot
2. On public water and sewers	175/lot	175/lot
3. All Other	250/lot	250/lot
B. Industrial parks	460/lot	460/lot
C. Mining	1,500	1,000
D. Structures	4,000	2,000
E. Other	1,000	1,000
543, Oily waste discharge	40	160
560, Vessels at anchorage	125	100
587, Ambient air quality or emissions standards variances	5,050	50
590, Air emissions licenses	See section 353-A	
633, Hydropower projects		
A. New or expanded generating capacity	450/MW	50/MW
B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	150
33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
A. Initial consultation	1,000	0
B. Second consultation	1,000	0
C. Application		
1. Storage	1,000	0
2. Generating	300/MW	50/MW
1304, Waste management		
A. Septage disposal		
1. Site designation	50	25
B. Land application of sludges and residuals program approval		
1. Industrial sludge	400	400
2. Municipal sludge	300	275
3. Bioash	300	275
4. Wood ash	300	75
5. Food waste	300	75
6. Other residuals	300	175
C. Landfill		
1. Closing plans for secure landfills	1,500	1,500
2. Closing plans for attenuation landfills	500	500
3. Post-closure report	175	175
4. Preliminary information reports	175	175
5. License transfers	500	175
6. Special waste disposal		
a. One-time disposal of quantities of 6 cubic yards or less	50	50
b. One-time disposal of quantities greater than 6 cubic yards	100	100
c. Program approval for routine disposal of a special waste	300	300
7. Minor revision for secure landfills	600	100
8. Minor revision for attenuation landfills	100	100
9. Public benefit determination	175	175
D. Incineration facility		
2. License transfer	175	175
E. License transfer other than for landfills and incinerators	100	100
F. Minor revision for septage facilities and solid waste facilities other than landfills	100	100
G. Permit by rule for one-time activities	100	100

TABLE II

WASTE MANAGEMENT FEES - ANNUAL LICENSE

MAXIMUM FEES IN DOLLARS

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE
1278, Asbestos abatement		
A. Asbestos abatement contractor	$0	$650
B. Asbestos abatement worker	0	50
C. Asbestos consultant	0	650
D. Asbestos analytical laboratory	0	400
E. Training provider	0	500
F. Other categories of asbestos professionals except asbestos abatement workers	0	100
G. Notification		
1. Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet	100	0
2. Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet	150	0
3. Project size 1,000 square feet or 5,000 linear feet, or greater	300	0
1304, Waste management		
A. Septage disposal		
1. Landspreading	$550	$250
2. Storage	50	75
B. Residuals compost facility		
1. Type I	150	150
3. Type II and Type III less than 3,500 cubic yards	700	500
5. Type II and Type III 3,500 cubic yards or greater	1,400	850
C. Land application of sludges and residuals		
1. Sites with program approval		
a. Industrial sludge	150	250
b. Municipal sludge	75	200
c. Bioash	75	200
d. Wood ash	50	125
e. Food waste	50	125
f. Other residuals	50	125
2. Sites without program approval		
a. Industrial sludge	300	550
b. Municipal sludge	150	250
c. Bioash	150	250
d. Wood ash	75	200
e. Food waste	75	200
f. Other	75	200
1310-N, Solid waste facility siting		
A. Landfill		
1. Existing, nonsecure municipal solid waste landfills accepting waste from fewer than 15,000 people	3,500	1,000
2. Existing, nonsecure municipal solid waste landfills accepting waste from more than 15,000 people	3,500	3,500
3. New or expanded for secure landfill	5,000	8,500
5. Nonsecure wood waste or demolition debris landfills, or both, if less than or equal to 6 acres	700	750
B. Incineration facilities		
1. New or expanded for the acceptance of municipal or special wastes, or both	3,500	5,000
2. Municipally owned and operated solid waste incinerators with licensed capacity of 10 tons per day or less	3,500	1,000
C. Transfer station and storage facility	750	175
D. Tire storage facility	400	450
F. Processing facility other than municipal solid waste composting	700	700
G. Beneficial use activities other than agronomic utilization		
3. Fuel substitution	700	500
4. Beneficial use without risk assessment	700	200

5. Beneficial use with risk assessment	1,400	500
H. Permit by rule for ongoing activities	100	100

Sec. 2. 38 MRSA §353, sub-§3-B is enacted to read:

3-B. Certification fee for asbestos professionals. A person applying for certification as an asbestos professional under more than one category under section 352, subsection 5-A shall pay the highest fee among the categories for which certification is sought and $50 for each additional category.

Sec. 3. 38 MRSA §1272, sub-§2, as amended by PL 1993, c. 355, §26, is further amended to read:

2. Asbestos abatement activity. "Asbestos abatement activity" means activity involving the removal, demolition, enclosure, repair, encapsulation, handling, transportation or disposal of ~~friable~~ asbestos-containing materials in an amount greater than 3 square feet or 3 linear feet. "Asbestos abatement activity" includes associated activities such as design, monitoring, analysis and inspection of any ~~friable~~ asbestos-containing material in an amount greater than 3 square feet or 3 linear feet, and conducting training for persons seeking a state certificate or license.

Sec. 4. 38 MRSA §1273, sub-§2, as amended by PL 2001, c. 626, §17, is further amended to read:

2. Notification required. A person, owner or operator may not engage in any asbestos abatement activity over 3 linear feet or 3 square feet of ~~friable~~ asbestos-containing material unless that person, owner or operator notifies the commissioner in writing. This notification must be postmarked at least 10 calendar days before or delivered to the department at least 5 working days prior to beginning any on-site work, including on-site preparation work. The department may approve a reduction in the number of days required for notification on a case-by-case basis when unforeseeable circumstances or compliance with standard notification procedures may cause a threat to the environment or human health.

Sec. 5. 38 MRSA §1278, sub-§1, as amended by PL 1993, c. 355, §43, is repealed.

Sec. 6. 38 MRSA §1278, sub-§1-A is enacted to read:

1-A. License and certification fees. Fees for each license and certification category are established under section 352. The fees must be paid upon application and annually thereafter.

Sec. 7. 38 MRSA §1278, sub-§2, as amended by PL 1993, c. 355, §44, is further amended to read:

2. Notification fees. Notification of asbestos abatement activities pursuant to section 1273, subsection 2~~,~~ must be accompanied by ~~a~~ the notification fee established under section 352 unless the activity occurs in single-unit residential buildings. Notification fees are based on the total linear or square feet of asbestos-containing material involved in the activity.

~~A. The fees are:~~

~~(1) Projects involving more than 100 square feet or 100 linear feet, but less than 1,000 square feet or 5,000 linear feet: $100; and~~

~~(2) Projects involving more than 1,000 square feet or 5,000 linear feet: $200.~~

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Maine Environmental Protection Fund 0421

Initiative: Provides funding for increased processing and certification fees and allows asbestos abatement expenditures.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$75,000	$100,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$75,000	$100,000

See title page for effective date.

CHAPTER 375

H.P. 722 - L.D. 1047

An Act To Amend the Review and Approval Process of the Comprehensive Land Use Plan

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

Whereas, comprehensive land use plans are presented to the Maine Land Use Regulation Commission on a regular basis; and

Whereas, it is important to change the procedure in which the plans are approved as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §685-C, sub-§1, as amended by PL 2007, c. 264, §1, is further amended to read:

1. Comprehensive land use plan. The commission shall adopt an official comprehensive land use plan for the unorganized and deorganized townships of the State.

The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.

The plan may consist of maps, data and statements of present and prospective resource uses that generally delineate the proper use of resources, and recommendations for its implementation.

The commission shall hold public hearings to collect information to be used in establishing the land use guidance plan. The public hearings must be conducted according to commission rules adopted in accordance with procedures for the establishment of rules pursuant to Title 5, chapter 375, subchapter 2.

The commission may, on its own motion or petition of any state agency or regional planning commission, hold such other hearings as the commission considers necessary from time to time for the purpose of obtaining information helpful in the determination of its policies, the carrying out of its duties or the formulation of its land use standards or rules.

The commission may not adopt a plan or portion of a plan~~,~~ unless:

A. The tentative plan has been submitted to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days;

B. The tentative plan has been submitted to the State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its comments and recommendations, if any, to the commission within 30 days; ~~and~~

C. The commission has considered all ~~such~~ comments~~.~~ submitted under paragraphs A and B; and

D. The commission has submitted the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee has reviewed the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes. The tentative plan must be submitted to the committee a minimum of 30 days prior to the commission's final vote.

Upon adoption of the official land use plan by the commission, the commission shall submit the plan to the Governor for approval. The Governor shall approve or disapprove the plan, plans or any portion of a plan within 30 days of receipt. If the Governor fails to act, the plan is deemed approved. This subsection also applies to any alteration in the comprehensive plan.

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

Effective June 12, 2009.

CHAPTER 376

S.P. 397 - L.D. 1063

An Act To Provide Consumer Disclosures and Protect Consumer Options in Life Insurance

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

Sec. 1. 24-A MRSA §6802-A, sub-§6, as amended by PL 2007, c. 543, §1, is further amended to read:

6. Fraudulent viatical or life settlement act. "Fraudulent viatical or life settlement act" includes:

A. Acts or omissions committed by any person who, knowingly or with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to engage in, acts including:

(1) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by a settlement provider, settlement producer, financing entity, insurer, insurance producer or any other person false material information, or concealing material information, as part of, in support of or concerning a fact material to one or more of the following:

(a) An application for the issuance of a settlement contract or insurance policy;

(b) The underwriting of a settlement contract or insurance policy;

(c) A claim for payment or benefit pursuant to a settlement contract or insurance policy;

(d) Premiums paid on an insurance policy;

(e) Payments and changes in ownership or beneficiary made in accordance with the terms of a settlement contract or insurance policy;

(f) The reinstatement or conversion of an insurance policy;

(g) The solicitation, offer, effectuation or sale of a settlement contract or insurance policy;

(h) The issuance of written evidence of a settlement contract or insurance policy; or

(i) A financing transaction;

(2) Employing any device, scheme or artifice to defraud related to policies acquired pursuant to a settlement contract;

(3) Entering into stranger-originated life insurance; or

(4) Failing to disclose to the insurer when requested by the insurer that the prospective insured has undergone a life expectancy evaluation by any person other than the insurer or its authorized representatives in connection with the issuance of a policy;

B. In the furtherance of a fraud or to prevent the detection of a fraud committing or permitting one's employees or agents to:

(1) Remove, conceal, alter, destroy or sequester from the superintendent the assets or records of a licensee or other person engaged in the business of settlements;

(2) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person;

(3) Transact the business of settlements in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of settlements; or

(4) File with the superintendent or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing information about a material fact from the superintendent;

C. Embezzlement, theft, misappropriation or conversion of money, funds, premiums, credits or other property of a settlement provider, insurer, insured, viator, insurance policyowner or any other person engaged in the business of settlements or insurance;

D. Recklessly entering into, brokering or otherwise dealing in a settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, when the viator or the viator's agent intended to defraud the policy's issuer. For the purposes of this paragraph, "recklessly" means engaging in conduct in consciously and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct; ~~or~~

E. Attempting to commit; assisting, aiding or abetting in the commission of; or conspiring to commit the acts or omissions specified in this subsection~~.~~;

F. Engaging in any transaction, practice or course of business by a person who knows or reasonably should have known that the intent was to avoid the notice requirements of this chapter;

G. With respect to a settlement producer, knowingly soliciting an offer from, effectuating a life settlement contract with or making a sale to any settlement provider, financing entity or related provider trust that is controlling, controlled by or under common control with the producer, unless this relationship is disclosed to the viator;

H. With respect to a settlement provider, knowingly entering into a settlement contract if anything of value will be paid to a settlement producer controlling, controlled by or under common control with the provider or the financing entity or related provider trust that is involved in the settlement contract, unless this relationship is disclosed to the viator; and

I. Any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time, unless free coverage is provided in the policy in the manner described.

Sec. 2. 24-A MRSA §6802-A, sub-§6-A, as enacted by PL 2007, c. 543, §2, is amended to read:

6-A. Life expectancy evaluation. "Life expectancy evaluation" means ~~the process to determine the arithmetic mean~~ any evaluation of the number of months the insured under the life insurance policy to be settled can be expected to live, or of the probability

that the insured will live beyond a specified date, considering medical records and appropriate experiential data.

Sec. 3. 24-A MRSA §6802-A, sub-§9-A, as enacted by PL 2007, c. 543, §4, is amended to read:

9-A. Settlement contract. "Settlement contract" means ~~a written~~ an agreement between a viator and a settlement provider establishing the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance. "Settlement contract" includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts, which life insurance contract insures the life of a person residing in this State. "Settlement contract" includes a premium finance loan made for a life insurance policy by a lender to a viator on or before the date of issuance of the policy when the viator or the insured receives on the date of the premium finance loan a guarantee of a future settlement value of the policy or when the viator or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy. "Settlement contract" does not include:

A. A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

B. A collateral assignment of a policy by the owner of the policy, unless the assignee knows or reasonably expects that the owner does not intend to repay the loan;

C. Loan proceeds that are used solely to pay:

(1) Premiums for the policy; and

(2) The costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses and 3rd-party collateral provider fees and expenses, including fees payable to letter of credit issuers;

D. A loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, as long as neither the default itself nor the transfer of the policy in connection with such default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter;

E. Unless the premium finance loan otherwise constitutes a settlement contract under this subsection, a loan made by a lender that does not violate Title 9-A, Article 2;

F. An agreement in which all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured or are trusts established primarily for the benefit of such parties;

G. Any designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or by a trust established by the employer, of life insurance on the life of the employee;

H. A bona fide business succession planning arrangement:

(1) Between shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders;

(2) Between partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or

(3) Between members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members;

I. An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

J. Any contract, transaction or arrangement other than those set forth in paragraphs A to I exempted from the definition of "settlement contract" by the superintendent by rule based on a determination that the contract, transaction or arrangement is not of the type intended to be regulated by this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 24-A MRSA §6802-A, sub-§10, as enacted by PL 2003, c. 636, §5, is amended to read:

10. Settlement producer. "Settlement producer" means any person who has life insurance producer authority, who acts or aids in any manner in the soliciting of a settlement on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate settlement contracts between a

viator and one or more settlement providers. "Settlement producer" does not include an attorney, accountant, financing entity or person exercising a power of attorney granted by the viator retained to represent the viator and whose compensation is paid solely by the viator without regard to whether the settlement is effected. "Settlement producer" does not include a credit union or an employer or association that makes its employees or members aware of settlement contracts. ~~Irrespective of the manner in which the settlement producer is compensated, a settlement producer is deemed to represent only the interests of the viator and owes a fiduciary duty to the viator.~~

Sec. 5. 24-A MRSA §6802-A, sub-§12-A, as enacted by PL 2007, c. 543, §5, is amended to read:

12-A. Stranger-originated life insurance. "Stranger-originated life insurance" means an act or practice to initiate a life insurance policy for the benefit of a person who, at the time of the origination of the policy, has no insurable interest in the insured. "Stranger-originated life insurance" includes, but is not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person who, at the time of the inception of the policy, could not lawfully initiate the policy and when, at the time of policy inception, there is an arrangement or agreement to directly or indirectly transfer the ownership of the policy or the policy benefits to another person. ~~A~~ "Stranger-originated life insurance" also includes the creation of a trust ~~that is created~~ to give the appearance of insurable interest and ~~is used~~ the use of such a trust in order to initiate policies for investors ~~violates~~ in circumvention or violation of insurable interest laws and the prohibition against wagering on life. "Stranger-originated life insurance" does not include those practices set forth in subsection 9-A, paragraphs A to J or other lawful settlement transactions.

Sec. 6. 24-A MRSA §6803-A is enacted to read:

§6803-A. Fiduciary obligation of settlement producer

Irrespective of the manner in which the settlement producer is compensated, a settlement producer may represent only the interests of the viator and owes a fiduciary duty to the viator.

Sec. 7. 24-A MRSA §6805, as amended by PL 2003, c. 636, §8, is further amended to read:

§6805. Approval of settlements contracts; disclosure statements and applications

A settlement contract must be in writing and signed by all parties to the contract. A person may not use any contract, disclosure statement or application form with a viator who is a resident of this State unless it has been filed with and approved by the superintendent, pursuant to sections 2412 and 2413. The superintendent shall disapprove a settlement contract form or disclosure statement form if, in the superintendent's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public or otherwise misleading or unfair to the viator. All such forms must be approved or denied by the superintendent within 60 calendar days following receipt of submission by the superintendent.

Sec. 8. 24-A MRSA §6806, sub-§1, as amended by PL 2003, c. 636, §9, is further amended to read:

1. Annual report. A settlement provider licensee shall file with the superintendent by March 1st of each year an annual statement containing such information as the superintendent prescribes by rule, including information related to settlement transactions on policies settled within 5 years of policy issuance. The superintendent may not adopt any rule that requires the submission of information that permits the identification of a viator or relates to transactions when the viator is not a resident of this State. The superintendent may not request, collect or compile personal information that identifies any viator or insured except in connection with the investigation of a specific complaint and with the prior written permission of the viator or insured or the viator's or insured's estate or representative to collect that information.

Sec. 9. 24-A MRSA §6808, sub-§7-A is enacted to read:

7-A. Potential inability to purchase additional insurance. The fact that, because of limits insurers may set on the amount of insurance on a single life, a change of ownership could leave the viator without the ability to purchase insurance in the future to replace the transferred policy;

Sec. 10. 24-A MRSA §6808-A, sub-§2, as enacted by PL 2003, c. 636, §11, is amended to read:

2. Additional disclosures. A settlement provider shall provide the viator with at least the following disclosures no later than the date the settlement contract is signed by all parties. The disclosures must be conspicuously displayed in the settlement contract or in a separate document signed by the viator and the settlement provider or settlement producer and must provide the following information:

A. The affiliation, if any, between the settlement provider and the issuer of the insurance policy to be acquired pursuant to a settlement contract;

B. The name, address and telephone number of the settlement provider;

C. If an insurance policy to be purchased has been issued as a joint policy or involves family riders or any coverage of a life other than the insured's under the policy to be purchased, information regarding the possible loss of coverage on the

other lives under the policy and advice to consult with the viator's insurance producer or the insurer issuing the policy for advice on the proposed settlement;

D. The dollar amount of the current death benefit payable to the settlement provider under the policy or certificate. If known, the settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the settlement provider's interest in those benefits; ~~and~~

E. The name, business address and telephone number of the independent 3rd-party escrow agent and the fact that the viator may inspect or receive copies of the relevant escrow or trust agreements or documents.~~;~~

F. A reconciliation of the settlement provider's gross offer to the net amount to be received by the viator;

G. The identity of all persons compensated directly or indirectly by the settlement provider for the settlement contract, the amount of compensation paid to each and the method of calculating that compensation;

H. Notice that the insured may be contacted as permitted by subsection 1 for the purpose of determining the insured's health;

I. An offer to disclose to the insured all life expectancy estimates obtained by the provider; and

J. Notice that complaints and inquiries may be brought to the attention of the superintendent.

Sec. 11. 24-A MRSA §6808-A, sub-§2-A is enacted to read:

2-A. Disclosure by settlement producers. A settlement producer shall provide the viator with at least the following disclosures no later than the date the settlement contract is signed by all parties. The disclosures must be conspicuously displayed in the settlement contract or in a separate document signed by the viator and the settlement producer and must provide the following information:

A. Notice that a settlement producer must exclusively represent the viator, not the insurer or the settlement provider, and owes a fiduciary duty to the viator;

B. A description of all offers, counteroffers, acceptances and rejections relating to any proposed settlement of the policy;

C. If any other persons are compensated directly or indirectly by the settlement producer for the settlement contract, their identity, the amount of compensation paid to each and the method of calculating that compensation; and

D. Notice that complaints and inquiries may be brought to the attention of the superintendent.

Sec. 12. 24-A MRSA §6808-A, sub-§4 is enacted to read:

4. Disclosure of policyowner's rights. The superintendent shall develop an informational brochure to apprise consumers of their rights as owners of life insurance policies. The document must be made available at no cost to all insurance companies and life insurance producers and written in lay terms.

A. The brochure must advise the consumer:

(1) That life insurance is a critical part of a broader financial plan and that the consumer is encouraged, and has a right, to seek additional financial advice and opinions;

(2) That possible alternatives to the lapse of the policy exist; and

(3) Of the definitions of common industry terms.

B. The brochure must contain the following statement in large, bold or otherwise conspicuous typeface calculated to draw the eye: "Life insurance is a critical part of a broader financial plan. There are many options available, and you have the right to shop around and seek advice from different financial advisers in order to find the option best suited to your needs."

C. The brochure may include brief descriptions of common products available from settlement providers. These products must be described in general terms for informative purposes only and not identify any specific settlement provider.

D. If the insured under an individual life insurance policy is 60 years of age or older, or is known by the insurer to be terminally ill or chronically ill, the insurer shall send notice to the policyowner that there may be alternative transactions available, including a copy of the superintendent's brochure, whenever:

(1) The policyowner has requested the surrender of the policy in whole or in part;

(2) The policyowner has requested an accelerated death benefit;

(3) The insurer sends an initial notice that the policy may lapse; or

(4) As the superintendent may require by rule.

Sec. 13. 24-A MRSA §6809, sub-§4, as amended by PL 2003, c. 636, §12, is further amended to read:

4. Transfer of insurance policy. The settlement provider shall designate an independent escrow agent and instruct the viator to send the executed documents required to effect the change in ownership or assignment or change in beneficiary directly to the independent escrow agent. Within 3 business days after the date the escrow agent receives the document, or from the date the settlement provider receives the documents, if the viator erroneously provides the documents directly to the provider, the settlement provider shall pay or transfer the proceeds of the settlement into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or its successor. Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership or assignment or change in beneficiary forms to the settlement provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership or assignment or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator.

Sec. 14. 24-A MRSA §6812, sub-§6 is enacted to read:

6. Protection of policyholder's rights. An insurer may not engage in a transaction, act, practice or course of business or dealing that restricts, limits or impairs in any way the lawful transfer of ownership, change of beneficiary or assignment of a policy. This subsection does not prohibit a lawful contract provision granting irrevocable rights to a beneficiary or lawfully prohibiting assignment.

Sec. 15. 24-A MRSA §6812-A is enacted to read:

§6812-A. Inquiries and optional disclosures by life insurers

1. Permitted inquiries regarding premium financing. In addition to any other information a life insurer may lawfully request in an application for insurance, the insurer may ask whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing, and if so, whether:

A. The applicant has entered into any agreement or arrangement providing for the future sale of this life insurance policy;

B. The loan arrangement for the policy provides funds sufficient to pay for some or all of the premiums, costs and expenses associated with obtaining and maintaining the applicant's life insurance policy;

C. The applicant has entered into any agreement by which the applicant is to receive consideration in exchange for procuring the policy; and

D. The borrower has an insurable interest in the insured.

2. Prohibited transactions. If the information obtained by the life insurer demonstrates that the loan provides funds that can be used for a purpose other than paying for the premiums, costs and expenses associated with obtaining and maintaining the life insurance policy and loan or that the transaction otherwise violates this chapter, the insurer shall reject the application.

3. Optional disclosures by the life insurer. The insurer may make disclosures to the applicant, the insured and other affected persons, either on the application, an amendment to the application or a separate document, in the following form:

"If you have entered into a loan arrangement in which the policy is used as collateral and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true:

A. A change of ownership could lead to a stranger owning an interest in the insured's life;

B. Your ability to purchase future insurance on the insured's life could be limited because there is a limit to how much coverage insurers will issue on one life;

C. Should there be a change of ownership and should you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status or other factors may reduce the ability to obtain coverage or may result in significantly higher premiums; and

D. You should consult a professional advisor because a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan."

See title page for effective date.

CHAPTER 377

H.P. 464 - L.D. 650

An Act To Create a Funding Structure for Sustainable Investment in Public Water and Wastewater Infrastructure in the State

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

Sec. 1. 22 MRSA §2610 is enacted to read:

§2610. Maine Drinking Water Fund

1. Establishment; administration. The Maine Drinking Water Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established as a nonlapsing fund to provide financial assistance, in accordance with subsection 2, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection and improvement of public water systems, drinking water supplies and water treatment facilities.

B. The department shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time from the State Water and Wastewater Infrastructure Fund, pursuant to Title 30-A, section 6006-H;

(2) Interest earned from the investment of fund balances; and

(3) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

2. Uses. The fund may be used for one or more of the following purposes:

A. To make grants to public water systems, pursuant to this section, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities;

B. To forgive loans held by public water systems for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities;

C. To provide a state match for federal funds provided to the Safe Drinking Water Revolving Loan Fund, pursuant to Title 30-A, section 6006-B;

D. To invest available fund balances and to credit the net interest income on those balances to the fund; and

E. To pay the costs of the department associated with the administration of the fund, as long as no more than 5% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

3. Rules. The department shall adopt rules necessary to implement this section, including rules to establish one or more grant programs in accordance with subsection 2, paragraph A. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 30-A MRSA §6006-H is enacted to read:

§6006-H. State Water and Wastewater Infrastructure Fund

1. Establishment; purposes. The State Water and Wastewater Infrastructure Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established in the custody of the bank as a special fund to provide financial assistance for capital investment in public water and wastewater infrastructure. For the purposes of this section, "public water and wastewater infrastructure" includes, but is not limited to public water systems, drinking water supplies and treatment facilities, public wastewater systems and treatment facilities and water pollution abatement systems.

B. The bank shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds or money of the State or the bank and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time by the Treasurer of State;

(2) Principal and interest received from the repayment of loans made from the fund;

(3) The proceeds of notes or bonds issued by the State for the purpose of deposit in the fund;

(4) Interest earned from the investment of fund balances;

(5) Private gifts, bequests and donations made to the State for any of the purposes for which the fund is established; and

(6) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

2. Uses. The fund may be used for one or more of the following purposes:

A. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital investment in water and wastewater infrastructure through the fund;

B. To provide funds for capital investment in water and wastewater infrastructure through the Maine Drinking Water Fund, established in Title 22, section 2610, and the Maine Clean Water Fund, established in Title 38, section 411-C. Transfers to these funds must be made in consultation with the agencies administering those funds and must be secondary to the repayment of notes or bonds issued pursuant to paragraph A;

C. To provide a state match for federal funds provided to the State Revolving Loan Fund established in section 6006-A and the safe drinking water revolving loan fund established in section 6006-B;

D. To invest available fund balances and to credit the net interest income on those balances to the fund;

E. To invest as a source of revenue or security for the payment of principal and interest on general or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund; and

F. To pay the costs of the bank associated with the administration of the fund and projects financed by it as long as no more than 2% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

3. Establishment of accounts. The bank may establish accounts and subaccounts within the fund as it determines desirable to effectuate the purposes of this section, including, but not limited to, accounts to segregate a portion of the fund for grants and as security for bonds issued by the bank for deposit in the fund and to be invested for the benefit of specified projects receiving financial assistance from the fund.

Sec. 3. 38 MRSA §411-C is enacted to read:

§411-C. Maine Clean Water Fund

1. Establishment; administration. The Maine Clean Water Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established as a nonlapsing fund to provide financial assistance, in accordance with subsection 2, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection and improvement of public wastewater systems and treatment facilities and water pollution abatement systems.

B. The department shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time from the State Water and Wastewater Infrastructure Fund pursuant to Title 30-A, section 6006-H;

(2) Interest earned from the investment of fund balances; and

(3) Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

2. Uses. The fund may be used for one or more of the following purposes:

A. To make grants to public wastewater systems under sections 411 and 412;

B. To forgive loans held by public wastewater systems for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public wastewater systems and treatment facilities and water pollution abatement systems;

C. To provide a state match for federal funds allocated to the state revolving loan fund established in Title 30-A, section 6006-A;

D. To invest available fund balances and to credit the net interest income on those balances to the fund; and

E. To pay the costs of the department associated with the administration of the fund as long as no more than 5% of the aggregate of the highest fund balance in any fiscal year is used for these purposes.

Sec. 4. Stakeholder group; authority for legislation. The Department of Health and Human Services and the Department of Environmental Protection shall convene a stakeholder group to develop recommendations regarding the funds created in this Act. The stakeholder group shall, at a minimum, review and make recommendations regarding funding needs and sources for the State Water and Wastewater Infrastructure Fund, established in the Maine Revised Statutes, Title 30-A, section 6006-H, taking into account the intent to use that fund as a state match for federal funds and to transfer funds from that fund to the Maine Drinking Water Fund, established in Title 22, section 2610, and the Maine Clean Water Fund, established in Title 38, section 411-C. No later than February 1, 2010, the Department of Health and Human Services

and the Department of Environmental Protection shall jointly submit a report to the Joint Standing Committee on Utilities and Energy regarding the findings and recommendations of the stakeholder group. Following receipt and review of the report, the committee may submit legislation related to the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 378

H.P. 896 - L.D. 1293

An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment

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

Sec. 1. 22 MRSA §1471-Y is enacted to read:

§1471-Y. Notification of outdoor pesticides application using aircraft or air-carrier equipment

A land manager may not apply pesticides using aircraft or air-carrier equipment unless the notification requirements of this section are met.

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

A. "Air-carrier equipment" means any application equipment that uses a mechanically generated airstream to propel spray droplets. "Air-carrier equipment" does not include air-assisted application equipment in which the airstream is directed downward into the target canopy.

B. "Land manager" means the owner of the land, a person leasing the land, or a person, firm, company or other legal entity designated by the owner to manage the land, vegetation on the land or pests occurring on the land.

C. "Neighbor" means an owner, lessee or occupant of a property that abuts or lies within 1,320 feet of an area.

2. Mandatory notification. A land manager intending to conduct application of pesticides using aircraft or air-carrier equipment shall provide written notification to residents and managers of buildings on abutting property at least 90 days prior to the first date of pesticides application. The notification must be provided in accordance with subsection 5 and include:

A. A general description of the method of application that is likely to occur;

B. The pesticides application schedule and circumstances under which the application is likely to take place;

C. The commercial and scientific names of pesticides likely to be applied; and

D. Reference to the registry of citizens developed and maintained by the board under section 1471-Z and a description of how to be placed on the registry.

Notification in compliance with this subsection fulfils the notification requirement for 3 years unless the information provided under paragraph A, B or C changes.

3. Obligations to provide information. A land manager intending to conduct an outdoor application of pesticides using aircraft or air-carrier equipment shall access the registry of citizens under section 1471-Z to determine any neighbors on the registry of citizens and shall provide those neighbors with notification in accordance with subsection 5 and at least 24 hours but not more than 7 days in advance of the application of:

A. The date and approximate time of application;

B. The type of equipment to be used and the manner in which the pesticides will be applied;

C. The commercial and scientific names and the United States Environmental Protection Agency's registration numbers for the pesticides to be used and, upon request, the material safety data sheets for the pesticides or copies of pesticides labels; and

D. Contact information for the land manager.

4. Records maintained. A land manager shall maintain records of communications with neighbors regarding an outdoor application of pesticides using aircraft or air-carrier equipment and the dates and means by which the notification required under subsection 2 was provided. The board shall supply forms for recording this information and the land manager shall use these forms. A land manager shall maintain a list of people receiving notification under subsection 2 or information under subsection 3 who ask not to be contacted in the future. A land manager may refrain from sending future notifications to these individuals.

5. Means of notification. A land manager conducting or contracting for a pesticides application using aircraft or air-carrier equipment shall make a good faith effort to convey the information required in subsections 2 and 3. Acceptable means of notification include:

A. Personal delivery of notification forms;

B. Mailing notification forms through the United States Postal Service; or

C. Electronic mailing of notification forms.

Telephone calls, either personal or automated, are an acceptable means of notification under subsection 3.

Sec. 2. 22 MRSA §1471-Z is enacted to read:

§1471-Z. Registry of citizens requesting additional information

The board shall develop and maintain a registry of residents and property owners in the State who request to be placed on a registry for the purpose of receiving information on the outdoor application of pesticides using aircraft or air-carrier equipment in addition to the information required under section 1471-Y.

1. Development of a registry of citizens. The board shall solicit participation in a registry of citizens through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. To be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, the following information:

A. The person's full name;

B. The person's telephone number;

C. The location of the property owned, leased or occupied by the person registering. The location must be described in sufficient detail to be located on a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail;

D. The person's mailing address; and

E. The person's e-mail address.

Any resident, owner or lessee of property in the State is entitled to be placed on the registry of citizens. A fee may not be charged to register. Persons remain on the registry until they notify the board in writing that they want to be removed from the registry or until the board staff determines that the contact is no longer valid.

See title page for effective date.

CHAPTER 379

H.P. 982 - L.D. 1406

An Act To Transfer the Seed Potato Board to the Maine Potato Board

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

Sec. 1. 7 MRSA §2151, amended by PL 1989, c. 503, Pt. B, §45, is repealed and the following enacted in its place:

§2151. Creation and membership

The Seed Potato Board, established by Title 5, section 12004-H, subsection 5, is overseen by and is the responsibility of the Maine Potato Board, a public instrumentality of the State established in Title 36, section 4603. The Seed Potato Board, referred to in this chapter as "the seed board," consists of the commissioner and 8 members appointed in accordance with subsections 1 and 2.

1. Appointments by the commissioner. The commissioner shall appoint 2 members to the seed board as follows:

A. A representative of the potato industry in a county other than Aroostook County; and

B. A person producing potatoes in Aroostook County primarily for processing.

2. Appointments by the Maine Potato Board. The Maine Potato Board as established in Title 36, section 4603 shall appoint 6 members to the seed board representing the potato industry in Aroostook County, including:

A. One producing primarily tablestock potatoes; and

B. One producing potatoes primarily for processing.

Sec. 2. 7 MRSA §2152, as amended by PL 1983, c. 565, §4, is further amended to read:

§2152. Terms; vacancies; expenses

Each appointed member ~~shall serve~~ of the seed board serves for a term of ~~3~~ 2 years or until ~~his~~ the member's successor has been appointed and qualified, except that ~~no~~ a member may not serve for more than ~~2~~ 3 consecutive terms.

Upon the expiration of the term of office of any appointed member of the seed board, ~~said~~ the member's successor ~~shall~~ must be appointed by the ~~commissioner~~ member's appointing authority under section 2151~~, or in~~. In the case of a vacancy for any reason, the ~~commissioner~~ member's appointing authority under section 2151 shall appoint a member to fill the unexpired term.

The members of the ~~Seed Potato Board shall receive no salary~~ seed board are not entitled to compensation, but all their expenses incurred in attending meetings ~~shall~~ must be paid by the Maine Potato Board as established in Title 36, section 4603 out of the ~~State Treasury, on certificate of the commissioner, upon the audit and warrant of the State Controller~~ seed potato account established in accordance with Title 36, section 4604, subsection 4.

Sec. 3. 7 MRSA §2153, first ¶ is amended to read:

The Seed Potato Board shall meet annually on such date and at such place as the board may appoint and shall meet at such other times as the board may ~~deem~~ determine necessary or when called by the ~~chairman~~ chair of the board or any 2 members ~~thereof~~ of the board upon 2 days' notice. ~~The board may by resolution provide for a shorter notice made by telegraph, telephone or otherwise.~~

Sec. 4. 7 MRSA §2154, as amended by PL 1999, c. 16, Pt. N, §1, is repealed and the following enacted in its place:

§2154. Powers; responsibilities

1. Production, distribution and sales. The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may produce, or cause to be produced through contract or otherwise, seed potatoes for distribution and sale. The seed board, in consultation with the Maine Potato Board, shall determine the varieties and acreages of each variety to produce. The seed board shall oversee seed production facilities and make recommendations to the Maine Potato Board regarding the production, distribution and sales of seed potatoes. The production program developed by the seed board with approval and oversight by the Maine Potato Board must include, but is not limited to, long-range projections of industry trends and needs, contracting with growers to reproduce nuclear seed stock grown at the seed board's seed potato farm, a determination of the varieties and volume of seed to be grown at seed production facilities and allocation of seed to growers for the benefit of the entire state potato industry.

2. Use of funds. The seed board may not commit funds that exceed the amount of funds approved by the Maine Potato Board as established in Title 36, section 4603. The Maine Potato Board may pay from the seed potato account to the Town of Masardis in lieu of taxes a sum, in the discretion of the Maine Potato Board, that compensates the town in whole or in part for loss of real estate taxes due to tax exempt status of real estate used for seed potato purposes.

3. Authority to acquire, hold and convey property. The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may purchase, own or otherwise acquire farm real estate and farm equipment necessary to produce acreages of seed potatoes or for the testing of seed potatoes. The seed board, with the approval of the Maine Potato Board, may sell or otherwise convey farm real estate and farm equipment no longer required for the purposes of this chapter. Proceeds from the sale must be credited to an operating account for the seed board established in accordance with Title 36, section 4604, subsection 4.

4. Cooperation with the University of Maine System. The seed board is advisory to and may work with and through the Maine Agricultural Experiment Station of the University of Maine System and other public and private agencies to annually conduct a program for the production of seed potatoes. If a program for the standardized testing of new varieties of commercial seed does not exist under the auspices of the Maine Agricultural Experiment Station, the seed board shall provide the Maine Potato Board as established in Title 36, section 4603 with a recommendation for developing such a program.

Sec. 5. 7 MRSA §2155, as amended by PL 1985, c. 785, Pt. B, §47, is further amended to read:

§2155. Records and proceedings

1. Administration. The ~~Seed Potato Board~~ seed board shall elect a secretary, who need not be a member of the board~~, and the commissioner shall have authority to~~. The Maine Potato Board as established in Title 36, section 4603, upon recommendation of the seed board, may employ a managing director and ~~such agents as may be~~ other employees necessary~~, subject to the Civil Service Law,~~ to ~~consummate any and~~ fulfill the responsibilities and implement all programs ~~which it may institute, as~~ authorized under ~~the terms of~~ this chapter ~~and~~. The seed board shall keep a record of all of its proceedings~~, and all~~. All expenses ~~by it~~ incurred ~~shall~~ by the seed board must be paid ~~out of the State Treasury, on certification of the commissioner, upon the audit and warrant of the State Controller and charged against any and all appropriations which may be annually made available for its use as stipulated. The board shall be subject to the provisions of Title 5, chapter 379~~ by the Maine Potato Board from the seed potato account.

2. Program plan. The ~~managing director~~ seed board shall present to the ~~board~~ Maine Potato Board established in Title 36, section 4603, at least annually, a program plan for the ~~board's~~ Maine Potato Board's consideration and specific action~~, which~~. The plan ~~shall~~ must include an assessment of the seed potato industry, a projection of demand for seed by variety in the various marketing areas, the impact of significant changes in seed potato acreage, the capital needs of the ~~state~~ seed ~~potato farm~~ board's production facilities, considering current and future technology, proposals to improve the varieties and quality of Maine seed potatoes, recommendations to promote the sale of Maine seed~~,~~ and ~~to~~ other such matters the ~~managing director deems~~ seed board determines appropriate.

Sec. 6. 36 MRSA §4604, sub-§4, as amended by PL 1995, c. 502, Pt. C, §17, is further amended to read:

4. Funding; accounts. In addition to the money received by the board pursuant to section 4606, the board may receive and expend funds from any source,

public or private, that it considers necessary to carry out its legislative purposes. The board shall establish an account, known as the seed potato account, to receive and expend funds for carrying out the board's responsibilities under Title 7, chapter 403.

Sec. 7. Transition provisions.

1. Management; ownership. The Department of Agriculture, Food and Rural Resources and the Maine Potato Board established under the Maine Revised Statutes, Title 36, section 4603 shall cooperatively oversee the Seed Potato Board, established under Title 5, section 12004-H, subsection 5, and manage the production of seed potatoes during a transition period. The transition in oversight and management responsibilities from the Department of Agriculture, Food and Rural Resources to the Maine Potato Board must be completed no later than April 1, 2010.

By April 1, 2010, the Department of Agriculture, Food and Rural Resources shall transfer to the Seed Potato Board assets of the department used by the Seed Potato Board in the production and certification of seed potatoes. The Seed Potato Board must use the transferred assets to ensure a continued supply of seed potatoes.

2. Employees. All current full-time and part-time positions of the Seed Potato Board are terminated by the State prior to the time the Maine Potato Board assumes ownership and operation of the Seed Potato Board. Employees of the Seed Potato Board after the transfer are employees of the Maine Potato Board.

3. Transition of funds. No later than July 1, 2010 or, if earlier, at the time of transfer of the Seed Potato Board to the Maine Potato Board, and during subsequent years, all funds received by the Department of Agriculture, Food and Rural Resources or the Seed Potato Board for the operation of the Porter Seed Farm must be paid to the Maine Potato Board.

Sec. 8. Funding. The Department of Agriculture, Food and Rural Resources shall provide the Maine Potato Board, as established by the Maine Revised Statutes, Title 36, section 4603, funding in support of the Seed Potato Board not to exceed the sum of $250,000 for fiscal year 2009-10 and the sum of $175,000 for fiscal year 2010-11. These funds must be paid to the Maine Potato Board at the beginning of each fiscal year.

Sec. 9. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 7, section 2151, in making initial appointments to the Seed Potato Board, the Commissioner of Agriculture, Food and Rural Resources shall appoint the member that is a processor producer for a one-year term and the Maine Potato Board shall appoint 3 members for one-year terms. The other 4 members are appointed for 2-year terms.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

POTATO BOARD, MAINE

Potato Board 0429

Initiative: Establishes the Seed Potato Account within the Maine Potato Board with a base allocation of $500.

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

See title page for effective date.

CHAPTER 380

S.P. 551 - L.D. 1476

An Act Regarding the Transfer of Licenses for Energy Recovery Facilities

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

Sec. 1. 38 MRSA §1310-Q, as amended by PL 2005, c. 612, §3, is further amended to read:

§1310-Q. Transfer of license

1. Transfer. ~~No~~ A person may not transfer a license issued pursuant to this Title without the transfer of the license being approved by the department prior to transfer of the ownership of the property, facility or structure that constitutes or is part of the solid waste disposal facility. The department, at its discretion, may require that the proposed new owner of the facility apply for a new license or may approve the transfer of the existing license upon a satisfactory showing that the new owner can abide its terms and conditions and will be able to comply with the provisions of this Title, except that the department may not approve the transfer of an existing license of a municipal solid waste disposal facility to a private entity and the department may not approve the transfer of the license of a solid waste facility subject to subsection 2 unless the provisions of that subsection are satisfied. The department shall consider the extent to which the disposal facility was sited and developed and is currently operated to meet the capacity needs of municipalities within a specific geographic region. The department shall approve the transfer of license when, in addition to all other requirements of this Title, the applicant has demonstrated that:

A. The facility will continue to be operated to meet the municipal disposal capacity needs for which the facility was sited and developed and for which it is currently operated;

B. The applicant has made substantially equivalent, alternative provisions to satisfy these disposal capacity needs; or

C. These disposal capacity needs no longer exist.

2. Transfers of solid waste license for a facility that incinerates municipal solid waste or special waste. In addition to the provisions of subsection 1, during the stated term of any waste handling contract between a solid waste facility that incinerates municipal solid waste or special waste and the host community in which the facility is geographically sited, the department may approve the transfer of a solid waste facility license from the solid waste facility only after the expiration of a due diligence review period for the host community in which the facility is geographically sited, which must conclude within 180 days of the date of filing of the application for transfer of the license. For purposes of this section, any change of owner or operator of the solid waste facility, whether accomplished through sale, merger, lease, sale of stock, assignment or otherwise, is subject to the requirement set forth in this subsection. Any facility owned wholly or in part by a regional association pursuant to section 1304-B, subsection 5 is exempt from this subsection. A transfer to a host community in which the facility is geographically sited is exempt from this subsection.

The board shall decide all applications for transfer of a license subject to this subsection. The board shall hold a public hearing on a transfer application within or in the vicinity of the municipality in which the facility is located after expiration of the due diligence review period prescribed in this subsection.

Sec. 2. Retroactivity. This Act applies retroactively to April 1, 2009.

See title page for effective date.

CHAPTER 381

H.P. 1049 - L.D. 1492

An Act To Improve Opportunity in the Maine Woods

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

Whereas, workers in the Maine woods and the wood industry in Maine face significant economic obstacles; and

Whereas, a recent study by the Office of the Attorney General of logging industry conditions in northern and eastern Maine found "clear evidence of market concentration" but was unable, due to lack of access to information, to determine whether market concentration resulted in the payment of below-market rates for services; and

Whereas, the rate-setting law designed to counteract the effects of market concentration and provide increased opportunities for workers to make a living in the Maine woods is currently having an adverse impact on those opportunities; and

Whereas, federal and state officials are beginning vigorous efforts to enforce federal and state laws related to the use of foreign labor and foreign labor certification to ensure that Maine workers have a fair opportunity to fill jobs in the Maine woods before foreign labor is brought into the country; and

Whereas, those efforts include in-person verification of equipment ownership by employers of bond workers to enforce the Maine Revised Statutes, Title 26, section 872; and

Whereas, this legislation triples the fines applicable for violations of the Maine Revised Statutes, Title 26, section 872; and

Whereas, the United States Department of Labor is undertaking a review of contractor practices to investigate allegations that contractors are not following federal law in their efforts to obtain foreign labor to work in the Maine woods and may deny or revoke authorization to use foreign labor to those contractors who are not in compliance with federal law; and

Whereas, the Maine Department of Labor is requesting that the United States Department of Labor establish rates to allow owners to obtain fair pay for equipment in the Maine woods; and

Whereas, the Governor is committed to keeping up pressure on the United States Department of Labor as well as overseeing the efforts of the Maine Department of Labor to implement these enhanced enforcement efforts for the purpose of improving economic opportunity for workers in the Maine woods; and

Whereas, changes are needed immediately to improve economic opportunity in the current logging season; and

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

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

Sec. 1. 26 MRSA §872, sub-§2, as enacted by PL 2005, c. 461, §1, is amended to read:

2. Proof of ownership required. An employer in this State who employs a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department, the operator of equipment subject to this section shall provide proof of ownership. Notwithstanding section 3, information regarding proof of ownership is not confidential and may be disclosed to the public.

Sec. 2. 26 MRSA §872, sub-§5, as enacted by PL 2005, c. 461, §1, is amended to read:

5. Violation. An employer who violates this section commits a civil violation for which a fine of not less than ~~$1,000~~ $3,000 and not more than ~~$5,000~~ $15,000 per violation may be adjudged.

Sec. 3. 26 MRSA §872, sub-§6 is enacted to read:

6. Assistance. The Department of Conservation shall provide interagency support and field information to assist the Department of Labor in enforcing this section.

Sec. 4. 26 MRSA §931-B, as enacted by PL 2003, c. 670, §2, is repealed.

Sec. 5. 26 MRSA c. 18, as amended, is repealed.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Labor Relations Board 0160

Initiative: Reduces funds for the per diem and related costs of the State Board of Arbitration and Conciliation due to the repeal of the rate determination process for forest products hauling and harvesting services.

GENERAL FUND	2009-10	2010-11
All Other	($3,300)	($3,300)
GENERAL FUND TOTAL	($3,300)	($3,300)

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($12,500)	($12,500)
All Other	($5,860)	($5,860)
OTHER SPECIAL REVENUE FUNDS TOTAL	($18,360)	($18,360)

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

Effective June 12, 2009.

CHAPTER 382

H.P. 1051 - L.D. 1495

An Act To Implement Tax Relief and Tax Reform

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

PART A

Sec. A-1. 36 MRSA §5111, as amended by PL 1999, c. 731, Pt. T, §§1 to 7, is repealed and the following enacted in its place:

§5111. Imposition and rate of tax

A tax is imposed for each taxable year beginning on or after January 1, 2010 on the Maine taxable income of every resident individual of this State at the rate of 6.5%.

Sec. A-2. 36 MRSA §5111-A, as repealed and replaced by PL 1987, c. 819, §3, is repealed.

Sec. A-3. 36 MRSA §5111-C is enacted to read:

§5111-C. Income tax surcharge

For tax years beginning on or after January 1, 2010, in addition to the tax imposed pursuant to section 5111 for the taxable year, there is imposed a tax surcharge on the amount of state tax liability due for any tax year that begins on or after January 1, 2010. The tax surcharge is .35% of the Maine taxable income that exceeds $250,000. The Maine taxable income threshold amount of $250,000 must be indexed in accordance with chapter 841 and if the amount so indexed is not a multiple of $50 the indexed amount must be rounded to the next lowest multiple of $50.

Sec. A-4. 36 MRSA §5112, as enacted by P&SL 1969, c. 154, Pt. F, §1, is repealed.

Sec. A-5. 36 MRSA §5113, as repealed and replaced by PL 1983, c. 571, §19, is repealed.

Sec. A-6. 36 MRSA §5121, as amended by PL 2003, c. 390, §26, is further amended to read:

§5121. Maine taxable income

The Maine taxable income of a resident individual is equal to the individual's federal adjusted gross income as defined by the Code with the modifications ~~and less the deductions and personal exemptions~~ provided in this chapter.

Sec. A-7. 36 MRSA §5122, sub-§2, ¶L, as amended by PL 2003, c. 705, §11 and affected by §14, is further amended to read:

L. For income tax years beginning on or after January 1, 2000 and before January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2004 and before January 1, 2010, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2010, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l);

Sec. A-8. 36 MRSA §5122, sub-§2, ¶T, as amended by PL 2005, c. 519, Pt. LLL, §1 and c. 622, §26, is further amended to read:

T. For income tax years beginning on or after January 1, 2002 and before January 1, 2004, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

For income tax years beginning on or after January 1, 2004 but before January 1, 2010, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2010, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l);

Sec. A-9. 36 MRSA §5124-A, as amended by PL 2009, c. 213, Pt. BBBB, §9 and affected by §17, is repealed.

Sec. A-10. 36 MRSA §5125, as amended by PL 2007, c. 539, Pt. CCC, §§9 to 11, is repealed.

Sec. A-11. 36 MRSA §5126, as amended by PL 2001, c. 583, §16, is repealed.

Sec. A-12. 36 MRSA §5160, as amended by PL 2003, c. 390, §35, is further amended to read:

§5160. Imposition of tax

The tax is imposed, at the ~~rates~~ rate provided by section 5111 ~~for single individuals~~, upon the Maine taxable income of estates and trusts. The tax must be paid by the fiduciary.

Sec. A-13. 36 MRSA §5192, sub-§2, as amended by PL 1985, c. 783, §32, is repealed.

Sec. A-14. 36 MRSA §5203-B, as amended by PL 2003, c. 673, Pt. JJ, §2 and affected by §6, is repealed.

Sec. A-15. 36 MRSA §5203-C, as amended by PL 2005, c. 618, §§7 and 8 and affected by §22, is further amended to read:

§5203-C. State minimum tax

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

A. "Adjusted alternative minimum tax;" ~~for individuals, estates and trusts, means the excess, if any, of the alternative minimum tax over the amount that would have been the alternative minimum tax had only the adjustments and items of preference specified in the Code, Section 53(d)(1)(B)(ii) been taken into account in determining alternative minimum tax. For corporations subject to the tax imposed by this section, "adjusted alternative minimum tax"~~ means alternative minimum tax.

B. "Alternative minimum tax" means any excess of tentative minimum tax over the regular income tax.

~~C. "Alternative minimum taxable income" means tentative alternative minimum taxable income less the applicable exemption amount, except that:~~

~~(1) For taxable corporations with income from business activity that is taxable both within and without this State, "alternative minimum taxable income" means tentative alternative minimum taxable income less the applicable exemption amount, the result of which is multiplied by the fraction described in section 5211, subsection 8; or~~

~~(2) For nonresident estates and trusts with income derived from Maine sources, "alternative minimum taxable income" means tentative alternative minimum taxable income less the applicable exemption amount, the result of which is multiplied by a fraction, the numerator of which is the taxpayer's tentative alternative minimum taxable income from Maine sources and the denominator of which is the taxpayer's total tentative alternative minimum taxable income from all sources.~~

C-1. "Alternative minimum taxable income" for taxable corporations with income from business activity that is taxable both within and without this State means tentative alternative minimum taxable income less the applicable exemption amount, the result of which is multiplied by the fraction described in section 5211, subsection 8.

D. "Exemption amount" means the applicable exemption as provided by the Code, Section 55(d) as of December 31, 2002, except that tentative alternative minimum taxable income as determined under paragraph G must be substituted in the computation of the phase-out under the Code, Section 55(d)(3).

E. "Federal alternative minimum taxable income" means alternative minimum taxable income determined in accordance with the Code, ~~Sections~~ Section 55(b)(2) ~~and 59(c)~~.

~~F. "Regular income tax" means:~~

~~(1) For resident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or 5163;~~

~~(2) For nonresident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or 5175, the result of which is adjusted for nonresident individuals in accordance with section 5111, subsection 4; or~~

~~(3) For taxable corporations, the amount derived by multiplying the applicable tax rate or rates against Maine net income under section 5102, subsection 8.~~

F-1. "Regular income tax" means the amount derived by multiplying the applicable tax rate or rates against Maine net income under section 5102, subsection 8.

G. "Tentative alternative minimum taxable income" means federal alternative minimum taxable income:

(1) Reduced by income that states are prohibited under federal law from subjecting to income tax to the extent included in federal alternative minimum taxable income;

(2) Reduced by income, loss or deductions by which the State decreases ~~federal adjusted gross income in the case of individuals or~~ federal taxable income ~~in the case of corporations, estates and trusts~~ under section ~~5122, section 5125, subsection 3 or section 5164, 5176 or~~ 5200-A or as otherwise indicated by law to the extent included in federal alternative minimum taxable income; and

(3) Increased by income, loss or deductions by which the State increases ~~federal adjusted gross income in the case of individuals or~~ federal taxable income ~~in the case of corporations, estates and trusts~~ under section ~~5122, section 5125, subsection 3 or section 5164, 5176 or~~ 5200-A or as otherwise indicated by law to the extent not included in federal alternative minimum taxable income.

~~H. "Tentative minimum tax" means:~~

~~(1) Except as provided in subparagraph (2), in the case of a taxpayer other than a taxable corporation, the sum of:~~

~~(a) An amount equal to 7% of so much of the alternative minimum taxable income as does not exceed $175,000; plus~~

~~(b) An amount equal to 7.6% percent of so much of the alternative minimum taxable income as exceeds $175,000.~~

~~For a nonresident individual, the tentative minimum tax must be adjusted in accordance with section 5111, subsection 4.~~

~~(2) In the case of a married individual filing a separate return, the sum of:~~

~~(a) An amount equal to 7% of so much of the alternative minimum taxable income as does not exceed $87,500; plus~~

~~(b) An amount equal to 7.6% percent of so much of the alternative minimum taxable income as exceeds $87,500.~~

~~For a nonresident individual, the tentative minimum tax must be adjusted in accordance with section 5111, subsection 4.~~

~~(3) In the case of a taxable corporation, the tentative minimum tax for the taxable year is 5.4% of the alternative minimum taxable income.~~

H-1. "Tentative minimum tax" for the taxable year is 5.4% of the alternative minimum taxable income.

~~**2. Tax imposed.** In addition to all other taxes contained in this Part, a tax in an amount equal to the alternative minimum tax is imposed for each taxable year on the following taxpayers:~~

~~A. Resident individuals, trusts and estates;~~

~~B. Nonresident individuals, trusts and estates with Maine-source income; and~~

~~C. Taxable corporations required to file an income tax return under this Part, excluding financial institutions subject to the tax imposed by chapter 819 and persons not subject to the federal alternative minimum tax under the Code, Section 55(e).~~

2-A. Tax imposed. In addition to all other taxes contained in this Part, a tax in an amount equal to the alternative minimum tax is imposed for each taxable year on taxable corporations required to file an income tax return under this Part, excluding financial institutions subject to the tax imposed by chapter 819 and persons not subject to the federal alternative minimum tax under the Code, Section 55(e).

~~**3. Credit for tax paid to other taxing jurisdiction.** A resident individual, estate or trust is allowed a credit against the tax otherwise due under this section for the amount of alternative minimum tax imposed on that individual, estate or trust for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income derived from sources in that taxing jurisdiction also subject to tax under this section. The credit for any of the specified taxing jurisdictions may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's tentative alternative minimum taxable income derived from sources in that taxing jurisdiction bears to the taxpayer's entire tentative alternative minimum taxable income. When a credit is claimed for alternative minimum taxes paid to both a state and a political subdivision of that state, the total credit allowable for those taxes in the aggregate may not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's tentative alternative minimum taxable income derived from sources in the other state bears to the taxpayer's entire tentative alternative minimum taxable income.~~

4. Minimum tax credit. A minimum tax credit is allowed as follows.

A. A taxable corporation is allowed a minimum tax credit ~~is allowed~~ against the liability arising under this Part for any taxable year other than withholding tax liability. The minimum tax credit equals the excess, if any, of the adjusted alternative minimum tax, reduced by ~~the credit for tax paid to other jurisdictions determined under subsection 3 and~~ the Pine Tree Development Zone tax credit provided by section 5219-W, that was imposed for all prior taxable years beginning after 2003 over the amount allowable as a credit under this subsection for such prior taxable years, plus unused minimum tax credits from years beginning after 1990.

B. The credit allowable for a taxable year under this subsection is limited to the amount, if any, by which the regular income tax after application of all other credits arising under this Part exceeds the tentative minimum tax.

Sec. A-16. 36 MRSA §5204, as amended by PL 1987, c. 772, §38, is repealed.

Sec. A-17. 36 MRSA §5204-A, as amended by PL 1993, c. 395, §20, is repealed.

Sec. A-18. 36 MRSA §5216-C, sub-§1, as enacted by PL 1999, c. 475, §6 and affected by §7, is amended to read:

1. Credit allowed. A taxpayer who contributes to a family development account reserve fund as defined in Title 10, section 1075 is allowed a credit against the tax imposed by this Part equal to the lower of:

A. Twenty-five thousand dollars; ~~or~~ and

B. Fifty percent of the amount contributed by the taxpayer.

Only one credit may be claimed on each annual income tax return regardless of filing status. The credit allowed under this section may not reduce the tax to less than 0 and must be applied after allowance for all other eligible credits. ~~A taxpayer who claims a credit under this section may not claim an itemized charitable deduction under section 5125 for the amount of the contribution that qualified for the credit.~~

Sec. A-19. 36 MRSA §5217-A, as amended by PL 2003, c. 673, Pt. JJ, §4 and affected by §6, is further amended to read:

§5217-A. Income tax paid to other taxing jurisdiction

A resident individual is allowed a credit against the tax otherwise due under this Part~~, excluding the tax imposed by section 5203-C,~~ for the amount of income tax imposed on that individual for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income subject to tax under this Part that is derived from sources in that taxing jurisdiction. In determining whether income is derived from sources in another jurisdiction, the assessor may not employ the law of the other jurisdiction but shall instead assume that a statute equivalent to section 5142 applies in that jurisdiction. The credit, for any of the specified taxing jurisdictions, may not exceed the proportion of the tax otherwise due under this Part~~, excluding the tax imposed by section 5203-C,~~ that the amount of the taxpayer's Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the taxpayer's entire Maine adjusted gross income; except that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, the total credit allowable for those taxes does not exceed the proportion of the tax otherwise due under this Part~~, excluding the tax imposed by section 5203-C,~~ that the amount of the taxpayer's Maine adjusted gross income derived from sources in the other state bears to the taxpayer's entire Maine adjusted gross income.

Sec. A-20. 36 MRSA §5218-A is enacted to read:

§5218-A. Household credit

1. Credit allowed. A resident individual is allowed a credit, referred to in this section as "the household credit," against the tax imposed by this Part. Unless the taxpayer elects to calculate the household credit under section 5218-B, the household credit is equal to the amount calculated in this section. An individual filing a return under section 5224-A is not eligible for a credit under this section.

2. Amount of base credit. The base household credit is:

A. For single individuals, $700;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, $1,050;

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, $1,200; and

D. For married persons filing separate returns, $600.

3. Additional credit. The base household credit is increased by $250 for each person for whom the individual is entitled to claim an exemption under the Code.

4. Phaseout of credit. The household credit calculated under subsections 2 and 3 is reduced by $1.50 for every $100 that the individual's taxable income exceeds:

A. For single individuals and married persons filing separate returns, $27,500;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, $41,250; and

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, $55,000.

5. Credit refundable. The household credit allowed under this section is refundable up to $70 for a married joint return and $50 for all other returns filed by an individual who is not claimed as a dependent by another individual on a return under the Code.

6. Adjustment for inflation. For tax years beginning in 2014 and thereafter, the household credit amounts under subsections 2 and 3 and the credit phaseout thresholds under subsection 4 must be adjusted annually for inflation as provided in chapter 841.

Sec. A-21. 36 MRSA §5218-B is enacted to read:

§5218-B. Alternate calculation of household credit

1. General. A resident individual who has claimed itemized deductions from federal adjusted gross income in determining the individual's federal taxable income for the taxable year may elect to calculate the household credit as provided in this section instead of under section 5218-A. An individual filing a return under section 5224-A is not eligible for a credit under this section. The credit calculated under this section is referred to in this section as "the alternate household credit."

2. Base. The alternate household credit is calculated by modifying the individual's total federal itemized deductions by:

A. Reducing the total by any amount attributable to income taxes or sales and use taxes imposed by this State or any other taxing jurisdiction;

B. Increasing the total by any amount of interest or expense incurred in the production of income taxable under this Part but exempt from federal income tax that was not deducted in determining the individual's federal taxable income;

C. Reducing the total by any amount of deduction attributable to income taxable to financial institutions under chapter 819;

D. Reducing the total by any amount attributable to interest or expenses incurred in the production of income exempt from tax under this Part; and

E. Reducing the total by any amount attributable to a contribution that qualified for and was actually used as a credit under section 5216-C.

3. Amount of base alternate household credit. The base alternate household credit is 5.5% of the individual's federal itemized deductions modified under subsection 2 plus:

A. For single individuals and married persons filing separate returns, $400;

B. For unmarried individuals or legally separated individuals who qualify as heads of households, $600; and

C. For individuals filing married joint returns or surviving spouses permitted to file a joint return, $800.

4. Additional credit. The base alternate household credit, as adjusted under subsection 5, is increased by $250 for each person for whom the individual is entitled to claim an exemption under the Code.

5. Maximum base alternate household credit. An individual's base alternate household credit may not exceed:

A. For individuals filing as single or for married individuals filing separately, $1,150;

B. For individuals filing as heads of households, $1,750; or

C. For married individuals filing jointly, $2,300.

6. Phaseout; refundability. An alternate household credit calculated under this section is subject to the phaseout and refundability provisions of section 5218-A, subsections 4 to 6. The maximum alternate household credit amounts under subsection 5 must be adjusted annually for inflation as provided in chapter 841.

Sec. A-22. 36 MRSA §5218-C is enacted to read:

§5218-C. Credit for certain charitable contributions

A credit is allowed against the tax otherwise due under this Part for certain charitable contributions. The credit equals 5% of the amount of charitable contributions claimed on a federal return, excluding deductions carried over from prior years, that exceeds $250,000.

Sec. A-23. 36 MRSA §5218-D is enacted to read:

§5218-D. Elderly credit

A credit is allowed in the amount of $60 for each taxpayer who is 65 years of age or older or $120 for a married joint return if both spouses are 65 years of age or older. The credit is reduced by $2 for every $100 of adjusted gross income over $32,000 for single filers, $52,000 on a married joint return, $48,000 on a head of household return and $26,000 on a married filing separately return.

Sec. A-24. 36 MRSA §5219-A, as amended by PL 2003, c. 390, §§46 and 47, is repealed.

Sec. A-25. 36 MRSA §5219-H, sub-§2, as repealed and replaced by PL 2003, c. 673, Pt. F, §1 and affected by §2, is amended to read:

2. Meaning of tax liability. Whenever a credit provided for in chapter 822 is limited by reference to tax liability, "tax liability" means the tax liability for all taxes under this Part, except ~~the minimum tax imposed by section 5203-C and~~ the taxes imposed by chapter 827.

Sec. A-26. 36 MRSA §5219-N, as amended by PL 2003, c. 673, Pt. JJ, §5 and affected by §6, is repealed.

Sec. A-27. 36 MRSA §5219-S, sub-§4, as enacted by PL 2007, c. 693, §31, is repealed and the following enacted in its place:

4. Limitation. For tax years beginning before January 1, 2010, the credit allowed by this section may not reduce the Maine income tax to less than zero. For tax years beginning on or after January 1, 2010, the credit allowed by this section is refundable after application of all other credits under this chapter excluding the refundable portion of the income tax credit for child care expenses under section 5218, subsection 4, up to a maximum refundable amount under this section of $150 for individuals filing married joint returns and $125 for all other taxpayers reduced by the refundable household credit amount determined under section 5218-A or section 5218-B. The refundable portion of the credit under this subsection is limited to the applicable ratio as determined for nonresidents and part-year residents under subsections 2 and 3.

Sec. A-28. 36 MRSA §5224-A, as amended by PL 1989, c. 596, Pt. J, §5, is further amended to read:

§5224-A. Tax return of part-year resident

If an individual changes that individual's status as a resident individual or nonresident individual during the taxable year, the individual shall file a nonresident return pursuant to section 5220, subsection 2. That individual's tax ~~shall~~ must be computed, pursuant to section 5111~~, subsection 4~~, as if that individual were a

nonresident individual, except that the numerator of the apportionment ratio ~~shall be~~ is comprised of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for the portion of the taxable year during which that individual was a resident, plus that individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B, for the portion of the taxable year during which that individual was a nonresident. The part-year resident ~~shall~~ is also ~~be~~ entitled to the credit provided by section 5217-A, computed as if the individual's Maine adjusted gross income for the entire year were comprised only of that portion ~~which~~ that is attributed to the portion of the year during which that individual was a resident.

Sec. A-29. 36 MRSA §5250, sub-§2, as amended by PL 1997, c. 668, §§36 and 37, is repealed.

Sec. A-30. 36 MRSA §5250, sub-§5 is enacted to read:

5. Adjustment for household credit. The withholding amounts determined by the assessor under subsection 1 must take into account the effect of the household credit under section 5218-A.

Sec. A-31. 36 MRSA §5275, sub-§1, as enacted by P&SL 1969, c. 154, §F, is amended to read:

1. An amount less than wages. As the amount of the wages shown on ~~his~~ the individual's return for any taxable year an amount less than such wages actually shown, ~~or~~ the individual must pay a fine of $50 for the statement, unless:

A. Such statement did not result in a decrease in the amounts deducted and withheld; or

B. The taxes imposed with respect to the individual under this Part for the succeeding taxable year do not exceed the sum of the payments of estimated tax that are considered payments on account of such taxes.

Sec. A-32. 36 MRSA §5275, sub-§2, as amended by PL 1979, c. 378, §44, is repealed.

Sec. A-33. 36 MRSA §5401, as enacted by IB 1983, c. 2, §4, is amended to read:

§5401. Findings and purpose

Inflation erodes the value of ~~personal exemptions and deductions~~ provisions in the Maine individual income tax structure intended to moderate the impact of state and local taxes and distorts fiscal equity among taxpayers. Inflation-induced increases in individual income tax revenues result in annual collections that exceed the amounts anticipated by legislative actions establishing rates, exemptions, deductions and other features of the Maine individual income tax. Furthermore, the income tax laws of this State, in combination with economic inflation, have caused inequitable treatment of the taxpayers because the application of inflexible, statutorily prescribed rates of tax, standard deduction and personal exemption to increasing personal incomes has resulted in increasing the taxpayer's tax liability while the ~~taxpayers~~ taxpayer's purchasing power has remained the same or, in some instances, has decreased. It is the purpose of this Act to correct this situation by requiring that certain components of the individual income tax structure be adjusted in order to compensate for the impact of inflation.

Sec. A-34. 36 MRSA §5402, sub-§1-B, as enacted by PL 1999, c. 731, Pt. T, §8 and affected by §11, is amended to read:

1-B. Cost-of-living adjustment. The "cost-of-living adjustment" for any calendar year is the Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Consumer Price Index for the 12-month period ending June 30, ~~2001~~ 2012.

Sec. A-35. 36 MRSA §5403, as amended by PL 2009, c. 213, Pt. WWW, §1 and affected by §2, is further amended to read:

§5403. Annual adjustments for inflation

Beginning in ~~2002~~ 2013, and each subsequent calendar year thereafter, on or about September 15th, the State Tax Assessor shall multiply the cost-of-living adjustment for taxable years beginning in the succeeding calendar year by the dollar amounts of the ~~tax rate tables specified in section 5111, subsections 1-B, 2-B and 3-B~~ base household credit amounts under section 5218-A, subsection 2, the additional credit amount under section 5218-A, subsection 3, the credit phaseout thresholds under section 5218-A, subsection 4, the refundable limits under section 5218-A, subsection 5, the base alternate household credit amounts under section 5218-B, subsection 3, the additional credit amount under section 5218-B, subsection 4 and the maximum base alternate household credit amounts under section 5218-B, subsection 5. If the dollar amounts ~~of each rate bracket~~ for each base household credit amount under section 5218-A, subsection 2, each base alternate household credit amount under section 5218-B, subsection 3 or each maximum base alternate household credit amount under section 5218-B, subsection 5, adjusted by application of the cost-of-living adjustment, are not multiples of ~~$50~~ $25, any increase must be rounded to the next lowest multiple of ~~$50~~ $25. If the dollar amounts for the additional credit under section 5218-A, subsection 3, the refundable limits under section 5218-A, subsection 5 or the additional credit under section 5218-B, subsection 4, adjusted by application of the cost-of-living adjustment, are not multiples of $5, any increase must be rounded to the next lowest multiple of $5. If the dollar amounts for the credit phaseout thresholds under section 5218-A, subsection 4, adjusted by application of the cost-of-living adjustment, are not multiples of $50, any increase

must be rounded to the next lowest multiple of $50. If the cost-of-living adjustment for any taxable year would be less than the cost-of-living adjustment for the preceding calendar year, the cost-of-living adjustment is the same as for the preceding calendar year. The assessor shall incorporate such changes into the income tax forms, instructions and withholding tables for the taxable year.

~~Beginning in 2009 and each subsequent calendar year thereafter, the assessor shall reduce the cost-of-living adjustment by an amount that increases estimated noncorporate income tax revenue by $10,500,000 for that calendar year using as a benchmark the most recent revenue projections of the Revenue Forecasting Committee established in Title 5, section 1710-E.~~

Sec. A-36. Legislative intent. It is the intent of the Legislature that the household credit provided under the Maine Revised Statutes, Title 36, section 5218-A and section 5218-B is to provide relief to low-income and middle-income persons from the disproportionate cost of living in this State including the high cost of heating oil and the heavy reliance of the citizens of the State on heating oil, which is the highest in the nation; the high cost of transportation and the limited availability of public transportation; the disproportionate state and local tax burden, including the extension of sales tax to services; and the high rate of local property taxes that contribute to household costs.

Sec. A-37. Report; authority for legislation. As soon as possible but no later than November 1, 2011, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters that includes 2010 tax data and revenue projections and shows the actual impact of this Act in 2010 and the projected impact of this Act in 2011 and 2012 on revenues and tax progressivity resulting from the changes in the tax laws effected by this Act.

The committee may submit legislation to the Second Regular Session of the 125th Legislature to adjust the household credit and alternative household credit to maintain revenue neutrality and to ensure that any revenue that exceeds revenue neutrality is used to increase the household and alternative household credits. The legislation may also include changes to the Maine Residents Property Tax Program as a means of providing tax relief.

Sec. A-38. Effective date; application. This Part takes effect January 1, 2010 and applies to income tax years beginning on or after January 1, 2010.

PART B

Sec. B-1. 5 MRSA §13090-K, sub-§2, as enacted by PL 2001, c. 439, Pt. UUUU, §1, is amended to read:

2. Source of fund. ~~Beginning July 1, 2003 and every~~ Every July 1st ~~thereafter~~, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to ~~5%~~ 6% of the ~~7%~~ 8.5% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund as described by Title 30-A, section 5681, subsection 5. ~~Beginning on October 1, 2003 and every~~ Every October 1st ~~thereafter~~, the State Controller shall transfer to the Tourism Marketing Promotion Fund an amount, as certified by the State Tax Assessor, that is equivalent to ~~5%~~ 6% of the ~~7%~~ 8.5% tax imposed on tangible personal property and taxable services pursuant to Title 36, section 1811, for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

Sec. B-2. 10 MRSA §1305, as amended by PL 1997, c. 668, §1, is further amended to read:

§1305. Terminal rental adjustment clauses; vehicle leases that are not sales or security interests

Notwithstanding any other provision of law, in the case of motor vehicles or trailers, a transaction does not create a sale or security interest merely because the agreement provides that the rental price is permitted or required to be adjusted upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer. ~~A transaction may be considered a sale for purposes of Title 36.~~

Sec. B-3. 23 MRSA §4210-B, sub-§7, as enacted by PL 2007, c. 677, §1, is amended to read:

7. Sales tax revenue. Beginning July 1, 2009 and every July 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to ~~50%~~ 40% of the revenue from the tax imposed on the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund under Title 30-A, section 5681, subsection 5. Beginning on October 1, 2009 and every October 1st thereafter, the State Controller shall transfer to the STAR Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to ~~50%~~ 40% of the revenue from the tax imposed on the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for

the transfer to the Local Government Fund. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

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

1-I. Administrative support operations. "Administrative support operations" means secretarial activities and supervision of administrative support staff; bookkeeping and accounting services; customer assistance activities; purchasing and receiving activities; human resources activities; and executive, tax compliance and legal support activities.

Sec. B-5. 36 MRSA §1752, sub-§1-J is enacted to read:

1-J. Amusement, entertainment and recreation services. "Amusement, entertainment and recreation services" is defined pursuant to this subsection.

A. "Amusement, entertainment and recreation services" means the following:

(1) Admission fees to entertainment venues and performances, including theaters, movies, lectures, concerts, festivals, amusement parks, water parks, fairgrounds, except for licensed agricultural fairs, race tracks, carnivals, circuses, sports activities, stadiums, amphitheaters, museums, planetariums, animal parks, petting zoos, aquariums, historical sites and convention centers;

(2) Fees charged for participation in or entry to miniature golf courses, billiard parlors, go-cart courses and paintball;

(3) Admission fees charged for exhibition shows such as auto, boat, camping, home, garden, animal and antique shows;

(4) Fees charged for scenic and sight-seeing excursions including aircraft, helicopter, balloon, blimp, watercraft, railroad, bus, trolley and wagon rides, whitewater rafting and guided recreation, but excluding scenic and sight-seeing excursions on federally navigable waters; and

(5) Entertainment services such as those provided by bands, orchestras, disc jockeys, comedians, clowns, jugglers, children's entertainers and ventriloquists.

B. "Amusement, entertainment and recreation services" does not include:

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

(2) Fees charged by health clubs and fitness centers;

(3) Fees charged for lessons or training in dance, music, theater, arts and gymnastics, martial arts and other athletic pursuits; or

(4) Fees charged for admission to:

(a) Museums and aquariums operated by a governmental entity or incorporated, nonprofit organization;

(b) Concerts, dance productions, theatrical productions, sports activities or similar events or activities organized and performed by a school or incorporated, nonprofit organization, if all proceeds of the event or activity are used for the charitable purposes of that school or organization; or

(c) Festivals and special events organized by governmental entities, schools or incorporated, nonprofit organizations if all the proceeds of the festival or special event are directed to support a charitable purpose.

Sec. B-6. 36 MRSA §1752, sub-§1-K is enacted to read:

1-K. Candy. "Candy" means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces and that does not contain flour or require refrigeration.

Sec. B-7. 36 MRSA §1752, sub-§2-F is enacted to read:

2-F. Fabrication facility. "Fabrication facility" means a site consisting of at least 35 acres at which the primary business is the performance of fabrication services and any activities associated with or in support of fabrication services.

Sec. B-8. 36 MRSA §1752, sub-§2-G is enacted to read:

2-G. Fabrication services. "Fabrication services" means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production.

Sec. B-9. 36 MRSA §1752, sub-§4-A is enacted to read:

4-A. Installation, repair or maintenance services. "Installation, repair or maintenance services" is defined pursuant to this subsection.

A. "Installation, repair or maintenance services" means:

(1) All services involved in the installation, repair or maintenance of jewelry, cameras, guns, musical instruments, electronic and mechanical equipment, lawn and garden equipment, computer hardware and office equipment, vehicles and appliances;

(2) Service and maintenance contracts with regard to personal property identified in subparagraph (1);

(3) Tailoring and clothing and shoe repair; and

(4) Furniture repair and restoration.

B. "Installation, repair or maintenance services" does not include:

(1) Services performed on tangible personal property used or held for use at or located at a manufacturing facility or fabrication facility, other than tangible personal property used in administrative support operations; or

(2) Services involved in the installation, repair or maintenance of computer software, special mobile equipment, aircraft, watercraft or a truck or truck tractor registered in the name of a business as a commercial motor vehicle under Title 29-A, section 504.

Sec. B-10. 36 MRSA §1752, sub-§5-D is enacted to read:

5-D. Lease or rental. "Lease" or "rental" includes sublease or subrental and means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

A. "Lease" or "rental" includes agreements covering motor vehicles and trailers when the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property, as defined in Section 7701(h)(1) of the Code.

B. "Lease" or "rental" does not include:

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

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

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

Sec. B-11. 36 MRSA §1752, sub-§8-A, as repealed and replaced by PL 2001, c. 439, Pt. TTTT, §1 and affected by §3, is amended to read:

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

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

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

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

D. Candy.

"Prepared food" does not include bulk sales of grocery staples.

Sec. B-12. 36 MRSA §1752, sub-§8-C is enacted to read:

8-C. Personal property services. "Personal property services" means the following services related to personal property: dry cleaning; laundry and diaper services not including self-service laundry services; embroidery and monogramming; car washing; pressure cleaning and washing; pet services such as exercising, sitting, training, grooming and boarding for nonmedical purposes; picture framing; domestic services, including house cleaning and furniture and rug cleaning; interior decoration; meal preparation; butchering; art restoration; warehousing and storage, including rental of storage units and warehouse space, but not including warehousing and storage services provided to a business; moving services; vehicle towing; and boat mooring. "Personal property services" does not include fabrication services; installation, repair or maintenance services; services performed on tangible personal property used or held for use at or located at a manufacturing facility or fabrication facility, other than tangible personal property used in administrative support operations; or services performed on aircraft including refurbishing of aircraft.

Sec. B-13. 36 MRSA §1752, sub-§11, as amended by PL 2007, c. 627, §42 and affected by §96 and amended by c. 693, §14, is repealed.

Sec. B-14. 36 MRSA §1752, sub-§11-A is enacted to read:

11-A. Retail sale. "Retail sale" means any sale, lease or rental of tangible personal property or a taxable service in the ordinary course of business.

A. "Retail sale" includes:

(1) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

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

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

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

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

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

B. "Retail sale" does not include:

(1) Any casual sale;

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

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

(4) The sale of labor and parts used in the performance of repair services under a service or maintenance contract sold on or after January 1, 2010;

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

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

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

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

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

Sec. B-15. 36 MRSA §1752, sub-§11-B is enacted to read:

11-B. Retirement facility. "Retirement facility" means a facility that includes residential dwelling units where, on an average monthly basis, at least 80% of the residents of the facility are persons 62 years of age or older.

Sec. B-16. 36 MRSA §1752, sub-§13, as amended by PL 1981, c. 706, §20, is further amended to read:

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

Sec. B-17. 36 MRSA §1752, sub-§14, ¶B, as amended by PL 2007, c. 627, §43, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

~~(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;~~

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or

(12) The premium on motor vehicle oil changes imposed by Title 10, section 1020, subsection 6.

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

14-F. Soft drink. "Soft drink" means any nonalcoholic beverage that contains natural or artificial sweeteners. "Soft drink" does not include any beverage that contains milk or milk products, greater than 50% of vegetable or fruit juice by volume or flavored or unflavored soy milk, rice milk, almond milk, grain milk and similar milk substitutes.

Sec. B-19. 36 MRSA §1752, sub-§17-B, as amended by PL 2007, c. 410, §2 and affected by §6, is repealed and the following enacted in its place:

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

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

B. Transmission and distribution of electricity;

C. Rental or lease of tangible personal property;

D. Sale of prepaid calling service;

E. Amusement, entertainment and recreation services;

F. Installation, repair and maintenance services;

G. Personal property services; and

H. Transportation and courier services.

Sec. B-20. 36 MRSA §1752, sub-§20-B is enacted to read:

20-B. Transportation and courier services. "Transportation and courier services" means in-state transportation of persons or property by limousine and courier services. For the purposes of this Part, "limousine service" means livery service hired for a specific event.

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

21. Use. "Use" includes the exercise in this State of any right or power over tangible personal property incident to its ownership, including the derivation of income, whether received in money or in the form of other benefits, by a lessor from the rental of ~~tangible personal property~~ property located at a manufacturing or fabrication facility located in this State.

Sec. B-22. 36 MRSA §1754-B, sub-§1, ¶C, as enacted by PL 1995, c. 640, §3, is amended to read:

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

Sec. B-23. 36 MRSA §1758, as repealed and replaced by PL 1999, c. 708, §24, is repealed.

Sec. B-24. 36 MRSA §1760, sub-§6, ¶E, as amended by PL 2007, c. 529, §2, is further amended to read:

E. Served by colleges to employees of the college when the meals are purchased with debit cards issued by the colleges; ~~and~~

Sec. B-25. 36 MRSA §1760, sub-§6, ¶F, as amended by PL 2009, c. 211, Pt. B, §30, is further amended to read:

F. Served by youth camps licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16.; and

Sec. B-26. 36 MRSA §1760, sub-§6, ¶G is enacted to read:

G. Served by a retirement facility to its residents when the cost of the meals is included in a comprehensive fee that includes the right to reside in a residential dwelling unit and meals or other services, whether that fee is charged annually, monthly, weekly or daily.

Sec. B-27. 36 MRSA §1760, sub-§32-A is enacted to read:

32-A. Services to certain machinery and equipment. Sales of taxable services performed on machinery and equipment exempt from sales tax under subsections 29 to 32 or subsection 87 or that is eligible for refund or exemption under section 2013.

Sec. B-28. 36 MRSA §1760, sub-§45, as amended by PL 2007, c. 691, §1 and affected by §2, is further amended to read:

45. Certain property purchased outside State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft that is registered outside the State by an owner who is an individual who was a resident of another state at the time of purchase and the watercraft is present in the State not more than 30 days during the 12 months following its purchase for a purpose other than temporary storage;

A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12, section 13001 and the purchaser is an individual who is not a resident of the State;

A-3. If the property is an aircraft not exempted under subsection 88 and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; or

B. For more than 12 months in all other cases.

Property, other than automobiles, watercraft, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design. This exemption does not apply to leased property.

Sec. B-29. 36 MRSA §1760, sub-§82-A is enacted to read:

82-A. Sales of taxable services delivered outside this State. Sales of taxable services performed on or with respect to tangible personal property located outside this State or when the property is brought into this State for performance of the services, and, following the performance of the services, the seller delivers the property to a location outside this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State for use solely outside this State.

Sec. B-30. 36 MRSA §1760, sub-§92 is enacted to read:

92. Certain services. Sales of services that are subject to taxation under chapter 358.

Sec. B-31. 36 MRSA §1760, sub-§93 is enacted to read:

93. Certain taxable services. The sale of a taxable service sold by a person that has made sales taxable under this Part during the most recent calendar year of no more than $5,000.

Sec. B-32. 36 MRSA §1760, sub-§94 is enacted to read:

94. Services to affiliates. Sales of installation, repair or maintenance services made between affiliated taxpayers that are engaged in a unitary business as defined in section 5102, subsection 10-A.

Sec. B-33. 36 MRSA §1760-C, as amended by PL 2007, c. 437, §11, is further amended to read:

§1760-C. Exempt activities

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing property or services intended to be used by the holder primarily in the exempt activity. If the holder of an exemption certificate furnishes that certificate to a person for use in purchasing tangible personal property or taxable services that are physically incorporated in, and become a permanent part of, real property that is not used by the holder of the certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid tax against the holder of the certificate as provided in section 141. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes, except for those exemptions provided in section 1760, subsection 6, do not apply to the sale of meals or lodging or the rental of automobiles.

Sec. B-34. 36 MRSA §1763, as amended by PL 2007, c. 693, §16, is further amended to read:

§1763. Presumptions

The burden of proving that a transaction was not taxable is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection ~~11~~ 11-A, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale.

Sec. B-35. 36 MRSA §1811, first ¶, as repealed and replaced by PL 2007, c. 627, §51 and affected by §96, is amended to read:

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is ~~7%~~ 8.5% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; ~~7%~~ 8.5% on the value of rental of living quarters in any hotel, rooming house or tourist ~~or trailer~~ camp; 7% on the value of rental of living quarters in a trailer camp; ~~10%~~ 12.5% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; ~~7%~~ 8.5% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. The value of rental for a period of less than one year of an automobile is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

Sec. B-36. 36 MRSA §1811, 3rd ¶, as repealed and replaced by PL 2003, c. 510, Pt. C, §12 and affected by §13, is repealed.

Sec. B-37. 36 MRSA §1812, sub-§1, as reallocated by PL 1999, c. 790, Pt. A, §48, is repealed and the following enacted in its place:

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

Sec. B-38. 36 MRSA §1812, sub-§2, as amended by PL 1991, c. 846, §24, is further amended to read:

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

Sec. B-39. 36 MRSA §1817 is enacted to read:

§1817. Accelerated payment of tax on leases and rentals

Except as provided in section 1818, the tax imposed by this Part on the rental or lease of tangible personal property must be collected by the lessor at the time the property that is the subject of the lease is delivered to the lessee or at the time the initial payment under the lease is required to be made by the lessee, whichever is earlier, on the basis of the total amount of the consideration to be paid by the lessee under the terms of the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax attributable to those amounts must be collected by the lessor at the time those amounts are billed to the lessee. In the case of an open-end lease, the tax must be collected by the lessor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. For purposes of this section, "consideration" includes, without limitation, the amount of any down payment, trade-in credit or 3rd-party rebate that is applied to reduce the cost of the leased property upon which the lease payments are computed. This section does not apply to a lease associated with a sale and leaseback transaction when that sale and leaseback occurs within 90 days of the lessee's original purchase of the equipment.

Sec. B-40. 36 MRSA §1818 is enacted to read:

§1818. Leases and rentals of manufacturing or fabrication facility property

With regard to property located at a manufacturing or fabrication facility, the tax imposed by this Part must be paid by the lessor based on the acquisition cost of the machinery or equipment. Lease or rental payments by the lessee or renter are not subject to tax under this Part.

Sec. B-41. 36 MRSA §1861, as amended by PL 1995, c. 640, §6, is further amended to read:

§1861. Imposition

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

Sec. B-42. 36 MRSA §1862, as amended by PL 1987, c. 772, §24, is further amended to read:

§1862. Taxes paid in other jurisdictions

The ~~use~~ tax ~~provisions of chapters 211 to 225 shall~~ imposed by this Part does not apply ~~with respect~~ to the use, storage or other consumption in this State of purchases outside the State where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by ~~chapters 211 to 225~~ this Part in another taxing jurisdiction~~, the proof of payment of the tax to be according to rules made by the State Tax Assessor~~. If the amount of sales or use tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by ~~chapters 211 to 225~~ this Part, then the purchaser shall pay to the State Tax Assessor an amount sufficient to make the total amount of tax paid in the other taxing jurisdiction and in this State equal to the amount imposed by ~~chapters 211 to 225~~ this Part. When tangible personal property is leased outside the State and subsequently brought into the State, the credit allowed under this section may not exceed the proportion of the tax otherwise due under this Part that the period for which the property was leased in the other taxing jurisdiction bears to the entire term of the lease.

Sec. B-43. 36 MRSA §2020 is enacted to read:

§2020. Removal from the State of leased property

If leased property with respect to which the tax imposed by this Part has been paid on an accelerated basis is permanently removed from the State, the lessee is entitled to a refund of the tax allocable to that portion of the lease that remains in effect after the property has been removed from the State. A refund may not be issued unless the taxing jurisdiction to which the property is removed allows a corresponding refund or does not impose tax on any portion of the lease of property that remains after the property is removed from that taxing jurisdiction. A refund may not be issued if the other taxing jurisdiction allows a credit to the lessee for the sales or use tax paid in this State on the lease transaction. The refund must be requested in accordance with the provisions of section 2011.

Sec. B-44. 36 MRSA §2021 is enacted to read:

§2021. Early termination of lease

If a lease on property with respect to which the tax imposed by this Part has been paid on an accelerated basis is terminated by the lessee before the expiration of the lease term, the lessee is entitled to a refund of the tax allocable to that portion of the remaining lease payments. A refund may not be issued if the early termination is the result of an option to purchase the leased property or the lease has been terminated due to nonpayment.

Sec. B-45. 36 MRSA §2551, sub-§1, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is repealed.

Sec. B-46. 36 MRSA §2557, sub-§33, as enacted by PL 2007, c. 627, §74, is amended to read:

33. International telecommunications service. Sales of international telecommunications service to a business; and

Sec. B-47. 36 MRSA §2557, sub-§34, as enacted by PL 2007, c. 627, §75, is amended to read:

34. Interstate telecommunications service. Sales of interstate telecommunications service to a business.

Sec. B-48. 36 MRSA c. 720 is enacted to read:

CHAPTER 720

AIRPORT TRANSPORTATION FEE

§4851. Airport transportation fee imposed

A fee of $1 per passenger is imposed on a taxicab operator or a limousine operator, not subject to sales tax under Part 3, for each conveyance originating from or terminating at a commercial airport.

§4852. Administration

The fee imposed by this chapter is administered as provided in chapter 7 and Part 3, with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

Sec. B-49. Rules. The State Tax Assessor, no later than November 1, 2009, shall develop informational bulletins for affected businesses describing in detail the sales tax changes contained in this Part. When developing this information the State Tax Assessor shall consult with and be guided by the Joint Standing Committee on Taxation. The State Tax Assessor shall concurrently adopt major substantive rules to implement the changes contained in this Part pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. Major substantive rules must be proposed in time to be considered by the Legislature during the Second Regular Session of the 124th Legislature.

Sec. B-50. Monthly reports. The State Tax Assessor shall provide monthly reports to the Joint Standing Committee on Taxation through April 1, 2010 regarding the State's activities in implementing the provisions of this Part that broaden the sales tax base and increase the sales tax on prepared meals, lodging and rentals of automobiles for less than one year. The report must include:

1. Information for taxpayers. A plan for providing information to taxpayers and the public about new sales and use tax obligations under this Part;

2. Implementation progress. Progress reports on implementation of the plan and copies of taxpayer materials and informational materials that are proposed for issuance by the assessor; and

3. Materials. Copies of proposed bulletins and taxpayer guidance materials.

The assessor shall inform the committee about implementation issues and shall seek the committee's advice on implementation and proposed rules. The committee may submit legislation to the Second Regular Session of the 124th Legislature regarding implementation of the provisions of this Part that broaden the sales tax base and increase the sales tax on prepared meals, lodging and rentals of automobiles for less than one year.

Sec. B-51. Application date. Those portions of this Part that affect the taxation of leases and rentals of tangible personal property apply to leases entered into, extended or renewed on or after April 1, 2010.

Sec. B-52. Effective date. This Part takes effect January 1, 2010, except that the 12.5% sales and use tax on short-term automobile rentals imposed pursuant to the Maine Revised Statutes, Title 36, section 1811, first paragraph takes effect October 1, 2009.

PART C

Sec. C-1. 36 MRSA §6201, sub-§5, as amended by PL 1995, c. 368, Pt. CCC, §7 and affected by §11, is further amended to read:

5. Homestead. "Homestead" means the dwelling owned or rented by the claimant or held in a revocable living trust for the benefit of the claimant and occupied by the claimant and the claimant's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land~~, up to 10 acres,~~ upon which it is built. "Owned" includes a vendee in possession under a land contract and of one or more joint tenants or tenants in common.

Sec. C-2. 36 MRSA §6201, sub-§7, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

7. Household income. "Household income" means all income received by all persons of a household in a calendar year while members of the household, excluding the income of members of the household for whom the claimant under this chapter is enti-

tled to claim an exemption as a dependent under Part 8 for the year for which relief is requested.

Sec. C-3. 36 MRSA §6201, sub-§9, as repealed and replaced by PL 2007, c. 438, §113, is amended to read:

9. Income. "Income" means Maine adjusted gross income determined in accordance with Part 8, modified as provided by this subsection.

A. Maine adjusted gross income must be increased by the following amounts, to the extent not included in Maine adjusted gross income:

(1) Contributions, including catch-up contributions, to any pension, annuity or retirement plan, including contributions to an individual retirement account under Section 408 of the Code, a simplified employee pension plan, a salary reduction simplified employee pension plan, a savings incentive match plan for employees plan and a deferred compensation plan under Section 457 of the Code and cash or deferred arrangements under Section 401 of the Code and qualified, or "Keogh," accounts;

~~(2) Nontaxable contributions to a flexible spending arrangement under Section 125 of the Code;~~

~~(3) Amounts excluded from gross income under Section 129 of the Code;~~

(4) Distributions from a ROTH IRA;

(5) Capital gains;

(6) The absolute value of the amount of trade or business loss, net operating loss carryover, capital loss, rental loss, farm loss, partnership or S Corporation loss included in Maine adjusted gross income;

~~(7) Inheritance;~~

~~(8) Life insurance proceeds paid on death of an insured;~~

~~(9) Nontaxable lawsuit rewards resulting from lawsuits for actions such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case;~~

(10) Support money;

~~(11) Nontaxable strike benefits;~~

(12) The gross amount of any pension or annuity, including railroad retirement benefits;

(13) All payments received under the federal Social Security Act and state unemployment insurance laws;

(14) Veterans' disability pensions;

(15) Nontaxable interest received from the Federal Government or any of its agencies or instrumentalities;

(16) Interest or dividends on obligations or securities of this State and its political subdivisions and authorities;

(17) Workers' compensation and the gross amount of "loss of time" insurance; ~~and~~

(18) Cash public assistance and relief, but not including relief granted under this chapter.; and

(19) The total nontaxable portion of the following items of income, determined as if a federal income tax return were required, but only if the total of all of the following income items exceeds $5,000:

(a) Jury duty payments;

(b) Awards;

(c) Lawsuit awards resulting from lawsuits for actions such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case;

(d) Strike benefits; and

(e) Life insurance proceeds paid on death of an insured.

B. Maine adjusted gross income must be decreased by the following amounts, to the extent included in Maine adjusted gross income:

~~(1) The first $5,000 of proceeds from a life insurance policy, whether paid in a lump sum or in the form of an annuity;~~

(2) A rollover from an individual retirement account, pension or annuity fund or plan to an individual retirement account, pension or annuity fund or plan;

(3) Gifts from nongovernmental sources; and

(4) Surplus foods or other relief in kind supplied by a governmental agency.

Sec. C-4. 36 MRSA §6203-A, as amended by PL 2009, c. 213, Pt. S, §14 and affected by §16, is repealed and the following enacted in its place:

§6203-A. Procedure for reimbursement

1. Application periods beginning August 1, 2009 and August 1, 2010. For application periods beginning August 1, 2009 and August 1, 2010, at least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and

administered by the State Controller from General Fund undedicated revenue. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

2. Application periods beginning during or after January 2011; applications filed January 1st to June 30th. For application periods beginning during or after January 2011 and with respect to applications filed prior to July 1st, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller at any time after June 30th, but no later than July 15th, to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. No later than August 1st, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

3. Application periods beginning during or after January 2011; applications filed after June 30th. For application periods beginning during or after January 2011 and with respect to applications filed after June 30th but prior to the following November 15th, plus any time granted to file, at least monthly on or before the last day of the month, the State Tax Assessor shall determine the benefit for each claimant under this chapter and certify the amount to the State Controller to be transferred to the so-called circuit breaker reserve established, maintained and administered by the State Controller from General Fund undedicated revenue. At least monthly, the assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this chapter. Interest may not be allowed on any payment made to a claimant pursuant to this chapter.

Sec. C-5. 36 MRSA §6204, as amended by PL 2005, c. 2, Pt. E, §3 and affected by §§7 and 8, is repealed and the following enacted in its place:

§6204. Filing date

1. Application period beginning August 1, 2009. For the application period beginning August 1, 2009, a claim may not be paid unless the claim is filed with the bureau on or after August 1, 2009 and on or before May 31, 2010.

2. Application period beginning August 1, 2010. For the application period beginning August 1, 2010, a claim may not be paid unless the claim is filed with the bureau on or after August 1, 2010 and on or before November 30, 2010.

3. Application periods beginning on or after January 1, 2011. For application periods beginning on or after January 1, 2011, a claim may not be paid unless the claim is filed with the bureau during or after January and on or before the following November 15th.

Sec. C-6. 36 MRSA §6207, sub-§1, ¶A-1, as amended by PL 2009, c. 213, Pt. XXX, §1, is further amended to read:

A-1. Fifty percent of that portion of the benefit base that exceeds 4% but does not exceed 8% of income plus 100% of that portion of the benefit base that exceeds 8% of income ~~to a maximum payment of $2,000; and~~ and calculated according to tables established by the State Tax Assessor.

(1) Tables established by the assessor must be based on the benefit formula set forth in this subsection and include benefit base brackets in increments of $100 and household income brackets in increments of $1,000.

(2) The maximum benefit under this subsection is limited to $2,000;

Sec. C-7. 36 MRSA §6207, sub-§1, ¶B, as enacted by PL 2009, c. 213, Pt. XXX, §2, is amended to read:

B. For application periods beginning on August 1, 2009 and on August 1, 2010, the benefit is limited to 80% of the amount determined under paragraph A-1~~.~~; and

Sec. C-8. 36 MRSA §6207, sub-§1, ¶C is enacted to read:

C. For application periods beginning on or after January 1, 2011, the benefit is limited to 88% of the amount determined under paragraph A-1.

Sec. C-9. 36 MRSA §6210, last ¶, as amended by PL 2005, c. 218, §59, is further amended to read:

The assessor shall include ~~a checkoff to request an~~ the application form and instructions for the Maine Residents Property Tax Program ~~on~~ with the individual income tax form. The assessor shall also provide a paperless option for filing an application for the Maine Residents Property Tax Program.

Sec. C-10. Report. By January 15, 2012, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters providing information comparing the annual cost of the Maine Residents Property Tax Program from 2005 to 2011, including the number of applicants for benefits under the Maine Residents Property Tax Program and the average benefits provided, and providing projections for the same information for 2012 to 2015. The report must identify the extent of increased participation in and benefit cost of the Maine Residents Property Tax Program as the result of coordination of the program with the income tax. The committee may submit legislation related to

the report to the Second Regular Session of the 125th Legislature.

Sec. C-11. Application. Unless otherwise specified and except for that section of this Part that amends the Maine Revised Statutes, Title 36, section 6210, this Part applies to application filed with respect to program application periods of the Maine Residents Property Tax Program beginning on or after August 1, 2010. That section of this Part that amends Title 36, section 6210 applies to application filed with respect to program application periods of the Maine Residents Property Tax Program beginning during or after January 2011.

PART D

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Provides funding for 5 Tax Examiner positions and one Senior Tax Examiner position beginning October 1, 2010 to implement the individual income tax and rent and property refund tax law changes.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	6.000
Personal Services	$0	$340,479
All Other	$0	$697,768
GENERAL FUND TOTAL	$0	$1,038,247

Revenue Services - Bureau of 0002

Initiative: Provides funding for one Account Associate II position, one Tax Examiner position and 3 Revenue Agent positions beginning October 1, 2009 to implement the sales and use tax law changes.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	5.000	5.000
Personal Services	$235,211	$332,242
All Other	$287,862	$140,602
GENERAL FUND TOTAL	$523,073	$472,844

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
GENERAL FUND	$523,073	$1,511,091
DEPARTMENT TOTAL - ALL FUNDS	$523,073	$1,511,091

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Office of Tourism 0577

Initiative: Allocates funds to the Tourism Marketing Promotion Fund due to the increase in certain sales tax revenue.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$2,861,638
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$2,861,638

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$0	$2,861,638
DEPARTMENT TOTAL - ALL FUNDS	$0	$2,861,638

SECTION TOTALS	2009-10	2010-11
GENERAL FUND	$523,073	$1,511,091
OTHER SPECIAL REVENUE FUNDS	$0	$2,861,638
SECTION TOTAL - ALL FUNDS	$523,073	$4,372,729

See title page for effective date, unless otherwise indicated.

CHAPTER 383

H.P. 974 - L.D. 1395

An Act To Amend the Maine Certificate of Need Act of 2002

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 Certificate of Need Act of 2002 is an important tool in the planning and development of affordable health care services in the State; and

Whereas, this legislation is necessary to ensure the availability of an orderly and efficient certificate of need procedure that supports effective health planning; and

Whereas, this legislation is necessary immediately to advance the development of health care services in the State; and

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

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

Sec. 1. 22 MRSA §328, sub-§8, ¶C, as enacted by PL 2003, c. 469, Pt. C, §3, is amended to read:

C. Waiting areas for ambulatory surgical facility patients; ~~and~~

Sec. 2. 22 MRSA §328, sub-§8, ¶C-1 is enacted to read:

C-1. Any space with major medical equipment; and

Sec. 3. 22 MRSA §328, sub-§16, as amended by PL 2007, c. 681, §1, is further amended to read:

16. Major medical equipment. "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions used to provide medical and other health services that costs ~~$1,200,000~~ $1,600,000 or more. "Major medical equipment" does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and has been determined to meet the requirements of the United States Social Security Act, Title XVIII, Section 1861(s), paragraphs 10 and 11. In determining whether medical equipment costs more than the threshold provided in this subsection, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to acquiring the equipment must be included. If the equipment is acquired for less than fair market value, the term "cost" includes the fair market value. ~~Beginning September 30, 2004 and annually thereafter through 2007, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index. Beginning January 1, 2009 and annually thereafter, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index, with an effective date of January 1st each year.~~

Sec. 4. 22 MRSA §328, sub-§17-A, ¶C, as amended by PL 2007, c. 681, §2, is further amended to read:

C. The addition in the private office of a health care practitioner, as defined in Title 24, section 2502, subsection 1-A, of new technology that costs ~~$1,200,000~~ $1,600,000 or more. The department shall consult with the Maine Quality Forum Advisory Council established pursuant to Title 24-A, section 6952, prior to determining whether a project qualifies as a new technology in the office of a private practitioner. ~~Beginning September 30, 2004 and annually thereafter through 2007, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index. Beginning January 1, 2009 and annually thereafter, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index, with an effective date of January 1st each year.~~ With regard to the private office of a health care practitioner, "new health service" does not include the location of a new practitioner in a geographic area.

Sec. 5. 22 MRSA §329, sub-§2-A, ¶B, as enacted by PL 2007, c. 440, §3, is amended to read:

B. The following acquisitions of major medical equipment do not require a certificate of need:

(1) Major medical equipment being replaced by the owner, as long as the replacement cost is less than $2,000,000; and

(2) The use of major medical equipment on a temporary basis in the case of a natural disaster, major accident or major medical equipment failure.

Sec. 6. 22 MRSA §329, sub-§3, as amended by PL 2007, c. 681, §3, is further amended to read:

3. Capital expenditures. Except as provided in subsection 6, the obligation by or on behalf of a health care facility of any capital expenditure of ~~$2,400,000~~ $3,100,000 or more. Capital expenditures in the case of a natural disaster, major accident or equipment failure or for replacement equipment that is not major medical equipment as defined in section 328, subsection 16 or for parking lots and garages, information and communications systems ~~and~~ or physician office space do not require a certificate of need. ~~Beginning September 30, 2004 and annually thereafter through~~

~~2007, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index. Beginning January 1, 2009 and annually thereafter, the threshold amount for review must be updated by the commissioner to reflect the change in the Consumer Price Index medical index, with an effective date of January 1st each year~~;

Sec. 7. 22 MRSA §333, sub-§4, as enacted by PL 2001, c. 664, §2, is amended to read:

4. Rulemaking. Rules adopted pursuant to this section are ~~major substantive~~ routine technical rules as defined by Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. 8. 22 MRSA §335, sub-§6, as amended by PL 2007, c. 440, §19, is further amended to read:

6. Maintenance of the record. The record created pursuant to subsection 5-A first opens on the day the department receives a ~~letter of intent~~ certificate of need application. From that day, all of the record is a public record, ~~and any~~ except that the letter of intent becomes a public record upon the receipt of the letter and is available for review from the date of receipt. Any person may examine ~~that~~ all or part of the public record and purchase copies of any or all of that record during the normal business hours of the department.

The department must receive public comments and additional information from the applicant for a period of 30 days after the public informational meeting held under section 337, subsection 5, or the public hearing held under section 339, subsection 2, whichever is later. The record will then close until public notice that the preliminary staff analysis has been made part of the record.

The record will reopen for 10 business days following the publication that the preliminary staff review is complete and will close 10 business days after a public notice of the closing of the record has been published in a newspaper of general circulation in Kennebec County, in a newspaper published within the service area of the project and on the department's publicly accessible site on the Internet, as long as the notice is not published until after the preliminary staff analysis of the application is made part of the record.

The department may also determine to reopen the record in other circumstances that it determines to be appropriate for a limited time to permit submission of additional information, as long as the department gives public notice consistent with the provisions of this subsection.

Sec. 9. 22 MRSA §336, sub-§5 is enacted to read:

5. Major medical equipment. The commissioner shall issue a certificate of need for replacement of major medical equipment that is not otherwise exempt from review pursuant to section 329, subsection 2-A, paragraph B, subparagraph (1) upon determining that a project meets the requirements of section 335, subsection 7.

Sec. 10. 22 MRSA §337, sub-§2, ¶B, as enacted by PL 2001, c. 664, §2, is amended to read:

B. Within 30 days of filing the letter of intent, the applicant shall ~~meet~~ schedule a meeting with the department staff in order to assist the department in understanding the application and to receive technical assistance concerning the nature, extent and format of the documentary evidence, statistical data and financial data required for the department to evaluate the proposal. The department may not accept an application for review until the applicant has satisfied this technical assistance requirement.

Sec. 11. 22 MRSA §337, sub-§5, as enacted by PL 2001, c. 664, §2, is amended to read:

5. Public notice; public informational meeting. Within ~~5~~ 10 business days of the filing of a certificate by an applicant that a complete certificate of need application is on file with the department, public notice that the application has been filed and that a public informational meeting must be held regarding the application must be given by publication in a newspaper of general circulation in Kennebec County and in a newspaper published within the service area in which the proposed expenditure will occur. The notice must also be provided to all persons who have requested notification by means of asking that their names be placed on a mailing list maintained by the department for this purpose. This notice must include:

A. A brief description of the proposed expenditure or other action;

B. A description of the review process and schedule;

C. A statement that any person may examine the application, submit comments in writing to the department regarding the application and examine the entire record assembled by the department at any time from the date of publication of the notice until the application process is closed for comment; and

D. The time and location of the public informational meeting and a statement that any person may appear at the meeting to question the applicant regarding the project or the department regarding the conditions that the applicant must satisfy in order to receive a certificate of need for the project.

The department shall make an electronic or stenographic record of the public informational meeting.

A public informational meeting is not required for the simplified review and approval process in section 336.

Sec. 12. 22 MRSA §339, sub-§2, ¶D is enacted to read:

D. A public hearing is not required for the simplified review and approval process set forth in section 336.

Sec. 13. 22 MRSA §343, as enacted by PL 2001, c. 664, §2, is amended to read:

§343. Public information

The department shall prepare and publish at least annually a report on its activities conducted pursuant to this Act. The annual report must include information on all certificates of need granted and denied and on the assessment of penalties. With regard to all certificates granted on a conditional basis, the report must include a summary of information reported pursuant to section 332 and any accompanying statements by the commissioner or department staff submitted regarding the reports.

Sec. 14. 22 MRSA §350, as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

§350. Penalty

1. Violation. An individual, partnership, association, organization, corporation or trust that violates any provision of this chapter or any rate, rule or regulation pursuant to this chapter is subject to a fine imposed in conformance with the Maine Administrative Procedure Act and payable to the State of not more than $10,000. The department may hold these funds in a special revenue account that may be used only to support certificate of need reviews, such as for hiring expert analysts on a short-term consulting basis.

2. Administrative hearing and appeal. To contest the imposition of a fine under this section, the individual, partnership, association, organization, corporation or trust shall submit to the department a written request for an administrative hearing within 10 days of notice of imposition of a fine pursuant to this section. Judicial appeal must be in accordance with Title 5, chapter 375, subchapter 7.

Sec. 15. 22 MRSA §350-A, as amended by PL 2007, c. 681, §7, is repealed.

Sec. 16. Application. Notwithstanding the limitations of the capital investment fund established pursuant to the Maine Revised Statutes, Title 2, section 102, the approval of certificates of need for those projects or activities that require a certificate of need as a result of the changes enacted in this Act are not subject to the limitations established under the capital investment fund until the certificate of need review cycle that begins January 1, 2013.

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

Effective June 12, 2009.

CHAPTER 384

H.P. 967 - L.D. 1377

An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters

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

PART A

Sec. A-1. 30 MRSA §6206-B, sub-§6, as enacted by PL 2005, c. 310, §1 and affected by §2, is repealed.

Sec. A-2. 30 MRSA §6208, sub-§2-A is enacted to read:

2-A. Payments in lieu of taxes; authority. Any municipality in which Houlton Band Trust Land is located has the authority, at its sole discretion, to enter into agreements with the Houlton Band of Maliseet Indians to accept other funds or other things of value that are obtained by or for the Houlton Band of Maliseet Indians by reason of the trust status of the trust land as replacement for payments in lieu of taxes.

Any agreement between the Houlton Band of Maliseet Indians and the municipality must be jointly executed by persons duly authorized by the Houlton Band of Maliseet Indians and the municipality and must set forth the jointly agreed value of the funds or other things identified serving as replacement of payments in lieu of taxes and the time period over which such funds or other things may serve in lieu of the obligations of the Houlton Band of Maliseet Indians provided in this section.

Sec. A-3. 30 MRSA §6211, as amended by PL 1997, c. 626, §§1 and 2 and affected by §3, is further amended to read:

§6211. Eligibility of Indian tribes and state funding

1. Eligibility generally. The Passamaquoddy Tribe ~~and~~, the Penobscot Nation ~~shall be~~ and the Houlton Band of Maliseet Indians are eligible for participation and entitled to receive benefits from the State under any state program ~~which~~ that provides financial assistance to all municipalities as a matter of right. Such entitlement ~~shall~~ must be determined using statutory criteria and formulas generally applicable to mu-

nicipalities in the State. To the extent that any such program requires municipal financial participation as a condition of state funding, the share for ~~either~~ the Passamaquoddy Tribe ~~or~~, the Penobscot Nation or the Houlton Band of Maliseet Indians may be raised through any source of revenue available to the respective tribe ~~or~~, nation or band, including but without limitation taxation to the extent authorized within its respective Indian territory. In the event that any applicable formula regarding distribution of ~~moneys~~ money employs a factor for the municipal real property tax rate, and in the absence of such tax within ~~either~~ the Indian territory, the formula applicable to such Indian territory ~~shall~~ must be computed using the most current average equalized real property tax rate of all municipalities in the State as determined by the State Tax Assessor. In the event any such formula regarding distribution of ~~moneys~~ money employs a factor representing municipal valuation, the valuation applicable to such Indian territory ~~shall~~ must be determined by the State Tax Assessor in the manner generally provided by the laws of the State~~, provided, however, that~~ as long as property owned by or held in trust for ~~either~~ a tribe ~~or~~, nation or band and used for governmental purposes ~~shall be~~ is treated for purposes of valuation as like property owned by a municipality.

2. Limitation on eligibility. In computing the extent to which ~~either~~ the Passamaquoddy Tribe ~~or~~, the Penobscot Nation or the Houlton Band of Maliseet Indians is entitled to receive state funds under subsection 1, other than funds in support of education, any money received by the respective tribe ~~or~~, nation or band from the United States within substantially the same period for which state funds are provided, for a program or purpose substantially similar to that funded by the State, and in excess of any local share ordinarily required by state law as a condition of state funding, must be deducted in computing any payment to be made to the respective tribe ~~or~~, nation or band by the State. Unless otherwise provided by federal law, in computing the extent to which ~~either~~ the Passamaquoddy Tribe ~~or~~, the Penobscot Nation or the Houlton Band of Maliseet Indians is entitled to receive state funds for education under subsection 1, the state payment must be reduced by 15% of the amount of federal funds for school operations received by the respective tribe ~~or~~, nation or band within substantially the same period for which state funds are provided, and in excess of any local share ordinarily required by state law as a condition of state funding. A reduction in state funding for secondary education may not be made under this section except as a result of federal funds received within substantially the same period and allocated or allocable to secondary education.

3. Eligibility for discretionary funds. The Passamaquoddy Tribe ~~and~~, the Penobscot Nation ~~shall be~~ and the Houlton Band of Maliseet Indians are eligible to apply for any discretionary state grants or loans to the same extent and subject to the same eligibility requirements, including availability of funds, applicable to municipalities in the State.

4. Eligibility of individuals for state funds. Residents of ~~either~~ the Indian ~~territory shall be~~ territories or Houlton Band Trust Land are eligible for and entitled to receive any state grant, loan, unemployment compensation, medical or welfare benefit or other social service to the same extent as and subject to the same eligibility requirements applicable to other persons in the State~~, provided, however, that~~ as long as in computing the extent to which any person is entitled to receive any such funds~~,~~ any ~~moneys~~ money received by such person from the United States within substantially the same period of time for which state funds are provided and for a program or purpose substantially similar to that funded by the State~~, shall be~~ is deducted in computing any payment to be made by the State.

Sec. A-4. Contingent effective date. This Part takes effect October 1, 2009 only if, within 90 days after the adjournment of the First Regular Session of the 124th Legislature, the Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part pursuant to 25 United States Code, Section 1725(e)(2). Copies of the written certification must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART B

Sec. B-1. 30 MRSA §6209-C is enacted to read:

§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed $5,000 and that are committed on the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians, except when committed against a person who is not a member of the Houlton Band of Maliseet Indians or against the property of a person who is not a member of the Houlton Band of Maliseet Indians;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and

C, committed by a juvenile member of the Houlton Band of Maliseet Indians on the Houlton Band Jurisdiction Land;

C. Civil actions between members of the Houlton Band of Maliseet Indians arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, both of whom reside within the Houlton Band Jurisdiction Land.

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise of jurisdiction under each of the subject areas described by paragraphs A to E may be made separately. Until the Houlton Band of Maliseet Indians notifies the Attorney General that the band has decided to exercise exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the Houlton Band of Maliseet Indians chooses not to exercise or chooses to terminate its exercise of exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over those matters until the Houlton Band of Maliseet Indians chooses to exercise its exclusive jurisdiction. When the Houlton Band of Maliseet Indians chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas of the exclusive jurisdiction authorized by this subsection it must first provide 30 days' notice to the Attorney General. Except as provided in subsections 2 and 3, all laws of the State relating to criminal offenses and juvenile crimes apply within the Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses and crimes.

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

3. Lesser included offenses in state courts. In any criminal proceeding in the courts of the State in which a criminal offense under the exclusive jurisdiction of the Houlton Band of Maliseet Indians constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy; collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the State has exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

5. Houlton Band Jurisdiction Land. For the purposes of this section, "Houlton Band Jurisdiction Land" means only the Houlton Band Trust Land described as follows:

A. Lands transferred from Ralph E. Longstaff and Justina Longstaff to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2144, Page 198; and

B. Lands transferred from F. Douglas Lowrey to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton and Littleton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2847, Page 114.

The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the acquisition of additional Houlton Band Trust Land pursuant to appli-

cable federal and state law, nor limits the Houlton Band of Maliseet Indians from making additional requests that portions of the trust land be included in this subsection.

6. Effective date; full faith and credit. This section takes effect only if the State, the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians and the Houlton Band of Maliseet Indians agrees to give full faith and credit to the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation.

Sec. B-2. Contingent effective date. This Part takes effect October 1, 2009 only if, within 90 days after the adjournment of the First Regular Session of the 124th Legislature, the Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part pursuant to 25 United States Code, Section 1725(e)(2). Copies of the written certification must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART C

Sec. C-1. 30 MRSA §6209-D is enacted to read:

§6209-D. Full faith and credit

The Passamaquoddy Tribe, the Penobscot Nation and the State shall give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians.

The Houlton Band of Maliseet Indians shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation and the State.

Sec. C-2. Contingent effective date. This Part takes effect 30 days after the Secretary of State receives the written certifications under subsection 2, except that in no event may this Part become effective before October 1, 2009, only if:

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2; and

2. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part, written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART D

Sec. D-1. 30 MRSA §6209-C, sub-§1-A is enacted to read:

1-A. Exclusive jurisdiction over Penobscot Nation members. The Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed $5,000 and that are committed on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation against a member or property of a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection, and by a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection against a member or the property of a member of the Penobscot Nation;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Penobscot Nation on the Houlton Band Jurisdiction Land;

C. Civil actions between a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection and members of the Penobscot Nation arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Penobscot Nation under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or the Penobscot Nation, both of whom reside on the Houlton Band Jurisdiction Land.

The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive jurisdiction over these areas as described in subsection 1.

Sec. D-2. Contingent effective date. This Part takes effect 30 days after the Secretary of State receives the written certifications under subsection 3, except that in no event may this Part become effective before October 1, 2009, only if:

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2;

2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve Part C as provided in Part C, section 2; and

3. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART E

Sec. E-1. 30 MRSA §6209-A, sub-§1, as amended by PL 2009, c. 93, §14, is further amended to read:

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Passamaquoddy Tribe has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed $5,000 and that are committed on the Indian reservation of the Passamaquoddy Tribe by a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, except when committed against a person who is not a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation or against the property of a person who is not a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation on the reservation of the Passamaquoddy Tribe;

C. Civil actions between members of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small claims under the laws of the State, and civil actions against a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Passamaquoddy Tribe by a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within the Indian reservation of the Passamaquoddy Tribe.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Passamaquoddy Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.

Sec. E-2. 30 MRSA §6209-C, sub-§1-A is enacted to read:

1-A. Exclusive jurisdiction over Passamaquoddy Tribe members. The Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed $5,000 and that are committed on the Houlton Band Jurisdiction Land by a member of the Passamaquoddy Tribe against a member or property of a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection, and by a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection against a member or the property of a member of the Passamaquoddy Tribe;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe on the Houlton Band Jurisdiction Land;

C. Civil actions between a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection and members of the Passamaquoddy Tribe arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Passamaquoddy Tribe under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Passamaquoddy Tribe;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or the Passamaquoddy Tribe, both of whom reside on the Houlton Band Jurisdiction Land.

The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive jurisdiction over these areas as described in subsection 1.

Sec. E-3. Contingent effective date. This Part takes effect 30 days after the Secretary of State receives the written certifications under subsection 3, except that in no event may this Part become effective before October 1, 2009, only if:

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2;

2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve Part C as provided in Part C, section 2; and

3. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part and written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART F

Sec. F-1. 30 MRSA §6212, sub-§1, as amended by PL 1993, c. 600, Pt. A, §24 and affected by §25, is further amended to read:

1. Commission created. The Maine Indian Tribal-State Commission is established. The commission consists of ~~9~~ 13 members, ~~4~~ 6 to be appointed by the Governor, subject to review by the Joint Standing Committee on Judiciary and to confirmation by the Legislature, 2 to be appointed by the Houlton Band of Maliseet Indians, 2 to be appointed by the Passamaquoddy Tribe, 2 to be appointed by the Penobscot Nation and a chair, to be selected in accordance with subsection 2. The members of the commission, other than the chair, each serve for a term of 3 years and may be reappointed. In the event of the death, resignation or disability of a member, the appointing authority may fill the vacancy for the unexpired term.

Sec. F-2. 30 MRSA §6212, sub-§2, as amended by PL 1993, c. 600, Pt. A, §24 and affected by §25, is further amended to read:

2. Chair. The commission, by a majority vote of its ~~8~~ 12 members, shall select an individual who is a resident of the State to act as chair. ~~When 8 members of the commission by majority vote are unable to select a chair within 120 days of the first meeting of the commission, the Governor, after consulting with the governors of the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a period of one year or for the period until the commission selects a chair in accordance with this section, whichever is shorter.~~ In the event of the death, resignation, replacement or disability of the chair, the commission may select, by a majority vote of its ~~8~~ 12 remaining members, a new chair. When the commission is unable to select a chair within 120 days of the death, resignation, replacement or disability, the Governor, after consulting with the ~~governors~~ chiefs of the Houlton Band of Maliseet Indians, the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a period of one year or for the period until the commission selects a chair in accordance with this section, whichever is shorter. The chair is a full-voting member of the commission and, except when appointed for an interim term, shall serve for 4 years.

Sec. F-3. 30 MRSA §6212, sub-§3, as amended by PL 1993, c. 600, Pt. A, §24 and affected by §25, is further amended to read:

3. Responsibilities. In addition to the responsibilities set forth in this Act, the commission shall continually review the effectiveness of this Act and the social, economic and legal relationship between the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and the State and shall make such reports and recommendations to the Legislature, the Houlton Band of Maliseet Indians, the Pas-

samaquoddy Tribe and the Penobscot Nation as it determines appropriate.

~~Seven~~ Nine members constitute a quorum of the commission and a decision or action of the commission is not valid unless ~~5~~ 7 members vote in favor of the action or decision.

Sec. F-4. Contingent effective date. This Part takes effect October 1, 2009 only if, within 90 days after the adjournment of the First Regular Session of the 124th Legislature, the Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part, written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART G

Sec. G-1. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 30, in the Title headnote, the words "municipalities and counties" are amended to read "federally recognized Indian tribes" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date, unless otherwise indicated.

CHAPTER 385

H.P. 876 - L.D. 1257

An Act To Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements

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

Sec. 1. 10 MRSA §13 is enacted to read:

§13. Legislative approval of trade agreements

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

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A.

B. "Trade agreement" means an agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade, procurement, services or investment among the parties to the agreement. "Trade agreement" includes, but is not limited to, any agreements under the auspices of the World Trade Organization, all regional free trade agreements, including the North American Free Trade Agreement and the Central America Free Trade Agreement and all bilateral agreements entered into by the United States, as well as requests for binding agreement received from the United States Trade Representative.

2. State official prohibited from binding the State. If the United States Government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may not bind the State or give consent to the United States Government to bind the State in those circumstances, except as provided in this section.

3. Receipt of request for trade agreement. When a communication from the United States Trade Representative concerning a trade agreement provision is received by the State, the Governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the President of the Senate, the Speaker of the House of Representatives, the Maine International Trade Center and the joint standing committees of the Legislature having jurisdiction over state and local government matters and business, research and economic development matters.

4. Review by commission. The commission, in consultation with the Maine International Trade Center, shall review and analyze the trade agreement and issue a report on the potential impact on the State of agreeing to be bound by the trade agreement, including any necessary implementing legislation, to the Legislature and the Governor.

5. Legislative approval of trade agreement required. Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.

See title page for effective date.

CHAPTER 386
H.P. 567 - L.D. 831

An Act To Enhance Fund-raising Opportunities by Certain Nonprofit Organizations

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

Sec. 1. 17 MRSA §332-A is enacted to read:

§332-A. License exceptions for games of chance

Notwithstanding section 331, subsection 1, organizations that are eligible for a license to conduct games of chance may conduct games of chance without a license in accordance with this section.

1. Organizations eligible. An organization, other than an agricultural fair society, that raises less than $15,000 in gross revenue in a calendar year from the operation of games of chance is eligible to conduct games of chance without a license. If an organization exceeds $15,000 in gross revenue in a calendar year, the organization must submit an application as described in section 333 and any information and fees otherwise required for an application for licensure under this chapter. An organization that raised more than $15,000 in revenue during the previous calendar year from the operation of licensed games of chance is not eligible to conduct games without a license in accordance with this section.

2. Limits. An organization that conducts a game of chance without a license in accordance with this section may not collect more than $10,000 in gross revenue from any one event at which games of chance are conducted. If an organization exceeds $10,000 in gross revenue at any one event, the organization must submit an application as described in section 333 and any information and fees otherwise required for an application for licensure under this chapter. An organization that exceeds $10,000 in gross revenue at any one event is not eligible to conduct games of chance without a license as provided by this section within one calendar year of the event at which the revenue limit was exceeded.

3. Registration required. In order to conduct games of chance without a license in accordance with this section, an organization must register with the Chief of the State Police. Registrations made in accordance with this section are valid per event. The registration must include the following:

A. The name and tax identification number of the organization and the charitable purpose for which the games are being conducted;

B. The names of the members of the organization who will be responsible for overseeing the operation of the games of chance;

C. The date, time and location of the event at which games of chance will be conducted;

D. The number and types of games to be conducted;

E. An oath and acknowledgement by the applicant that the information contained in the registration is true and accurate; and

F. A registration fee of $30.

4. Licensed printers and distributors. Equipment used to conduct games of chance in accordance with this section must be provided by printers and distributors licensed as required by this chapter.

5. Other provisions applicable. An organization that conducts games of chance in accordance with this section is subject to applicable provisions of section 332, subsections 2, 3, 3-A and 4 and sections 334, 335, 340, 341, 345 and 346.

6. Revenue and disposition of funds report. An organization that conducts games of chance in accordance with this chapter shall file a disposition of funds form prescribed and furnished by the Chief of the State Police reporting the total revenue from games of chance conducted within 12 calendar months of the date when the first game conducted without a license took place and the amount of revenue spent to support the charitable purposes for which the games were conducted. Every statement in the report must be made under oath by an officer of the organization or by the member in charge of the conduct of the games.

7. Violation. If an organization that has registered to conduct games of chance is found to have violated any provision of this section, the net revenue from any games of chance conducted is forfeited to the Chief of the State Police. If an organization is found to have violated any provision of this section, the bureau is prohibited from accepting a registration as provided by this section from that organization or a person listed on the registration for that organization for a period of 10 years.

8. Repeal. This section is repealed January 1, 2012.

Sec. 2. Report. The Chief of the State Police shall report no later than January 1, 2011 to the joint standing committee of the Legislature having jurisdiction over legal affairs regarding the use of the registration privilege provided by the Maine Revised Statutes, Title 17, section 332-A including any recommended changes to the law.

Sec. 3. Chief of the State Police to implement within existing budgeted resources. The

Chief of the State Police shall implement this Act within existing budgeted resources.

See title page for effective date.

CHAPTER 387
S.P. 570 - L.D. 1490

An Act Regarding the Transfer of Patient Health Care Information through an Electronic Health Information Exchange

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

Whereas, it is necessary for the public health and welfare that the electronic health information exchange known as HealthInfoNet begin operations as early during the summer of 2009 as possible in order to implement the exchange of electronic health care records, improve the quality of health care and contribute to slowing the rate of growth of health care costs; and

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

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

Sec. 1. 22 MRSA §1711-C, sub-§6, ¶B, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

B. To an agent, employee, independent contractor or successor in interest of the health care practitioner or facility including a health information exchange that makes health care information available electronically to health care practitioners and facilities or to a member of a quality assurance, utilization review or peer review team to the extent necessary to carry out the usual and customary activities relating to the delivery of health care and for the practitioner's or facility's lawful purposes in diagnosing, treating or caring for individuals, including billing and collection, risk management, quality assurance, utilization review and peer review. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales. A health information exchange to which health care information is disclosed under this paragraph shall provide an individual protection mechanism by which an individual may prohibit the health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility;

Sec. 2. 22 MRSA §1711-C, sub-§11, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

11. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters ~~710~~ 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation is governed solely by those provisions.

Sec. 3. 22 MRSA §1711-F is enacted to read:

§1711-F. Transfer of member health care information by MaineCare program for purpose of diagnosis, treatment or care

The MaineCare program established under chapter 855 may transfer member health care information to a health care practitioner or health care facility for the purpose of diagnosis, treatment or care of the member through an electronic health information exchange in accordance with this section.

1. Definitions. For the purposes of this section, "health care facility" has the same meaning as in section 1711-C, subsection 1, paragraph D and "health care practitioner" has the same meaning as in section 1711-C, subsection 1, paragraph F.

2. Individual protection mechanism. The department shall provide an individual protection mechanism for MaineCare members by which an individual may prohibit a health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility.

3. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other confidentiality provisions of state or federal law, rule or regulation is governed solely by those provisions.

Sec. 4. Report. The Governor's Office of Health Policy and Finance, after consultation with the Department of Health and Human Services and HealthInfoNet, shall report by January 15, 2011 to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the implementation of the statewide HealthInfoNet demonstration project, authorized by Public Law 2007, chapter 213, Part A, section 32, that transfers patient

information from one health care practitioner or facility to another health care practitioner or facility for the purposes of patient diagnosis, treatment and care through an electronic health information exchange.

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

Effective June 12, 2009.

CHAPTER 388

H.P. 491 - L.D. 708

An Act To Create a Moratorium on the Open-air Production of Genetically Engineered Pharmaceutical Crops in Maine

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

Sec. 1. 7 MRSA §1051, sub-§4-A is enacted to read:

4-A. Pharmaceutical or industrial crop. "Pharmaceutical or industrial crop" means a plant that has been genetically engineered to produce a medical or industrial product, including a human or veterinary drug, a biologic, industrial or research chemical, enzymes, vaccines, human antibodies and human blood proteins.

Sec. 2. 7 MRSA §1055 is enacted to read:

§1055. Restrictions on the production of pharmaceutical or industrial crops

1. Prohibition on open-air production. Except as provided in subsection 2, a person may not grow any pharmaceutical or industrial crop that requires a field test permit from the United States Department of Agriculture, Animal and Plant Health Inspection Service under 7 Code of Federal Regulations, Part 340.

2. Containment required. A person may grow a pharmaceutical or industrial crop as long as:

A. The production is done in a state or federally licensed medical research institution or laboratory;

B. All production activities are conducted under secure, enclosed indoor laboratory conditions to prevent the release of genetically engineered material and cross pollination with nongenetically engineered crops; and

C. A permit required by the United States Department of Agriculture for production of the pharmaceutical or industrial crop has been received and is valid.

3. Monitoring of federal regulations. The commissioner shall monitor federal regulation of pharmaceutical or industrial crops. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters any change in federal regulation that allows the production of pharmaceutical and industrial crops without a permit.

4. Repeal. This section is repealed July 1, 2012.

See title page for effective date.

CHAPTER 389

H.P. 244 - L.D. 308

An Act To Clarify Standards by Which All-terrain Vehicles May Be Stopped

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

Sec. 1. 12 MRSA §10353, sub-§2, ¶G, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

G. ~~Stop~~ If the warden has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, stop and examine any all-terrain vehicle to ascertain whether it is being operated in compliance with chapter 939 or any other provision of this Part regulating ATVs, demand and inspect the operator's certificate of registration and, when appropriate, demand and inspect evidence that the operator has satisfactorily completed a training course as required by section 13152. Other law enforcement officers are subject to the provisions of this paragraph;

See title page for effective date.

CHAPTER 390

H.P. 199 - L.D. 253

An Act To Amend the Laws Governing Alien Big Game and Turkey Hunters and Nonresident Hunters

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

Sec. 1. 12 MRSA §11226, as reallocated by PL 2007, c. 695, Pt. A, §16, is repealed.

Sec. 2. 12 MRSA §11226-A is enacted to read:

§11226-A. Canadian big game hunter; guide required

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Big game" means bear, deer and moose.

B. "Family member" means a parent, spouse, daughter or son or a grandchild who is less than 18 years of age.

2. Prohibition. An alien resident of the Canadian province of New Brunswick or Quebec may not hunt big game or wild turkey without being accompanied by a person who holds a valid guide license pursuant to chapter 927 authorizing that person to act as a hunting guide unless that alien:

A. Owns or leases land in the State;

B. Is current on property taxes assessed for the land owned in the State;

C. Keeps property owned or leased in the State open for hunting by the public; and

D. While hunting big game or wild turkey, possesses written authorization from the commissioner to hunt big game without a guide.

An alien who resides in the Canadian province of New Brunswick or Quebec and who wishes to hunt big game or wild turkey without a guide must, at the time of application for a hunting license or permit to hunt big game or wild turkey, provide documentation to the commissioner that that person meets the requirements of this subsection. Upon determining that the applicant meets the criteria in this subsection and the applicant is not otherwise ineligible to hold a license or permit under this Part, the commissioner shall issue written authorization to hunt big game or wild turkey without a guide to the alien and that alien's family members who hold a valid license to hunt big game or wild turkey in the State.

3. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 2 commits a civil violation for which a fine of not less than $100 or more than $500 may be adjudged.

B. A person who violates subsection 2 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 3. 12 MRSA §11302, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. The total number of clients with a resident Maine guide may not be more than ~~3~~ 5 in order to satisfy the requirements of this subsection.

See title page for effective date.

CHAPTER 391

H.P. 844 - L.D. 1224

An Act Regarding the Operation of County Jails and the State Board of Corrections

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

Sec. 1. 17-A MRSA §1175, first ¶, as amended by PL 2005, c. 527, §14, is further amended to read:

Upon complying with subsection 1, a victim of a crime of murder ~~or stalking~~ or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-B after having been found incompetent to stand trial must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-B or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A.

Sec. 2. 30-A MRSA §708, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§708. Alternative fiscal year

The county commissioners of a county may adopt a July 1st to June 30th fiscal year. A county may raise one or 2 taxes during a single valuation, if the taxes raised are based on appropriations made for ~~a~~ one or more county fiscal ~~year that does not exceed~~ years none of which exceeds 18 months. A county fiscal year may extend beyond the end of the current tax year. The county commissioners, when changing the county's fiscal year, may for transition purposes, adopt one or more fiscal years not longer than 18 months each.

Sec. 3. 30-A MRSA §924, sub-§3, as amended by PL 2001, c. 349, §6, is further amended to read:

3. Other uses; working capital. After compliance with subsection 2, the county commissioners may use any remaining unencumbered surplus funds to fund a county charter commission, as provided in section 1322, subsection 4, or to establish or fund a capital reserve account under section 921, including a corrections services capital reserve account, as provided in section 5801. If not used for these purposes, any remaining surplus funds may not be expended but must be retained as working capital for the use and benefit of the county except that correctional unencumbered surplus may not lapse to the county's non-correctional fund balance but must be carried forward as the county or regional jail authority correctional services fund balance. Correctional services funds may be expended only for corrections services.

Sec. 4. 30-A MRSA §932, sub-§3, as enacted by PL 2007, c. 653, Pt. A, §13, is amended to read:

3. Change of fiscal year. ~~County~~ In addition to and without limiting subsections 1 and 2, the county commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year pursuant to section 708 are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. ~~The~~ A tax anticipation note issued pursuant to this subsection covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow pursuant to this subsection an amount that does not exceed the taxes anticipated from the transitional budgets, and the period of borrowing may not exceed 5 years. County commissioners may issue a tax anticipation note pursuant to this subsection only once a year.

Prior to February 15th of the transitional budget year, the municipal officers of each municipality in the county shall notify the county clerk in writing of the manner in which the municipality intends to pay its portion of the transitional county budget for the period of January 1st to June 30th. At the time of notification, the municipal officers shall indicate whether the municipality intends to pay its full share of the January 1st to June 30th transitional budget by December 31st of that year in accordance with section 706 or whether the municipality intends to pay its share of the transitional budget in equal payments ~~over 2, 3, 4 or 5 years~~ by December 31st of the 2nd, 3rd, 4th or 5th year after the calendar year in which the transition year occurs, ending no later than ~~5 years~~ December 31st of the 5th year after the calendar year in which the transition year occurs. In accordance with the payment schedule indicated in its notification, a municipality not paying its full portion of the transitional budget in that year shall make payments for the transitional budget to the county at the time the municipality makes its payment to the county for the current year. Each municipality is responsible to the county for the municipality's share of the January 1st to June 30th transitional budget and any interest incurred by the county for borrowing on behalf of the municipality in anticipation of deferred payment of taxes as provided in this subsection.

Sec. 5. 30-A MRSA §1659, as amended by PL 2005, c. 68, §1, is repealed.

Sec. 6. 30-A MRSA §1659-A is enacted to read:

§1659-A. Community confinement monitoring program

The sheriff of each county shall establish a program to permit certain inmates to serve a portion of their sentence of imprisonment in community confinement monitored by the county or a contract agency or another county or its contract agency. The county may contract only with a community confinement monitoring agency approved by the State Board of Corrections.

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a community confinement monitoring program and recommended by the jail administrator, may assign the inmate to participate in a community confinement monitoring program. At the time of granting this privilege, the sheriff shall determine whether the inmate is responsible for the cost of participating in the program based on the inmate's ability to pay.

2. Eligibility. Inmates are eligible to participate in a community confinement monitoring program if:

A. The inmate's residence is located within the State and in a location that does not in any way restrict the adequate monitoring of the inmate;

B. The inmate has been sentenced to the county jail;

C. The inmate is not serving a sentence for a sex offense or a sexually violent offense as defined under Title 34-A, section 11203;

D. The inmate has a verified security classification level of "medium" or "minimum" and scores "moderate" or "less" on a validated risk assessment tool as defined by the State Board of Corrections;

E. The inmate serves a minimum of 1/3 of the term of imprisonment, or, in the case of a split sentence, a minimum of 1/3 of the unsuspended portion, prior to participating in a community confinement monitoring program. In calculating the amount of time served, good time or deductions earned under Title 17-A, section 1253 and time reductions earned for charitable or public works projects under section 1606 must be counted; and

F. The inmate agrees to abide by the conditions of release pursuant to this section and any additional conditions imposed by the sheriff or jail administrator.

3. Participation requirements. The following requirements of this subsection apply to inmates participating in a community confinement monitoring program.

A. Each inmate assigned to community confinement pursuant to this section shall participate in a structured program of work, education or treatment. Participation in a community confinement monitoring program may not be solely for the purpose of living at home.

B. At a minimum, the inmate shall report in person at least once per week to a community confinement monitor, even if being electronically monitored.

C. The jail administrator, or a designee, shall restrict in advance any travel or movement limiting the inmate's travel to specific times and places directly related to approved employment, formal education, job search, public service work, treatment or other specific purposes.

D. The inmate shall agree to searches of the inmate's person, residence, electronic monitoring equipment, vehicle, papers and effects and any property under the inmate's control, without a warrant and without probable cause, for items prohibited by law or by condition of participation in the program or otherwise subject to seizure or inspection upon the request of the jail administrator, a community confinement monitor or any law enforcement officer without prior notice. The sheriff or jail administrator may prohibit the inmate from residing with anyone who does not consent to a search or inspection of the residence to the extent necessary to search or inspect the inmate's person, residence, electronic equipment, papers and effects.

E. The inmate may not use alcohol or illegal drugs or other illegal substances and may not abuse alcohol or abuse any other legal substance.

F. The inmate shall submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the jail administrator or a community confinement monitor.

G. If stopped or arrested by a law enforcement officer, the inmate shall notify that officer of the inmate's participation in a community confinement monitoring program. Within one hour of having been stopped or arrested, the inmate shall notify the jail administrator or a community confinement monitor.

H. The inmate may not violate state or federal criminal law or any conditions of the inmate's release.

I. As a condition of participation of an inmate in a community confinement monitoring program, the sheriff may, based upon an inmate's ability to pay, require the inmate to pay a fee including an electronic monitoring fee, if applicable, a substance testing fee, if applicable, or both. The fee charged may include the costs associated with a community confinement program for people who do not have the financial resources to pay the fees.

J. The inmate shall sign a statement verifying that the inmate understands and agrees to all of the conditions of release and participation in a community confinement monitoring program.

4. Termination of the privilege. The sheriff, jail administrator or a community confinement monitor may terminate an inmate's participation in a community confinement monitoring program at any time and return the inmate to the custody of the county jail for any violation of the conditions of the inmate's release or upon the loss of an appropriate residence on the part of the inmate.

5. Violations; penalties. The following penalties apply to violations of this section.

A. An inmate who willfully violates a condition of release commits a Class D crime.

B. An inmate who leaves or fails to return within 12 hours to that inmate's residence or other designated area in which that inmate is monitored is guilty of escape under Title 17-A, section 755. A sentence received for this crime or for escape is subject to the requirements of Title 17-A, section 1256, subsection 1.

6. Minimum standards supervision of inmates in the community confinement monitoring program. The State Board of Corrections shall establish minimum policy standards for the monitoring of inmates in the community confinement monitoring program.

7. Program funding. Funds collected pursuant to this section must be forwarded to an account designated by the State Board of Corrections for the purpose of supporting pretrial, diversion or reentry activities. Community confinement monitoring program funds must be accounted for by the county through the normal budget process.

8. Terminally ill or incapacitated inmate. The sheriff may grant the privilege of participation in a community confinement monitoring program to an inmate who does not meet the requirements of subsection 2, paragraphs C and E if the jail's treating physician has determined that the inmate has a terminal or severely incapacitating medical condition and that care

outside the jail is medically appropriate. Except as set out in this subsection, the inmate shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or facility that is a licensed hospice program pursuant to Title 22, section 8622 approved by the sheriff. As approved by the sheriff, the inmate may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services and, subject to approval by the sheriff, may live at home while receiving these services. The sheriff may exempt an inmate participating in community confinement monitoring pursuant to this subsection from any requirements under subsection 3 that the sheriff determines to be inapplicable. The inmate shall provide any information pertaining to the inmate's medical condition or care that is requested by the sheriff at any time while the inmate is in the community confinement monitoring program. If the sheriff determines that the inmate has failed to fully comply with a request, or if at any time the jail's treating physician determines that the inmate does not have a terminal or severely incapacitating medical condition or that care outside the jail is not medically appropriate, the sheriff shall terminate the inmate's participation in the community confinement monitoring program. Except as set out in this subsection, all other provisions of this section apply to community confinement monitoring pursuant to this subsection.

9. Effective date. This section is effective January 1, 2010.

Sec. 7. 30-A MRSA §1660, sub-§2, as amended by PL 2001, c. 659, Pt. F, §2, is further amended to read:

2. Information on releases. The report required in this section must include the following information for each county corrections facility about releases of inmates from the facility pursuant to sections 1605, 1606 and ~~1659~~ 1659-A and former section 1659 during the prior calendar year:

A. The total number of inmates who were granted the privilege of release;

B. The number of inmates that were granted the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

(1) Employment;

(2) Participation in public works-related projects;

(3) Participation in a home-release monitoring program; ~~and~~

(3-A) Participation in a community confinement monitoring program; and

(4) All other purposes;

C. The number of inmates who requested and were denied the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

(1) Employment;

(2) Participation in public works-related projects;

(3) Participation in a home-release monitoring program; ~~and~~

(3-A) Participation in a community confinement monitoring program; and

(4) All other purposes;

D. With respect to each inmate who was granted the privilege of release and who subsequently had the privilege revoked:

(1) The total number of such inmates;

(2) The purpose for which the release was granted;

(3) The entity that revoked the privilege;

(4) The reasons for the revocation; and

(5) Whether the revocation was appealed and the result of that appeal; and

E. Any other information that the Commissioner of Corrections believes appropriate to accurately inform the Legislature about sheriffs' handling of release decisions.

Sec. 8. 34-A MRSA §1001, sub-§9, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

9. Holding facility. "Holding facility" means a facility or part of a building used for the detention of adult pretrial detainees prior to arraignment, release or transfer to another facility or authority for periods of up to 48 hours. "Holding facility" also means a county jail or part of a jail used for the detention of adult inmates, whether detained pending a trial or other court proceeding or sentenced for periods of up to 72 hours excluding Saturday, Sunday and legal holidays and excluding days during which the inmate is at court.

Sec. 9. 34-A MRSA §1404, sub-§7 is enacted to read:

7. Budget review. The commissioner shall provide the board with its adult correctional and adult probation services biennial and supplemental budget proposals in a timely fashion.

Sec. 10. 34-A MRSA §1405, sub-§2, ¶E, as enacted by PL 2007, c. 653, Pt. A, §29, is amended to read:

E. The person becomes eligible for furloughs, work or other release programs, participation in

public works and charitable projects ~~and~~, home-release monitoring and community confinement monitoring programs as authorized by Title 30-A, sections 1556, 1605, 1606 and ~~1659~~ 1659-A and Title 30-A, former section 1659 for a person sentenced to imprisonment in a county jail or work or other release programs, furloughs and supervised community confinement for a person sentenced to a correctional facility as authorized by sections 3033, 3035 and 3036-A, whichever is applicable, and may apply pursuant to the rules governing the sending facility.

Sec. 11. 34-A MRSA §1803, sub-§1, ¶B, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

B. Develop reinvestment strategies within the unified correctional system to improve services and reduce recidivism; ~~and~~

Sec. 12. 34-A MRSA §1803, sub-§1, ¶C, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

C. Establish boarding rates for the unified correctional system, except boarding rates for federal inmates.; and

Sec. 13. 34-A MRSA §1803, sub-§1, ¶D is enacted to read:

D. Review department biennial and supplemental budget proposals affecting adult correctional and adult probation services and submit recommendations regarding these budget proposals to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

Sec. 14. 34-A MRSA §1803, sub-§4, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

4. Certificate of need. The board shall review and may approve any future public or private construction projects. The board shall establish a certificate of need process used for the review and approval of any future public or private capital correctional construction projects. A public or private correctional construction project may not be undertaken unless the board issues a certificate of need in support of that project. The board shall adopt rules governing the procedures relating to the certificate of need process and financing alternatives. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 15. 34-A MRSA §1805, sub-§3, ¶B, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

B. Any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives under section 1803 have reduced jail expenses. Any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance;

Sec. 16. 34-A MRSA §3036-A, sub-§10, as amended by PL 2005, c. 68, §2, is further amended to read:

10. Terminally ill or incapacitated prisoner. With the consent of the prisoner, the commissioner may permit a prisoner committed to the department to be transferred from a correctional facility to supervised community confinement without meeting the requirements of subsection 2, paragraphs B and C if the ~~facility's treating physician~~ department's director of medical care has determined that the prisoner ~~is terminally ill~~ has a terminal or severely incapacitating medical condition and that care outside ~~the~~ a correctional facility ~~for the remainder of the prisoner's illness~~ is medically appropriate. Except as set out in this subsection, the prisoner shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may live at home while receiving these ~~hospice~~ services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner's medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner does not have a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

Sec. 17. 34-A MRSA §3036-A, sub-§11 is enacted to read:

11. Revocation of transfer. The commissioner may revoke a transfer to supervised community con-

finement at any time for any reason in the commissioner's discretion.

Sec. 18. 34-A MRSA §3261, sub-§4, as amended by PL 1999, c. 583, §21, is further amended to read:

4. Duties of the warden. The warden shall:

A. File the ~~warrant and~~ record, as provided by Title 15, section 1707~~, with the warden's return on the warrant~~ in the warden's office~~; and~~.

~~B. Cause a copy of the warrant of commitment to be filed in the office of the clerk of court from which it was issued.~~

Sec. 19. 34-A MRSA §3407, sub-§4, as amended by PL 1999, c. 583, §26, is further amended to read:

4. Duties of the superintendent. The superintendent shall:

A. File the ~~warrant and~~ record, as provided by Title 15, section 1707~~, with the superintendent's return on the warrant~~ in the superintendent's office~~; and~~.

~~B. Cause a copy of the warrant of commitment to be filed in the office of the clerk of court from which it was issued.~~

See title page for effective date.

CHAPTER 392

H.P. 671 - L.D. 969

An Act To Amend the Laws Governing the Maine Children's Growth Council

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

Whereas, Congress enacted legislation reauthorizing the Head Start program in 2007; and

Whereas, the membership of the Maine Children's Growth Council must be amended in order to meet federal requirements; and

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

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

Sec. 1. 5 MRSA §24001, sub-§3, as enacted by PL 2007, c. 683, Pt. A, §2, is amended to read:

3. Membership. The council consists of ~~27~~ the members listed in this subsection who must have a strong interest in early childhood and early care and education and must be influential in their communities:

A. Two members of the Senate, one from each of the 2 political parties having the greatest number of members in the Senate, appointed by the President of the Senate;

B. Two members of the House of Representatives, one from each of the 2 political parties having the greatest number of members in the House, appointed by the Speaker of the House;

C. The Governor or the Governor's designee and the Attorney General or the Attorney General's designee;

D. Three parents, at least one of whom has a young child, one each appointed by the Governor, the President of the Senate and the Speaker of the House;

E. Two persons with experience in public funding and philanthropy, appointed by the President of the Senate;

F. One person representing child abuse and neglect prevention, appointed by the Speaker of the House;

G. One person representing postsecondary education, appointed by the Governor;

H. Eight persons representing statewide, membership or constituent organizations that advance the well-being of young children and their families, nominated by their organizations and appointed by the Governor, of whom:

(1) Three must represent statewide organizations or associations involved in early care and education programs, child care centers, Head Start programs, family child care providers, resource development centers, programs for school-age children, child development services, physicians and child advocacy;

(2) One must represent a law enforcement organization involved with children;

(3) One must represent an organization that works on community organization and mobilization;

(4) One must represent public health;

(5) One must represent the Maine Economic Growth Council; and

(6) One must represent a labor organization.;

I. One person representing a statewide association of business and industry and one person representing a business roundtable on early childhood investment, appointed by the Governor;

J. ~~One member~~ Up to 8 members of the public, appointed by the Governor; ~~and~~

K. Three ex-officio nonvoting members: the Commissioner of Education or the commissioner's designee, a Department of Health and Human Services employee who works with early childhood programs including Head Start and a person representing the office within the Department of Health and Human Services that is the fiscal agent for the federal grant program for comprehensive early childhood initiatives.~~.~~; and

L. The director of the Head Start collaboration project within the Department of Health and Human Services, Office of Child Care and Head Start.

Sec. 2. 5 MRSA §24004, as enacted by PL 2007, c. 683, Pt. A, §2, is repealed.

Sec. 3. Funding. Expenses and per diem reimbursement for legislative members on the Maine Children's Growth Council may be funded from the legislative account for fiscal year 2009-10 but may not be funded for fiscal year 2010-11 or any subsequent fiscal year unless such funding is authorized by the Legislative Council.

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

Effective June 15, 2009.

CHAPTER 393

H.P. 874 - L.D. 1255

An Act To Amend Certain Laws Related to the Department of Agriculture, Food and Rural Resources

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

Sec. 1. 7 MRSA §125, sub-§2, as enacted by PL 1997, c. 711, §5, is amended to read:

2. Membership. The board consists of the following ~~19~~ 20 members:

A. A designee of the President of the University of Maine at Orono;

B. A designee of the Chancellor of the University of Maine System;

C. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee;

D. The president of a statewide farm bureau or the president's designee;

E. The president of a statewide agricultural council or the president's designee;

F. Eight members representing the agricultural industry, one person designated by each of the following:

(1) The Maine Potato Board;

(2) The Wild Blueberry Commission of Maine;

(3) A statewide pomological society;

(4) A statewide vegetable and small fruit growers association;

(5) A statewide dairy industry association;

(6) A statewide landscape and nursery association;

(7) A statewide florist and growers association; and

(8) A statewide organic farmers and gardeners association;

G. Two members of the joint standing committee of the Legislature having jurisdiction over agricultural matters, one appointed by the President of the Senate and one appointed by the Speaker of the House;

H. One farmer with livestock experience in an area other than dairy farming, chosen from a list of 3 nominees submitted by a statewide beef and sheep producers association, appointed by the Governor;

I. Two research faculty members associated with agricultural research at the University of Maine at Orono, appointed by the Board of Trustees of the University of Maine System; ~~and~~

J. The Director of the University of Maine Cooperative Extension Service.~~.~~; and

K. One member representing the aquaculture industry designated by a statewide aquaculture industry association.

Sec. 2. 7 MRSA §742, sub-§8 is amended to read:

8. Grade. "Grade" means any commercial fertilizer having a specific ~~and~~ minimum percentage of plant nutrients that is the same ~~guarantee~~ as the guaranteed analysis, expressed in whole numbers.

Sec. 3. 7 MRSA §743-A is enacted to read:

§743-A. Tonnage report

1. Registrants required to report. On or before September 1st of each year, a registrant shall file with the commissioner, on a form prescribed by the commissioner, the number of tons of each brand and grade of commercial fertilizer sold by the registrant in the State during the 12 months preceding July 1st of that year. A fee of $1 per ton or $100 for each brand and grade of fertilizer, whichever is more, sold during the 12 months preceding July 1st of that year must accompany the form.

2. Fees; nonlapsing fund. The commissioner shall deposit all fees collected under this section in a dedicated, nonlapsing account established under section 765, subsection 2 for the purpose of administering and enforcing this subchapter and subchapter 5-A.

3. Commissioner's report. The commissioner may publish and distribute annually, to each registrant and other interested persons, a report showing the total tons of commercial fertilizer and the total tons by grade sold in the State.

Sec. 4. 7 MRSA §765, sub-§2, as enacted by PL 1987, c. 425, §§1 and 3, is amended to read:

2. Fees; nonlapsing fund. The commissioner shall collect all fees under this subchapter and section 743-A and deposit them with the Treasurer of State. ~~These funds shall be appropriated for~~ in a separate account to be used for carrying out this subchapter and subchapter 5, including the cost of inspection, sampling and analysis of commercial fertilizers and agricultural liming materials. These funds ~~shall~~ do not lapse, but ~~shall~~ remain in a carry-over account.

Sec. 5. 7 MRSA §766, sub-§1, as enacted by PL 1987, c. 425, §§1 and 3, is amended to read:

1. By registrants. On or before September 1st in each year each registrant shall file with the commissioner, on forms prescribed by ~~him~~ the commissioner, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of ~~the current~~ that year. A fee of $1 per ton or $100 for each brand of agricultural liming material, whichever is more, sold during the 12 months preceding July 1st of that year must accompany the form.

Sec. 6. 7 MRSA §2104-A is enacted to read:

§2104-A. Arrears in payments to Seed Potato Board

A person who on July 15th of any year is in arrears as to full payment for potato seed purchased from the Seed Potato Board is not eligible for listing in the Maine certified seed potatoes book for that year published by the department's Division of Plant Industry.

Sec. 7. 7 MRSA §2701, as amended by PL 1999, c. 401, Pt. H, §2, is further amended to read:

§2701. Licensing

All persons owning honeybees within the State shall annually notify the commissioner of the keeping of bees and the location of the bees and shall forward to the commissioner for deposit with the Treasurer of State an annual license fee ~~not to exceed $2 per colony~~ for all bees kept on June 15th of each year. ~~A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may be issued only with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.~~ Fees must be established by rule ~~in accordance with the Maine Administrative Procedure Act~~. ~~No license fee returned may be less than $2 per beekeeper.~~ Notwithstanding Title 5, section 8071, subsection 3, rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. License fees accrue as a dedicated revenue to the Division of Plant Industry to fund the cost of apiary inspection and licensing.

Between 14 and 30 days prior to June 15th annually, the commissioner shall cause notice of the annual notification and license fee requirement to be ~~published at least twice in the state newspaper and in other newspapers or journals of general circulation adequate to provide reasonable notice throughout the State~~ publicized.

Sec. 8. 22 MRSA §1471-N, as amended by PL 1979, c. 187, is repealed.

Sec. 9. 22 MRSA §2153-A is enacted to read:

§2153-A. Confidentiality of certain information

The following information is confidential and may not be disclosed to the public:

1. United States Department of Agriculture, Food Safety and Inspection Service. Information provided to the department or to any employee of the department by the United States Department of Agriculture, Food Safety and Inspection Service pursuant to 9 Code of Federal Regulations, Section 390.9 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure; and

2. Food and Drug Administration. Information provided to the department or to any employee of the department by the United States Food and Drug Administration pursuant to 21 Code of Federal Regulations, Section 20.88 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure.

Sec. 10. 22 MRSA §2169, 3rd ¶, as enacted by PL 1999, c. 598, §1 and affected by §4, is amended to read:

Beginning August 1, 2000, each one-, 2- or 3-year license or license renewal issued expires on December 31st of the appropriate year except that, beginning January 1, 2010, each one-year, 2-year or 3-year license or license renewal expires on the date of issuance of the appropriate year. When an initial license is issued or when a license is renewed between August 1, 2000 and August 1, 2003, the license fee is prorated based on the number of months the license is valid and the annual fee. When a license is renewed between January 1, 2010 and January 1, 2011, the period of time that the license is valid may be increased by up to 11 months and the license fee is prorated based on the number of months the license is valid and the annual fee.

Sec. 11. 22 MRSA §2513, as enacted by PL 1999, c. 777, §1, is amended to read:

§2513. Rules

The commissioner shall adopt rules to carry out the purposes of this chapter. Rules adopted under this section may incorporate by reference those provisions of the Code of Federal Regulations that are applicable to meat and poultry inspection, as such regulations may be amended, and that are necessary to remain in compliance with the federal requirements for the State's meat and poultry products inspection and licensing program under section 2512. Rules adopted under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Plant Industry 0831

Initiative: Provides one-time funding for rule-making costs.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$2,500	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,500	$0

Sec. 13. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation 0393

Initiative: Provides funding for a limited-period Consumer Protection Inspector position and related All Other costs to establish and administer the commercial fertilizer sampling program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$65,832	$67,860
All Other	$56,155	$56,155
OTHER SPECIAL REVENUE FUNDS TOTAL	$121,987	$124,015

See title page for effective date.

CHAPTER 394
S.P. 87 - L.D. 246

An Act Regarding Violations of Lobster Conservation Laws

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

Sec. 1. 12 MRSA §6351, sub-§1, as enacted by PL 2001, c. 421, Pt. B, §15 and affected by Pt. C, §1, is amended to read:

1. Grounds for suspension. Any of the following is grounds for suspension of a license, the right to obtain a license or a certificate issued under this Part:

A. A conviction for a violation of a marine resources law;

B. A conviction for a violation of Title 17-A, chapter 31;

B-1. A conviction for a violation of Title 17-A, chapter 15;

C. A conviction for a criminal offense against a marine patrol officer while that officer is engaged in the performance of official duty; ~~or~~

D. A civil adjudication of having violated a marine resources law~~.~~; or

E. A suspension authorized under section 6409 or 6410.

Sec. 2. 12 MRSA §6351, sub-§3 is enacted to read:

3. Denial of license. An applicant for any license or certificate as set out in this chapter may be denied a license or certificate in the same manner as provided for in this section.

Sec. 3. 12 MRSA §6402, first ¶, as amended by PL 2007, c. 201, §1, is further amended to read:

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder convicted in court of violating section 6434. This suspension is for 3 years from the date of conviction. For a 3rd or subsequent conviction, the commissioner may permanently revoke the license holder's license.

Sec. 4. 12 MRSA §6402-B, as amended by PL 2007, c. 201, §2, is further amended to read:

§6402-B. Suspension based on 2 or more convictions of possessing illegal lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted of a 2nd or subsequent offense of possessing a lobster ~~smaller than the minimum size established in section 6431, subsection 1~~ in violation of section 6431, 6436, 6438-A or 6952-A if the conviction of the 2nd or subsequent offense involved possession of ~~3~~ 5 or more illegal lobsters ~~smaller than that minimum size~~. If the 2nd offense occurs on the same day as the first offense, the commissioner may waive the mandatory suspension.

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years.

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license.

~~**3. Offenses after July 1, 1994.** Subsections 1 and 2 apply only if that person's first conviction for possessing a lobster smaller than the minimum size established in section 6431, subsection 1 was for an offense that occurred after July 1, 1994.~~

Sec. 5. 12 MRSA §6406, sub-§2, as repealed and replaced by PL 1989, c. 455, §1, is amended to read:

2. Penalty. Violation of this section ~~shall be~~ is a Class D crime, except that the court shall impose a fine of not less than ~~$100~~ $500 nor more than ~~$1,000~~ $2,000.

Sec. 6. 12 MRSA §6431, sub-§7, as amended by PL 1999, c. 82, §1, is further amended to read:

7. Penalty. Possession of lobsters in violation of this section is a Class D crime, except that the court shall impose a fine of ~~$50~~ $500 for each violation and, in addition, a fine of ~~$25~~ $100 for each lobster involved, up to and including the first 5, and a fine of ~~$50~~ $200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than $1,000 or more than ~~$2,000~~ $5,000. A court may not suspend a fine imposed under this subsection.

Sec. 7. 12 MRSA §6431-E, sub-§2, as enacted by PL 1997, c. 693, §1 and affected by §3, is amended to read:

2. Owner or family member on board. This subsection applies to a person that holds a Class I, Class II or Class III lobster and crab fishing license issued under section 6421. Except as provided in subsection 3, ~~beginning January 1, 2000 a person who holds a Class I, Class II or Class III lobster and crab fishing license~~ a vessel may not be used to fish for or take lobsters ~~from a~~ unless that vessel ~~unless~~ is owned by a Class I, Class II or Class III lobster and crab fishing license holder and:

A. The owner of that vessel is present on that vessel ~~and holds a~~ and has that vessel named on the owner's Class I, Class II or Class III lobster and crab fishing license; or

B. A family member of the vessel owner ~~under paragraph A is present on that vessel and~~ holds a Class I, Class II or Class III lobster and crab fishing license and is present on that vessel.

Sec. 8. 12 MRSA §6431-G is enacted to read:

§6431-G. Vessel operation

1. Limitation. Except as provided in subsection 2, the holder of a Class I, Class II or Class III lobster and crab fishing license may not operate a vessel for the purposes of fishing for or taking lobster other than the vessel named on the holder's lobster and crab fishing license. For the purposes of this section, "operate a vessel" means steering the vessel, operating the vessel's engine throttle or gear shift or operating the mechanism used to haul lobster traps from the water. "Operating a vessel" does not include the baiting of traps or the handling of traps once they are on board the vessel.

2. Exemptions. The commissioner may authorize an individual who possesses a Class I, Class II or Class III lobster and crab fishing license to fish for or take lobsters from a vessel other than the vessel named on the holder's lobster and crab fishing license if:

A. A Class I, Class II or Class III license holder is temporarily prevented by illness or disability from fishing for or taking lobsters from the license holder's vessel and requests in writing to the commissioner that the commissioner authorize the individual to operate that vessel to fish for or take lobsters and tend the license holder's traps pursuant to section 6434;

B. The vessel named on the individual's license has become temporarily inoperable because of an accident or a mechanical failure and the individual requests in writing and is granted permission from

the commissioner to use another vessel to fish for or take lobsters; or

C. The individual is designated as the sponsor of a student pursuant to section 6421 and is operating the vessel named on the student's license for the purposes of providing practical lobster fishing training to the student while the student is present on the vessel.

Sec. 9. 12 MRSA §6432, sub-§5, as amended by PL 1999, c. 82, §2, is further amended to read:

5. Penalty for possession. Possession of lobsters other than caught by the method specified in subsection 1 is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of ~~$50~~ $500 for each violation and, in addition, a fine of $100 for each lobster involved, up to and including the first 5, and a fine of $200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than $1,000 or more than $5,000. A court may not suspend a fine imposed under this subsection.

Sec. 10. 12 MRSA §6436, sub-§5, as amended by PL 1999, c. 82, §3, is repealed and the following enacted in its place:

5. Penalty for possession of egg-bearing lobsters. Possession of lobsters in violation of subsection 1, paragraph A is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of $1,000 for each violation and, in addition, a fine of $200 for each lobster involved, up to and including the first 5, and a fine of $400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than $2,500 or more than $10,000. A court may not suspend a fine imposed under this subsection.

Sec. 11. 12 MRSA §6436, sub-§6 is enacted to read:

6. Penalty for possession of v-notched lobsters. Possession of lobsters in violation of subsection 1, paragraph B is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of $500 for each violation and, in addition, a fine of $100 for each lobster involved, up to and including the first 5, and a fine of $400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than $1,000 or more than $5,000. A court may not suspend a fine imposed under this subsection.

Sec. 12. 12 MRSA §6438-A, sub-§2, as amended by PL 1999, c. 82, §4, is further amended to read:

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a fine of ~~$500~~ $1,000 for each violation and, in addition, a fine of ~~$150~~ $300 for each lobster involved or, if the number of lobsters cannot be determined, a fine of not less than $1,000 or more than $5,000. A court may not suspend a fine imposed under this subsection.

Sec. 13. 12 MRSA §6447, sub-§3, as enacted by PL 1995, c. 468, §8, is amended to read:

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote. An individual who has been convicted or adjudicated of a lobster violation within the previous 7 years is not eligible for election as a council member unless a waiver from this limitation has been granted by the commissioner for good cause as determined by the commissioner in the commissioner's discretion.

Sec. 14. 12 MRSA §6952-A, sub-§4 is enacted to read:

4. Penalty for possession. A violation of this section is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of $500 for each violation and, in addition, a fine of $100 for each lobster involved, up to and including the first 5, and a fine of $200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than $1,000 or more than $5,000. A court may not suspend a fine imposed under this subsection.

Sec. 15. 12 MRSA §6953, 2nd ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Violation of this section ~~shall be~~ is a Class ~~E~~ D crime, except that the court shall impose a fine of not less than ~~$100~~ $500. A court may not suspend a fine imposed under this section.

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for indigent defense costs as a result of an anticipated increase in the request for court-appointed counsel resulting from stricter penalties for lobster violations.

GENERAL FUND	2009-10	2010-11
All Other	$2,800	$4,200

GENERAL FUND TOTAL	$2,800	$4,200

See title page for effective date.

CHAPTER 395

H.P. 878 - L.D. 1259

An Act To Increase Access to Nutrition Information

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

Sec. 1. 22 MRSA §2491, sub-§2-A is enacted to read:

2-A. Calories per serving. "Calories per serving" means the caloric information for a food or beverage item being offered for consumption by one person, as usually prepared and as offered for sale on the menu, menu board or food display tag.

Sec. 2. 22 MRSA §2491, sub-§2-B is enacted to read:

2-B. Chain restaurant. "Chain restaurant" means an eating establishment that does business under the same trade name in 20 or more locations, at least one of which is located in the State, that offers predominantly the same type of meals, food, beverages or menus, regardless of the type of ownership of an individual location. "Chain restaurant" does not include a grocery store. "Chain restaurant" does not include a hotel or motel that provides a separately owned eating establishment but does include the separately owned eating establishment if the eating establishment meets the criteria of this subsection. "Chain restaurant" does not include a movie theater.

Sec. 3. 22 MRSA §2491, sub-§7-A is enacted to read:

7-A. Food display tag. "Food display tag" means a written or printed description of a food or beverage item, such as a label or placard, placed in the vicinity of the food or beverage item identifying the type or price of the food or beverage.

Sec. 4. 22 MRSA §2491, sub-§7-B is enacted to read:

7-B. Grocery store. "Grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish and poultry. "Grocery store" includes a convenience store, but does not include a separately owned eating establishment located within a grocery store.

Sec. 5. 22 MRSA §2491, sub-§7-C is enacted to read:

7-C. Menu. "Menu" means a written or printed list describing food or beverage items offered for sale at an eating establishment that may be distributed on or off the premises, but does not include a menu board.

Sec. 6. 22 MRSA §2491, sub-§7-D is enacted to read:

7-D. Menu board. "Menu board" means a list of food or beverage items offered for sale at an eating establishment that is posted in a public area for viewing by multiple customers, including a backlit marquee sign, chalkboard or drive-through menu sign.

Sec. 7. 22 MRSA §2500-A is enacted to read:

§2500-A. Menu labeling for chain restaurants

The provisions of this section apply to chain restaurants that are located in the State.

1. Caloric information. A chain restaurant shall state on a food display tag, menu or menu board the total amount of calories per serving of each food and beverage item listed for sale on the food display tag, menu or menu board. The statement of calories required in this subsection must be:

A. Clear and conspicuous;

B. Adjacent to or in close proximity and clearly associated with the item to which the statement refers;

C. Printed in a font and format at least as prominent in size and appearance as the name or the price of the item to which the statement refers; and

D. As it pertains to beer, wine and spirits must also meet the requirements of subsection 6.

2. Determining caloric content. The caloric content information required by subsection 1 must be determined on a reasonable basis and may be determined only once per standard menu item if the eating establishment follows a standardized recipe, trains to a consistent method of preparation and maintains a reasonably consistent portion size. For the purposes of this subsection a reasonable basis for determining caloric content means use of a recognized method for determining calorie content, including, but not limited to, nutrient databases, laboratory testing and other reliable methods of analysis. Caloric content may be rounded to the nearest 10 calories for caloric content above 50 calories and to the nearest 5 calories for caloric content of 50 calories and below.

3. Required statement. A menu or menu board or written nutrition information provided to a customer by a chain restaurant must contain the following statement in a clear and conspicuous manner and in a prominent location: "To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs

may vary." A menu, menu board or written nutrition information provided to a customer by a chain restaurant may include the following statement or a statement similar to the following: "Nutrition information is based upon standard recipes and product formulations; however, modest variations may occur due to differences in preparation, serving sizes, ingredients or special orders."

4. Different varieties. For a food or beverage item that is listed as a single item but includes more than one variety, the caloric information required under subsection 1 for that item must be the median value of calories for all varieties offered for that item if the caloric information for each variety of the item is within 20% of the median for that item. If the caloric information required by subsection 1 for a variety of a food or beverage item is not within 20% of the median for that item, then the caloric information must be stated for each variety of that item. If a food display tag is used to identify a specific variety of a food or beverage item, the caloric information required by subsection 1 must be for that specific variety of the item.

5. Exceptions. A chain restaurant is not required to provide information pursuant to subsection 1 for:

A. Food items served at a self-service salad bar or buffet;

B. An item offered for a limited time that appears on a menu, menu board or food display tag for less than 90 days per year;

C. A condiment or other item offered to a customer for general use without charge;

D. An item sold to a customer in a manufacturer's original sealed package that contains nutrition information as required by federal law; or

E. A custom order for a food or beverage item that does not appear on a menu, menu board or food display tag.

6. Alcoholic beverages. A chain restaurant shall state on a food display tag, menu or menu board the average caloric value for beers, wines and spirits as established by the United States Department of Agriculture, Agriculture Research Service in the National Nutrient Database for Standard Reference. A food display tag, menu or menu board for beer, wine and spirits may include the following statement: "Signature drinks or liqueurs with added ingredients may contain increased caloric content."

7. Compliance; enforcement. The department or an agent authorized to inspect an eating establishment under section 2499 shall ensure compliance with the provisions of this section but is not required to verify the accuracy of the caloric information required by this section. Upon request a chain restaurant shall provide to the department documentation of the accuracy of the information required by subsection 1. A violation of this section is a violation of the Maine Unfair Trade Practices Act, enforceable against the owner or franchisee of the eating establishment, except that no private remedies exist under Title 5, section 213. This section may not be construed to create or enhance any claim, right of action or civil liability that did not exist under state law prior to the effective date of this subsection or limit any claim, right of action or civil liability that otherwise exists under state law. No private right of action arises out of this section. The only mechanism for enforcing this section is as provided in this subsection.

8. Uniformity of regulation; preemption. To the extent consistent with federal law, the regulation of disclosure of caloric and nutritional information is a matter of statewide concern, and state law governing that disclosure occupies the whole field of regulation regarding disclosure by chain restaurants of nutritional information and requirements regarding the content required to be posted on menus, menu boards and food display tags. A local government may not adopt an ordinance regulating the dissemination of caloric or nutritional information or requiring information to be placed on menus, menu boards or food display tags by a chain restaurant, and any ordinance or regulation that violates this subsection is void and has no force or effect.

Sec. 8. Effective date. This Act takes effect February 1, 2011.

Effective February 1, 2011.

CHAPTER 396

S.P. 95 - L.D. 278

An Act To Bring Equity to the Sea Urchin License Fees

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

Sec. 1. 12 MRSA §6302-A, sub-§1, as amended by PL 1999, c. 491, §3 and affected by §9, is further amended to read:

1. Tribal exemption; commercial harvesting licenses. A member of the Passamaquoddy Tribe who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6505-A, 6505-C, 6535, ~~6536,~~ 6601, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or 6804 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe issued a tribal license pursuant to this subsection to conduct activities is subject to all

laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe:

A. May utilize lobster traps tagged with trap tags issued by the tribe in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe is not required to pay trap tag fees under section 6431-B if the tribe issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe in a manner consistent with tags issued pursuant to 6505-B. A member of the tribe is not required to pay elver fishing gear fees under section 6505-B if the tribe issues that member elver fishing gear tags; and

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671.

Sec. 2. 12 MRSA §6533, as amended by PL 1997, c. 158, §§1 and 2, is further amended to read:

§6533. Training required to act as a scallop or sea urchin tender

~~Except as provided under subsection 3, the~~ The commissioner may not issue a sea urchin and scallop diving tender license under section 6535 ~~or a scallop diving tender license under section 6536~~ to ~~any~~ a person or allow a person to act as a tender under a license issued pursuant to section 6701, subsection 5, paragraph B or section 6748, subsection 4, paragraph B unless that person has ~~attended a safety training session offered under this section~~ met the diving tender safety requirements established in rule.

~~**1. Tender safety training session.** The commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin and scallop diving tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins and scallops. For any training session taught by the department, the commissioner shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.~~

~~**2. Allowance for waivers.** The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the session. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.~~

~~**3. Requirement for 30-day license.** The commissioner may issue a 30-day temporary sea urchin and scallop diving tender license under section 6535, subsection 2-A to a person if that person provides a current certificate documenting that the person has received training in cardiopulmonary resuscitation.~~

Sec. 3. 12 MRSA §6535, as amended by PL 2003, c. 20, Pt. WW, §9, is further amended to read:

§6535. Sea urchin and scallop diving tender license

1. License required. A person may not operate a boat as a platform for the harvesting of sea urchins and scallops by hand, act as a diving tender on a boat engaged as a platform for the harvesting of sea urchins and scallops by hand or possess, ship, transport or sell scallops or sea urchins unless that person is licensed under this section, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers who harvest sea urchins and scallops by hand and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops harvested by licensed harvesters the tender has tended. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops. As used in this subsection, "tend" means to assist the diver in any way, to operate a boat as a platform for harvesting or to cull or otherwise handle the harvested product.

~~**2-A. Thirty-day temporary license.** A person may be issued a 30-day temporary sea urchin and scallop diving tender license. A person may be issued a license only one time under this subsection. A license issued under this subsection may not be renewed.~~

3. Eligibility. A sea urchin and scallop diving tender license ~~and a 30-day temporary sea urchin and scallop diving tender license~~ may be issued only to an individual who is a resident.

4. Fee. ~~Fees for licenses issued under this section are:~~ The fee for a sea urchin and scallop diving tender license is $111.

~~A. For a sea urchin and scallop diving tender license, $111; and~~

~~B. For a 30-day temporary sea urchin and scallop diving tender license, $31.~~

~~**5. Prima facie evidence.** The failure of at least one person on board the boat operated as a platform during periods of diving to harvest scallops or sea urchins to have a license issued under section 6701 or~~

~~6748 is prima facie evidence of a violation of this section.~~

6. Violation. A person who violates this section commits a civil violation for which a ~~forfeiture~~ fine of not less than $100 nor more than $500 may be adjudged.

Sec. 4. 12 MRSA §6536, as amended by PL 2003, c. 20, Pt. WW, §10, is repealed.

Sec. 5. 12 MRSA §6701, sub-§1, as amended by PL 2001, c. 421, Pt. B, §40 and affected by Pt. C, §1, is further amended to read:

1. License required. A person may not engage in the activities authorized under this section without a current hand fishing scallop license or other license issued under this Part authorizing the activities. The hand fishing scallop license with tender issued under subsection 5, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of scallops.

Sec. 6. 12 MRSA §6701, sub-§2, as amended by PL 2003, c. 248, §7, is further amended to read:

2. Licensed activity. The holder of a hand fishing scallop license may take scallops by hand or possess, ship, transport or sell shucked scallops the holder has taken. A tender authorized under subsection 5, paragraph B may possess, ship, transport and sell shucked scallops the hand fishing scallop license holder has taken. A person may not act as a tender under subsection 5, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

Sec. 7. 12 MRSA §6701, sub-§5, as amended by PL 2003, c. 20, Pt. WW, §13, is repealed and the following enacted in its place:

5. Fee. Fees for hand fishing scallop licenses are:

A. For an individual hand fishing scallop license, $111; and

B. For a hand fishing scallop license with tender, $161.

Sec. 8. 12 MRSA §6748, as amended by PL 2003, c. 20, Pt. WW, §19, is further amended to read:

§6748. Handfishing sea urchin license

1. License required. A person may not engage in the activities authorized under this section without a current handfishing sea urchin license or other license issued under this Part authorizing the activities. The handfishing sea urchin license with tender issued under subsection 4, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of sea urchins.

2. Licensed activity. The holder of a handfishing sea urchin license may take sea urchins by hand or possess, ship, transport or sell sea urchins taken by that licensee. A tender authorized under subsection 4, paragraph B may possess, ship, transport and sell sea urchins the handfishing sea urchin license holder has taken. A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

3. Eligibility. A handfishing sea urchin license may be issued only to an individual who is a resident.

4. Fee. ~~The fee for a handfishing sea urchin license is $111.~~ Fees for handfishing sea urchin licenses are:

A. For an individual handfishing sea urchin license, $111; and

B. For a handfishing sea urchin license with tender, $161.

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fees for a handfishing sea urchin license and a handfishing sea urchin license with tender issued for calendar year 2010 or 2011 to handfish for sea urchins within the area designated as Zone 1 under section 6749-N are $25 and $50 per year, respectively.

This subsection is repealed December 31, 2011.

5. Rebuttable presumption. It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

6. Violation. A person who violates this section commits a civil violation for which a ~~forfeiture~~ fine of not less than $100 nor more than $500 may be adjudged.

Sec. 9. 12 MRSA §6748-A, sub-§4-A is enacted to read:

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fee for a sea urchin dragging license issued for calendar year 2010 or 2011 to drag for sea urchins within the area designated as Zone 1 under section 6749-N is $25 per year.

This subsection is repealed December 31, 2011.

Sec. 10. 12 MRSA §6748-D, sub-§4-A is enacted to read:

4-A. Temporary Zone 1 fee. Notwithstanding subsection 4, the fee for a sea urchin hand-raking and trapping license issued for calendar year 2010 or 2011

to hand-rake or trap sea urchins within the area designated as Zone 1 under section 6749-N is $25 per year.

This subsection is repealed December 31, 2011.

See title page for effective date.

CHAPTER 397

H.P. 381 - L.D. 536

An Act To Enhance Maine's Electronic Waste Recycling Law

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

Sec. 1. 38 MRSA §1310-B, sub-§2, as repealed and replaced by PL 2007, c. 466, Pt. A, §72, is amended to read:

2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans. Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection ~~6, paragraph A, subparagraph (4), division (i) and section 1610, subsection 6, paragraph B~~ 6-A or information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submittor. Within 15 days after receipt of the notice, the submittor shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submittor and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submittor and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

Sec. 2. 38 MRSA §1610, sub-§2, ¶A, as reallocated by RR 2003, c. 2, §119, is amended to read:

A. "Computer monitor" means a covered electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. "Computer monitor" includes a digital picture frame.

Sec. 3. 38 MRSA §1610, sub-§2, ¶C, as reallocated by RR 2003, c. 2, §119, is amended to read:

C. "Covered electronic device" means a computer central processing unit, a desktop printer, a video game console, a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards. "Covered electronic device" does not include an automobile, a household appliance, a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the Federal Food, Drug, and Cosmetic Act.

Sec. 4. 38 MRSA §1610, sub-§2, ¶C-1 is enacted to read:

C-1. "Desktop printer" means a device that prints text or illustrations on paper and that is designed for external use with a desktop or portable computer. "Desktop printer" includes, but is not limited to, a daisy wheel, dot matrix, inkjet, laser, LCD and LED line or thermal printer, including a device that performs other functions in addition to printing such as copying, scanning or transmitting a facsimile.

Sec. 5. 38 MRSA §1610, sub-§2, ¶G, as amended by PL 2009, c. 231, §2 and affected by §7, is further amended to read:

G. "Orphan waste" means a covered electronic device, excluding a video game console and a television, the manufacturer of which can not be identified or is no longer in business and has no successor in interest.

Sec. 6. 38 MRSA §1610, sub-§2, ¶L is enacted to read:

L. "Video game console" means an interactive entertainment computer or electronic device that produces a video display signal that can be used with a display device such as a television or computer monitor to display a video game.

Sec. 7. 38 MRSA §1610, sub-§5, as amended by PL 2009, c. 231, §3 and affected by §7, is further amended to read:

5. Responsibility for recycling. Municipalities, consolidators, manufacturers and the State share responsibility for the disposal of covered electronic devices as provided in this subsection.

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors ~~and~~, televisions, desktop printers and video game consoles generated as waste from households within that municipality's jurisdiction are delivered to a consolidation facility in this State. A municipality may meet this requirement through collection at and transportation from a local or regional solid waste transfer station or recycling facility, by contracting with a disposal facility to accept waste directly from the municipality's residents or through curbside pickup or other convenient collection and transportation system.

B. A consolidator is subject to the requirements of this paragraph.

(1) A consolidator shall identify the manufacturer of each waste computer monitor and desktop printer delivered to a consolidation facility and identified as generated by a household in this State and shall maintain an accounting of the number of waste household computer monitors and desktop printers by manufacturer. By March 1st each year, a consolidator shall provide this accounting by manufacturer to the department.

(1-A) A consolidator shall maintain a written log of the total weight of televisions and video game consoles delivered each month to the consolidator and identified as generated by a household in the State. By March 1st each year, a consolidator shall provide this accounting to the department.

(2) A consolidator may perform the manufacturer identification required by subparagraph (1) at the consolidation facility or may contract for this identification and accounting service with the recycling and dismantling facility to which the ~~waste is~~ covered electronic devices are shipped.

(3) A consolidator shall work cooperatively with manufacturers to ensure implementation of a practical and feasible financing system with costs calculated for televisions on a basis proportional to the manufacturer's national market share of televisions in the State multiplied by the total pounds recycled and with costs calculated for video game consoles on a basis proportional to the manufacturer's national market share of video game consoles in the State multiplied by the total pounds recycled. At a minimum, a consolidator shall invoice the manufacturers for the handling, transportation and recycling costs for which they are responsible under the provisions of this subsection.

(4) A consolidator shall transport ~~waste~~ computer monitors ~~and waste~~, televisions, desktop printers and video game consoles to a recycling and dismantling facility that provides a sworn certification pursuant to paragraph C. A consolidator shall maintain for a minimum of 3 years a copy of the sworn certification from each recycling and dismantling facility that receives covered electronic devices from the consolidator and shall provide the department with a copy of these records within 24 hours of request by the department.

C. A recycling and dismantling facility shall provide to a consolidator a sworn certification that its handling, processing, refurbishment and recycling of covered electronic devices meet guidelines for environmentally sound management published by the department.

D. Computer monitor ~~manufacturers and~~, television, desktop printer and video game console manufacturers are subject to the requirements of this paragraph.

(1) ~~Ninety days after the department adopts rules as provided for in this subparagraph, each~~ Each computer monitor manufacturer and each desktop printer manufacturer is individually responsible for handling and recycling all computer monitors and desktop printers that are produced by that manufacturer or by any business for which the manufacturer has assumed legal responsibility, that are generated as waste by households in this State and that are received at consolidation

facilities in this State. In addition, each computer manufacturer is responsible for a pro rata share of orphan waste computer monitors and each desktop printer manufacturer is responsible for a pro rata share of orphan waste desktop printers generated as waste by households in this State and received at consolidation facilities ~~in this State~~. The manufacturers shall pay the reasonable operational costs of the consolidator attributable to the handling of all computer monitors ~~and~~, televisions, desktop printers and video game consoles generated as waste by households in this State, the transportation costs from the consolidation facility to a licensed recycling and dismantling facility and the costs of recycling. "Reasonable operational costs" includes the costs associated with ensuring that consolidation facilities are geographically located to conveniently serve all areas of the State as determined by the department. The recycling of televisions must be funded by allocating the cost of the program among the manufacturers selling televisions in the State on a basis proportional to the manufacturer's national market share of televisions. The department shall annually determine each television manufacturer's recycling share based on readily available national market share data. If the department determines that a television manufacturer's market share is less than 1/10 of 1%, the department may ~~deem~~ determine that market share de minimus. A television manufacturer whose market share is ~~deemed~~ determined de minimus by the department is not responsible for payment of a pro rata share of televisions for the corresponding billing year. The total market shares ~~deemed~~ determined de minimus by the department must be proportionally allocated to and paid for by the television manufacturers that have 1/10 of 1% or more of the market. ~~The manufacturers shall ensure that consolidation facilities are geographically located to conveniently serve all areas of the State as determined by the department. By November 1, 2005, the department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of computer monitors and televisions.~~ The recycling of video game consoles must be funded by allocating the cost of the program among the manufacturers selling video game consoles in the State on a basis proportional to the manufacturer's national market share of video game consoles. The department shall annually determine each video game console manufacturer's recycling share based on readily available national market share data. If the department determines that a video game console manufacturer's market share is less than 1/10 of 1%, the department may determine that market share de minimus. A video game console manufacturer whose market share is determined de minimus by the department is not responsible for payment of a pro rata share of video game consoles for the corresponding billing year. The total market shares determined de minimus by the department must be proportionally allocated to and paid for by the video game console manufacturers that have 1/10 of 1% or more of the market.

(2) Each computer monitor manufacturer ~~and~~, television manufacturer, desktop printer manufacturer and video game console manufacturer shall work cooperatively with consolidators to ensure implementation of a practical and feasible financing system. Within 90 days of receipt of an invoice, a manufacturer shall reimburse a consolidator for allowable costs incurred by that consolidator.

E. Annually~~,~~ by January 1st the department shall provide manufacturers of computer monitors and desktop printers and consolidators with a listing of each manufacturer's pro rata share of orphan waste computer monitors and desktop printers. The department shall determine each manufacturer's pro rata share based on the best available information, including but not limited to data provided by manufacturers and consolidators and data from electronic waste collection programs in other jurisdictions within the United States. Annually, the department shall also provide manufacturers of televisions and consolidators with a listing of each television manufacturer's proportional market share responsibility for the recycling of televisions for the subsequent calendar year. Annually by January 1st, the department shall also provide manufacturers of video game consoles and consolidators with a listing of each video game console manufacturer's proportional market share responsibility for the recycling of video game consoles for the subsequent calendar year.

Sec. 8. 38 MRSA §1610, sub-§6, as amended by PL 2009, c. 231, §4 and affected by §7, is repealed.

Sec. 9. 38 MRSA §1610, sub-§6-A is enacted to read:

6-A. Manufacturer registration. By July 1st annually, a manufacturer that offers or has offered a computer monitor, television, desktop printer or video game console for sale in this State shall submit a registration to the department and pay to the department an

annual registration fee of $3,000. The annual registration must include:

A. The name, contact and billing information of the manufacturer;

B. The manufacturer's brand name or names and the type of televisions, video game consoles, computer monitors and desktop printers on which each brand is used, including:

(1) All brands sold in the State in the past; and

(2) All brands currently being sold in the State;

C. When a word or phrase is used as the label, the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;

D. When a logo, mark or image is used as a label, the manufacturer must include a graphic representation of the logo, mark or image and a general description of the logo, mark or image as it appears on the manufacturer's electronic products;

E. The method or methods of sale used in the State;

F. Annual sales data on the number and type of computer monitors, televisions, desktop printers and video game consoles sold by the manufacturer in this State over the 5 years preceding the filing of the plan. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B; and

G. The manufacturer's consolidator handling option for the next calendar year, as selected in accordance with rules adopted pursuant to subsection 10.

A manufacturer's annual registration filed subsequent to its initial registration must clearly delineate any changes in information from the previous year's registration. Whenever there is any change to the information on the manufacturer's registration, the manufacturer shall submit an updated form within 14 days of the change. Registration fees collected by the department pursuant to this subsection must be deposited in the Maine Environmental Protection Fund established in section 351.

Sec. 10. 38 MRSA §1610, sub-§7, as amended by PL 2009, c. 231, §5 and affected by §7, is further amended to read:

7. Enforcement; cost recovery. The department must enforce this section in accordance with the provisions of sections 347-A and 349. If a manufacturer fails to pay for the costs allocated to it pursuant to ~~section 1610,~~ subsection 5, paragraph D, subparagraph (1), including, for a computer monitor manufacturer and a desktop printer manufacturer, its pro rata share of costs attributable to orphan waste, the department may pay a consolidator its legitimate costs from the Maine Solid Waste Management Fund established in section 2201 and seek cost recovery from the nonpaying manufacturer. Any nonpaying manufacturer is liable to the State for costs incurred by the State in an amount up to 3 times the amount incurred as a result of such failure to comply.

The Attorney General is authorized to commence a civil action against any manufacturer to recover the costs described in this subsection, which are in addition to any fines and penalties established pursuant to section 349. Any money received by the State pursuant to this subsection must be deposited in the Maine Solid Waste Management Fund established in section 2201.

Sec. 11. 38 MRSA §1610, sub-§10 is enacted to read:

10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement, administer and enforce this chapter. The rules must identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of computer monitors, video game consoles, televisions and desktop printers.

Sec. 12. 38 MRSA §1610, sub-§11 is enacted to read:

11. Interstate clearinghouse for electronic waste. The department may participate in the establishment and implementation of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

Sec. 13. Transition. Prior to July 1, 2010, a manufacturer may meet the requirements of the Maine Revised Statutes, Title 38, section 1610, subsection 6 by registering in accordance with section 1610, subsection 6-A as enacted in this Act.

Sec. 14. Effective date. That section of this Act that repeals the Maine Revised Statutes, Title 38, section 1610, subsection 6 and that section of this Act that enacts Title 38, section 1610, subsection 6-A take effect July 1, 2010.

See title page for effective date, unless otherwise indicated.

CHAPTER 398

H.P. 850 - L.D. 1230

An Act To Prohibit the Delivery of Tobacco Products to Minors

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

Sec. 1. 22 MRSA §1551, sub-§5 is enacted to read:

5. Premium cigar. "Premium cigar" means a cigar that weighs more than 3 pounds per 1,000 and is wrapped in whole tobacco leaf.

Sec. 2. 22 MRSA §1555-B, sub-§1, as amended by PL 2005, c. 223, §4, is further amended to read:

1. Retail sales. Tobacco products may be sold at retail only in a direct, face-to-face exchange in which the purchaser may be clearly identified ~~and through the mail under procedures approved by the department to provide reliable verification that the purchaser is not a minor~~. For direct, face-to-face sales, employees who sell tobacco products must be at least 17 years of age. An employee who is at least 17 years of age but less than 21 years of age may sell tobacco products only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity.

Sec. 3. 22 MRSA §1555-C, as enacted by PL 2003, c. 444, §2, is amended to read:

§1555-C. Delivery sales of premium cigars

The following requirements apply to delivery sales of ~~tobacco products~~ premium cigars within the State beginning October 1, 2009.

1. License required. It is unlawful for any person to accept an order for a delivery sale of ~~tobacco products~~ premium cigars to a consumer in the State unless that person is licensed under this chapter as a tobacco retailer. The following penalties apply to violations of this subsection.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $50 and not more than $1,500 may be adjudged for each violation.

B. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 2, ~~3~~ or 4 commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged.

2. Requirements for accepting order for delivery sale. The following provisions apply to acceptance of an order for a delivery sale of ~~tobacco products~~ premium cigars.

A. When accepting the first order for a delivery sale from a consumer, the tobacco retailer shall obtain the following information from the person placing the order:

(1) A copy of a valid government-issued document that provides the person's name, current address, photograph and date of birth; and

(2) An original written statement signed by the person documenting that the person:

(a) Is of legal age to purchase tobacco products in the State;

~~(b) Has made a choice whether to receive mailings from a tobacco retailer;~~

(c) Understands that providing false information may constitute a violation of law; and

(d) Understands that it is a violation of law to purchase ~~tobacco products~~ premium cigars for subsequent resale or for delivery to persons who are under the legal age to purchase ~~tobacco products~~ premium cigars.

B. If an order is made as a result of advertisement over the Internet, the tobacco retailer shall request the e-mail address of the purchaser and shall receive payment by credit card or check prior to shipping.

C. Prior to shipping the ~~tobacco products~~ premium cigars, the tobacco retailer shall verify the information provided under paragraph A against a commercially available database derived solely from government records consisting of age and identity information, including date of birth.

D. A person who violates this subsection commits a civil violation for which a fine of not less than $50 and not more than $1,500 may be adjudged for each violation.

E. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1, 3 or 4 commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged.

~~**3. Requirements for shipping a delivery sale.** The following provisions apply to a tobacco retailer shipping tobacco products pursuant to a delivery sale.~~

~~A. Prior to shipping, the tobacco retailer shall provide to the delivery service the age of the purchaser as provided under subsection 2, paragraph A and verified under subsection 2, paragraph C.~~

~~B. The tobacco retailer shall clearly mark the outside of the package of tobacco products to be~~

~~shipped to indicate that the contents are tobacco products and to show the name and State of Maine tobacco license number of the tobacco retailer.~~

~~C. The tobacco retailer shall utilize a delivery service that imposes the following requirements:~~

~~(1) The purchaser must be the addressee;~~

~~(2) The addressee must be of legal age to purchase tobacco products and must sign for the package; and~~

~~(3) If the addressee is under 27 years of age, the addressee must show valid government-issued identification that contains a photograph of the addressee and indicates that the addressee is of legal age to purchase tobacco products.~~

~~D. The delivery instructions must clearly indicate the requirements of this subsection and must declare that state law requires compliance with the requirements.~~

~~E. A person who violates this subsection commits a civil violation for which a fine of not less than $50 and not more than $1,500 may be adjudged for each violation.~~

~~F. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1, 2 or 4 commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged.~~

4. Reporting requirements. No later than the 10th day of each calendar month, a tobacco retailer that has made a delivery sale of ~~tobacco products~~ premium cigars or shipped or delivered ~~tobacco products~~ premium cigars into the State in a delivery sale in the previous calendar month shall file with the Department of Administrative and Financial Services, Bureau of Revenue Services a memorandum or a copy of each invoice that provides for each delivery sale the name and address of the purchaser and the brand or brands and quantity of ~~tobacco products~~ premium cigars sold. ~~A tobacco retailer that meets the requirements of 15 United States Code, Section 375 et seq. (1955) satisfies the requirements of this subsection.~~ The following penalties apply to violations of this subsection.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $50 and not more than $1,500 may be adjudged for each violation.

B. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1, or 2 ~~or 3~~ commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged.

5. Unlawful ordering. It is unlawful to submit ordering information for ~~tobacco products~~ premium cigars by delivery sale under subsection 2, paragraph A in the name of another person. A person who violates this subsection commits a civil violation for which a fine of not more than $10,000 may be adjudged.

6. Rulemaking. The department and the Department of Administrative and Financial Services shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Forfeiture. Any ~~tobacco product~~ premium cigar sold or attempted to be sold in a delivery sale that does not meet the requirements of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of Title 36, section 4372-A.

8. Enforcement. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Maine Unfair Trade Practices Act.

Sec. 4. 22 MRSA §1555-D, first ¶, as enacted by PL 2003, c. 444, §2, is amended to read:

A person may not knowingly transport or cause to be delivered to a person in this State a tobacco product purchased from a person who is not licensed as a tobacco retailer in this State, except that this provision does not apply to the transportation or delivery of tobacco products to a licensed tobacco distributor or tobacco retailer. ~~A person is deemed to know that a package contains a tobacco product if the package is marked in accordance with the requirements of section 1555-C, subsection 3, paragraph B or if the person receives the package from a person listed as an unlicensed tobacco retailer by the Attorney General under this section.~~

Sec. 5. 22 MRSA §1555-F is enacted to read:

§1555-F. Delivery sales of tobacco products

1. Prohibition against delivery sales to consumers. The following requirements apply to delivery sales of tobacco products within the State.

A. A tobacco product may not be shipped to anyone other than a licensed tobacco distributor or licensed tobacco retailer in this State.

B. A person may not, with knowledge or reason to know of the violation, provide substantial assistance to a person in violation of this section.

2. Acceptance of delivery of tobacco products. Only a licensed tobacco distributor or licensed tobacco retailer may accept delivery of tobacco products in this State.

3. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged for each violation.

B. An employer of a person who, while working and within the scope of that person's employment, violates this section commits a civil violation for which a fine of not less than $1,000 and not more than $5,000 may be adjudged for each violation.

C. For purposes of this section, each shipment or transport of tobacco products constitutes a separate violation.

D. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Maine Unfair Trade Practices Act.

E. If a court determines that a person has violated the provisions of this section, the court shall order any profits, gains, gross receipts or other benefits from the violation to be disgorged and paid to the Treasurer of State for deposit in the General Fund. Unless otherwise expressly provided, the penalties or remedies or both under this section are in addition to any other penalties and remedies available under any other law of this State.

4. Rulemaking. The department and the Department of Administrative and Financial Services shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Forfeiture. Any tobacco product sold or attempted to be sold in violation of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of Title 36, section 4372-A.

6. Exemption. The provisions of this section do not apply to the delivery sale of premium cigars to a consumer.

Sec. 6. Effective date. This Act takes effect October 1, 2009.

Effective October 1, 2009.

CHAPTER 399

H.P. 657 - L.D. 954

An Act To Clarify the Role of the Public Advocate

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

Sec. 1. 35-A MRSA §1701, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 2. 35-A MRSA §1701, sub-§1-A is enacted to read:

1-A. Appointment of the Public Advocate; term; removal. This subsection governs the appointment, term of service and removal of the Public Advocate.

A. The Governor shall appoint the Public Advocate, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature.

B. The Public Advocate shall serve for a 4-year term of office, beginning on February 1, 2013 and every 4 years thereafter.

C. The Public Advocate may continue to serve beyond the end of the 4-year term until a successor is appointed and qualified.

D. Any vacancy occurring must be filled by appointment for the unexpired portion of the term.

E. Any willful violation of this chapter by the Public Advocate constitutes sufficient cause for removal of the Public Advocate by the Governor, on the address of both branches of the Legislature or by impeachment pursuant to the Constitution of Maine, Article IX, Section 5.

Sec. 3. Transition of Public Advocate. Notwithstanding the Maine Revised Statutes, Title 35-A, section 1701, subsection 1-A, paragraph B, the term of the Public Advocate holding that office on the effective date of this Act ends on January 31, 2013.

See title page for effective date.

CHAPTER 400

H.P. 731 - L.D. 1056

An Act To Simplify the Assessment of E-9-1-1 Surcharges on Prepaid Wireless Telecommunications Service

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

Sec. 1. 25 MRSA §2921, sub-§13, as enacted by PL 2007, c. 68, §3, is amended to read:

13. Prepaid wireless telecommunications service. "Prepaid wireless ~~telephone~~ telecommunications service" means a cellular or wireless telecommunications service that ~~the customer pays for prior to activation of the service~~ allows a caller to dial 9-1-1 to access the E-9-1-1 system, which service must be paid for in advance and is sold in predetermined units or dollars that declines with use in a known amount.

Sec. 2. 25 MRSA §2921, sub-§13-A is enacted to read:

13-A. Prepaid wireless telecommunications service consumer. "Prepaid wireless telecommunications service consumer" or "prepaid wireless consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

Sec. 3. 25 MRSA §2921, sub-§14, as enacted by PL 2007, c. 68, §4, is amended to read:

14. Prepaid wireless telecommunications service provider. "Prepaid wireless ~~telephone~~ telecommunications service provider" means a ~~cellular or~~ person that provides prepaid wireless telecommunications service ~~provider that sells prepaid wireless telephone service at wholesale or retail~~ pursuant to a license issued by the Federal Communications Commission.

Sec. 4. 25 MRSA §2921, sub-§15 is enacted to read:

15. Retail transaction. "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

Sec. 5. 25 MRSA §2921, sub-§16 is enacted to read:

16. Seller. "Seller" means a person who sells prepaid wireless telecommunications service to another person.

Sec. 6. 25 MRSA §2927, sub-§1-B, as amended by PL 2007, c. 637, §1, is repealed.

Sec. 7. 25 MRSA §2927, sub-§1-C, as enacted by PL 2007, c. 68, §6, is repealed.

Sec. 8. 25 MRSA §2927, sub-§1-D is enacted to read:

1-D. Funding. The activities authorized under this chapter are funded through:

A. The statewide E-9-1-1 surcharge under subsection 1-E levied on:

(1) Each residential and business telephone exchange line, including private branch exchange lines and Centrex lines;

(2) Semipublic coin and public access lines;

(3) Customers of interconnected voice over Internet protocol service; and

(4) Customers of cellular or wireless telecommunications service that is not prepaid wireless telecommunications service; and

B. The statewide prepaid wireless E-9-1-1 surcharge under subsection 1-F levied on prepaid wireless telecommunications service consumers.

Sec. 9. 25 MRSA §2927, sub-§1-E is enacted to read:

1-E. Statewide E-9-1-1 surcharge. The statewide E-9-1-1 surcharge is governed by this subsection.

A. The statewide E-9-1-1 surcharge is 30¢ per month per line or number. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account.

B. The statewide E-9-1-1 surcharge must be collected from the customer according to subsection 1-D, paragraph A on a monthly basis by each local exchange telephone utility, cellular or wireless telecommunications service provider and interconnected voice over Internet protocol service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill.

C. The place of residence of cellular or wireless telecommunications service customers who are not prepaid wireless telecommunications service consumers must be determined according to the sourcing rules for mobile telecommunications services as set forth in Title 36, section 2556.

Sec. 10. 25 MRSA §2927, sub-§1-F is enacted to read:

1-F. Statewide prepaid wireless telecommunications service E-9-1-1 surcharge. The statewide prepaid wireless telecommunications service E-9-1-1 surcharge, referred to in this subsection as "the prepaid wireless E-9-1-1 surcharge," is governed by this subsection.

A. The prepaid wireless E-9-1-1 surcharge is 30¢ per retail transaction.

B. The prepaid wireless E-9-1-1 surcharge must be collected by the seller from the prepaid wireless consumer according to subsection 1-D, paragraph B with respect to each retail transaction occurring in this State. The amount of the prepaid wireless E-9-1-1 surcharge must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller when practicable. In circumstances

in which disclosure of the E-9-1-1 surcharge on an invoice, receipt or similar document is not practicable, the seller must otherwise make information available to the consumer regarding the amount of the E-9-1-1 prepaid surcharge.

C. For purposes of paragraph B, a retail transaction that is effected in person by a prepaid wireless consumer at the business location of the seller is treated as occurring in this State if that business location is in this State. Any other retail transaction must be treated as occurring in this State if the retail transaction is treated as occurring in this State for the purposes of Title 36, section 1752, subsection 8-B.

D. The prepaid wireless E-9-1-1 surcharge is the liability of the prepaid wireless consumer and not of the seller or of any prepaid wireless telecommunications service provider, except that the seller is liable to remit all prepaid wireless E-9-1-1 surcharges that the seller collects from prepaid wireless consumers as provided in this subsection, including all such charges that the seller is deemed to collect when the amount of the surcharge has not been separately stated on an invoice, receipt or similar document provided to the prepaid wireless consumer by the seller.

E. The amount of the prepaid wireless E-9-1-1 surcharge that is collected by a seller from a prepaid wireless consumer, whether or not such amount is separately stated on an invoice, receipt or similar document provided to the prepaid wireless consumer by the seller, may not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this State, any political subdivision of this State or any intergovernmental agency.

F. If the prepaid wireless E-9-1-1 surcharge amount established in paragraph A is amended, the new surcharge amount takes effect 60 days after enactment of the change to the surcharge amount in paragraph A. The bureau shall provide not less than 30 days advance notice of any change to the surcharge amount on the bureau's publicly accessible website.

G. Prepaid wireless E-9-1-1 surcharges collected by sellers must be remitted to the Treasurer of State. Prepaid wireless E-9-1-1 surcharges must be remitted at the times and in the manner provided for the remittance of sales taxes under Title 36, section 1951-A and rules adopted pursuant to that section for the remittance of sales taxes on an other than monthly basis. The State Tax Assessor shall establish registration and payment procedures that substantially coincide with registration and payment procedures as provided in Title 36, section 1754-B and related provisions.

H. A seller who is not a prepaid wireless telecommunications service provider may deduct and retain 3% of prepaid wireless E-9-1-1 surcharges that are collected by the seller from consumers.

I. The State Tax Assessor shall establish procedures by which a seller may document that a sale is not a retail transaction, which procedures must substantially coincide with the procedures for documenting a sale for retail transaction as provided in Title 36, section 1754-B.

J. The State Tax Assessor shall ensure that all remitted prepaid wireless E-9-1-1 surcharges are deposited in the E-9-1-1 fund under subsection 2-B within 30 days of receipt. For prepaid wireless E-9-1-1 surcharges remitted during the period beginning January 1, 2010 and ending December 31, 2011, the State Tax Assessor may deduct an amount not to exceed 2% of remitted prepaid wireless E-9-1-1 surcharges to reimburse the direct costs of the assessor for administering the collection and remittance of the prepaid wireless E-9-1-1 surcharges during that period.

Sec. 11. 25 MRSA §2927, sub-§1-G is enacted to read:

1-G. E-9-1-1 funding obligation; limitation. The statewide E-9-1-1 surcharge imposed by subsection 1-E and the prepaid wireless E-9-1-1 surcharge imposed by subsection 1-F are the only E-9-1-1 funding obligations imposed with respect to telecommunications services in this State, and another tax, fee, surcharge or other charge may not be imposed by this State, any political subdivision of this State or any intergovernmental agency for funding E-9-1-1 purposes on any telecommunications service with respect to the sale, purchase, use or provision of that telecommunications service.

Sec. 12. 25 MRSA §2927, sub-§2-B, as amended by PL 2007, c. 68, §7, is further amended to read:

2-B. Surcharge remittance. Each local exchange telephone utility, cellular or wireless telecommunications service provider~~, including a prepaid wireless telephone service provider,~~ and interconnected voice over Internet protocol service provider shall remit the statewide E-9-1-1 surcharge revenues collected from its customers pursuant to ~~this section~~ subsection 1-D on a monthly basis and within one month of the month collected to the Treasurer of State for deposit in a separate account known as the E-9-1-1 fund. Each telephone utility or service provider required to remit statewide E-9-1-1 surcharge revenues shall provide, on a form approved by the bureau, supporting data, including but not limited to the following:

A. The calculation used to arrive at the surcharge remittance amount;

B. The calculation used to arrive at the uncollectible amount of surcharge;

C. The total surcharge;

D. The month and year for which surcharge is remitted;

E. The legal name of company and telephone number and, if applicable, the parent company name, address and telephone number; and

F. The preparer's name and telephone number.

Prepaid wireless E-9-1-1 surcharges collected by sellers must be remitted to the Treasurer of State in accordance with subsection 1-F, paragraph G.

Sec. 13. Transfer from Other Special Revenue Funds; Public Utilities Commission. Notwithstanding any other provision of law, on or before October 1, 2009 the State Controller shall transfer $10,000 from the Public Utilities Commission E-9-1-1 fund to the Bureau of Revenue Services, Internal Services Fund account established pursuant to the Maine Revised Statutes, Title 36, section 114.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Bureau of Revenue Services Fund 0885

Initiative: Provides a one-time allocation of $10,000 to Maine Revenue Services for computer programming changes and also provides an allocation for other administrative costs to be reimbursed through retention of 2% of telecommunications prepaid wireless fees collected for the Public Utilities Commission.

BUREAU OF REVENUE SERVICES FUND	2009-10	2010-11
All Other	$10,880	$1,720
BUREAU OF REVENUE SERVICES FUND TOTAL	$10,880	$1,720

Sec. 15. Effective date. This Act takes effect January 1, 2010.

Effective January 1, 2010.

CHAPTER 401

H.P. 301 - L.D. 413

An Act To Clarify Land Use Regulation in Unorganized and Deorganized Townships

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

Sec. 1. 12 MRSA §681, 2nd ¶, as amended by PL 1973, c. 569, §1, is further amended to read:

~~In addition, the~~ The Legislature declares it to be in the public interest, for the public benefit ~~and~~, for the good order of the people of this State and for the benefit of the property owners and residents of the unorganized and deorganized townships of the State, to encourage the ~~well-planned~~ well-planned and ~~well-managed~~ well-managed multiple use of land and resources ~~and~~. The Legislature acknowledges the importance of these areas in the continued vitality of the State and to local economies. Finally, the Legislature desires to encourage the appropriate use of these lands by the residents of Maine and visitors~~,~~ in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

See title page for effective date.

CHAPTER 402

H.P. 994 - L.D. 1418

An Act To Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures

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

Whereas, the State's rate of mortgages in foreclosure is rising to unprecedented levels, both for prime and subprime mortgages; and

Whereas, foreclosures are expected to continue in the State because homeowners will not be able to afford payments due to rising adjustable mortgage payments, rising unemployment and job loss; and

Whereas, homeowners are expected to have continued problems selling their properties at the value of their mortgages due to falling housing prices; and

Whereas, foreclosures contribute to the decline in the State's housing market, loss of property values and loss of tax revenues; and

Whereas, the number of foreclosure actions in the courts is rapidly increasing and the current system for resolving foreclosure actions is creating a burden on the court system; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 4 MRSA §18-B, sub-§12 is enacted to read:

12. Mediation involving mortgage foreclosures on owner-occupied residential property. The foreclosure mediation program is a program within the Supreme Judicial Court to provide mediation in the courts throughout the State pursuant to Title 14, section 6321-A.

A. The Supreme Judicial Court, or a person or organization designated by the court, shall administer the foreclosure mediation program.

B. A foreclosure mediation program fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected to support mediation services pursuant to Title 14, section 6321-A, subsection 3 must be deposited in the fund. The Administrative Office of the Courts shall use the resources in the fund to cover the costs of providing mediation services as required under Title 14, section 6321-A.

Sec. 2. 4 MRSA §104, as amended by PL 2009, c. 136, §1, is further amended to read:

§104. Active retired justices

Any Justice of the Superior Court who has retired from the court under this chapter in effect prior to December 1, 1984, or any Justice of the Superior Court who retires or terminates that justice's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Justice of the Superior Court. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible justice as an Active Retired Justice of the Superior Court for a term of 7 years, unless sooner removed. That justice may be reappointed for a like term. Any justice so appointed and designated thereupon constitutes a part of the court from which that justice has retired and has the same jurisdiction and is subject to the same restrictions therein as before retirement. An Active Retired Justice of the Superior Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Justice of the Superior Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Justice of the Superior Court may act only in the cases and matters and hold court only at the terms and times as that justice is directed and assigned by the Chief Justice of the Superior Court. Any Active Retired Justice of the Superior Court may be directed by the Chief Justice to hold any term of the Superior Court in any county and when so directed has authority and jurisdiction therein the same as if that justice were the regular justice of that court. Whenever the Chief Justice of the Superior Court so orders, that justice may hear all matters and issue all orders, notices, decrees and judgments in vacation that any justice of that Superior Court is authorized to hear and issue. An Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Superior Court to act as a mediator for the foreclosure mediation program in accordance with Title 14, section 6321-A, subsection 7. An Active Retired Justice of the Superior Court receives reimbursement for expenses actually and reasonably incurred in the performance of that justice's duties.

Sec. 3. 4 MRSA §157-B, as amended by PL 2009, c. 136, §2, is further amended to read:

§157-B. Active retired judges; appointment

Any Judge of the District Court who has retired from the court under this chapter prior to December 1, 1984, or any Judge of the District Court who retires or terminates that judge's service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Judge of the District Court as provided. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, may appoint any eligible judge to be an Active Retired Judge of the District Court for a term of 7 years, unless sooner removed. That judge may be reappointed for a like term. Any judge so appointed and designated thereupon constitutes a part of the court from which that judge has retired and has the same jurisdiction and is subject to the same restrictions therein as before retirement. An Active Retired Judge of the District Court may serve as an arbitrator and conduct arbitration in accordance with rules that may be adopted by the Supreme Judicial Court, except that nothing in this section requires the Supreme Judicial Court to adopt those rules. An Active Retired Judge of the District Court may chair screening panels in accordance with Title 24, chapter 21, subchapter 4-A. An Active Retired Judge of the District Court may act only in those cases and matters and hold court only at those sessions and times as that judge is directed and assigned by the Chief Judge of the District Court. Any Active Retired Judge of the District Court may be directed by the Chief Judge to hold any session of the District Court in any district and when so directed has authority and jurisdiction therein the same as if that judge were the regular judge of that court and, whenever the Chief Judge of the District Court so orders, may hear all matters and issue all orders, notices, decrees and judgments that any Judge of that District Court is au-

thorized to hear and issue. An Active Retired Judge of the District Court receives reimbursement for expenses actually and reasonably incurred in the performance of that judge's duties. An Active Retired Judge of the District Court may be assigned by the Chief Judge of the District Court to act as a mediator for the foreclosure mediation program in accordance with Title 14, section 6321-A, subsection 7.

Sec. 4. 9-A MRSA §6-116, sub-§2, as amended by PL 1995, c. 397, §1, is further amended to read:

2. Financial information not normally available to the public that is submitted in confidence by an individual or organization to comply with the licensing, registration or other regulatory functions of the administrator; ~~and~~

Sec. 5. 9-A MRSA §6-116, sub-§3, as enacted by PL 1985, c. 763, Pt. A, §51, is amended to read:

3. Proposed loan documents and other commercial paper submitted to be approved for use and not yet available to the general public or customers of the submitting institution or firm~~.~~; and

Sec. 6. 9-A MRSA §6-116, sub-§4 is enacted to read:

4. Any contact information or financial information relating to a mortgagor submitted pursuant to Title 14, section 6111, subsection 3-A and any written notice sent to a mortgagor pursuant to Title 14, section 6111, subsection 4-A that includes a mortgagor's contact information.

Sec. 7. 9-A MRSA §9-408 is enacted to read:

§9-408. Violation of the Maine Unfair Trade Practices Act

Any violation of this article constitutes a violation of the Maine Unfair Trade Practices Act.

Sec. 8. 9-B MRSA §162, sub-§7 is enacted to read:

7. Disclosure of notice of mortgagor's right to cure. The financial records pertain to a notice of mortgagor's right to cure and are disclosed to the Bureau of Consumer Credit Protection pursuant to Title 14, section 6111, subsection 3-A.

Sec. 9. 14 MRSA §2401, sub-§3, as amended by PL 1993, c. 114, §2 and affected by §4, is further amended to read:

3. Judgment required; recording and contents. The judgment in the proceeding must be signed by the judge and contain the following provisions:

A. The names and addresses, if known, of all parties to the action, including the counsel of record;

B. The docket number;

C. A finding that all parties have received notice of the proceedings in accordance with the applicable provisions of the Maine Rules of Civil Procedure and, if the notice was served or given pursuant to an order of a court, including service by publication, that the notice was served or given pursuant to the order;

D. An adequate description of real estate involved; ~~and~~

F. A certification to be signed by the clerk after the appeal period has expired, certifying that the applicable period has expired without action or the final judgment has been entered after remand following appeal~~.~~; and

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

Unless a proposed judgment with the provisions required in this subsection is presented to the court at the time of the court's decision, the court shall name the party responsible for preparing a judgment with the required provisions. An attested copy of the judgment with the signed clerk's certification must be recorded in the registry of deeds for the county or counties where the subject property is located within one year of the entry of the final judgment unless otherwise ordered by the court. For the purposes of this section, a judgment is not final until all applicable appeal periods have expired and any appellate proceedings and subsequent actions on remand, if any, have been concluded. The court shall name the party responsible for recording the attested copy of the judgment and for paying the appropriate recording fees. The judgment has no effect as to any person not a party to the proceeding who has no actual knowledge of the judgment unless an attested copy of the judgment is recorded in accordance with this section. A judgment of foreclosure and sale for recording may not be recorded in the registry of deeds unless it is in compliance with the requirements of this section. Failure to comply with this section does not affect the validity of the underlying judgment.

Sec. 10. 14 MRSA §6111, sub-§1, as amended by PL 1997, c. 579, §1, is further amended to read:

1. Notice; payment. With respect to mortgages upon residential property located in this State when the mortgagor is occupying all or a portion of the property as the mortgagor's primary residence and the mortgage secures a loan for personal, family or household use, the mortgagee may not accelerate maturity of the unpaid balance of the obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any required payment, tax payment or insurance premium payment, by any

method authorized by this chapter until at least ~~30~~ 35 days after the date that written notice pursuant to subsection 1-A is given by the mortgagee to the mortgagor and any cosigner against whom the mortgagee is enforcing the obligation secured by the mortgage at the last known addresses of the mortgagor and any cosigner that the mortgagor has the right to cure the default by full payment of all amounts that are due without acceleration, including reasonable interest and late charges specified in the mortgage or note as well as reasonable attorney's fees. If the mortgagor tenders payment of the amounts before the date specified in the notice, the mortgagor is restored to all rights under the mortgage deed as though the default had not occurred.

Sec. 11. 14 MRSA §6111, sub-§1-A is enacted to read:

1-A. Contents of notice. A mortgagee shall include in the written notice under subsection 1 the following:

A. The mortgagor's right to cure the default as provided in subsection 1;

B. An itemization of all past due amounts causing the loan to be in default;

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

D. A statement that the mortgagor may have options available other than foreclosure, that the mortgagor may discuss available options with the mortgagee, the mortgage servicer or a counselor approved by the United States Department of Housing and Urban Development and that the mortgagor is encouraged to explore available options prior to the end of the right-to-cure period;

E. The address, telephone number and other contact information for persons having authority to modify a mortgage loan with the mortgagor to avoid foreclosure, including, but not limited to, the mortgagee, the mortgage servicer and an agent of the mortgagee;

F. The name, address, telephone number and other contact information for all counseling agencies approved by the United States Department of Housing and Urban Development operating to assist mortgagors in the State to avoid foreclosure; and

G. Where mediation is available as set forth in section 6321-A, a statement that a mortgagor may request mediation to explore options for avoiding foreclosure judgment.

Sec. 12. 14 MRSA §6111, sub-§3-A is enacted to read:

3-A. Information; Bureau of Consumer Credit Protection. Within 3 days of providing written notice to the mortgagor as required by subsections 1 and 1-A, the mortgagee shall file with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, in electronic format as designated by the Bureau of Consumer Credit Protection, information including:

A. The name and address of the mortgagor and the date the written notice required by subsections 1 and 1-A was mailed to the mortgagor and the address to which the notice was sent;

B. The address, telephone number and other contact information for persons having authority to modify a mortgage loan with the mortgagor to avoid foreclosure, including, but not limited to, the mortgagee, the mortgage servicer and an agent of the mortgagee; and

C. Other information, as permitted by state and federal law, requested of the mortgagor by the Bureau of Consumer Credit Protection.

Sec. 13. 14 MRSA §6111, sub-§3-B is enacted to read:

3-B. Report. On a quarterly basis, the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the number of notices received pursuant to subsection 3-A. To the extent information is available, the report must also include information on the number of foreclosure filings based on data collected from the court and the Department of Professional and Financial Regulation, Bureau of Financial Institutions and on the types of lenders that are filing foreclosures.

Sec. 14. 14 MRSA §6111, sub-§4-A is enacted to read:

4-A. Letter to mortgagor. Within 3 days of receiving electronic information from the mortgagee as set forth in subsection 3-A, the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall send a written notice to the mortgagor that includes a summary of the mortgagor's rights and available resources, including information concerning the foreclosure mediation program as established in section 6321-A.

Sec. 15. 14 MRSA §6112 is enacted to read:

§6112. Statewide outreach

To the extent resources are available pursuant to subsection 4, the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall engage in the following activities.

1. Hotline. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Pro-

tection shall establish a statewide hotline to facilitate a mortgagor's communication with housing counselors approved by the United States Department of Housing and Urban Development for the purposes of discussing options to avoid foreclosure.

2. Outreach; housing counseling services. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, in consultation with the Maine State Housing Authority, shall coordinate an outreach program to help families with their housing needs with the intent of expanding the outreach program statewide. The bureau shall use a portion of the funds received pursuant to subsection 4 for contracts with nonprofit organizations that provide housing counseling services and mortgage assistance.

3. Form. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, after consultation with interested parties, shall develop for use by the Supreme Judicial Court a one-page form notice for making a request for mediation and making an answer to a foreclosure complaint as described in section 6321-A, subsection 2.

4. Funding. The Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall establish a nonlapsing, dedicated account for the deposit of revenues transferred from the Department of Administrative and Financial Services, Maine Revenue Services pursuant to Title 36, section 4641-B, subsection 6 and for any funds received from any public or private source. The Bureau of Consumer Credit Protection shall use the account to cover the costs of carrying out the duties in this section and section 6111, subsections 3-A, 3-B and 4-A, and the funds in the account may not be used for any other purpose.

5. Report. Beginning January 1, 2010, the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection shall report every 6 months on the revenues received pursuant to subsection 4, the expenditures made to carry out the purposes of this section, any financial orders submitted by the bureau and any updated assumptions related to the bureau's revenues and expenditures in accordance with this section. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters.

Sec. 16. 14 MRSA §6203-A, first ¶, as amended by PL 1995, c. 106, §1, is further amended to read:

Any holder of a mortgage on real estate that is granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust and that contains a power of sale, or a person authorized by the power of sale, or an attorney duly authorized by a writing under seal, or a person acting in the name of the holder of such mortgage or any such authorized person, may, upon breach of condition and without action, do all the acts authorized or required by the power; except that a sale under the power is not effectual to foreclose a mortgage unless, previous to the sale, notice has been published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies and which notice must prominently state the street address of the real estate encumbered by the mortgage deed, if any, and the book and page number of the mortgage. This provision is implied in every power of sale mortgage in which it is not expressly set forth. For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for a business, commercial or agricultural purpose. A copy of the notice must, at least 21 days before the date of the sale under the power in the mortgage, be recorded in each registry of deeds in which the mortgage deed is or by law ought to be recorded and must be served on the mortgagor or its representative in interest, ~~or~~ may be sent by registered mail addressed to ~~it~~ the mortgagor or the mortgagor's representative at ~~its~~ the mortgagor's last known address, or to the person and to the address as may be agreed upon in the mortgage, at least 21 days before the date of the sale under the power in the mortgage. The mortgagee shall provide a copy of the notice to a tenant if the mortgagee knows or should know by exercise of due diligence that the property is occupied as a rental unit. Upon request from a mortgagee, the mortgagor or its representative in interest shall provide the name, address and other contact information for any tenant. Notice to a tenant may be served on the tenant by sheriff or may be sent by first class mail and registered mail at the tenant's last known address. No less than 21 days after service of the notice required by this section, the mortgagee may institute an action pursuant to section 6001. This paragraph may not be construed to prohibit an action for forcible entry and detainer in accordance with section 6001 for a reason that is not related to a foreclosure sale. Any power of sale incorporated into a mortgage is not affected by the subsequent transfer of the mortgaged premises from the corporation, partnership, including a limited partnership, limited liability company or trustee of the trust to any other type of organization or to an individual or individuals. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given

the real estate encumbered by the mortgage deed is not used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale. The method of foreclosure of real estate mortgages provided by this section is specifically subject to the order of priorities set out in section 6205.

Sec. 17. 14 MRSA §6321, 3rd ¶, as amended by PL 2007, c. 391, §9, is further amended to read:

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

Sec. 18. 14 MRSA §6321-A is enacted to read:

§6321-A. Foreclosure mediation program

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

A. "Court" means the Supreme Judicial Court.

B. "Program" means the foreclosure mediation program established pursuant to subsection 3.

2. Notice; summons and complaint; foreclosure proceedings. When a plaintiff commences an action for the foreclosure of a mortgage on an owner-occupied residential real property of no more than 4 units that is the primary residence of the owner-occupant, the plaintiff shall attach to the front of the foreclosure complaint a one-page form notice to the defendant as developed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection in accordance with this subsection and section 6112, subsection 3. The form notice must be written in language that is plain and readily understandable by the general public.

At a minimum, the form notice must contain the following:

A. A statement that failure to answer the complaint will result in foreclosure of the property subject to the mortgage;

B. A sample answer and an explanation that the defendant may fill out the form and return it to the court in the envelope provided as the answer to

the complaint. If the debtor returns the form to the court, the defendant does not need to file a more formal answer or responsive pleading and will be scheduled for mediation in accordance with this section; and

C. A description of the program.

3. Foreclosure mediation program established. Under the authority granted in Title 4, section 18-B, the court shall adopt rules to establish a foreclosure mediation program to provide mediation in actions for foreclosure of mortgages on owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant. The program must address all issues of foreclosure, including but not limited to reinstatement of the mortgage, modification of the loan and restructuring of the mortgage debt. Mediations conducted pursuant to the program must use the calculations, assumptions and forms that are established by the Federal Deposit Insurance Corporation and published in the Federal Deposit Insurance Corporation Loan Modification Program Guide as set out on the Federal Deposit Insurance Corporation's publicly accessible website.

4. Financial information confidential. Except for financial information included as part of a foreclosure complaint or any answer filed with the court, any financial statement or information provided to the court or to the parties during the course of mediation in accordance with this section is confidential and is not available for public inspection. Any financial statement or information must be made available as necessary, to the court, the attorneys whose appearances are entered in the case and the parties to the mediation. Any financial statement or information designated as confidential under this subsection must be kept separate from other papers in the case and may not be used for purposes other than mediation.

5. No waiver of rights. The plaintiff's or defendant's rights in the foreclosure action are not waived by participating in the program.

6. Commencement of mediation. When a defendant returns the notice required under subsection 2 or otherwise requests mediation or makes an appearance in a foreclosure action, the court shall refer the plaintiff and defendant to mediation pursuant to this section.

7. Provisions of mediation services; filing and fees. The court shall:

A. Assign mediators, including active retired justices and judges pursuant to Title 4, sections 104 and 157-B, who:

(1) Are trained in mediation and all relevant aspects of the law;

(2) Have knowledge of community-based resources that are available in the judicial districts in which they serve;

(3) Have knowledge of mortgage assistance programs; and

(4) Are trained in using the relevant Federal Deposit Insurance Corporation forms and worksheets.

The court may establish a training program for mediators and require that mediators receive such training prior to being appointed;

B. Report annually to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over judiciary matters on:

(1) The performance of the program, including numbers of homeowners who are notified of mediation, who attend mediation and who receive legal counseling or legal assistance; and

(2) The results of the mediation process, including the number of loans restructured, number of principal write-downs, interest rate reductions and number of homeowners who default on mortgages within a year after restructuring, to the extent the court has available information;

C. Notwithstanding subsection 10, establish a fee upon a foreclosure filing made on or after June 15, 2009 to support mediation services to be paid for by the plaintiff; and

D. Make recommendations for any changes to the program to the Legislature.

8. Referral to mortgage assistance programs. At any time during the mediation process, the mediator may refer the defendant to housing counseling or mortgage assistance programs.

9. No entry of judgment. For any foreclosure complaint filed after January 1, 2010 that is scheduled for mediation in accordance with this section, a final judgment may not issue until a mediator's report has been completed pursuant to subsection 13.

10. Application of mediation provisions to ongoing foreclosure proceedings. The requirements of this section apply to foreclosures filed after January 1, 2010. The court may in its discretion require mediation for an owner-occupied residential property that is the primary residence of the owner-occupant and that is in the foreclosure process but not scheduled for sale before January 1, 2010 and an owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant and that is scheduled for sale before that date.

11. Parties to mediation. A mediator shall include in the mediation process under this section any person the mediator determines is necessary for effective mediation. Mediation and appearance in person is mandatory for:

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

B. The defendant;

C. Counsel for the plaintiff; and

D. Counsel for the defendant, if represented.

12. Good faith effort. Each party and each party's attorney, if any, must be present at mediation as required by this section and shall make a good faith effort to mediate all issues. If any party or attorney fails to attend or to make a good faith effort to mediate, the court may impose appropriate sanctions.

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

14. Records. The court shall maintain records or other information relating to the program as necessary to meet the reporting requirements in subsection 7, paragraph B.

Sec. 19. 14 MRSA §6322-A is enacted to read:

§6322-A. Notice to tenants of foreclosure judgment

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

Sec. 20. 14 MRSA §6323, sub-§3 is enacted to read:

3. Extension of deadline. Upon a showing of good cause, the court may extend a deadline established by this section for the publication of the notice of sale or conducting the public sale.

Sec. 21. 36 MRSA §4641-B, sub-§6 is enacted to read:

6. Transfer of tax on deeds of foreclosure or in lieu of foreclosure. Notwithstanding subsection 4, the State Tax Assessor shall monthly pay to the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection the revenues derived from the tax imposed on the transfer of real property by deeds that convey real property back to a lender holding a bona fide mortgage that is genuinely in default, either by deeds from a mortgagor to a mortgagee in lieu of foreclosure or by deeds from a mortgagee to itself at a public sale pursuant to Title 14, section 6323.

Sec. 22. 36 MRSA §4641-C, sub-§2, as repealed and replaced by PL 1993, c. 680, Pt. A, §31, is amended to read:

2. Mortgage deeds. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds~~, deeds from a mortgagor to a mortgagee in lieu of foreclosure and deeds from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323~~. For the purposes of this subsection, only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure. In the event of a deed to a 3rd party at such a public sale, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds. In the event of a deed from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323, the mortgagee is considered to be both the grantor and grantee for purposes of section 4641-A. In the event of a deed in lieu of foreclosure and a deed from a mortgagee to itself at a public sale held pursuant to Title 14, section 6323, the tax applies

to the value of the property as that term is defined in section 4641, subsection 3;

Sec. 23. 36 MRSA §4641-C, sub-§13, as enacted by PL 1993, c. 398, §4, is repealed.

Sec. 24. Phase-in of foreclosure mediation program. Notwithstanding the Maine Revised Statutes, Title 14, section 6321-A, subsection 10, beginning July 1, 2009, the Supreme Judicial Court may, in its discretion, implement the foreclosure mediation program established pursuant to Title 14, section 6321-A in those judicial districts that the court determines that the mediation program is most needed as long as the mediation program is available in all judicial districts by January 1, 2010. In any judicial district in which the foreclosure mediation program is implemented before January 1, 2010, the Supreme Judicial Court shall schedule mediation for those foreclosures filed on or after July 1, 2009 in which mediation is required in accordance with Title 14, section 6321-A, subsection 6 and may not issue a foreclosure judgment on those foreclosures until a mediator's report is received pursuant to Title 14, section 6321-A, subsection 13. Before February 15, 2010, the court shall report to the Joint Standing Committee on Insurance and Financial Services on the mediation program and recommend whether changes are needed. The Joint Standing Committee on Insurance and Financial Services may report out a bill to the Second Regular Session of the 124th Legislation based on the recommendations.

Sec. 25. Report on foreclosure mediation program. Before February 15, 2013, the Supreme Judicial Court shall report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the foreclosure mediation program established pursuant to the Maine Revised Statutes, Title 14, section 6321-A. The court shall report on the performance of the program, including the number of foreclosure filings and foreclosure judgments and the number of foreclosure mediations and the results of the mediation process to the extent the court has available information. The court may consult with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection in gathering information for the report required by this section. The court shall also recommend changes to the foreclosure mediation program, including whether the program should be modified, continued or repealed. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill to the First Regular Session of the 126th Legislature based on the court's report and recommendations.

Sec. 26. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for the foreclosure mediation program, including funds for one Director, foreclosure mediation program position, 3 Assistant Clerk positions and one Administrative Assistant position.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
POSITIONS - LEGISLATIVE COUNT	5.000	5.000
Personal Services	$297,231	$319,602
All Other	$451,870	$425,050
OTHER SPECIAL REVENUE FUNDS TOTAL	$749,101	$744,652

JUDICIAL DEPARTMENT DEPARTMENT TOTALS	**2009-10**	**2010-11**
OTHER SPECIAL REVENUE FUNDS	**$749,101**	**$744,652**
DEPARTMENT TOTAL - ALL FUNDS	**$749,101**	**$744,652**

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Consumer Credit Protection 0091

Initiative: Allocates funds for one Office Specialist II position and related costs to establish a statewide hotline to facilitate a mortgagor's communication with housing counselors and an outreach program in coordination with the Maine State Housing Authority including contracting with nonprofit organizations that provide housing counseling services and mortgage assistance and to collect and disseminate foreclosure information.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$65,473	$69,405
All Other	$159,534	$136,631
OTHER SPECIAL REVENUE FUNDS TOTAL	$225,007	$206,036

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$225,007	$206,036
DEPARTMENT TOTAL - ALL FUNDS	$225,007	$206,036

SECTION TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$974,108	$950,688
SECTION TOTAL - ALL FUNDS	$974,108	$950,688

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

Effective June 15, 2009.

CHAPTER 403

H.P. 666 - L.D. 964

An Act Pertaining to the Breeding and Selling of Dogs and Cats and Equitable Funding of Animal Welfare

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

Sec. 1. 7 MRSA §3907, sub-§8-A, as amended by PL 2007, c. 702, §3, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~ sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

Sec. 2. 7 MRSA §3923-C, sub-§5, as repealed and replaced by PL 1997, c. 690, §21, is amended to read:

5. Kennel inspection and quarantine. Except for a kennel inspected by the department in accordance with chapter 723, an animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. In addition to the annual inspection required under this subsection, an animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel. Inspections must be conducted in accordance with the sanitation and health rules established by the department for compliance with laws and rules. In conducting inspections, an animal control officer must use measures established by the department through rulemaking to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. 3. 7 MRSA §3931-A, sub-§1, as amended by PL 1995, c. 490, §10, is further amended to read:

1. License necessary. A person maintaining a breeding kennel, as defined in section 3907, must obtain a license from the department and is subject to rules adopted by the department. The license expires 12 months after the date of issuance. An applicant for a breeding kennel license shall state in the application the number of female dogs or cats capable of breeding that are maintained at the breeding kennel. The department shall issue a license or a conditional license under subsection 6 in one of the 3 categories described in paragraphs A, B and C and collect a fee in accordance with subsection 2.

A. A breeding kennel that maintains at least 5 but no more than 10 female dogs or cats capable of breeding is a Category 1 breeding kennel.

B. A breeding kennel that maintains at least 11 but no more than 20 female dogs or cats capable of breeding is a Category 2 breeding kennel.

C. A breeding kennel that maintains 21 or more female dogs or cats capable of breeding is a Category 3 breeding kennel.

Sec. 4. 7 MRSA §3931-A, sub-§2, as amended by PL 2003, c. 405, §16, is repealed and the following enacted in its place:

2. License fees. The license fee is $75 for a Category 1 breeding kennel, $100 for a Category 2 breeding kennel and $150 for a Category 3 breeding kennel.

Sec. 5. 7 MRSA §3931-A, sub-§5, as enacted by PL 2007, c. 702, §8, is amended to read:

5. License number requirements. A breeding kennel shall prominently display in ~~written~~ any advertising the state-issued kennel license number.

The breeding kennel shall provide its license number to a person purchasing or receiving an animal from the breeding kennel.

Sec. 6. 7 MRSA §3931-A, sub-§6 is enacted to read:

6. Conditional breeding kennel license. Upon receiving an application for a breeding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional breeding kennel license. The conditional license remains in effect until the breeding kennel passes an inspection under section 3936. If a breeding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional breeding kennel license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

Sec. 7. 7 MRSA §3936, sub-§1, as amended by PL 1997, c. 690, §24, is further amended to read:

1. Inspection and quarantine. The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter an animal shelter, kennel, boarding kennel, breeding kennel or pet shop and make examinations and conduct any recognized tests for the existence of contagious or infectious diseases or conditions. If the animal shelter, kennel, boarding kennel, breeding kennel or pet shop is also used for human habitation, the person authorized to make examinations and conduct tests must be escorted by the owner, or the owner's agent, of the animal shelter, kennel, boarding kennel, breeding kennel or pet shop and the examinations and tests may be made only in those portions of the premises used as an animal shelter, kennel, boarding kennel, breeding kennel or pet shop. The commissioner may inspect animal shelters, kennels, boarding kennels, breeding kennels and pet shops in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. In conducting inspections, measures established by the department through rulemaking must be used to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding kennel or pet shop, in person or by registered mail, and the quarantine must be maintained as long as the department determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of violations.

Sec. 8. 7 MRSA §3936-A is enacted to read:

§3936-A. Noncompliance; subsequent inspection required

If, upon inspection under section 3936, the commissioner or the commissioner's designee finds a facility licensed under this chapter to be in violation of this chapter or rules adopted under this chapter, the commissioner or the commissioner's designee shall issue a written notice describing the violation, the required corrective action to be taken and the date by which the correction must be made. No fee is charged for the first follow-up inspection. If the corrective action has not been taken within the specified period and 2 or more follow-up inspections are needed in any calendar year, the department shall charge the licensee a fee equal to 50% of the original license fee for each follow-up inspection. The original notice of a violation must inform the licensee of the fee charged for follow-up inspections.

If the person operating the facility fails to complete corrective actions by the date noted in the original notice or a subsequent date specified by the department, the department may revoke, suspend or refuse to renew a license issued under this chapter pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

Sec. 9. 7 MRSA §4152, sub-§1, ¶A, as amended by PL 2007, c. 702, §23, is further amended to read:

A. An animal history that includes:

(1) For sellers licensed with the United States Department of Agriculture, the name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal. For sellers licensed with the State, the name, address of the seller and the license number issued under section 3931-A, 3933 or 4163;

(2) The date of the animal's birth;

(3) The date the seller received the animal if the animal was not born on the seller's premises;

(4) The breed, sex, color and identifying marks of the animal. If the breed is unknown or mixed, that fact must be stated;

(5) The individual identifying tag, tattoo, microchip identification number or collar number;

(6) For pure bred animals that are advertised as eligible for registration, the name and registration number of the sire and dam and, if available, the litter number; and

(7) A record of inoculations, ~~worming~~ internal or external parasite treatments, medication or any veterinarian examination or treatment received by the animal while in the possession of the ~~breeder or dealer~~ seller;

Sec. 10. 7 MRSA §4152-A is enacted to read:

§4152-A. Documents necessary for breed registration

1. Requirement to provide. A seller who states, promises or represents that an animal is registered or capable of registration with an animal pedigree organization shall provide the purchaser with the documents necessary for registration at the time of sale or within 90 days of the sale unless specified otherwise in a contractual agreement signed by the purchaser.

2. Process to acquire documentation. If the purchaser does not receive the necessary documents within the time period specified in subsection 1, the purchaser may send a written request for the documents to the seller via certified mail. Within 60 days of receiving the request, the seller must deliver the documents directly or send them by certified mail to the purchaser.

3. Failure to provide documentation; resolution. If the seller fails to provide the necessary documents in accordance with subsection 2, the purchaser is entitled to a partial refund of 50% of the purchase price. Upon payment of the refund, a seller is absolved of the requirement to provide the documents necessary for breed registration. Acceptance of the registration papers by the purchaser outside of the required time period waives the purchaser's right to a partial refund.

Sec. 11. 17 MRSA §1011, sub-§8-A, as amended by PL 2007, c. 702, §38, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under Title 7, section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~ sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

Sec. 12. Commissioner of Agriculture, Food and Rural Resources and Attorney General to review provisions and processes pertaining to the State taking possession of animals that have been abused. The Commissioner of Agriculture, Food and Rural Resources and the Attorney General shall convene a working group to review the provisions in the Maine Revised Statutes, Title 17, chapter 42, subchapter 2. The commissioner and the Attorney General shall invite representatives of the judicial branch and the district attorneys to join in a discussion of the processes for seizing animals and requirements for the care of those animals prior to a transfer of ownership. The working group shall review costs of care for animals seized or held by the State pending adjudication or prosecution and make recommendations for reducing costs while humanely caring for the animals and providing due process for the owners. The commissioner and other participants in the working group shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than December 9, 2009 with a summary of the discussions and recommendations of the working group to expedite court actions in cases involving cruelty to animals.

Sec. 13. Authorization to submit legislation. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation pertaining to animal welfare and the funding of the animal welfare program within the Department of Agriculture, Food and Rural Resources to the Second Regular Session of the 124th Legislature.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Animal Welfare Fund 0946

Initiative: Provides one-time funding for database changes to accommodate 3 levels of fee structures for licensing breeding kennels.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$6,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$6,000	$0

See title page for effective date.

CHAPTER 404

H.P. 865 - L.D. 1246

An Act To Promote Youth Hunting License Sales

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

Sec. 1. 12 MRSA §10851, as amended by PL 2007, c. 651, §9, is further amended to read:

§10851. Lifetime licenses

1. Infants, youth and seniors. The following ~~resident~~ lifetime licenses may be purchased:

A. For a ~~resident~~ person who is less than 6 years of age:

(1) An infant ~~resident~~ lifetime fishing license. The fee for an infant ~~resident~~ lifetime fishing license is $150 for a resident and $450 for a nonresident;

(2) An infant ~~resident~~ lifetime hunting license. The fee for an infant ~~resident~~ lifetime hunting license is $150 for a resident and $450 for a nonresident;

(3) An infant ~~resident~~ lifetime archery hunting license. The fee for an infant ~~resident~~ lifetime archery hunting license is $150 for a resident and $450 for a nonresident;

(3-A) An infant ~~resident~~ lifetime trapping license. The fee for an infant ~~resident~~ lifetime trapping license is $150 for a resident and $450 for a nonresident;

(4) An infant ~~resident~~ combination of any 2 lifetime licenses. The fee for an infant ~~resident~~ combination of any 2 lifetime licenses is $250 for a resident and $750 for a nonresident; and

(5) An infant ~~resident~~ combination of any 3 lifetime licenses. The fee for an infant ~~resident~~ combination of any 3 lifetime licenses is $400 for a resident and $1,200 for a nonresident;

B. For a ~~resident~~ person from 6 to 15 years of age:

(1) A junior ~~resident~~ lifetime fishing license. The fee for a junior ~~resident~~ lifetime fishing license is $300 for a resident and $900 for a nonresident;

(2) A junior ~~resident~~ lifetime hunting license. The fee for a junior ~~resident~~ lifetime hunting license is $300 for a resident and $900 for a nonresident;

(3) A junior ~~resident~~ lifetime archery hunting license. The fee for a junior ~~resident~~ lifetime archery hunting license is $300 for a resident and $900 for a nonresident;

(3-A) A junior ~~resident~~ lifetime trapping license. The fee for a junior ~~resident~~ lifetime trapping license is $300 for a resident and $900 for a nonresident;

(4) A junior ~~resident~~ combination of any 2 lifetime licenses. The fee for a junior ~~resident~~ combination of any 2 lifetime licenses is $500 for a resident and $1,500 for a nonresident; and

(5) A junior ~~resident~~ combination of any 3 lifetime licenses. The fee for a junior ~~resident~~ combination of any 3 lifetime licenses is $800 for a resident and $2,400 for a nonresident;

C. For a resident from 65 to 69 years of age:

(1) A senior resident lifetime fishing license. The fee for a senior resident lifetime fishing license is $50 for a person who purchases the license in the year in which that person turns 65 years of age, $40 for a person who purchases the license in the year in which that person turns 66 years of age, $30 for a person who purchases the license in the year in which that person turns 67 years of age, $20 for a person who purchases the license in the year in which that person turns 68 years of age and $10 for a person who purchases the license in the year in which that person turns 69 years of age;

(2) A senior resident lifetime hunting license. The fee for a senior resident lifetime hunting license is $50 for a person who purchases the license in the year in which that person turns 65 years of age, $40 for a person who purchases the license in the year in which that person turns 66 years of age, $30 for a person who purchases the license in the year in which that person turns 67 years of age, $20 for a person who purchases the license in the year in which that person turns 68 years of age and $10 for a person who purchases the license in the year in which that person turns 69 years of age;

(3) A senior resident lifetime archery hunting license. The fee for a senior resident lifetime archery hunting license is $50 for a person who purchases the license in the year in which that person turns 65 years of age, $40 for a person who purchases the license in the year in which that person turns 66 years of age, $30 for a person who purchases the license in the year in which that person turns 67 years of age, $20 for a person who pur-

chases the license in the year in which that person turns 68 years of age and $10 for a person who purchases the license in the year in which that person turns 69 years of age;

(3-A) A senior resident lifetime trapping license. The fee for a senior resident lifetime trapping license is $50 for a person who purchases the license in the year in which that person turns 65 years of age, $40 for a person who purchases the license in the year in which that person turns 66 years of age, $30 for a person who purchases the license in the year in which that person turns 67 years of age, $20 for a person who purchases the license in the year in which that person turns 68 years of age and $10 for a person who purchases the license in the year in which that person turns 69 years of age;

(4) A senior resident combination of any 2 lifetime licenses. The fee for a senior resident combination of any 2 lifetime licenses is $80 for a person who purchases the license in the year in which that person turns 65 years of age, $64 for a person who purchases the license in the year in which that person turns 66 years of age, $48 for a person who purchases the license in the year in which that person turns 67 years of age, $32 for a person who purchases the license in the year in which that person turns 68 years of age and $16 for a person who purchases the license in the year in which that person turns 69 years of age; and

(5) A senior resident combination of any 3 lifetime licenses. The fee for a senior resident combination of any 3 lifetime licenses is $110 for a person who purchases the license in the year in which that person turns 65 years of age, $94 for a person who purchases the license in the year in which that person turns 66 years of age, $78 for a person who purchases the license in the year in which that person turns 67 years of age, $52 for a person who purchases the license in the year in which that person turns 68 years of age and $26 for a person who purchases the license in the year in which that person turns 69 years of age; and

D. For a resident 70 years of age or older. A person who holds a valid senior lifetime license under this section upon turning 70 years of age may obtain at no cost all hunting permits and licenses authorized in this Part and may renew at no cost a guide license under section 12853. A person who is 70 years of age or older may purchase a senior lifetime license that entitles the holder to all the privileges described in this paragraph for a one-time $8 fee.

A person must be a resident to purchase a senior resident lifetime license under ~~this section~~ paragraphs C and D. Once purchased, a ~~resident~~ lifetime license is valid for the life of the holder without regard to subsequent changes in the legal residence of the holder. The license entitles the holder to all fishing or hunting privileges extended to residents or nonresidents as applicable of that same age who hold the equivalent annual license and subjects the holder to all limitations and prerequisites on those fishing or hunting privileges that apply to residents or nonresidents of that same age who hold the equivalent annual license.

Notwithstanding any other provision of this section, if the commissioner determines that the sale of lifetime licenses for persons 65 years of age or older will result in a loss of license revenue to the department in any fiscal year, the commissioner shall withhold from deposit to the fund established in section 10251 an amount necessary to avoid that loss in revenue. Money withheld under this paragraph may be withheld only from revenue from the sale of lifetime licenses to persons 65 years of age or older. This paragraph is repealed on July 1, 2010.

Sec. 2. Report on the sale of lifetime licenses to nonresidents. The Commissioner of Inland Fisheries and Wildlife shall report on the administration and sale of lifetime licenses to nonresidents to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters no later than January 5, 2011. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters may report out legislation to the First Regular Session of the 125th Legislature regarding matters related to the report.

See title page for effective date.

CHAPTER 405

S.P. 139 - L.D. 397

An Act To Amend the Laws Governing Bottle Redemption

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

Sec. 1. 32 MRSA §1866, sub-§4, ¶A, as amended by PL 2003, c. 499, §6, is further amended to read:

A. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsections 1, 2 and 4 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A, in

an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004 ~~and,~~ at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after March 1, 2010. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a party with which it has entered into a commingling agreement.

Sec. 2. 32 MRSA §1866, sub-§4, ¶B, as corrected by RR 2003, c. 1, §34, is amended to read:

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863-A, subsection 3 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container for containers picked up by the initiator before March 1, 2004 ~~and,~~ at least 3 1/2¢ for containers picked up on or after March 1, 2004 and before March 1, 2010 and at least 4¢ for containers picked up on or after March 1, 2010. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent or through a party with which it has entered into a commingling agreement.

Sec. 3. 32 MRSA §1866, sub-§4, ¶D, as amended by PL 2003, c. 688, Pt. E, §1, is further amended to read:

D. Paragraphs A, B and C of this subsection do not apply to a brewer ~~or vintner~~ who annually produces no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product. In addition to the payment of the refund value, an initiator of deposit under section 1863-A, subsections 1 to 4 who is also a brewer ~~or vintner~~ who annually produces no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863-A in an amount that equals at least 3¢ per returned container.

Sec. 4. 32 MRSA §1866, sub-§5-A is enacted to read:

5-A. Plastic bags. A dealer or redemption center has an obligation to pick up plastic bags that are used by that dealer or redemption center to contain beverage containers. Plastic bags used by a dealer or redemption center and the cost allocation of these bags must conform to rules adopted by the department concerning size and gauge. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 32 MRSA §1866, sub-§10 is enacted to read:

10. Bulk redemption. In order to prevent fraud from the redemption of beverage containers not originally sold in this State, this subsection governs the redemption of more than 2,500 beverage containers.

A. A person tendering for redemption more than 2,500 beverage containers at one time to a dealer or redemption center must provide to the dealer or redemption center that person's name and address and the license plate number of the vehicle used to transport the beverage containers. The dealer or redemption center redeeming these beverage containers shall forward that information to the department within 10 days, and the information must be kept on file for a minimum of 12 months.

B. After complying at least once with the requirements of paragraph A, a person need not comply with paragraph A each subsequent time that person tenders to a dealer or redemption center for redemption more than 2,500 beverage containers if:

(1) All of the containers were collected at one location in this State;

(2) All proceeds of the refund value benefit a nonprofit organization that has been determined by the United States Internal Revenue Service to be exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3); and

(3) The person tendering the containers for redemption signs a declaration indicating the person's name, the address of the collection point and the name of the organization or organizations that will receive the refund value.

Sec. 6. 32 MRSA §1867, sub-§3, as amended by PL 2001, c. 661, §6, is further amended to read:

3. Approval. The commissioner ~~shall~~ may approve the licensing of a local redemption center if the redemption center complies with the requirements established under section 1871-A. The order approving a local redemption center license must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.

Sec. 7. 32 MRSA §1871-A, as enacted by PL 2001, c. 661, §9 and corrected by RR 2001, c. 2, Pt. A, §41, is amended to read:

§1871-A. Licensing requirements

A license issued annually by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

1. Procedures; licensing fees. The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure. Initial rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted effective after calendar year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

2. Criteria for licensing rules. In developing rules under subsection 1 for licensing redemption centers, the department shall consider at least the following:

A. The health and safety of the public, including sanitation protection when food is also sold on the premises; ~~and~~

B. The convenience for the public, including standards governing the distribution of centers by population or by distance, or both.~~;~~

C. The proximity of the proposed redemption center to existing redemption centers and the potential impact that the location of the proposed redemption center may have on an existing redemption center;

D. The proposed owner's record of compliance with this chapter and rules adopted by the department pursuant to this chapter; and

E. The hours of operation of the proposed redemption center and existing redemption centers in the proximity of the proposed redemption center.

3. Location of redemption centers; population requirements. The department may grant a license to a redemption center if the following requirements are met:

A. The department may license up to 5 redemption centers in a municipality with a population over 30,000;

B. The department may license up to 3 redemption centers in a municipality with a population over 20,000 but no more than 30,000; and

C. The department may license up to 2 redemption centers in a municipality with a population over 5,000 but no more than 20,000.

For a municipality with a population of no more than 5,000, the department may license redemption centers in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Exceptions. Notwithstanding subsection 3:

A. An owner of a redemption center who is renewing the license of a redemption center licensed by the department as of April 1, 2009 need not comply with subsection 3;

B. An entity that is a food establishment or distributor licensed by or registered with the department need not comply with subsection 3;

C. A reverse vending machine is not considered a redemption center for purposes of subsection 3 when it is located in a licensed redemption center; and

D. The department may grant a license that is inconsistent with the requirements set out in subsection 3 only if the applicant has demonstrated a compelling public need for an additional redemption center in the municipality.

Sec. 8. 32 MRSA §1871-D is enacted to read:

§1871-D. Denial of redemption center license

1. Denial of application. The department shall notify an applicant denied a license for a redemption center of the reasons for the denial. Written notification must be sent to the mailing address given by the applicant in the application for a redemption center license.

2. Aggrieved applicants. An applicant aggrieved by a decision made by the department may appeal the decision by filing an appeal with the Superior Court and serving a copy of the appeal upon the department in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of the mailing of the department's decision.

See title page for effective date.

CHAPTER 406

H.P. 931 - L.D. 1327

An Act To Update Department of Defense, Veterans and Emergency Management Laws

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

Sec. 1. 37-B MRSA §264, sub-§3, ¶K, as enacted by PL 2007, c. 167, §1, is amended to read:

K. The Bath Armory, or any portion thereof, located on Lincoln Street, Bath, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory;

Sec. 2. 37-B MRSA §264, sub-§3, ¶N, as enacted by PL 2007, c. 167, §1, is amended to read:

N. The Presque Isle Armory located on North Main Street, Presque Isle, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; ~~and~~

Sec. 3. 37-B MRSA §264, sub-§3, ¶O, as enacted by PL 2007, c. 167, §1, is amended to read:

O. The Caribou Armory, also known as the "Solman Armory," located on York Street, Caribou, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory~~.~~;

Sec. 4. 37-B MRSA §264, sub-§3, ¶P is enacted to read:

P. The Fort Kent Armory, located on Armory Road, Fort Kent, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory; and

Sec. 5. 37-B MRSA §264, sub-§3, ¶Q is enacted to read:

Q. The Gardiner Armory, located on Brunswick Avenue, Gardiner, by means of a quitclaim deed as long as the purchaser agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up costs that may arise in connection with the land or the buildings constituting the armory.

Sec. 6. 37-B MRSA §264, sub-§5 is enacted to read:

5. Special provisions for the Portland Armory. Notwithstanding subsection 1, the Adjutant General may execute a like-kind exchange of the Portland Armory, or any portion thereof, located on Stevens Avenue, Portland, for real property of substantially equal value, subject to the provisions of subsection 3, paragraph L.

Sec. 7. 37-B MRSA §460 is enacted to read:

§460. Behavior that is prejudicial to good order and discipline of military forces or that discredits military forces

Any person subject to this Code who behaves in a manner that is prejudicial to the good order and discipline of the military forces or that discredits the military forces must be punished as a court-martial may direct.

Sec. 8. 37-B MRSA §503, sub-§1, as amended by PL 2001, c. 662, §61, is further amended to read:

1. Employment of personnel. The director may employ, subject to approval of the appointing authority and the Civil Service Law, the personnel necessary to administer this chapter. The director may employ a ~~director~~ superintendent of the cemetery system, a veteran claims specialist and veteran ~~advocates~~ service officers. The director and other employees referred to in this subsection must be veterans as defined by 38 United States Code, Section 101 (2) who were separated with an honorable discharge.

Sec. 9. 37-B MRSA §504, sub-§2, as amended by PL 2001, c. 662, §63, is further amended to read:

2. Superintendent of the cemetery system. The director, with approval of the appointing authority, shall appoint a competent and trustworthy ~~director~~ superintendent of the cemetery system and shall arrange for personnel, material and equipment necessary for adequate maintenance of the cemeteries.

Sec. 10. 37-B MRSA §505, sub-§2, ¶H is enacted to read:

H. A school that provides tuition assistance pursuant to this subsection shall provide any information, such as enrollment verification, current contact information, semester grade point average, accumulated credit hours and transcripts, to the bureau as necessary for the bureau to properly administer the educational benefits described in this subsection in accordance with current laws.

Sec. 11. 37-B MRSA §508, as enacted by PL 2001, c. 662, §71, is amended to read:

§508. Veteran service officers

Veteran ~~advocates~~ service officers shall serve, assist and advocate for all veterans. A veteran ~~advocate~~ service officer must be trained and conversant on the issues, benefits and definitions affecting all veterans,

including atomic, Vietnam, Desert Storm and female veterans.

Sec. 12. 37-B MRSA §536 is enacted to read:

§536. Case Review Team

There is created within the commission the Case Review Team, referred to in this section as "the team."

1. Composition of Case Review Team. The team consists of the chair of the commission and, as determined by the chair of the commission, may consist of any current or advisory members of the commission, as described in section 532, subsections 1 and 2, depending upon the nature and requirements of each case review. If the team includes advisory members of the commission, those members serve as nonvoting members of the team.

2. Meetings; officers. The team shall meet at such time or times as may be reasonably necessary to carry out its duties, as the team determines, and it shall meet at the call of the chair of the commission.

3. Powers and duties. The team shall examine cases involving Maine National Guard noncombat death and disability associated with military service in the Maine National Guard. The purpose of the examinations must be consistent with the provisions of this chapter. In addition, the team shall assist specific individual Maine National Guard service members as necessary.

4. Confidentiality. For the purposes of Title 1, section 402, proceedings and records of the team are confidential and are not subject to disclosure under any state law, subpoena, discovery or introduction into evidence in a civil or criminal action and must be sealed. The chair of the commission shall disclose statistical information and conclusions of the team upon request but may not disclose the materials that are otherwise confidential.

Sec. 13. 37-B MRSA §601, as amended by PL 2007, c. 167, §9, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to senile dementia patients, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to senile dementia patients, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans' Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes ~~or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons~~.

See title page for effective date.

CHAPTER 407

H.P. 255 - L.D. 319

An Act To Track the Prevalence of Childhood Obesity in Maine

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

Sec. 1. 20-A MRSA §6455 is enacted to read:

§6455. Body mass index data

1. Collection of data. A school nurse or trained screener shall collect body mass index data from students in the school administrative unit in accordance with rules of the Department of Health and Human Services. Data may not be collected from a student whose parent or guardian objects on religious or philosophical grounds.

2. Confidentiality. Except as provided in subsection 3, body mass index data collected pursuant to subsection 1 are confidential and are not subject to disclosure pursuant to Title 1, chapter 13.

3. Reporting of data. A school nurse shall report the data collected under subsection 1 to the Department of Health and Human Services, Maine Center for Disease Control and Prevention. Data reported pursuant to this subsection may be reported in the aggregate only and may not identify an individual student.

4. Funding. In the event federal funds are not available for collecting and reporting data pursuant to this section, the State, municipality or school administrative unit is under no obligation to use any state, municipal or school administrative unit funds to carry out the purposes of this section.

5. Rules. The Department of Health and Human Services shall adopt routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A to implement this section. The rules must at a minimum:

A. Establish a schedule and protocol for the collection of data from students; and

B. Provide a method for uniform reporting of the collected data to the Maine Center for Disease Control and Prevention.

See title page for effective date.

CHAPTER 408

S.P. 235 - L.D. 621

An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer

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

Sec. 1. 39-A MRSA §328-B is enacted to read:

§328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

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

A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer or breast cancer.

B. "Employed" means to be employed as an active duty firefighter or to be an active member of a volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

3. Medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter, the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought or evidence of the medical conditions derived from the disease, which test failed to indicate the presence or condition of cancer.

4. Liability if services performed for more than one employer. If a firefighter who contracts cancer was employed as a firefighter by more than one employer and qualifies for the presumption under subsection 2, and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to the risk of the cancer are liable under this Part.

5. Retired firefighter. This section applies to a firefighter who is diagnosed with cancer within 10 years of the firefighter's last active employment as a firefighter or prior to attaining 70 years of age, whichever occurs first.

6. Length of service. In order to qualify for the presumption under subsection 2, the firefighter must have been employed as a firefighter for 5 years and regularly responded to firefighting or emergency calls.

7. Written verification. In order to qualify for the presumption under subsection 2, a firefighter must sign a written affidavit declaring, to the best of the firefighter's knowledge and belief, that the firefighter's diagnosed cancer is not prevalent among the firefighter's blood-related parents, grandparents or siblings and that the firefighter has no substantial lifetime exposures to carcinogens that are associated with the firefighter's diagnosed cancer other than exposure through firefighting.

See title page for effective date.

CHAPTER 409

H.P. 928 - L.D. 1324

An Act To Adopt the Interstate Compact on Educational Opportunity for Military Children

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

Sec. 1. 20-A MRSA Pt. 10 is enacted to read:

PART 10

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

CHAPTER 901

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

§20101. Short title - Article 1

This chapter may be known and cited as "the Interstate Compact on Educational Opportunity for Military Children," which is referred to in this chapter as "the compact."

§20102. Definitions - Article 2

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

1. Active duty. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 United States Code, Sections 1209 and 1211.

2. Child of a military family. "Child of a military family" means a school-aged child enrolled in kindergarten to grade 12 in the household of an active duty member.

3. Compact. "Compact" means the Interstate Compact on Educational Opportunity for Military Children.

4. Compact commissioner. "Compact commissioner" means the voting representative of each member state appointed pursuant to section 20109.

5. Deployment. "Deployment" means the period one month prior to a service member's departure from the service member's home station on military orders to 6 months after return to the service member's home station.

6. Educational records. "Educational records" means those official records, files and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the child's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

7. Extracurricular activities. "Extracurricular activities" means voluntary activities sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

8. Interstate commission. "Interstate commission" means the Interstate Commission on Educational Opportunity for Military Children established under section 20109.

9. Local education agency. "Local education agency" means a public authority legally constituted by a member state as an administrative agency to provide control of and direction for kindergarten to grade 12 public educational institutions.

10. Member state. "Member state" means a state that has enacted the compact.

11. Military installation. "Military installation" means a base, camp, post, station, yard, center or homeport facility for any ship, or other activity under the jurisdiction of the federal Department of Defense, including any leased facility, that is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects or flood control projects.

12. Nonmember state. "Nonmember state" means a state that has not enacted the compact.

13. Receiving state. "Receiving state" means the state to which a child of a military family is sent, brought or caused to be sent or brought.

14. Rule. "Rule" means a written statement by the interstate commission adopted pursuant to section 20112 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission; has the force and effect of statutory law in a member state; and includes the amendment, repeal or suspension of an existing rule.

15. Sending state. "Sending state" means the state from which a child of a military family is sent, brought or caused to be sent or brought.

16. State. "State" means a state of the United States, the District of Columbia, the Commonwealth

of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

17. State council. "State council" means the state council on educational opportunity for military children established in section 20108.

18. Student. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten to grade 12.

19. Transition. "Transition" means:

A. The formal and physical process of transferring from school to school; or

B. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

20. Uniformed service. "Uniformed service" means the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration Commissioned Corps or the United States Public Health Service Commissioned Corps.

21. Veteran. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

§20103. Applicability - Article 3

1. Application to children. Except as otherwise provided in subsection 2, this chapter applies to the children of:

A. Active duty members of the uniformed services;

B. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

C. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

2. Application to local education agencies. This chapter applies to local education agencies.

3. Exemption. This chapter does not apply to children of:

A. Inactive members of the national guard and military reserves;

B. Members of the uniformed services now retired, except as provided in subsection 1;

C. Veterans of the uniformed services, except as provided in subsection 1; and

D. Other federal Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

§20104. Educational records and enrollment - Article 4

This section applies to the transition of students subject to this chapter pursuant to section 20103.

1. Unofficial educational records. If official educational records cannot be released to the parent or parents of the transitioning student, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school in the receiving state, as quickly as possible, shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records.

2. Official educational records. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational record from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

3. Immunizations. A member state shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

4. Kindergarten and first grade entrance age. A student must be allowed to continue enrollment at grade level in the receiving state commensurate with that student's grade level from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state must enter the school in the receiving state on that student's validated level from an accredited school in the sending state.

§20105. Placement and attendance - Article 5

1. Course placement. When a student transfers before or during the school year, the school in the receiving state shall initially honor placement of the student in educational courses based on the student's enrollment in the school in the sending state and any educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to courses designated as "honors," "international baccalaureate," "advanced placement," "vocational," "technical" and "career pathways" courses. Continuing a student's academic program from a previous school and promoting placement in academically and career challenging courses is paramount when considering placement. Nothing in this subsection precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in a course.

2. Educational program placement. A school in a receiving state shall initially honor placement of a student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state, including but not limited to gifted and talented programs and English as a Second Language programs. Nothing in this subsection precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

3. Special education services. In compliance with:

A. The requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Chapter 33, the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program; and

B. The requirements of Section 504 of the Rehabilitation Act, 29 United States Code, Section 794, and with Title II of the Americans with Disabilities Act, 42 United States Code, Sections 12131 to 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing plan under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act or a federal Title II plan, to provide the student with equal access to education. Nothing in this subsection precludes the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

4. Placement flexibility. Local education agency administrative officials may waive course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

5. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, must be granted additional excused absences at the discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative to such leave or deployment of the parent or legal guardian.

§20106. Eligibility for enrollment, extracurricular activities - Article 6

1. Eligibility for enrollment. Eligibility for enrollment is governed by this subsection.

A. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

B. A local education agency may not charge local tuition to a transitioning child of a military family placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

C. A transitioning child of a military family, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

2. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for inclusion of a transitioning child of a military family in extracurricular activities, regardless of application deadlines, to the extent that child is otherwise qualified.

§20107. Graduation - Article 7

In order to facilitate the on-time graduation of a child of a military family, states and local education agencies shall incorporate the procedures set forth in this section.

1. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative

means of acquiring required course work so that graduation may occur on time.

2. Exit examinations. States shall accept, in lieu of testing requirements for graduation in the receiving state:

A. Exit or end-of-course examinations required for graduation from the sending state;

B. National norm-referenced achievement tests; or

C. Alternative testing.

If the alternatives set forth in paragraphs A to C cannot be accommodated by the receiving state for a student transferring in the student's senior year of high school, then the provisions of subsection 3 apply.

3. Transfers during senior year of high school. If a student transferring at the beginning or during the student's senior year of high school is ineligible to graduate from the receiving local education agency after all alternatives set forth in subsection 2 have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of the compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

§20108. State coordination - Article 8

1. Establishment or designation of board; state council. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include at least:

A. The state superintendent of education;

B. The superintendent of a school district with a high concentration of military children. A member state that does not have a school district considered to contain a high concentration of children of military families may appoint a superintendent from another school district to represent local education agencies on the state council;

C. One representative from a military installation;

D. One representative each from the legislative and executive branches of government; and

E. Other offices and stakeholder groups the state council determines appropriate.

2. Military family education liaison. The state council shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of this chapter. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

3. Compact commissioner. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the Governor or as otherwise determined by each member state.

4. Ex officio members. The military family education liaison appointed pursuant to subsection 2 and the compact commissioner appointed pursuant to subsection 3 serve as ex officio members of the state council, unless either is already a full voting member of the state council.

§20109. Interstate Commission on Educational Opportunity for Military Children - Article 9

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

1. Body corporate. Is a body corporate and joint agency of the member states and has all the responsibilities, powers and duties set forth in this section and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact;

2. Voting representative. Consists of one interstate commission voting representative from each member state who is that state's compact commissioner.

A. Each member state represented at a meeting of the interstate commission is entitled to one vote.

B. A majority of the total member states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

C. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the interstate commission, the Governor or state council may delegate voting authority to another person from its state for a specified meeting.

D. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

3. Ex officio representatives. Consists of ex officio, nonvoting representatives who are members of interested organizations. These ex officio members, as defined in the bylaws, may include but are not limited to:

A. Members of the representative organizations of military family advocates;

B. Local education agency officials;

C. Parent and teacher groups;

D. The United States Department of Defense;

E. A national education commission dedicated to helping states develop effective policy and practice for public education by providing data, research, analysis and leadership; and

F. Representatives from parties to interstate agreements on qualification of educational personnel and other interstate compacts affecting the education of children of military members;

4. Meetings. Meets at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the member states, must call additional meetings;

5. Executive committee. Shall establish an executive committee whose members include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee serve one-year terms. Members of the executive committee are entitled to one vote each. The executive committee has the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as considered necessary. The United States Department of Defense serves as an ex officio, nonvoting member of the executive committee;

6. Bylaws; rules. Shall establish bylaws and rules that provide for conditions and procedures under which the interstate commission makes its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

7. Public notice. Shall give public notice of all meetings, and all meetings must be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion of a meeting, when it determines by a 2/3 vote that an open meeting would be likely to:

A. Relate solely to the interstate commission's internal personnel practices and procedures;

B. Disclose matters specifically exempted from disclosure by federal and state law;

C. Disclose trade secrets or commercial or financial information that is privileged or confidential;

D. Involve accusing a person of a crime or formally censuring a person;

E. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

F. Disclose investigative records compiled for law enforcement purposes; or

G. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

For a meeting, or portion of a meeting, closed pursuant to this subsection, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The interstate commission shall keep minutes that must fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the interstate commission;

8. Data collection. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through the interstate commission's rules, which must specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to current technology and coordinate the interstate commission's information functions with the appropriate custodian of records as identified in the bylaws and rules; and

9. Violations. Shall create a process that permits military officials, education officials and parents to inform the interstate commission if and when there are alleged violations of the compact or the interstate commission's rules or when issues subject to the jurisdiction of the compact or the interstate commission's rules are not addressed by the member state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

§20110. Powers of the interstate commission - Article 10

The interstate commission may:

1. Dispute resolution. Provide for dispute resolution among member states;

2. Rules. Promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules have the force and effect of law and are binding in the member states to the extent and in the manner provided in this compact;

3. Advisory opinions. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact and its bylaws, rules and actions;

4. Enforce compliance. Enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

5. Offices. Establish and maintain offices located within one or more of the member states;

6. Insurance; bonds. Purchase and maintain insurance and bonds;

7. Personnel. Borrow, accept, hire or contract for services of personnel;

8. Committees. Establish and appoint committees, including, but not limited to, an executive committee as required by section 20109, subsection 5, which may act on behalf of the interstate commission in carrying out the commission's powers and duties;

9. Elect; appoint. Elect or appoint officers, attorneys, employees, agents or consultants, and fix their compensation, define their duties and determine their qualifications; and establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

10. Donations; grants. Accept, receive, use and dispose of donations and grants of money, equipment, supplies, materials and services;

11. Acquire property. Lease, purchase or accept contributions or donations of or otherwise own, hold, improve or use any property, real, personal or mixed;

12. Dispose of property. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

13. Budget. Establish a budget and make expenditures;

14. Seal. Adopt a seal and bylaws governing the management and operation of the interstate commission;

15. Report. Report annually to the legislatures, governors, judiciaries and state councils of the member states concerning the activities of the interstate commission during the preceding year. These reports must also include any recommendations that may have been adopted by the interstate commission;

16. Education. Coordinate education, training and public awareness regarding the compact and its implementation and operation for officials and parents and legal guardians affected by the compact;

17. Data. Establish uniform standards for the reporting, collecting and exchanging of data;

18. Corporate books and records. Maintain corporate books and records in accordance with the bylaws;

19. Additional functions. Perform such functions as may be necessary or appropriate to achieve the purposes of the compact; and

20. Information. Provide for the uniform collection and sharing of information between and among member states, schools and military families under the compact.

§20111. Organization and operation of the interstate commission - Article 11

1. Bylaws. The interstate commission shall, by a majority of the members present and voting, within 12 months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

A. Establishing the fiscal year of the interstate commission;

B. Establishing an executive committee and such other committees as may be necessary;

C. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

D. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

E. Establishing the titles and responsibilities of the officers and staff of the interstate commission;

F. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

G. Providing rules for initial administration of the compact.

2. Elect officers. The interstate commission shall, by a majority vote of the members, elect annually from among its members a chair, a vice-chair and a treasurer, each of whom has such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the interstate commission. The elected officers serve without compensation or remuneration from the interstate commission except that subject to the availability of budgeted funds, the officers may be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

3. Executive committee; powers and duties. The executive committee has those powers and duties set forth in the bylaws, including but not limited to:

A. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

B. Overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures and administrative and technical support functions; and

C. Planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.

4. Executive director. Subject to the approval of the interstate commission, the executive committee may appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may consider appropriate. The executive director serves as secretary to the interstate commission, but is not a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

5. Immunity. The interstate commission's executive director and its employees and interstate commission representatives are immune from suit and liability in accordance with this subsection.

A. The interstate commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities except that the interstate commission's executive director and its employees are not protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

B. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection may not be construed to protect the interstate commission's executive director and employees or interstate commission representatives from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

C. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

D. To the extent not covered by the state involved, member state or interstate commission, the representatives or employees of the interstate commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the representatives or employees of the interstate commission arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§20112. Rule-making functions of the interstate commission - Article 12

1. Authority. The interstate commission shall promulgate reasonable rules in order to effectively and

efficiently achieve the purposes of the compact; however, if the interstate commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this chapter or the powers granted under this chapter, then such an action by the interstate commission is invalid and has no force or effect.

2. Procedure. Rules must be promulgated pursuant to a rule-making process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

3. Judicial review. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule. The filing of a petition pursuant to this subsection does not stay or otherwise prevent the rule from taking effect unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

4. Rejection by a majority of states. If a majority of the legislatures of the compacting states rejects a rule by enactment of a law or resolution in the same manner used to adopt the compact, then that rule has no further force and effect in any member state.

§20113. Oversight, enforcement and dispute resolution - Article 13

1. Oversight. The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated under this chapter have standing as statutory law.

All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact that may affect the powers, responsibilities or actions of the interstate commission. The interstate commission is entitled to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or order void as to the interstate commission, the compact or promulgated rules.

2. Default. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or the bylaws or promulgated rules, the interstate commission shall:

A. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default; and

B. Provide remedial training and specific technical assistance regarding the default.

3. Failure to cure. If the defaulting state fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by the compact must be terminated from the effective date of termination.

4. Cure; obligations or liabilities incurred during default. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

5. Suspension; termination. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

6. Responsibility after suspension; termination. The member state that has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

7. Responsibility of commission. The interstate commission does not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

8. Appeal. The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

9. Dispute resolution; rules. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

10. Enforcement. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

The interstate commission may by majority vote of the members initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party may be awarded all costs of such litigation including reasonable attorney's fees. The remedies set forth in this subsection are not the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

§20114. Financing of the interstate commission - Article 14

1. Payment for reasonable expenses. The interstate commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

2. Assessment. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

3. Incur obligations. The interstate commission may not incur obligations of any kind prior to securing the funds adequate to meet the same and may not pledge the credit of any of the member states, except by and with the authority of the member state.

4. Accounts. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the interstate commission.

§20115. Member states, effective date and amendment - Article 15

1. Eligibility. Any state is eligible to become a member state.

2. Effective date. The compact becomes effective and binding upon legislative enactment of the compact into law by no fewer than 10 of the states. The effective date may be no earlier than December 1, 2007; thereafter, it becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees are invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

3. Amendments. The interstate commission may propose amendments to the compact for enactment by the member states. An amendment is not effective and binding upon the interstate commission and the member states until it is enacted into law by unanimous consent of the member states.

§20116. Withdrawal and dissolution - Article 16

1. Withdrawal. Withdrawal from the compact is governed by this subsection.

A. Once effective, the compact continues in force and remains binding upon each member state except that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

B. The enactment by a member state of a law repealing the statute that enacted the compact does not take effect until one year after the effective date of that law and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

C. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notification from the withdrawing state.

D. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

E. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

2. Dissolution of compact. This compact dissolves effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

3. Conclusion of affairs. Upon the dissolution of this compact, the compact becomes void and is of no

further effect. The business and affairs of the interstate commission must be concluded, and surplus funds must be distributed in accordance with the bylaws.

§20117. Severability and construction - Article 17

1. Severability. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is unenforceable, the remaining provisions of the compact are enforceable.

2. Construction. The provisions of this compact must be liberally construed to effectuate its purposes. Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

§20118. Binding effect of compact and other laws - Article 18

1. Other laws. Nothing in this chapter prevents the enforcement of any other law of a member state that is not inconsistent with this chapter. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

2. Binding effect of the compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states. All agreements between the interstate commission and the member states are binding in accordance with their terms. In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 2. Legislative intent. The text and numbering of the Interstate Compact on Educational Opportunity for Military Children have been changed to conform to Maine statutory conventions. The changes are technical in nature, and it is the intent of the Legislature that this Act be interpreted as substantively the same as the original interstate compact.

See title page for effective date.

CHAPTER 410

S.P. 322 - L.D. 853

An Act To Encourage Maine Residents To Attend Medical School and Practice in Maine

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

Whereas, Maine currently faces an acute shortage of primary care physicians, particularly in rural areas of the State, as a result of a number of factors; and

Whereas, due to concerns regarding limited access and the high cost of medical education, Maine students who graduate from college are the least likely to enter medical school as compared to college graduates in other states; and

Whereas, Maine is one of only 6 states in the nation without a state-supported, allopathic medical school; and

Whereas, collaborative partnerships between the Tufts University School of Medicine and the Maine Medical Center and between the University of Vermont School of Medicine and the Eastern Maine Medical Center and involving the University of New England will encourage more Maine students to pursue careers in medicine and will develop support for the establishment of medical education programs in the State; and

Whereas, leveraging the private resources of these universities and health care organizations to match funding available due to the enhanced Federal Medicaid Assistance Percentage provided in the American Recovery and Reinvestment Act of 2009 will provide start-up funding for the establishment of a medical student scholarship fund; and

Whereas, this innovative, public-private funding model will result in the training of medical students in the State which will increase the likelihood that these physicians will remain in the State once their medical training is completed; and

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

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

Sec. 1. 20-A MRSA §12101, sub-§8-A is enacted to read:

8-A. Qualifying Maine-based medical school program. "Qualifying Maine-based medical school program" means an allopathic or osteopathic medical school program affiliated with a medical school accredited by the Liaison Committee on Medical Education or its successor or the American Osteopathic Association or its successor in which:

A. An educational or health care institution located in this State participates in curriculum development and the selection of students for admission;

B. No fewer than 10 students per class year are enrolled and in which these students are required

to complete not less than one academic year of the medical school curriculum at facilities located in this State;

C. Funds are raised through philanthropic resources and the private sector to match 100% of those funds appropriated or allocated by the State for scholarships under section 12103; and

D. The program curriculum includes required clerkship experiences in and training and course completion in rural health care and primary care.

Sec. 2. 20-A MRSA §12103, sub-§1, as amended by PL 1997, c. 765, §1, is further amended to read:

1. Positions. The Access to Medical Education Program is established under this section. Under this program, the chief executive officer shall secure up to 21 positions annually for Maine students at schools of allopathic, osteopathic or veterinary medical education up to an aggregate of 84 positions. Five positions are for students of osteopathic medicine, 15 positions are for students of allopathic medicine and one position is for students of veterinary medicine. If there is an insufficient number of qualified applicants for positions in either allopathic or osteopathic medicine, the chief executive officer may increase or decrease the number of positions available in either discipline. The allopathic and osteopathic medicine positions are available only to eligible students commencing professional education on or after January 1, 1993 and on or before September 30, 2009. Commencing January 1, 2010, the chief executive officer may not secure any new positions for students at schools of allopathic or osteopathic medicine and shall secure only the number of positions necessary to allow students already occupying such positions as of January 1, 2010 to complete their remaining medical education, up to 3 years, at the institution. Commencing July 1, 2013, the chief executive officer may not secure any further positions at schools of allopathic or osteopathic medicine under this section. The veterinary medicine position is available to a student commencing medical education on or after January 1, 1999.

Sec. 3. 20-A MRSA §12103-A is enacted to read:

§12103-A. Doctors for Maine's Future Scholarship Program

There is established the Doctors for Maine's Future Scholarship Program, referred to in this section as "the scholarship program," to provide a tuition subsidy of 50% of the cost of attendance annually, up to a maximum of $25,000 per student annually, for eligible students who enter qualifying Maine-based medical school programs for the purpose of increasing the number of physicians in this State who practice in primary care, underserved specialties or underserved areas of the State. For the purposes of this section, "cost of attendance" means the tuition and fees applicable to an eligible student, together with estimated other expenses reasonably related to cost of attendance at a qualifying Maine-based medical school program.

1. Eligibility. For purposes of this section, "eligible student" means a student who meets eligibility requirements set by the authority by rule that include at least the following:

A. The student is or will be enrolled in a qualifying Maine-based medical school program; and

B. The student has a substantial connection to the State as evidenced by factors such as prior education in this State, parental residence in this State and at least one year of non-education-related residence in this State.

2. Priority. In awarding scholarships, the authority shall give priority to an eligible student who meets at least 2 of the following provisions:

A. The student has received a high school diploma, or its equivalent, in this State;

B. The student has received a baccalaureate degree from a 4-year college or university in this State; and

C. The legal residence of a parent of the student is in this State.

3. Allocation. The total number of scholarships available under the scholarship program must be allocated equally among qualifying Maine-based medical school programs, except that a program may not be allocated more than the number of scholarships for which the program has raised matching funds as of January 1st immediately preceding the scholarship award.

4. Matching funds. Commencing January 1, 2013, if a qualifying Maine-based medical school program raises matching funds in an amount less than the amount of scholarship funds allocable to it under this section from the State for a given year or does not have a sufficient number of qualified applicants to fill the number of scholarships allocable to it, the number of scholarships allocated to that program must be reduced accordingly and scholarships must be reallocated for that year to students of other qualifying Maine-based medical school programs. Qualifying Maine-based medical school programs must use funds raised through philanthropic and private medical education fundraising to increase the number of scholarships available to eligible students and must use matching funds to provide no fewer than the number of scholarships allocated to the program by the State in a given academic year.

5. Notification. For each student receiving a scholarship under this section, the student's qualifying Maine-based medical school program must notify the

authority of the location of the student's medical residency, specialty and place of employment for each of the 8 years after the student's graduation from the school.

6. Doctors for Maine's Future Scholarship Fund created. A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority, known as the Doctors for Maine's Future Scholarship Fund, and referred to in this subsection as "the fund," is created to carry out the purposes of this section. Any unexpended balance in the fund carries over for continued use under this section. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests and donations or other sources in addition to money appropriated or allocated by the State. Money in the fund must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the purposes of this section; interest income may be used for such purposes or to pay student financial assistance administrative costs incurred by the authority.

Sec. 4. 20-A MRSA §12104, sub-§2-A is enacted to read:

2-A. Access to Medical Education Program students. As long as the student is otherwise eligible, a student occupying a position at a school of allopathic or osteopathic medicine pursuant to section 12103 that was secured by the chief executive officer on or before June 30, 2009 continues to be eligible for loans under the program under this section through June 30, 2012.

Sec. 5. 20-A MRSA §12105, sub-§1, as amended by PL 2001, c. 479, §1, is further amended to read:

1. Fund created. A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority is created to carry out the purposes of ~~this chapter~~ sections 12103 and 12104 through June 30, 2012. From July 1, 2012, the fund must be used to carry out the purposes of section 12103 as it pertains to positions of veterinary medicine only and of section 12104. From July 1, 2009 to June 30, 2013, the authority shall use the portion of the fund allocated under section 12103 to secure positions only for students of veterinary medicine and to secure positions for students of allopathic or osteopathic medicine who occupied positions on September 30, 2009 as necessary to allow them to complete their remaining medical education, up to 3 years, at the institution. From July 1, 2009, the authority shall use any unexpended balance of funds previously allocated for the purchase of positions of allopathic or osteopathic medicine under section 12103 to fund the scholarships described in section 12103-A. Any unexpended balance in the fund after the unused portion is reallocated to support the scholarships described in section 12103-A carries over for continued use under ~~this chapter~~ section 12103, as it pertains to positions of veterinary medicine only, and section 12104. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, or other sources in addition to money appropriated or allocated by the State. Loan repayments under this chapter or other repayments to the authority under sections 12103 or 12104 must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for such purposes; interest income may be used for such purposes or to pay student financial assistance administrative costs incurred by the authority.

Sec. 6. 20-A MRSA §12105, sub-§2, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

2. Separate account authorized. The authority may divide ~~the fund~~ each of the funds under subsection 1 and section 12103-A, subsection 6 into separate accounts it determines necessary or convenient for implementing this chapter, including, but not limited to, accounts reserved for the purchase of positions and accounts reserved for loans.

Sec. 7. 20-A MRSA §12105, sub-§3, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

3. Allocation of repayments. The authority may allocate a portion of the annual loan repayments received under section 12104 for the purpose of recruiting primary health care physicians for designated health professional shortage areas. That portion may be used:

A. To generate additional matching funds for recruitment of physicians for designated health professional shortage areas; or

B. In accordance with criteria established by the authority, to encourage primary health care physicians to practice medicine in health professional shortage areas.

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

Effective June 16, 2009.

CHAPTER 411

H.P. 654 - L.D. 951

An Act Relating to the TransCap Trust Fund

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

90 days after adjournment unless enacted as emergencies; and

Whereas, revenue is scheduled to be deposited into the TransCap Trust Fund beginning July 1, 2009 for capital improvements to bridges and highways; and

Whereas, this legislation affects the allocation of that revenue; and

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

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

Sec. 1. 30-A MRSA §6006-G, sub-§2, ¶B, as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

B. Sums transferred to the fund from time to time by the Treasurer of State pursuant to Title 29-A, section ~~159~~ 453, subsection 2; Title 29-A, section 501, subsection 1; Title 29-A, section 504, subsection 1; and Title 29-A, section 603, subsection 1; and

Sec. 2. 30-A MRSA §6006-G, sub-§4, ¶A, as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

A. To make grants and loans to the Department of Transportation and municipalities under this section, except that such grants may be used only for capital projects that have an anticipated useful life of at least 10 years and such bonds may be used only for capital projects that have an anticipated useful life of at least ~~5 years greater than~~ as long as the bond term;

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2009.

Effective July 1, 2009.

CHAPTER 412

H.P. 519 - L.D. 760

An Act To Improve Landfill Capacity

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

PART A

Sec. A-1. 38 MRSA §1310-N, sub-§5-A, ¶B, as enacted by PL 2007, c. 583, §4, is amended to read:

B. The provisions of this paragraph apply to solid waste processing facilities that generate residue requiring disposal.

(1) An applicant for a new or expanded solid waste processing facility that generates residue requiring disposal shall demonstrate that all requirements of this paragraph will be satisfied. On an annual basis, an owner or operator of a licensed solid waste processing facility that generates residue requiring disposal shall demonstrate compliance with all the requirements of this paragraph. The annual demonstration of compliance must be included as an element of the facility's annual report to the department submitted in conformance with the provisions of subsection 6-D, paragraph B and department rules.

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" includes, but is not limited to, reuse of waste as shaping, grading or alternative daily cover materials at landfills; aggregate material in construction; and boiler fuel substitutes.

(3) A solid waste processing facility subject to this paragraph shall demonstrate consistency with the recycling provisions of the state plan.

(4) The requirements of this paragraph do not apply to solid waste composting facilities; solid waste processing facilities whose primary purpose is volume reduction or other waste processing or treatment prior to disposal of the waste in a landfill or incineration facility; solid waste processing facilities that are licensed in accordance with permit-by-rule provisions of the department's rules; or solid waste processing facilities that are exempt from the requirements of the solid waste management rules related to processing facilities adopted by the board.

(5) If the department amends the rules relating to fuel quality for construction and demolition wood fuel and the amendment adversely affects the ability of a solid waste processing facility to meet the 50% standard in subparagraph (2), the department may not enforce the requirements of subparagraph (2) against that processing facility and the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report relating to the rule change. The joint standing

committee of the Legislature having jurisdiction over natural resources matters may submit legislation related to the report.

The department shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this paragraph are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. ~~The department may not enforce the recycling requirements of subparagraph (2) prior to the effective date of rules that define "to the maximum extent practicable."~~

Sec. A-2. Processing facility recycling rulemaking; status report.

1. Report. By February 1, 2010, the Department of Environmental Protection shall submit to the Joint Standing Committee on Natural Resources a report relating to the development and status of rules that define the term "to the maximum extent practicable" as that term is used in the Maine Revised Statutes, Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2). In connection with the report, the department shall investigate current recycling technologies and practices as they relate to the creation of fine material, known as "fines," that is qualified to be used as alternative daily cover at landfills under Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2). The results of that investigation must be included in the department's report. The Joint Standing Committee on Natural Resources may submit legislation related to the report to the Second Regular Session of the 124th Legislature.

2. Rulemaking. By April 1, 2010, the Department of Environmental Protection shall adopt rules that define the term "to the maximum extent practicable" as that term is used in the Maine Revised Statutes, Title 38, section 1310-N, subsection 5-A, paragraph B, subparagraph (2).

PART B

Sec. B-1. PL 2007, c. 583, §10 is amended to read:

Sec. 10. Duties and responsibilities for managing solid waste. By July 31, 2008, the Department of Environmental Protection and the Executive Department, State Planning Office, referred to in this section as "the agencies," shall develop a system by which solid waste management activities are performed by them. By August 30, 2008, the agencies shall implement elements of the system that do not require statutory changes. By January 5, 2009, the agencies shall submit a report on the system to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must identify any legislative changes that are necessary for the implementation of the system and must report on the elements of the system that have been implemented by the agencies. The report must also include an analysis of the agencies' respective ability to control the different and various waste streams flowing into state-owned landfills. The committee may report out legislation relating to the report to the ~~First~~ Second Regular Session of the 124th Legislature.

Sec. B-2. Review and assessment of solid waste management policy; state-owned landfills. The Executive Department, State Planning Office shall work collaboratively with other state agencies and interested parties to conduct a review and assessment of the State's solid waste management policy and submit a report relating to the review and assessment. The review and assessment must include, but is not limited to:

1. Whether funding for management and oversight of state-owned landfills is sufficient to carry out the legislative intent of the Maine Revised Statutes, Title 38, chapter 13;

2. Whether management or operational modifications should be instituted at the state-owned landfill;

3. Whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates; and

4. Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

By January 5, 2010, the office shall report its findings and recommendations, including any draft legislation necessary to implement its recommendations, to the Joint Standing Committee on Natural Resources, which is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 413

H.P. 269 - L.D. 333

An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2009, June 30, 2010 and June 30, 2011

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

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

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

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

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

PART A

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Budget - Bureau of the 0055

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$98,771	$103,844
All Other	$8,296	$8,296
HIGHWAY FUND TOTAL	$107,067	$112,140

Budget - Bureau of the 0055

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail file services, desktop and laptop support and network and telephone services including wireless technology.

HIGHWAY FUND	2009-10	2010-11
All Other	$623	$623
HIGHWAY FUND TOTAL	$623	$623

BUDGET - BUREAU OF THE 0055

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$98,771	$103,844
All Other	$8,919	$8,919
HIGHWAY FUND TOTAL	$107,690	$112,763

Buildings and Grounds Operations 0080

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	16.000	16.000
Personal Services	$730,686	$752,087
All Other	$1,385,828	$1,385,828
HIGHWAY FUND TOTAL	$2,116,514	$2,137,915

Buildings and Grounds Operations 0080

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	($178,210)	($107,868)
HIGHWAY FUND TOTAL	($178,210)	($107,868)

BUILDINGS AND GROUNDS OPERATIONS 0080

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	16.000	16.000

Personal Services	$730,686	$752,087
All Other	$1,207,618	$1,277,960
HIGHWAY FUND TOTAL	$1,938,304	$2,030,047

Bureau of General Services - Capital Construction and Improvement Reserve Fund 0883

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$669,497	$669,497
HIGHWAY FUND TOTAL	$669,497	$669,497

BUREAU OF GENERAL SERVICES - CAPITAL CONSTRUCTION AND IMPROVEMENT RESERVE FUND 0883

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$669,497	$669,497
HIGHWAY FUND TOTAL	$669,497	$669,497

Claims Board 0097

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$65,718	$66,710
All Other	$23,673	$23,673
HIGHWAY FUND TOTAL	$89,391	$90,383

CLAIMS BOARD 0097

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$65,718	$66,710
All Other	$23,673	$23,673
HIGHWAY FUND TOTAL	$89,391	$90,383

Revenue Services - Bureau of 0002

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	5.000	5.000
Personal Services	$794,371	$813,363
All Other	$171,833	$171,833
HIGHWAY FUND TOTAL	$966,204	$985,196

REVENUE SERVICES - BUREAU OF 0002

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	5.000	5.000
Personal Services	$794,371	$813,363
All Other	$171,833	$171,833
HIGHWAY FUND TOTAL	$966,204	$985,196

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$3,771,086	$3,887,886
DEPARTMENT TOTAL - ALL FUNDS	$3,771,086	$3,887,886

Sec. A-2. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality 0250

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$36,727	$36,727
HIGHWAY FUND TOTAL	$36,727	$36,727

Air Quality 0250

Initiative: Reduces funding for printing to maintain costs within available resources.

HIGHWAY FUND	2009-10	2010-11
All Other	($3,673)	($3,673)
HIGHWAY FUND TOTAL	($3,673)	($3,673)

AIR QUALITY 0250

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$33,054	$33,054
HIGHWAY FUND TOTAL	$33,054	$33,054

ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$33,054	$33,054
DEPARTMENT TOTAL - ALL FUNDS	$33,054	$33,054

Sec. A-3. Appropriations and allocations. The following appropriations and allocations are made.

MUNICIPAL BOND BANK, MAINE

Transcap Trust Fund Z064

Initiative: Provides funding in accordance with Public Law 2007, chapter 682. This law authorizes a transfer from Highway Fund unallocated surplus as a result of savings achieved from changing the percentage allocated to the Highway Fund State Police account from 60% to 49% beginning in fiscal year 2009-10.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$5,668,895	$5,764,140
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,668,895	$5,764,140

Transcap Trust Fund Z064

Initiative: Provides funding in accordance with Public Law 2007, chapter 647. This law authorizes a transfer from the Highway Fund for an additional $10 service fee for a vanity registration plate and an additional $10 fee for a vehicle used for the conveyance of passengers or property beginning in fiscal year 2009-10.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$15,201,655	$15,076,513
OTHER SPECIAL REVENUE FUNDS TOTAL	$15,201,655	$15,076,513

Transcap Trust Fund Z064

Initiative: Provides funding in accordance with Public Law 2007, chapter 470 and Public Law 2007, chapter 538, which authorize deposits to the TransCap Trust Fund for a percentage of fuel tax revenues beginning in fiscal year 2009-10.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$18,840,930	$18,936,798
OTHER SPECIAL REVENUE FUNDS TOTAL	$18,840,930	$18,936,798

Transcap Trust Fund Z064

Initiative: Reduces funding to reflect revenue reprojections of the Revenue Forecasting Committee in its May 1, 2009 report.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($2,592,996)	($1,702,752)
OTHER SPECIAL REVENUE FUNDS TOTAL	($2,592,996)	($1,702,752)

TRANSCAP TRUST FUND Z064

PROGRAM SUMMARY

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$37,118,484	$38,074,699
OTHER SPECIAL REVENUE FUNDS TOTAL	$37,118,484	$38,074,699

MUNICIPAL BOND BANK, MAINE		
DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	$37,118,484	$38,074,699
DEPARTMENT TOTAL - ALL FUNDS	$37,118,484	$38,074,699

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

PUBLIC SAFETY, DEPARTMENT OF

Administration - Public Safety 0088

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$131,685	$135,463
All Other	$682,524	$682,524
HIGHWAY FUND TOTAL	$814,209	$817,987

Administration - Public Safety 0088

Initiative: Provides funding for increases in financial and human resource services.

HIGHWAY FUND	2009-10	2010-11
All Other	$65,428	$65,428
HIGHWAY FUND TOTAL	$65,428	$65,428

ADMINISTRATION - PUBLIC SAFETY 0088

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$131,685	$135,463
All Other	$747,952	$747,952
HIGHWAY FUND TOTAL	$879,637	$883,415

Highway Safety DPS 0457

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$78,328	$79,918
All Other	$372,156	$372,156
HIGHWAY FUND TOTAL	$450,484	$452,074

Highway Safety DPS 0457

Initiative: Provides funding for blood-alcohol tests for the implied consent program.

HIGHWAY FUND	2009-10	2010-11
All Other	$101,230	$168,403
HIGHWAY FUND TOTAL	$101,230	$168,403

HIGHWAY SAFETY DPS 0457

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$78,328	$79,918
All Other	$473,386	$540,559
HIGHWAY FUND TOTAL	$551,714	$620,477

Motor Vehicle Inspection 0329

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	14.000	14.000
Personal Services	$958,474	$980,570
All Other	$249,796	$249,796
HIGHWAY FUND TOTAL	$1,208,270	$1,230,366

Motor Vehicle Inspection 0329

Initiative: Adjusts funding for new information technology system development and support.

HIGHWAY FUND	2009-10	2010-11
All Other	$23,000	$23,000
HIGHWAY FUND TOTAL	$23,000	$23,000

Motor Vehicle Inspection 0329

Initiative: Eliminates 2 Public Safety Inspector I positions and reduces funding for related All Other costs.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($105,326)	($108,976)
All Other	($4,677)	($4,733)
HIGHWAY FUND TOTAL	($110,003)	($113,709)

MOTOR VEHICLE INSPECTION 0329

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	12.000	12.000
Personal Services	$853,148	$871,594
All Other	$268,119	$268,063
HIGHWAY FUND TOTAL	$1,121,267	$1,139,657

State Police 0291

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
Personal Services	$20,616,020	$21,102,273
All Other	$8,783,820	$8,783,820
HIGHWAY FUND TOTAL	$29,399,840	$29,886,093

State Police 0291

Initiative: Provides funding for contracted system maintenance of the criminal history repository.

HIGHWAY FUND	2009-10	2010-11
All Other	$66,272	$129,946
HIGHWAY FUND TOTAL	$66,272	$129,946

State Police 0291

Initiative: Adjusts funding from 40% General Fund and 60% Highway Fund to 51% General Fund and 49% Highway Fund in accordance with Public Law 2007, chapter 682.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($3,780,088)	($3,869,186)
All Other	($1,888,807)	($1,894,954)
HIGHWAY FUND TOTAL	($5,668,895)	($5,764,140)

State Police 0291

Initiative: Reduces funding for the replacement of state police vehicles.

HIGHWAY FUND	2009-10	2010-11
All Other	($99,517)	($199,034)
HIGHWAY FUND TOTAL	($99,517)	($199,034)

State Police 0291

Initiative: Reduces funding for overtime in the State Bureau of Identification.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($80,106)	($81,123)
All Other	($1,240)	($1,256)
HIGHWAY FUND TOTAL	($81,346)	($82,379)

State Police 0291

Initiative: Reduces funding for travel related to training and investigations.

HIGHWAY FUND	2009-10	2010-11
All Other	($27,367)	($27,367)
HIGHWAY FUND TOTAL	($27,367)	($27,367)

State Police 0291

Initiative: Eliminates funding for reimbursement for educational costs.

HIGHWAY FUND	2009-10	2010-11
All Other	($18,908)	($18,908)
HIGHWAY FUND TOTAL	($18,908)	($18,908)

State Police 0291

Initiative: Reduces funding for printing of statutes for each state police officer.

HIGHWAY FUND	2009-10	2010-11
All Other	($8,629)	($8,629)
HIGHWAY FUND TOTAL	($8,629)	($8,629)

State Police 0291

Initiative: Eliminates one Auto Mechanic II position.

HIGHWAY FUND	2009-10	2010-11
Personal Services	$0	($28,964)
All Other	$0	($448)
HIGHWAY FUND TOTAL	$0	($29,412)

STATE POLICE 0291

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
Personal Services	$16,755,826	$17,123,000
All Other	$6,805,624	$6,763,170
HIGHWAY FUND TOTAL	$23,561,450	$23,886,170

State Police - Support 0981

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	10.000	10.000
Personal Services	$559,383	$573,951

All Other	$7,782	$7,782
HIGHWAY FUND TOTAL	$567,165	$581,733

State Police - Support 0981

Initiative: Provides funding for the increased cost of STA-CAP.

HIGHWAY FUND	2009-10	2010-11
All Other	$878	$1,103
HIGHWAY FUND TOTAL	$878	$1,103

STATE POLICE - SUPPORT 0981

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	10.000	10.000
Personal Services	$559,383	$573,951
All Other	$8,660	$8,885
HIGHWAY FUND TOTAL	$568,043	$582,836

Traffic Safety 0546

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	8.000	8.000
Personal Services	$823,982	$841,880
All Other	$190,095	$190,095
HIGHWAY FUND TOTAL	$1,014,077	$1,031,975

TRAFFIC SAFETY 0546

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	8.000	8.000
Personal Services	$823,982	$841,880
All Other	$190,095	$190,095
HIGHWAY FUND TOTAL	$1,014,077	$1,031,975

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	47.000	47.000
Personal Services	$4,510,128	$4,588,773
All Other	$751,478	$751,478
HIGHWAY FUND TOTAL	$5,261,606	$5,340,251

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Adjusts funding in the Federal Expenditures Fund and Highway Fund in order to accurately account for United States Department of Transportation, Federal Motor Carrier Safety Administration funds by reallocating 12 Motor Carrier Inspector positions and one Motor Carrier Inspector Supervisor position from 100% Highway Fund to 66% Highway Fund and 34% Federal Expenditures Fund. This will result in a reduction of undedicated revenue to the Highway Fund of $400,000 in each year of the biennium.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($338,724)	($345,420)
All Other	($5,244)	($5,347)
HIGHWAY FUND TOTAL	($343,968)	($350,767)

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Transfers funds from All Other to Capital Expenditures to fund the purchase of vehicles.

HIGHWAY FUND	2009-10	2010-11
All Other	($100,000)	($100,000)
Capital Expenditures	$100,000	$100,000
HIGHWAY FUND TOTAL	$0	$0

TRAFFIC SAFETY - COMMERCIAL VEHICLE ENFORCEMENT 0715

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	47.000	47.000
Personal Services	$4,171,404	$4,243,353
All Other	$646,234	$646,131
Capital Expenditures	$100,000	$100,000
HIGHWAY FUND TOTAL	$4,917,638	$4,989,484

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$32,613,826	$33,134,014
DEPARTMENT TOTAL - ALL FUNDS	$32,613,826	$33,134,014

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

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	381.000	381.000
Personal Services	$23,603,754	$24,445,020
All Other	$11,394,107	$11,394,107
HIGHWAY FUND TOTAL	$34,997,861	$35,839,127

Administration - Motor Vehicles 0077

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	$68,080	$127,632
HIGHWAY FUND TOTAL	$68,080	$127,632

Administration - Motor Vehicles 0077

Initiative: Provides funding for the increased cost of leases and operating costs within branch offices serving the public throughout the State.

HIGHWAY FUND	2009-10	2010-11
All Other	$48,765	$59,668
HIGHWAY FUND TOTAL	$48,765	$59,668

Administration - Motor Vehicles 0077

Initiative: Reorganizes one Management Analyst II position to a Financial Analyst position and transfers All Other to Personal Services to fund the reorganization.

HIGHWAY FUND	2009-10	2010-11
Personal Services	$6,905	$10,578
All Other	($6,905)	($10,578)
HIGHWAY FUND TOTAL	$0	$0

Administration - Motor Vehicles 0077

Initiative: Reorganizes 3 Motor Vehicle Section Manager positions to Senior Motor Vehicle Section Manager positions and transfers All Other to Personal Services to fund the reorganization.

HIGHWAY FUND	2009-10	2010-11
Personal Services	$14,608	$18,220
All Other	($14,608)	($18,220)
HIGHWAY FUND TOTAL	$0	$0

Administration - Motor Vehicles 0077

Initiative: Provides funding for a new digital driver licensing and nondriver identification card contract.

HIGHWAY FUND	2009-10	2010-11
All Other	$105,456	$105,456
HIGHWAY FUND TOTAL	$105,456	$105,456

Administration - Motor Vehicles 0077

Initiative: Provides one-time funding for the replacement of an M31 coater with graphics package and ink circulation assembly to manufacture license plates. The coater is 15 years old and the plate shop would not be able to manufacture license plates without it.

HIGHWAY FUND	2009-10	2010-11
All Other	$4,561	$0
Capital Expenditures	$19,700	$0
HIGHWAY FUND TOTAL	$24,261	$0

Administration - Motor Vehicles 0077

Initiative: Provides funding for an increase in the Bureau of Motor Vehicles' STA-CAP rate from 4.723% to 5.456%.

HIGHWAY FUND	2009-10	2010-11
All Other	$248,410	$254,012
HIGHWAY FUND TOTAL	$248,410	$254,012

Administration - Motor Vehicles 0077

Initiative: Continues 10 limited-period Customer Representative Associate II positions needed to ensure

adequate Bureau of Motor Vehicles staffing levels in the branch locations to validate applicants' legal presence in the United States requirements prior to issuance of licenses in accordance with Public Law 2007, chapter 648. These positions were previously authorized by Public Law 2007, chapter 329. These positions will end on June 11, 2011.

HIGHWAY FUND	2009-10	2010-11
Personal Services	$542,120	$574,570
All Other	$40,363	$42,448
HIGHWAY FUND TOTAL	$582,483	$617,018

Administration - Motor Vehicles 0077

Initiative: Reduces funding for repayment of Motor Vehicles Certificate of Participation loan principal and interest.

HIGHWAY FUND	2009-10	2010-11
All Other	($57,327)	($57,327)
HIGHWAY FUND TOTAL	($57,327)	($57,327)

Administration - Motor Vehicles 0077

Initiative: Reduces funding for data circuits that are no longer needed by the bureau.

HIGHWAY FUND	2009-10	2010-11
All Other	($98,805)	($98,805)
HIGHWAY FUND TOTAL	($98,805)	($98,805)

Administration - Motor Vehicles 0077

Initiative: Reduces funding for in-state and out-of-state travel to maintain costs within available resources.

HIGHWAY FUND	2009-10	2010-11
All Other	($5,312)	($5,312)
HIGHWAY FUND TOTAL	($5,312)	($5,312)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by eliminating vehicles and using pool vehicles instead.

HIGHWAY FUND	2009-10	2010-11
All Other	($15,813)	($15,813)
HIGHWAY FUND TOTAL	($15,813)	($15,813)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by eliminating the municipal section and international registration plan watts lines.

HIGHWAY FUND	2009-10	2010-11
All Other	($3,584)	($3,584)
HIGHWAY FUND TOTAL	($3,584)	($3,584)

Administration - Motor Vehicles 0077

Initiative: Reduces funding for information technology by removing access to financial and payroll systems for some administrative services users.

HIGHWAY FUND	2009-10	2010-11
All Other	($3,543)	($3,543)
HIGHWAY FUND TOTAL	($3,543)	($3,543)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by eliminating issuance of driver license renewal notification packets.

HIGHWAY FUND	2009-10	2010-11
All Other	$0	($65,000)
HIGHWAY FUND TOTAL	$0	($65,000)

Administration - Motor Vehicles 0077

Initiative: Reduces funding through one-time savings achieved from the renegotiation of various contracts.

HIGHWAY FUND	2009-10	2010-11
All Other	($46,909)	$0
HIGHWAY FUND TOTAL	($46,909)	$0

Administration - Motor Vehicles 0077

Initiative: Eliminates one Office Associate I position and reduces funding for related All Other costs in the administrative services division.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	($44,828)	($45,866)
All Other	($3,382)	($3,449)
HIGHWAY FUND TOTAL	($48,210)	($49,315)

Administration - Motor Vehicles 0077

Initiative: Eliminates one vacant Office Assistant I position, one vacant Office Assistant II position and one vacant Office Associate II position and reduces funding for related All Other costs in the driver licenses services division.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(3.000)	(3.000)
Personal Services	($163,995)	($169,089)
All Other	($11,756)	($12,065)
HIGHWAY FUND TOTAL	($175,751)	($181,154)

Administration - Motor Vehicles 0077

Initiative: Eliminates 2 Programmer Analyst positions and reduces funding for related All Other costs in the information services division.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($178,422)	($181,536)
All Other	($11,606)	($11,798)
HIGHWAY FUND TOTAL	($190,028)	($193,334)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by migrating off the Hewlett-Packard servers to less expensive, more efficient servers.

HIGHWAY FUND	2009-10	2010-11
All Other	($21,091)	$0
HIGHWAY FUND TOTAL	($21,091)	$0

Administration - Motor Vehicles 0077

Initiative: Reduces funding by printing title documents in-house at the Bureau of Motor Vehicles.

HIGHWAY FUND	2009-10	2010-11
All Other	($16,319)	($16,319)
HIGHWAY FUND TOTAL	($16,319)	($16,319)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by delaying the purchase of network hubs and switches.

HIGHWAY FUND	2009-10	2010-11
All Other	($10,809)	$0
HIGHWAY FUND TOTAL	($10,809)	$0

Administration - Motor Vehicles 0077

Initiative: Reduces funding by eliminating contractor services that manage software configuration.

HIGHWAY FUND	2009-10	2010-11
All Other	($179,275)	($179,275)
HIGHWAY FUND TOTAL	($179,275)	($179,275)

Administration - Motor Vehicles 0077

Initiative: Eliminates one vacant Office Assistant II position and reduces funding for related All Other costs in the public services division.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	($45,366)	($48,061)
All Other	($3,411)	($3,568)
HIGHWAY FUND TOTAL	($48,777)	($51,629)

Administration - Motor Vehicles 0077

Initiative: Eliminates 2 Deputy Secretary of State positions funded by 50% Highway Fund and 50% General Fund and reduces funding for related All Other costs.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($87,325)	($92,192)
All Other	($4,764)	($5,030)
HIGHWAY FUND TOTAL	($92,089)	($97,222)

Administration - Motor Vehicles 0077

Initiative: Eliminates one vacant Office Associate II position and reduces funding for related All Other costs in the vehicle services division.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	($58,023)	($59,750)
All Other	($4,102)	($4,207)
HIGHWAY FUND TOTAL	($62,125)	($63,957)

Administration - Motor Vehicles 0077

Initiative: Reduces funding for general operating costs, printing, postage and office supplies to maintain costs within available resources.

HIGHWAY FUND	2009-10	2010-11
All Other	($12,233)	($12,233)
HIGHWAY FUND TOTAL	($12,233)	($12,233)

Administration - Motor Vehicles 0077

Initiative: Reduces funding for telephone allowances paid to employees in driver licenses services, information services and the investigations office.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($3,506)	($3,508)
HIGHWAY FUND TOTAL	($3,506)	($3,508)

Administration - Motor Vehicles 0077

Initiative: Reduces funding by reducing the number of telephone lines that are available in the investigations office.

HIGHWAY FUND	2009-10	2010-11
All Other	($2,202)	($2,202)
HIGHWAY FUND TOTAL	($2,202)	($2,202)

Administration - Motor Vehicles 0077

Initiative: Transfers 6% of the cost of one Public Services Manager I position and 16% of one Public Services Manager I position in the Administration - Motor Vehicles program, Highway Fund to the Bureau of Administrative Services and Corporations program, General Fund to absorb the human resources and financial activities previously performed by a Public Services Coordinator I position.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($20,000)	($20,000)
HIGHWAY FUND TOTAL	($20,000)	($20,000)

ADMINISTRATION - MOTOR VEHICLES 0077

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	373.000	373.000
Personal Services	$23,565,922	$24,428,386
All Other	$11,375,986	$11,454,995
Capital Expenditures	$19,700	$0
HIGHWAY FUND TOTAL	$34,961,608	$35,883,381

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	**$34,961,608**	**$35,883,381**
DEPARTMENT TOTAL - ALL FUNDS	**$34,961,608**	**$35,883,381**

Sec. A-6. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Administration 0339

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	108.000	108.000
POSITIONS - FTE COUNT	0.544	0.544
Personal Services	$8,835,327	$8,765,234
All Other	$5,407,274	$5,407,274
HIGHWAY FUND TOTAL	$14,242,601	$14,172,508

Administration 0339

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail, file services, desktop and laptop support and network and telephone services including wireless technology.

HIGHWAY FUND	2009-10	2010-11
All Other	$71,060	$71,060
HIGHWAY FUND TOTAL	$71,060	$71,060

Administration 0339

Initiative: Adjusts funding for the same level of information technology agency program and application support services at the fiscal years 2009-10 and 2010-11 Office of Information Technology rates for

direct-billed resources (staffing) based on collective bargaining agreements.

HIGHWAY FUND	2009-10	2010-11
All Other	$39,076	$39,076
HIGHWAY FUND TOTAL	$39,076	$39,076

Administration 0339

Initiative: Adjusts funding for fiscal years 2009-10 and 2010-11 enhancements to existing information technology applications.

HIGHWAY FUND	2009-10	2010-11
All Other	$116,103	$116,103
HIGHWAY FUND TOTAL	$116,103	$116,103

Administration 0339

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	$313	$313
HIGHWAY FUND TOTAL	$313	$313

Administration 0339

Initiative: Provides funding for miscellaneous building and small equipment costs.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	$100,000	$100,000
HIGHWAY FUND TOTAL	$100,000	$100,000

Administration 0339

Initiative: Transfers one Assistant Technician position, one Secretary Associate position and 2 Public Service Coordinator I positions from the Administration program to the Highway and Bridge Capital program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(4.000)	(4.000)
Personal Services	($291,837)	($287,751)
HIGHWAY FUND TOTAL	($291,837)	($287,751)

Administration 0339

Initiative: Transfers one Transportation Planning Specialist position and one Planning and Research Associate I position from the Highway and Bridge Capital program to the Administration program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$167,553	$165,607
HIGHWAY FUND TOTAL	$167,553	$165,607

Administration 0339

Initiative: Provides funding for the increased cost of the Transportation Service Center due to collective bargaining increases.

HIGHWAY FUND	2009-10	2010-11
All Other	$59,563	$109,289
HIGHWAY FUND TOTAL	$59,563	$109,289

Administration 0339

Initiative: Provides funding to adjust STA-CAP amounts from the baseline budget due to calculated amounts based on updated rates.

HIGHWAY FUND	2009-10	2010-11
All Other	$16,782	$16,761
HIGHWAY FUND TOTAL	$16,782	$16,761

Administration 0339

Initiative: Eliminates one Public Service Coordinator I position, one Public Service Executive II position, one Accountant I position, one Public Relations Specialist position, one Office Associate II position, 2 seasonal Office Assistant I positions, one Auditor II position and one Secretary Associate Legal position. These positions are currently vacant.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(7.000)	(7.000)
POSITIONS - FTE COUNT	(0.544)	(0.544)
Personal Services	($553,116)	($558,483)
HIGHWAY FUND TOTAL	($553,116)	($558,483)

Administration 0339

Initiative: Eliminates one Management Analyst II position, 2 Public Service Coordinator I positions, one Public Service Manager II position, one Office Assistant II position, one Office Associate II position and

one Secretary position. A portion of the cost of the Public Service Manager II position is allocated to the Public Transportation program, Federal Expenditures Fund.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(7.000)	(7.000)
Personal Services	($479,084)	($471,712)
HIGHWAY FUND TOTAL	($479,084)	($471,712)

Administration 0339

Initiative: Reduces funding for Capital Expenditures by 25% to maintain core services in the department and meet budget reduction targets.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	($25,000)	($25,000)
HIGHWAY FUND TOTAL	($25,000)	($25,000)

Administration 0339

Initiative: Transfers one Public Service Coordinator II position and reallocates 25% of the cost of one Transportation Planning Analyst position and one Transportation Planning Specialist position to the State Transit, Aviation and Rail Transportation Fund.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	($157,474)	($154,683)
HIGHWAY FUND TOTAL	($157,474)	($154,683)

ADMINISTRATION 0339 PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	91.000	91.000
POSITIONS - FTE COUNT	0.000	0.000
Personal Services	$7,521,369	$7,458,212
All Other	$5,710,171	$5,759,876
Capital Expenditures	$75,000	$75,000
HIGHWAY FUND TOTAL	$13,306,540	$13,293,088

Administration - Aeronautics 0294

Initiative: BASELINE BUDGET

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$1,585,782	$1,585,782
FEDERAL EXPENDITURES FUND TOTAL	$1,585,782	$1,585,782

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$100,000	$100,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$100,000	$100,000

Administration - Aeronautics 0294

Initiative: Provides funding for Capital Expenditures in the Administration - Aeronautics program.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Capital Expenditures	$300,000	$300,000
FEDERAL EXPENDITURES FUND TOTAL	$300,000	$300,000

ADMINISTRATION - AERONAUTICS 0294 PROGRAM SUMMARY

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$1,585,782	$1,585,782
Capital Expenditures	$300,000	$300,000
FEDERAL EXPENDITURES FUND TOTAL	$1,885,782	$1,885,782

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$100,000	$100,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$100,000	$100,000

Administration - Ports and Marine Transportation 0298

Initiative: BASELINE BUDGET

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$157,209	$157,209

FEDERAL EXPENDITURES FUND TOTAL	$157,209	$157,209

ADMINISTRATION - PORTS AND MARINE TRANSPORTATION 0298

PROGRAM SUMMARY

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$157,209	$157,209
FEDERAL EXPENDITURES FUND TOTAL	$157,209	$157,209

Bond Interest - Highway 0358

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$6,077,283	$6,077,283
HIGHWAY FUND TOTAL	$6,077,283	$6,077,283

Bond Interest - Highway 0358

Initiative: Provides funding for debt service costs to support the Highway and Bridge Capital program with a $60 million bond over 10 years.

HIGHWAY FUND	2009-10	2010-11
All Other	$295,958	$1,044,799
HIGHWAY FUND TOTAL	$295,958	$1,044,799

BOND INTEREST - HIGHWAY 0358

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$6,373,241	$7,122,082
HIGHWAY FUND TOTAL	$6,373,241	$7,122,082

Bond Retirement - Highway 0359

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$13,750,000	$13,750,000
HIGHWAY FUND TOTAL	$13,750,000	$13,750,000

Bond Retirement - Highway 0359

Initiative: Provides funding for debt service costs to support the Highway and Bridge Capital program with a $60 million bond over 10 years.

HIGHWAY FUND	2009-10	2010-11
All Other	$2,070,000	$5,075,000
HIGHWAY FUND TOTAL	$2,070,000	$5,075,000

BOND RETIREMENT - HIGHWAY 0359

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$15,820,000	$18,825,000
HIGHWAY FUND TOTAL	$15,820,000	$18,825,000

Callahan Mine Site Restoration Z007

Initiative: BASELINE BUDGET

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$10,000	$10,000
All Other	$10,000	$10,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$20,000	$20,000

Callahan Mine Site Restoration Z007

Initiative: Provides funding for litigation support and legal initiatives for the Callahan Mine Restoration Site.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$500,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$500,000	$0

CALLAHAN MINE SITE RESTORATION Z007

PROGRAM SUMMARY

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$10,000	$10,000
All Other	$510,000	$10,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$520,000	$20,000

Fleet Services 0347

Initiative: BASELINE BUDGET

FLEET SERVICES FUND - DOT	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	47.000	47.000
POSITIONS - FTE COUNT	149.000	149.000
Personal Services	$14,141,934	$14,118,969
All Other	$15,513,019	$15,513,019
FLEET SERVICES FUND - DOT TOTAL	$29,654,953	$29,631,988

Fleet Services 0347

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail, file services, desktop and laptop support and network and telephone services including wireless technology.

FLEET SERVICES FUND - DOT	2009-10	2010-11
All Other	$37,960	$37,960
FLEET SERVICES FUND - DOT TOTAL	$37,960	$37,960

Fleet Services 0347

Initiative: Adjusts funding for the same level of information technology agency program and application support services at the fiscal years 2009-10 and 2010-11 Office of Information Technology rates for direct-billed resources (staffing) based on collective bargaining agreements.

FLEET SERVICES FUND - DOT	2009-10	2010-11
All Other	$20,875	$20,875
FLEET SERVICES FUND - DOT TOTAL	$20,875	$20,875

Fleet Services 0347

Initiative: Adjusts funding for fiscal years 2009-10 and 2010-11 enhancements to existing information technology applications.

FLEET SERVICES FUND - DOT	2009-10	2010-11
All Other	$62,023	$62,023
FLEET SERVICES FUND - DOT TOTAL	$62,023	$62,023

Fleet Services 0347

Initiative: Adjusts funding for anticipated changes in utility costs.

FLEET SERVICES FUND - DOT	2009-10	2010-11
All Other	$54,308	$54,308
FLEET SERVICES FUND - DOT TOTAL	$54,308	$54,308

Fleet Services 0347

Initiative: Reduces funding for the cost of diesel fuel and gasoline.

FLEET SERVICES FUND - DOT	2009-10	2010-11
All Other	($1,186,608)	($295,000)
FLEET SERVICES FUND - DOT TOTAL	($1,186,608)	($295,000)

Fleet Services 0347

Initiative: Eliminates one vacant Inventory Property Associate I Supervisor position, 2 vacant Heavy Equipment and Vehicle Technician Crew positions and one vacant Motor Transport Technician Assistant Crew position.

FLEET SERVICES FUND - DOT	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
POSITIONS - FTE COUNT	(3.000)	(3.000)
Personal Services	($208,721)	($210,453)
FLEET SERVICES FUND - DOT TOTAL	($208,721)	($210,453)

Fleet Services 0347

Initiative: Eliminates one Public Service Manager I position.

FLEET SERVICES FUND - DOT	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	($102,676)	($101,076)

FLEET SERVICES FUND - DOT TOTAL	($102,676)	($101,076)

Fleet Services 0347

Initiative: Reorganizes one Highway Crew Supervisor I position to a Highway Crew Supervisor II position and transfers All Other to Personal Services to fund the reorganization.

FLEET SERVICES FUND - DOT	2009-10	2010-11
Personal Services	$4,662	$4,662
All Other	($4,662)	($4,662)
FLEET SERVICES FUND - DOT TOTAL	$0	$0

Fleet Services 0347

Initiative: Transfers the operation of the light-duty vehicle fleet currently operated by the Department of Transportation to the Department of Administrative and Financial Services, Bureau of General Services, Central Fleet Management. Eliminates 2 Heavy Vehicle and Equipment Technician crew positions in the Fleet Services program. All Other costs are reduced in the Fleet Services and Maintenance and Operations programs.

FLEET SERVICES FUND - DOT	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($104,430)	($104,430)
All Other	($2,500,000)	($2,600,000)
FLEET SERVICES FUND - DOT TOTAL	($2,604,430)	($2,704,430)

FLEET SERVICES 0347 PROGRAM SUMMARY

FLEET SERVICES FUND - DOT	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	43.000	43.000
POSITIONS - FTE COUNT	146.000	146.000
Personal Services	$13,730,769	$13,707,672
All Other	$11,996,915	$12,788,523
FLEET SERVICES FUND - DOT TOTAL	$25,727,684	$26,496,195

Highway and Bridge Capital 0406

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	548.000	548.000
POSITIONS - FTE COUNT	23.538	23.538
Personal Services	$28,346,064	$28,222,097
All Other	$16,070,263	$16,070,263
HIGHWAY FUND TOTAL	$44,416,327	$44,292,360

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$21,938,077	$21,838,853
All Other	$27,795,225	$27,795,225
FEDERAL EXPENDITURES FUND TOTAL	$49,733,302	$49,634,078

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$3,061,367	$3,061,367
OTHER SPECIAL REVENUE FUNDS TOTAL	$3,061,367	$3,061,367

Highway and Bridge Capital 0406

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail, file services, desktop and laptop support and network and telephone services including wireless technology.

HIGHWAY FUND	2009-10	2010-11
All Other	$220,781	$220,781
HIGHWAY FUND TOTAL	$220,781	$220,781

Highway and Bridge Capital 0406

Initiative: Adjusts funding for the same level of information technology agency program and application support services at the fiscal years 2009-10 and 2010-11 Office of Information Technology rates for direct-billed resources (staffing) based on collective bargaining agreements.

HIGHWAY FUND	2009-10	2010-11

All Other	$121,410	$121,410
HIGHWAY FUND TOTAL	$121,410	$121,410

Highway and Bridge Capital 0406

Initiative: Adjusts funding for fiscal years 2009-10 and 2010-11 enhancements to existing information technology applications.

HIGHWAY FUND	2009-10	2010-11
All Other	$360,730	$360,730
HIGHWAY FUND TOTAL	$360,730	$360,730

Highway and Bridge Capital 0406

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	$2,484	$2,484
HIGHWAY FUND TOTAL	$2,484	$2,484

Highway and Bridge Capital 0406

Initiative: Transfers one Assistant Engineer position and one Office Associate II position from the Maintenance and Operations program to the Highway and Bridge Capital program and reallocates the cost of the positions from 90.29% Highway Fund, 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program to 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$67,856	$69,213
HIGHWAY FUND TOTAL	$67,856	$69,213

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$55,522	$56,631
FEDERAL EXPENDITURES FUND TOTAL	$55,522	$56,631

Highway and Bridge Capital 0406

Initiative: Provides funding for previously authorized TransCap Trust Fund revenue bonds for highway reconstruction per Public Law 2007, chapter 682, An Act To Expedite the Maintenance and Repair of Maine's Transportation Network.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$39,000,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$39,000,000	$0

Highway and Bridge Capital 0406

Initiative: Provides funding for previously authorized TransCap Trust Fund revenue bonds for bridges per Public Law 2007, chapter 647, An Act To Keep Bridges Safe and Roads Passable.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$65,000,000	$40,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$65,000,000	$40,000,000

Highway and Bridge Capital 0406

Initiative: Provides new GARVEE bond funding for qualified transportation projects as authorized in Public Law 2007, chapter 470, Part C, section 2.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$25,000,000	$25,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$25,000,000	$25,000,000

Highway and Bridge Capital 0406

Initiative: Provides funding for capital infrastructure projects at the anticipated level of available revenues.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Capital Expenditures	$109,129,166	$112,704,926
FEDERAL EXPENDITURES FUND TOTAL	$109,129,166	$112,704,926

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$7,000,000	$7,000,000

OTHER SPECIAL REVENUE FUNDS TOTAL	$7,000,000	$7,000,000

Highway and Bridge Capital 0406

Initiative: Provides funding for capital projects from the return of a portion of the 7.5% excise tax previously transferred to the Maine Municipal Bond Bank TransCap Trust Fund.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$7,000,000	$7,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$7,000,000	$7,000,000

Highway and Bridge Capital 0406

Initiative: Transfers one Assistant Technician position, one Secretary Associate position and 2 Public Service Coordinator I positions from the Administration program to the Highway and Bridge Capital program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	4.000	4.000
Personal Services	$160,508	$158,265
HIGHWAY FUND TOTAL	$160,508	$158,265

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$131,329	$129,486
FEDERAL EXPENDITURES FUND TOTAL	$131,329	$129,486

Highway and Bridge Capital 0406

Initiative: Transfers one Transportation Planning Specialist position and one Planning and Research Associate I position from the Highway and Bridge Capital program to the Administration program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($92,154)	($91,085)
HIGHWAY FUND TOTAL	($92,154)	($91,085)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($75,399)	($74,522)
FEDERAL EXPENDITURES FUND TOTAL	($75,399)	($74,522)

Highway and Bridge Capital 0406

Initiative: Transfers one Senior Technician position, one Senior Landscape Architect position and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and reallocates position costs from 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(3.000)	(3.000)
Personal Services	($161,450)	($159,185)
HIGHWAY FUND TOTAL	($161,450)	($159,185)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($132,098)	($130,246)
FEDERAL EXPENDITURES FUND TOTAL	($132,098)	($130,246)

Highway and Bridge Capital 0406

Initiative: Provides funding to adjust STA-CAP amounts from the baseline budget due to calculated amounts based on updated rates.

HIGHWAY FUND	2009-10	2010-11
All Other	$686,222	$684,534
HIGHWAY FUND TOTAL	$686,222	$684,534

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$40,536	$40,536
OTHER SPECIAL REVENUE FUNDS TOTAL	$40,536	$40,536

Highway and Bridge Capital 0406

Initiative: Eliminates 27 vacant positions. Position detail is on file in the Bureau of the Budget.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(27.000)	(27.000)
Personal Services	($1,055,956)	($1,074,412)
HIGHWAY FUND TOTAL	($1,055,956)	($1,074,412)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($863,987)	($879,074)
FEDERAL EXPENDITURES FUND TOTAL	($863,987)	($879,074)

Highway and Bridge Capital 0406

Initiative: Eliminates 15 positions. Position detail is on file in the Bureau of the Budget.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(15.000)	(15.000)
Personal Services	($732,556)	($722,098)
HIGHWAY FUND TOTAL	($732,556)	($722,098)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($599,374)	($590,818)
FEDERAL EXPENDITURES FUND TOTAL	($599,374)	($590,818)

Highway and Bridge Capital 0406

Initiative: Reduces funding through a 30% reduction in overtime for certain positions in this program.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($90,000)	($90,000)
HIGHWAY FUND TOTAL	($90,000)	($90,000)

Highway and Bridge Capital 0406

Initiative: Reallocates funding for all positions in this program from 55% Highway Fund and 45% Federal Expenditures Fund to 40% Highway Fund, 55% Federal Expenditures Fund and 5% Other Special Revenue Funds.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($6,783,899)	($6,749,153)
HIGHWAY FUND TOTAL	($6,783,899)	($6,749,153)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$4,522,545	$4,499,321
Capital Expenditures	($4,522,545)	($4,499,321)
FEDERAL EXPENDITURES FUND TOTAL	$0	$0

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$2,261,354	$2,249,832
Capital Expenditures	($2,261,354)	($2,249,832)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0

Highway and Bridge Capital 0406

Initiative: Adjusts funding for the anticipated level of activities for infrastructure capital projects based on available resources.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	$501,899	$3,690,105
HIGHWAY FUND TOTAL	$501,899	$3,690,105

Highway and Bridge Capital 0406

Initiative: Reduces funding in the Maintenance and Operations program and the Highway and Bridge Capital program to maintain costs within available resources and to establish the new Highway and Bridge Light Capital program.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($500,000)	($500,000)
HIGHWAY FUND TOTAL	($500,000)	($500,000)

HIGHWAY AND BRIDGE CAPITAL 0406 PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	507.000	507.000
POSITIONS - FTE COUNT	23.538	23.538

Personal Services	$19,158,413	$19,063,642
All Other	$17,461,890	$17,460,202
Capital Expenditures	$501,899	$3,690,105
HIGHWAY FUND TOTAL	$37,122,202	$40,213,949

FEDERAL EXPENDITURES FUND	**2009-10**	**2010-11**
Personal Services	$24,976,615	$24,849,631
All Other	$27,795,225	$27,795,225
Capital Expenditures	$104,606,621	$108,205,605
FEDERAL EXPENDITURES FUND TOTAL	$157,378,461	$160,850,461

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
Personal Services	$2,261,354	$2,249,832
All Other	$3,101,903	$3,101,903
Capital Expenditures	$140,738,646	$76,750,168
OTHER SPECIAL REVENUE FUNDS TOTAL	$146,101,903	$82,101,903

Highway and Bridge Light Capital Z095

Initiative: Provides funding to establish the Highway and Bridge Light Capital program from savings achieved by reducing the Maintenance and Operations program and the Highway and Bridge Capital program. Any funds allocated to the Highway and Bridge Light Capital program do not lapse and must be carried forward for their intended purpose.

HIGHWAY FUND	**2009-10**	**2010-11**
Personal Services	$3,700,000	$3,700,000
All Other	$2,400,000	$2,400,000
Capital Expenditures	$2,950,000	$1,075,000
HIGHWAY FUND TOTAL	$9,050,000	$7,175,000

HIGHWAY AND BRIDGE LIGHT CAPITAL Z095

PROGRAM SUMMARY

HIGHWAY FUND	**2009-10**	**2010-11**
Personal Services	$3,700,000	$3,700,000
All Other	$2,400,000	$2,400,000
Capital Expenditures	$2,950,000	$1,075,000
HIGHWAY FUND TOTAL	$9,050,000	$7,175,000

Island Ferry Service 0326

Initiative: BASELINE BUDGET

ISLAND FERRY SERVICES FUND	**2009-10**	**2010-11**
POSITIONS - LEGISLATIVE COUNT	75.500	75.500
POSITIONS - FTE COUNT	5.465	5.465
Personal Services	$5,490,608	$5,495,709
All Other	$2,983,614	$2,983,614
ISLAND FERRY SERVICES FUND TOTAL	$8,474,222	$8,479,323

Island Ferry Service 0326

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail, file services, desktop and laptop support and network and telephone services including wireless technology.

ISLAND FERRY SERVICES FUND	**2009-10**	**2010-11**
All Other	$5,792	$5,792
ISLAND FERRY SERVICES FUND TOTAL	$5,792	$5,792

Island Ferry Service 0326

Initiative: Adjusts funding for the same level of information technology agency program and application support services at the fiscal years 2009-10 and 2010-11 Office of Information Technology rates for direct-billed resources (staffing) based on collective bargaining agreements.

ISLAND FERRY SERVICES FUND	**2009-10**	**2010-11**
All Other	$3,185	$3,185
ISLAND FERRY SERVICES FUND TOTAL	$3,185	$3,185

Island Ferry Service 0326

Initiative: Adjusts funding for fiscal years 2009-10 and 2010-11 enhancements to existing information technology applications.

ISLAND FERRY SERVICES FUND	**2009-10**	**2010-11**

All Other	$9,464	$9,464
ISLAND FERRY SERVICES FUND TOTAL	$9,464	$9,464

Island Ferry Service 0326

Initiative: Adjusts funding for anticipated changes in utility costs.

ISLAND FERRY SERVICES FUND	2009-10	2010-11
All Other	$23,090	$23,090
ISLAND FERRY SERVICES FUND TOTAL	$23,090	$23,090

Island Ferry Service 0326

Initiative: Reduces funding for the cost of diesel fuel and gasoline.

ISLAND FERRY SERVICES FUND	2009-10	2010-11
All Other	($150,000)	($25,000)
ISLAND FERRY SERVICES FUND TOTAL	($150,000)	($25,000)

Island Ferry Service 0326

Initiative: Provides funding for increased operating costs.

ISLAND FERRY SERVICES FUND	2009-10	2010-11
Personal Services	$155,849	$155,849
All Other	$644,151	$644,151
ISLAND FERRY SERVICES FUND TOTAL	$800,000	$800,000

ISLAND FERRY SERVICE 0326

PROGRAM SUMMARY

ISLAND FERRY SERVICES FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	75.500	75.500
POSITIONS - FTE COUNT	5.465	5.465
Personal Services	$5,646,457	$5,651,558
All Other	$3,519,296	$3,644,296
ISLAND FERRY SERVICES FUND TOTAL	$9,165,753	$9,295,854

Island Town Refunds - Highway 0334

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$109,877	$109,877
HIGHWAY FUND TOTAL	$109,877	$109,877

ISLAND TOWN REFUNDS - HIGHWAY 0334

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$109,877	$109,877
HIGHWAY FUND TOTAL	$109,877	$109,877

Maintenance and Operations 0330

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	169.000	169.000
POSITIONS - FTE COUNT	1,144.561	1,144.561
Personal Services	$90,267,051	$90,030,656
All Other	$58,079,050	$58,079,050
HIGHWAY FUND TOTAL	$148,346,101	$148,109,706

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$3,783,434	$3,769,160
All Other	$5,108,179	$5,108,179
FEDERAL EXPENDITURES FUND TOTAL	$8,891,613	$8,877,339

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$1,372,323	$1,372,323
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,372,323	$1,372,323

Maintenance and Operations 0330

Initiative: Adjusts funding for information technology services provided to agency employees based on fiscal years 2009-10 and 2010-11 Office of Information Technology monthly rates. Services include all employee-related services such as subscription services, e-mail, file services, desktop and laptop support and network and telephone services including wireless technology.

HIGHWAY FUND	2009-10	2010-11
All Other	$181,580	$181,580
HIGHWAY FUND TOTAL	$181,580	$181,580

Maintenance and Operations 0330

Initiative: Adjusts funding for the same level of information technology agency program and application support services at the fiscal years 2009-10 and 2010-11 Office of Information Technology rates for direct-billed resources (staffing) based on collective bargaining agreements.

HIGHWAY FUND	2009-10	2010-11
All Other	$99,852	$99,852
HIGHWAY FUND TOTAL	$99,852	$99,852

Maintenance and Operations 0330

Initiative: Adjusts funding for fiscal years 2009-10 and 2010-11 enhancements to existing information technology applications.

HIGHWAY FUND	2009-10	2010-11
All Other	$296,680	$296,680
HIGHWAY FUND TOTAL	$296,680	$296,680

Maintenance and Operations 0330

Initiative: Adjusts funding for the cost of radio support services to be provided by the Office of Information Technology.

HIGHWAY FUND	2009-10	2010-11
All Other	$287,881	$287,881
HIGHWAY FUND TOTAL	$287,881	$287,881

Maintenance and Operations 0330

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	$272,033	$272,033
HIGHWAY FUND TOTAL	$272,033	$272,033

Maintenance and Operations 0330

Initiative: Provides funding for the increased cost and quantity of salt, bringing the budgeted amount to $72 per ton for 112,000 tons.

HIGHWAY FUND	2009-10	2010-11
All Other	$2,386,000	$2,386,000
HIGHWAY FUND TOTAL	$2,386,000	$2,386,000

Maintenance and Operations 0330

Initiative: Reduces funding for payments to Fleet Services due to savings in the cost of fuel.

HIGHWAY FUND	2009-10	2010-11
All Other	($1,186,608)	($295,000)
HIGHWAY FUND TOTAL	($1,186,608)	($295,000)

Maintenance and Operations 0330

Initiative: Provides funding for replacement of striping equipment for the federal pavement marking program.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Capital Expenditures	$132,800	$132,800
FEDERAL EXPENDITURES FUND TOTAL	$132,800	$132,800

Maintenance and Operations 0330

Initiative: Provides funding for specialized construction equipment required to perform functions, including culvert thawers, flagger devices, cargo trailers, salt brine tanks and chippers.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	$1,200,000	$1,200,000
HIGHWAY FUND TOTAL	$1,200,000	$1,200,000

Maintenance and Operations 0330

Initiative: Transfers one Assistant Engineer position and one Office Associate II position from the Maintenance and Operations program to the Highway and Bridge Capital program and reallocates the cost of the positions from 90.29% Highway Fund, 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in

the Suspense Receivable - Transportation program to 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($111,397)	($113,624)
HIGHWAY FUND TOTAL	($111,397)	($113,624)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($10,550)	($10,757)
FEDERAL EXPENDITURES FUND TOTAL	($10,550)	($10,757)

Maintenance and Operations 0330

Initiative: Transfers one Senior Technician position, one Senior Landscape Architect position and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and reallocates position costs from 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	3.000	3.000
Personal Services	$265,042	$261,327
HIGHWAY FUND TOTAL	$265,042	$261,327

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$25,099	$24,742
FEDERAL EXPENDITURES FUND TOTAL	$25,099	$24,742

Maintenance and Operations 0330

Initiative: Provides funding to adjust STA-CAP amounts from the base budget due to calculated amounts based on updated rates.

HIGHWAY FUND	2009-10	2010-11
All Other	$69,308	$69,203
HIGHWAY FUND TOTAL	$69,308	$69,203

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$2,661	$2,661
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,661	$2,661

Maintenance and Operations 0330

Initiative: Reduces funding by freezing 15 vacant crew positions.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($575,129)	($576,921)
HIGHWAY FUND TOTAL	($575,129)	($576,921)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($54,462)	($54,631)
FEDERAL EXPENDITURES FUND TOTAL	($54,462)	($54,631)

Maintenance and Operations 0330

Initiative: Eliminates vacant positions. Position detail is on file in the Bureau of the Budget.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(10.000)	(10.000)
POSITIONS - FTE COUNT	(20.950)	(20.950)
Personal Services	($1,951,179)	($1,962,037)
HIGHWAY FUND TOTAL	($1,951,179)	($1,962,037)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($184,767)	($185,795)
FEDERAL EXPENDITURES FUND TOTAL	($184,767)	($185,795)

Maintenance and Operations 0330

Initiative: Eliminates 19 positions and reduces funding for related All Other costs. Position eliminations also affect funding in the Suspense Receivable - Transpor-

tation program. Position detail is on file in the Bureau of the Budget.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(7.000)	(7.000)
POSITIONS - FTE COUNT	(12.000)	(12.000)
Personal Services	($951,648)	($948,527)
All Other	$606,912	$606,912
HIGHWAY FUND TOTAL	($344,736)	($341,615)

Maintenance and Operations 0330

Initiative: Eliminates one Public Service Manager II position and one Public Service Manager III position.

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(2.000)	(2.000)
Personal Services	($223,599)	($218,935)
HIGHWAY FUND TOTAL	($223,599)	($218,935)

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($21,174)	($20,731)
FEDERAL EXPENDITURES FUND TOTAL	($21,174)	($20,731)

Maintenance and Operations 0330

Initiative: Reduces funding for truck purchases and continues the initiative to reduce the number of trucks and defer purchases to later years.

HIGHWAY FUND	2009-10	2010-11
All Other	$0	($4,000,000)
HIGHWAY FUND TOTAL	$0	($4,000,000)

Maintenance and Operations 0330

Initiative: Reduces funding for highway and bridge lighting.

HIGHWAY FUND	2009-10	2010-11
All Other	($150,000)	($150,000)
HIGHWAY FUND TOTAL	($150,000)	($150,000)

Maintenance and Operations 0330

Initiative: Reduces funding for facilities by 50% and defers building needs to future years.

HIGHWAY FUND	2009-10	2010-11
All Other	($1,250,000)	($1,250,000)
HIGHWAY FUND TOTAL	($1,250,000)	($1,250,000)

Maintenance and Operations 0330

Initiative: Reduces funding in the Capital Expenditures line category by 50% and defers purchases to future years.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	($600,000)	($600,000)
HIGHWAY FUND TOTAL	($600,000)	($600,000)

Maintenance and Operations 0330

Initiative: Reduces funding for overtime through continuing cost reduction efforts.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($1,500,000)	($1,500,000)
HIGHWAY FUND TOTAL	($1,500,000)	($1,500,000)

Maintenance and Operations 0330

Initiative: Reorganizes 2 Bridge Maintenance Apprentice positions to 2 Bridge Maintenance Journey positions and 2 Bridge Maintenance Journey positions to 2 Bridge Maintenance Master positions and transfers All Other to Personal Services to fund the reorganizations.

HIGHWAY FUND	2009-10	2010-11
Personal Services	$10,955	$11,255
All Other	($10,955)	($11,255)
HIGHWAY FUND TOTAL	$0	$0

Maintenance and Operations 0330

Initiative: Reduces funding in the Maintenance and Operations program and the Highway and Bridge Capital program to maintain costs within available resources and to establish the new Highway and Bridge Light Capital program.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($6,368,020)	($6,779,098)
All Other	($2,400,000)	($2,400,000)
HIGHWAY FUND TOTAL	($8,768,020)	($9,179,098)

Maintenance and Operations 0330

Initiative: Transfers the operation of the light-duty vehicle fleet currently operated by the Department of Transportation to the Department of Administrative and Financial Services, Bureau of General Services, Central Fleet Management. Eliminates 2 Heavy Vehicle and Equipment Technician crew positions in the Fleet Services program. All Other costs are reduced in the Fleet Services and Maintenance and Operations programs.

HIGHWAY FUND	2009-10	2010-11
All Other	($345,566)	($232,267)
HIGHWAY FUND TOTAL	($345,566)	($232,267)

Maintenance and Operations 0330

Initiative: Provides funding for the cost of reimbursing municipalities for Priority 3 and Priority 4 sand and salt building projects.

HIGHWAY FUND	2009-10	2010-11
All Other	$202,304	$0
HIGHWAY FUND TOTAL	$202,304	$0

MAINTENANCE AND OPERATIONS 0330

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	151.000	151.000
POSITIONS - FTE COUNT	1,111.611	1,111.611
Personal Services	$78,862,076	$78,204,096
All Other	$57,138,471	$53,940,669
Capital Expenditures	$600,000	$600,000
HIGHWAY FUND TOTAL	$136,600,547	$132,744,765

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$3,537,580	$3,521,988
All Other	$5,108,179	$5,108,179
Capital Expenditures	$132,800	$132,800
FEDERAL EXPENDITURES FUND TOTAL	$8,778,559	$8,762,967

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$1,374,984	$1,374,984
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,374,984	$1,374,984

Marine Highway Transportation Z016

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$4,117,823	$4,117,823
HIGHWAY FUND TOTAL	$4,117,823	$4,117,823

Marine Highway Transportation Z016

Initiative: Adjusts funding for anticipated changes in utility costs.

HIGHWAY FUND	2009-10	2010-11
All Other	$11,545	$11,545
HIGHWAY FUND TOTAL	$11,545	$11,545

Marine Highway Transportation Z016

Initiative: Provides funding to increase the state support to 50% of the operating cost of the Maine State Ferry Service in accordance with Public Law 2005, chapter 664, Part C.

HIGHWAY FUND	2009-10	2010-11
All Other	$649,236	$651,789
HIGHWAY FUND TOTAL	$649,236	$651,789

Marine Highway Transportation Z016

Initiative: Reduces funding for the cost of diesel fuel and gasoline.

HIGHWAY FUND	2009-10	2010-11
All Other	($187,500)	($125,000)
HIGHWAY FUND TOTAL	($187,500)	($125,000)

MARINE HIGHWAY TRANSPORTATION Z016

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$4,591,104	$4,656,157
HIGHWAY FUND TOTAL	$4,591,104	$4,656,157

Motor Carrier Safety Program Z066

Initiative: BASELINE BUDGET

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$1,000,000	$1,000,000
FEDERAL EXPENDITURES FUND TOTAL	$1,000,000	$1,000,000

MOTOR CARRIER SAFETY PROGRAM Z066

PROGRAM SUMMARY

FEDERAL EXPENDITURES FUND	2009-10	2010-11
All Other	$1,000,000	$1,000,000
FEDERAL EXPENDITURES FUND TOTAL	$1,000,000	$1,000,000

Ports and Marine Transportation 0323

Initiative: BASELINE BUDGET

MARINE PORTS FUND	2009-10	2010-11
All Other	$103,959	$103,959
MARINE PORTS FUND TOTAL	$103,959	$103,959

PORTS AND MARINE TRANSPORTATION 0323

PROGRAM SUMMARY

MARINE PORTS FUND	2009-10	2010-11
All Other	$103,959	$103,959
MARINE PORTS FUND TOTAL	$103,959	$103,959

Public Transportation 0443

Initiative: BASELINE BUDGET

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$381,020	$377,446
All Other	$8,143,249	$8,143,249
FEDERAL EXPENDITURES FUND TOTAL	$8,524,269	$8,520,695

Public Transportation 0443

Initiative: Provides funding for the purchase of replacement buses for the Public Transportation program.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Capital Expenditures	$3,100,000	$3,100,000
FEDERAL EXPENDITURES FUND TOTAL	$3,100,000	$3,100,000

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$600,000	$600,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$600,000	$600,000

Public Transportation 0443

Initiative: Eliminates one Management Analyst II position, 2 Public Service Coordinator I positions, one Public Service Manager II position, one Office Assistant II position, one Office Associate II position and one Secretary position. A portion of the cost of the Public Service Manager II position is allocated to the Public Transportation program, Federal Expenditures Fund.

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	($80,063)	($79,335)
FEDERAL EXPENDITURES FUND TOTAL	($80,063)	($79,335)

PUBLIC TRANSPORTATION 0443

PROGRAM SUMMARY

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$300,957	$298,111
All Other	$8,143,249	$8,143,249
Capital Expenditures	$3,100,000	$3,100,000
FEDERAL EXPENDITURES FUND TOTAL	$11,544,206	$11,541,360

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$600,000	$600,000

OTHER SPECIAL REVENUE FUNDS TOTAL	$600,000	$600,000

Railroad Assistance Program 0350

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$670,599	$670,599
HIGHWAY FUND TOTAL	$670,599	$670,599

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$14,998	$14,678
FEDERAL EXPENDITURES FUND TOTAL	$14,998	$14,678

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$10,904	$10,904
OTHER SPECIAL REVENUE FUNDS TOTAL	$10,904	$10,904

Railroad Assistance Program 0350

Initiative: Reduces funding for the Railroad Assistance program by 10%.

HIGHWAY FUND	2009-10	2010-11
All Other	($67,000)	($67,000)
HIGHWAY FUND TOTAL	($67,000)	($67,000)

RAILROAD ASSISTANCE PROGRAM 0350

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$603,599	$603,599
HIGHWAY FUND TOTAL	$603,599	$603,599

FEDERAL EXPENDITURES FUND	2009-10	2010-11
Personal Services	$14,998	$14,678
FEDERAL EXPENDITURES FUND TOTAL	$14,998	$14,678

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$10,904	$10,904
OTHER SPECIAL REVENUE FUNDS TOTAL	$10,904	$10,904

State Infrastructure Bank 0870

Initiative: BASELINE BUDGET

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$193,561	$193,561
OTHER SPECIAL REVENUE FUNDS TOTAL	$193,561	$193,561

State Infrastructure Bank 0870

Initiative: Eliminates funding in the State Infrastructure Bank program that is no longer needed.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($30,000)	($30,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	($30,000)	($30,000)

STATE INFRASTRUCTURE BANK 0870

PROGRAM SUMMARY

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$163,561	$163,561
OTHER SPECIAL REVENUE FUNDS TOTAL	$163,561	$163,561

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: BASELINE BUDGET

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$76,078	$75,454
All Other	$2,842,577	$2,842,577

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$2,918,655	$2,918,031

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Adjusts funding for anticipated changes in utility costs.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
All Other	$4,088	$4,088
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$4,088	$4,088

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Provides funding to adjust STA-CAP amounts from the base budget due to calculated amounts based on updated rates.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
All Other	$47,002	$46,917
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$47,002	$46,917

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Provides funding for passenger rail as set forth in Public Law 2007, chapter 677, An Act To Make Capital Rail Improvements for Economic Development Purposes.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
All Other	$3,054,519	$3,142,840
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$3,054,519	$3,142,840

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Provides funding for engineering services performed by department staff for projects financed through General Fund obligation bond funds for fiscal years 2009-10 and 2010-11.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
Personal Services	$250,000	$250,000
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$250,000	$250,000

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Transfers one Public Service Coordinator II position and reallocates 25% of the cost of one Transportation Planning Analyst position and one Transportation Planning Specialist position to the State Transit, Aviation and Rail Transportation Fund.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$157,474	$154,683
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$157,474	$154,683

State Transit, Aviation and Rail Transportation Fund Z017

Initiative: Provides funding available as a result of a Maine Revenue Services initiative to step up collections of tax receivables.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	**2009-10**	**2010-11**
All Other	$0	$7,509
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$0	$7,509

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND Z017

PROGRAM SUMMARY

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	$483,552	$480,137
All Other	$5,948,186	$6,043,931
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL	$6,431,738	$6,524,068

Suspense Receivable - Transportation 0344

Initiative: BASELINE BUDGET

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$328,964	$327,541
All Other	$909,200	$909,200
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,238,164	$1,236,741

Suspense Receivable - Transportation 0344

Initiative: Transfers one Assistant Engineer position and one Office Associate II position from the Maintenance and Operations program to the Highway and Bridge Capital program and reallocates the cost of the positions from 90.29% Highway Fund, 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program to 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($1,431)	($1,463)
OTHER SPECIAL REVENUE FUNDS TOTAL	($1,431)	($1,463)

Suspense Receivable - Transportation 0344

Initiative: Transfers one Senior Technician position, one Senior Landscape Architect position and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and reallocates position costs from 55% Highway Fund and 45% Federal Expenditures Fund in the Highway and Bridge Capital program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$3,407	$3,362
OTHER SPECIAL REVENUE FUNDS TOTAL	$3,407	$3,362

Suspense Receivable - Transportation 0344

Initiative: Provides funding to reflect the anticipated level of activities for the infrastructure capital projects.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$150,000	$150,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$150,000	$150,000

Suspense Receivable - Transportation 0344

Initiative: Reduces funding by freezing 15 vacant crew positions.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($739)	($742)
OTHER SPECIAL REVENUE FUNDS TOTAL	($739)	($742)

Suspense Receivable - Transportation 0344

Initiative: Eliminates vacant positions. Position detail is on file in the Bureau of the Budget.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($11,469)	($11,590)
OTHER SPECIAL REVENUE FUNDS TOTAL	($11,469)	($11,590)

Suspense Receivable - Transportation 0344

Initiative: Eliminates 19 positions and reduces funding for related All Other costs. Position eliminations also affect funding in the Suspense Receivable - Transportation program. Position detail is on file in the Bureau of the Budget.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11

Personal Services	($11,198)	($11,158)
OTHER SPECIAL REVENUE FUNDS TOTAL	($11,198)	($11,158)

Suspense Receivable - Transportation 0344

Initiative: Eliminates one Public Service Manager II position and one Public Service Manager III position.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($2,874)	($2,814)
OTHER SPECIAL REVENUE FUNDS TOTAL	($2,874)	($2,814)

Suspense Receivable - Transportation 0344

Initiative: Eliminates one vacant Public Service Manager II position.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($1,422)	($1,399)
OTHER SPECIAL REVENUE FUNDS TOTAL	($1,422)	($1,399)

SUSPENSE RECEIVABLE - TRANSPORTATION 0344

PROGRAM SUMMARY

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$303,238	$301,737
All Other	$909,200	$909,200
Capital Expenditures	$150,000	$150,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,362,438	$1,360,937

Transportation Facilities Z010

Initiative: BASELINE BUDGET

TRANSPORTATION FACILITIES FUND	2009-10	2010-11
All Other	$2,500,000	$2,500,000
TRANSPORTATION FACILITIES FUND TOTAL	$2,500,000	$2,500,000

Transportation Facilities Z010

Initiative: Provides funding to adjust STA-CAP amounts from the baseline budget due to calculated amounts based on updated rates.

TRANSPORTATION FACILITIES FUND	2009-10	2010-11
All Other	$3,930	$3,930
TRANSPORTATION FACILITIES FUND TOTAL	$3,930	$3,930

TRANSPORTATION FACILITIES Z010

PROGRAM SUMMARY

TRANSPORTATION FACILITIES FUND	2009-10	2010-11
All Other	$2,503,930	$2,503,930
TRANSPORTATION FACILITIES FUND TOTAL	$2,503,930	$2,503,930

Urban-Rural Initiative Program 0337

Initiative: BASELINE BUDGET

HIGHWAY FUND	2009-10	2010-11
All Other	$25,026,270	$25,026,270
HIGHWAY FUND TOTAL	$25,026,270	$25,026,270

Urban-Rural Initiative Program 0337

Initiative: Adjusts funding for the Urban-Rural Initiative Program at the correct proportioned rate per the Maine Revised Statutes, Title 23, section 1803-B. This includes the transit bonus payment program as authorized by Public Law 2001, chapter 681.

HIGHWAY FUND	2009-10	2010-11
All Other	($3,068,772)	($1,943,633)
HIGHWAY FUND TOTAL	($3,068,772)	($1,943,633)

Urban-Rural Initiative Program 0337

Initiative: Notwithstanding any other provision of law, reduces funding dedicated to the Urban-Rural Initiative Program pursuant to the Maine Revised Statutes, Title 23, section 1803-B, subsection 1, paragraph D.

HIGHWAY FUND	2009-10	2010-11
All Other	$0	($5,000,000)
HIGHWAY FUND TOTAL	$0	($5,000,000)

URBAN-RURAL INITIATIVE PROGRAM 0337

PROGRAM SUMMARY

HIGHWAY FUND	2009-10	2010-11
All Other	$21,957,498	$18,082,637
HIGHWAY FUND TOTAL	$21,957,498	$18,082,637

Van-pool Services 0451

Initiative: BASELINE BUDGET

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$137,537	$137,537
OTHER SPECIAL REVENUE FUNDS TOTAL	$137,537	$137,537

Van-pool Services 0451

Initiative: Provides funding for the local share of vans purchased.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$10,000	$10,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$10,000	$10,000

VAN-POOL SERVICES 0451

PROGRAM SUMMARY

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$137,537	$137,537
Capital Expenditures	$10,000	$10,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$147,537	$147,537

TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$245,534,608	$242,826,154
FEDERAL EXPENDITURES FUND	$180,759,215	$184,212,457
OTHER SPECIAL REVENUE FUNDS	$150,381,327	$85,879,826
TRANSPORTATION FACILITIES FUND	$2,503,930	$2,503,930
FLEET SERVICES FUND - DOT	$25,727,684	$26,496,195
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	$6,431,738	$6,524,068
ISLAND FERRY SERVICES FUND	$9,165,753	$9,295,854
MARINE PORTS FUND	$103,959	$103,959
DEPARTMENT TOTAL - ALL FUNDS	$620,608,214	$557,842,443

PART B

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

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2009-10	2010-11
Personal Services	$12,374	$12,498
All Other	($12,374)	($12,498)
HIGHWAY FUND TOTAL	$0	$0

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$0	$0

TRANSPORTATION, DEPARTMENT OF

Administration 0339

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2009-10	2010-11
Personal Services	$26,179	$26,617
All Other	($26,179)	($26,617)
HIGHWAY FUND TOTAL	$0	$0

Highway and Bridge Capital 0406

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2009-10	2010-11

Personal Services	$44,505	$44,186
All Other	($44,505)	($44,186)
HIGHWAY FUND TOTAL	$0	$0

FEDERAL EXPENDITURES FUND	**2009-10**	**2010-11**
Personal Services	$61,171	$60,760
All Other	($61,171)	($60,760)
FEDERAL EXPENDITURES FUND TOTAL	$0	$0

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
Personal Services	$5,555	$5,517
All Other	($5,555)	($5,517)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0

Island Ferry Service 0326

Initiative: RECLASSIFICATIONS

ISLAND FERRY SERVICES FUND	**2009-10**	**2010-11**
Personal Services	$53,543	$52,893
All Other	($53,543)	($52,893)
ISLAND FERRY SERVICES FUND TOTAL	$0	$0

Maintenance and Operations 0330

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	**2009-10**	**2010-11**
Personal Services	$22,717	$25,334
All Other	($22,717)	($25,334)
HIGHWAY FUND TOTAL	$0	$0

FEDERAL EXPENDITURES FUND	**2009-10**	**2010-11**
Personal Services	$1,763	$2,010
All Other	($1,763)	($2,010)
FEDERAL EXPENDITURES FUND TOTAL	$0	$0

Public Transportation 0443

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2009-10**	**2010-11**
Personal Services	$7,709	$7,996
All Other	($7,709)	($7,996)
FEDERAL EXPENDITURES FUND TOTAL	$0	$0

Suspense Receivable - Transportation 0344

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
Personal Services	$241	$272
All Other	($241)	($272)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0

TRANSPORTATION, DEPARTMENT OF **DEPARTMENT TOTALS**	**2009-10**	**2010-11**
HIGHWAY FUND	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**
ISLAND FERRY SERVICES FUND	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**

SECTION TOTALS	**2009-10**	**2010-11**
HIGHWAY FUND	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**
ISLAND FERRY SERVICES FUND	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$0**	**$0**

PART C

Sec. C-1. Calculation and transfer; Highway Fund; attrition savings. The attrition rate for the 2010-2011 biennium is increased from 1.6% to 5%. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Attrition account in the Department of Administrative and Financial Services in section 2 of this Part that applies against each Highway Fund account for all departments and agencies statewide and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. C-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Reduces funding to reflect projected savings to the State from an increase in the attrition rate from 1.6% to 5% for fiscal years 2009-10 and 2010-11.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($3,218,333)	($3,087,536)
HIGHWAY FUND TOTAL	($3,218,333)	($3,087,536)

PART D

Sec. D-1. Calculation and transfer; Highway Fund salary savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Salary Adjustment account in the Department of Administrative and Financial Services in section 2 of this Part that applies against each Highway Fund account for the Executive Branch Departments and Independent Agencies - Statewide account from not granting a 4% salary increase effective January 1, 2009 to unclassified employees whose salaries are subject to the Governor's adjustment or approval. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. D-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Executive Branch Departments and Independent Agencies - Statewide 0017

Initiative: Reduces funding to reflect savings from not granting a 4% salary increase effective January 1, 2009 to unclassified employees whose salaries are subject to the Governor's adjustment or approval.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($25,304)	($25,304)
HIGHWAY FUND TOTAL	($25,304)	($25,304)

PART E

Sec. E-1. Transfer of funds; Highway Fund; retirement incentive. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Retirement Incentive account in the Department of Administrative and Financial Services in section 2 of this Part that applies against each Highway Fund account for departments and agencies statewide that have occurred as a result of the retirement incentive program authorized by Public Law 2009, chapter 213, Part Y. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. E-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Reduces funding from departments and agencies statewide from projected savings in Personal Services achieved through the retirement incentive program.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($836,110)	($1,003,332)
HIGHWAY FUND TOTAL	($836,110)	($1,003,332)

PART F

Sec. F-1. Programmed GARVEE bonding level for 2010-2011 biennium. Notwithstanding any other provision of law and pursuant to the Maine Revised Statutes, Title 23, chapter 19, subchapter 3-A, the Maine Municipal Bond Bank may issue from time to time up to $50,000,000 of GARVEE bonds for projects programmed in the 2010-2011 biennium to be repaid solely from annual federal transportation appropriations for funding qualified transportation projects.

PART G

Sec. G-1. Transfer of Highway Fund unallocated balance; capital program needs; Department of Transportation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, at the close of the fiscal years 2009-10 and 2010-11 the State Controller shall transfer amounts exceeding $100,000 from the unallocated balance in the Highway Fund after the deduction of all allocations, financial commitments, other designated funds or any other transfer authorized by statute and the fiscal years 2008-09 and 2009-10 unallocated balance dedicated to the fiscal year 2010-11 budgets to the Department of Transportation Highway and Bridge Capital, Highway and Bridge Light Capital and Maintenance and Operations programs for capital needs. The Commissioner of Transportation is authorized to allot these funds by financial order upon the recommendation of the State Budget Officer and the approval of the Governor. The transferred amounts are considered adjustments to allocations. Within 30 days of approval of the financial order, the Commissioner of Transportation shall provide to the members of the joint standing committee of the Legislature having jurisdiction over transportation matters a report detailing the financial status of the department's capital program.

PART H

Sec. H-1. Transfer of Highway Fund Personal Services savings; capital and other needs. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for the fiscal years ending June 30, 2010 and June 30, 2011 the Commissioner of Transportation is authorized to transfer, by financial order upon the recommendation of the State Budget Officer and approval of the Governor, identified Highway Fund Personal Services savings to the Department of Transportation Highway and Bridge Capital, Highway and Bridge Light Capital and Maintenance and Operations programs for capital or all other needs. The financial order must identify the specific savings after all adjustments that may be required by the State Controller to ensure that all financial commitments have been met in Personal Services after assuming all costs for that program including collective bargaining costs. The Commissioner of Transportation shall provide a report by September 15, 2010 and September 15, 2011 to the members of the joint standing committee of the Legislature having jurisdiction over transportation matters detailing the financial adjustments to the Highway Fund.

PART I

Sec. I-1. Consolidation of statewide information technology functions, systems and funding to improve efficiency and cost-effectiveness. The Chief Information Officer shall review the current organizational structure, systems and operations of information technology units to improve organizational efficiency and cost-effectiveness. The Chief Information Officer is authorized to manage and operate all information technology systems in the executive branch, to fulfill strategic and operational objectives as expressed in a memorandum of agreement with each agency. Notwithstanding any other provision of law, the Chief Information Officer or the Chief Information Officer's designee shall provide direct oversight and management over statewide technology services and oversight over the technology personnel assigned to information technology services in accordance with such memoranda of agreement. The Chief Information Officer is authorized to identify savings and position eliminations to the Highway Fund and other funds from efficiencies to achieve the savings identified in section 2 of this Part.

The Chief Information Officer is authorized to approve all information technology expenditures from a consolidated account as provided in memoranda of agreement and this Part. Notwithstanding any other provision of law, the State Budget Officer shall transfer position counts and available balances by financial order upon approval of the Governor to the Department of Administrative and Financial Services, Office of Information Technology for the provision of those services. These transfers are considered adjustments to authorized position counts, appropriations and allocations in fiscal years 2009-10 and 2010-11. As a result of these financial orders, information technology services that are funded by the Highway Fund must be reflected in future Highway Fund budgets as Highway Fund allocations. An annual reconciliation of actual services rendered against budgeted amounts must be performed. Any savings from annual reconciliations reverts to the Highway Fund as unallocated surplus. The Chief Information Officer annually shall provide the joint standing committee of the Legislature having jurisdiction over transportation matters a report of the annual reconciliation and any transferred amounts. More frequent, more narrowly focused reconciliations may be performed upon request of an agency regarding information technology services specific to that agency, such as application development and maintenance.

Sec. I-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Executive Branch Departments and Independent Agencies - Statewide 0017

Initiative: Reduces funding to recognize savings resulting from efficiencies gained by the consolidation of funding and resource management of information technology and services.

HIGHWAY FUND	2009-10	2010-11
Unallocated	($708,187)	($708,187)
HIGHWAY FUND TOTAL	($708,187)	($708,187)

PART J

Sec. J-1. Transfer of funds; Highway Fund; TransCap. Notwithstanding any other provision of law, the State Controller shall transfer $5,668,895 in fiscal year 2009-10 and $5,764,140 in fiscal year 2010-11 from the Highway Fund unallocated surplus to the TransCap Trust Fund in accordance with Public Law 2007, chapter 682, section 3.

PART K

Sec. K-1. Calculation and transfer; Highway Fund; health insurance savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Health Insurance account in the Department of Administrative and Financial Services in section 2 of this Part that applies against each Highway Fund account for departments and agencies statewide for savings in health insurance that result in accordance with Public Law 2009, chapter 213, Part GG. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. K-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Reduces funding to reflect savings to the State for the cost of health insurance through a change in the portion of the employee health insurance premium that is paid by the State.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($772,207)	($1,001,103)
HIGHWAY FUND TOTAL	($772,207)	($1,001,103)

PART L

Sec. L-1. Calculation and transfer; merit increase savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 2 of this Part that applies against each Highway Fund account for all departments and agencies from savings associated with implementation of Public Law 2009, chapter 213, Part SSS, section 4 and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. L-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Recognizes savings in the Personal Services line category from departments and agencies statewide resulting from not awarding merit increases during fiscal years 2009-10 and 2010-11.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($732,950)	($2,024,083)
HIGHWAY FUND TOTAL	($732,950)	($2,024,083)

PART M

Sec. M-1. Calculation and transfer. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings generated by Public Law 2009, chapter 213, Part SSS and identified in the Statewide - Shut Down account within the Department of Administrative and Financial Services in section 2 of this Part that applies against each Highway Fund account for all departments and agencies statewide and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. M-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Recognizes savings in the Personal Services line category from departments and agencies statewide resulting from 10 shutdown days in fiscal years 2009-10 and 2010-11.

HIGHWAY FUND	2009-10	2010-11
Personal Services	($3,400,953)	($3,426,002)
HIGHWAY FUND TOTAL	($3,400,953)	($3,426,002)

PART N

Sec. N-1. Transfer of funds; Compensation and Benefit Plan account. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and

1676-A, or any other provision of law, the State Controller shall transfer $5,341,830 in available balances from the Highway Fund Compensation and Benefit Plan account within the Department of Administrative and Financial Services to the unallocated surplus of the Highway Fund at the close of the fiscal year ending June 30, 2009. It is projected that this balance will be available for transfer due to a lesser demand against the Compensation and Benefit Plan account for the cost of collective bargaining resulting in part through the managing of position vacancies in the various program accounts within the Highway Fund.

PART O

Sec. O-1. Funding of Urban-Rural Initiative Program. Notwithstanding the Maine Revised Statutes, Title 23, section 1803-B, subsection 1, paragraph D or any other provision of law, the decrease in funding of the Urban-Rural Initiative Program due to the decrease in the Highway Fund allocation to the Department of Transportation for highway purposes for fiscal year 2008-09 must be implemented in fiscal year 2009-10.

Sec. O-2. Reduction in funding; Urban-Rural Initiative Program. Notwithstanding any other provision of law, funding dedicated to the Urban-Rural Initiative Program pursuant to the Maine Revised Statutes, Title 23, section 1803-B, subsection 1, paragraph D must be reduced by $5,000,000 in fiscal year 2010-11.

PART P

Sec. P-1. Legislature; Highway Fund lapsed balances. Notwithstanding any other provision of law, $3,740 of unencumbered balance forward in the Personal Services line category and $4,976 in the All Other line category in the Legislature, Highway Fund account lapses to the unallocated surplus of the Highway Fund in fiscal year 2009-10.

Sec. P-2. Legislative Office of Program Evaluation and Government Accountability; Highway Fund lapsed balances. Notwithstanding any other provision of law, $95,715 of unencumbered balance forward in the All Other line category in the Office of Program Evaluation and Government Accountability, Highway Fund account lapses to the unallocated surplus of the Highway Fund in fiscal year 2009-10.

PART Q

Sec. Q-1. 23 MRSA §1604, sub-§3, as enacted by PL 2007, c. 470, Pt. C, §1, is amended to read:

3. TransCap revenue bonding. The level of TransCap revenue bonding as authorized by Title 30-A, section 6006-G is limited by the level of revenue authorized and exclusively dedicated to the Maine Municipal Bond Bank for debt service for such bonds and by bond issuer requirements. TransCap bonds must be assumed to have terms of not more than 15 years and to be available only for capital projects that have an anticipated useful life of at least ~~5 years greater than~~ as long as the bond term. TransCap bonds must be authorized by the Legislature as provided in Title 30-A, section 6006-G.

Sec. Q-2. PL 2007, c. 647, §5 is amended to read:

Sec. 5. Authorization to issue TransCap Trust Fund revenue bonds for bridges. Notwithstanding any other provision of law, the Maine Municipal Bond Bank, at the request of the Department of Transportation, is authorized to issue TransCap Trust Fund revenue bonds as provided in the Maine Revised Statutes, Title 30-A, section 6006-G from time to time in amounts that in total do not exceed $160,000,000 from the effective date of this ~~bill~~ Act to fiscal year 2012-13 for the purpose of making capital improvements to or removal of bridges and minor spans on or over public ways in the State or related capital costs. This section does not limit the ability to authorize additional TransCap Trust Fund revenue bonds for additional bridge needs or any other eligible purpose.

PART R

Sec. R-1. Calculation and transfer; Highway Fund savings; central administration. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Salary Adjustment account in section 2 of this Part that applies against each Highway Fund account for executive branch departments and agencies statewide from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services. The State Budget Officer shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. R-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Recognizes savings from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services.

HIGHWAY FUND	2009-10	2010-11
All Other	($165,536)	($125,218)

HIGHWAY FUND TOTAL	($165,536)	($125,218)

PART S

Sec. S-1. Calculation and transfer; longevity payment savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in section 2 of this Part that applies against each Highway Fund account for all departments and agencies from savings associated with implementation of Public Law 2009, chapter 213, Part SSS, section 4 and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2009-10 and 2010-11.

Sec. S-2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide 0016

Initiative: Recognizes savings in the Personal Services line category from departments and agencies statewide from eliminating longevity payments during the 2010-2011 biennium.

HIGHWAY FUND	**2009-10**	**2010-11**
Personal Services	($430,656)	($450,450)
HIGHWAY FUND TOTAL	($430,656)	($450,450)

PART T

Sec. T-1. Highway system classification simplification study. The Department of Transportation, referred to in this section as "the department," working in cooperation with representatives of the Maine Municipal Association, the Maine Chapter of the American Public Works Association, the Maine Better Transportation Association, the Associated General Contractors of Maine and the American Council of Engineering Companies of Maine shall study the current systems for classification of public highways and related responsibilities to determine whether they can or should be simplified in ways that improve customer service, improve investment decisions, apply standards appropriate to the road, leverage the ability to deliver improvements at a lower cost and generally result in the most overall benefit to the most travelers for each dollar spent.

In conducting the study the department shall analyze the following issues:

1. Whether the State and federal highway classification systems can and should be reduced to one, or otherwise simplified;

2. Whether the State should transition over time to a system as used in other states in which the State would have full year-round responsibilities, including capital responsibilities and winter and summer maintenance of certain highways and minor spans, and local governments would have full year-round responsibilities, including capital responsibilities and winter and summer maintenance of other highways and related minor spans;

3. Whether urban and rural classification systems and related responsibilities can or should be simplified to ensure that sections of highway with similar urban development patterns are treated equally with respect to capital and maintenance responsibilities. This analysis may include whether to create 2 systems of urban classification with a common definition that reflects both federal criteria and sustained density of development, regardless of population or town boundaries;

4. The design and construction standards and processes that should apply to each road classification;

5. An assessment of transition impacts, including the cost and time required to bring highways to a consistent and appropriate standard prior to the shift to full year-round responsibilities, operational estimates for both the department and local government including equipment needs and the potential assignment of existing snow removal contracts;

6. Other fiscal matters including possible adjustments to the Urban-Rural Initiative Program or other revenue sharing opportunities, possible adjustments to the Rural Road Initiative, innovative financing tools for local governments such as expanded use of the TransCap Trust Fund at the Maine Municipal Bond Bank or the state infrastructure bank and incentives for coordinated corridor based highway improvements involving multiple municipalities and other possible regionalization incentives;

7. Whether route numbering or signs, or both, should be revised so as to improve customer service;

8. Related administrative matters, including a fair and open mechanism to request, change and appeal decisions to reclassify highways; and

9. Related issues.

Sec. T-2. Report. The Department of Transportation shall report the results of the study under section 1 to the Joint Standing Committee on Transportation by January 15, 2010. The Joint Standing Committee on Transportation is authorized to submit legislation during the Second Regular Session of the 124th Legislature.

PART U

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

PUBLIC SAFETY, DEPARTMENT OF

Motor Vehicle Inspection 0329

Initiative: Recognizes one-time savings from managing vacant positions.

HIGHWAY FUND	2008-09	2009-10	2010-11
Personal Services	($40,000)	$0	$0
HIGHWAY FUND TOTAL	($40,000)	$0	$0

State Police 0291

Initiative: Recognizes one-time savings in the All Other line category.

HIGHWAY FUND	2008-09	2009-10	2010-11
All Other	($200,000)	$0	$0
HIGHWAY FUND TOTAL	($200,000)	$0	$0

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Recognizes one-time savings in the All Other line category.

HIGHWAY FUND	2008-09	2009-10	2010-11
All Other	($250,000)	$0	$0
HIGHWAY FUND TOTAL	($250,000)	$0	$0

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
HIGHWAY FUND	($490,000)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($490,000)	$0	$0

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Reduces funding by recognizing one-time savings from the management of vacant positions.

HIGHWAY FUND	2008-09	2009-10	2010-11
Personal Services	($225,000)	$0	$0
All Other	($12,276)	$0	$0
HIGHWAY FUND TOTAL	($237,276)	$0	$0

Administration - Motor Vehicles 0077

Initiative: Recognizes one-time savings from meter postage, printing, contracts and discontinued data circuits.

HIGHWAY FUND	2008-09	2009-10	2010-11
All Other	($154,598)	$0	$0
HIGHWAY FUND TOTAL	($154,598)	$0	$0

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
HIGHWAY FUND	($391,874)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($391,874)	$0	$0

TRANSPORTATION, DEPARTMENT OF

Administration 0339

Initiative: Reduces funding to maintain costs within available resources.

HIGHWAY FUND	2008-09	2009-10	2010-11
All Other	($625,000)	$0	$0
HIGHWAY FUND TOTAL	($625,000)	$0	$0

Bond Interest - Highway 0358

Initiative: Reduces funding for bond interest costs to the amount needed for the fiscal year ending June 30, 2009.

HIGHWAY FUND	2008-09	2009-10	2010-11
All Other	($158,727)	$0	$0
HIGHWAY FUND TOTAL	($158,727)	$0	$0

Highway and Bridge Capital 0406

Initiative: Reduces funding to maintain costs within available resources.

HIGHWAY FUND	2008-09	2009-10	2010-11
Personal Services	($980,000)	$0	$0
All Other	($2,450,000)	$0	$0
Capital Expenditures	($8,000,000)	$0	$0
HIGHWAY FUND TOTAL	($11,430,000)	$0	$0

Highway and Bridge Capital 0406

Initiative: Provides funding for Capital Expenditures projects.

HIGHWAY FUND	2008-09	2009-10	2010-11
Capital Expenditures	$841,830	$0	$0
HIGHWAY FUND TOTAL	$841,830	$0	$0

TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS	2008-09	2009-10	2010-11
HIGHWAY FUND	($11,371,897)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($11,371,897)	$0	$0

SECTION TOTALS	2008-09	2009-10	2010-11
HIGHWAY FUND	($12,253,771)	$0	$0
SECTION TOTAL - ALL FUNDS	($12,253,771)	$0	$0

PART V

Sec. V-1. Sand and salt storage; funding. Notwithstanding the Maine Revised Statutes, Title 23, section 1851 or any other provision of law, funding allocated in fiscal year 2009-10 for sand and salt storage facilities must be for reimbursement to the Town of Trenton and City of Bath.

PART W

Sec. W-1. 36 MRSA §2903, sub-§1, as amended by PL 2001, c. 688, §1, is further amended to read:

1. Excise tax imposed. ~~An~~ Beginning July 1, 2008 and ending June 30, 2009, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of ~~22¢~~ 28.4¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft. Beginning July 1, 2009, an excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 29.5¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel bought or used for the purpose of propelling jet or turbojet engine aircraft. The tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321 except with respect to the tax imposed upon fuel bought or used for the purpose of propelling jet ~~or turbojet~~ engine aircraft. Any fuel containing at least 10% internal combustion engine fuel is subject to the rate of tax imposed by this section.

Sec. W-2. 36 MRSA §3203, sub-§1-B, as enacted by PL 2007, c. 650, §2, is amended to read:

1-B. Generally; rates. Except as provided in section 3204-A, beginning July 1, 2008 and ending June 30, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the ~~rates provided in this subsection~~ rate of 29.6¢ per gallon. Beginning July 1, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 30.7¢ per gallon. Tax rates for each gallon of low-energy fuel are based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as based on gasoline gallon equivalents or the comparable measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel that equals the BTU energy content of one gallon of gasoline. In the case of distillates, the tax rate provided by this section is subject to annual inflation adjustment pursuant to section 3321. For purposes of this subsection, "base rate" means the rate in effect for gasoline or diesel on July 1st of each year as indexed under section 3321. A biodiesel blend containing less than 90% biodiesel fuel is subject to the rate of tax imposed on diesel.

A. This paragraph establishes the applicable BTU values and tax rates based on gasoline gallon equivalents.

Fuel type based on gasoline	BTU content per gallon or gasoline gallon equivalent	Tax rate formula (BTU value fuel/BTU value gasoline) x base rate gasoline
Gasoline	115,000	100% x base rate
Propane	84,500	73% x base rate
Compressed Natural Gas (CNG)	115,000	100% x base rate
Methanol	56,800	49% x base rate
Ethanol	76,000	66% x base rate
Hydrogen	115,000	100% x base rate
Hydrogen Compressed Natural Gas	115,000	100% x base rate

B. This paragraph establishes the applicable BTU values and tax rates based on distillate gallon equivalents.

Fuel type based on diesel	BTU content per gallon or gallon equivalent	Tax rate formula (BTU value fuel/BTU value diesel) x base rate diesel
Diesel	128,400	100% x base rate
Liquified Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

C. The conversion factors established in this paragraph must be used in converting to gasoline gallon equivalents.

(1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and there are 123.66 standard cubic feet per gasoline gallon equivalent.

(2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are 425.93 standard cubic feet per gasoline gallon equivalent.

(3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

Sec. W-3. 36 MRSA §3203-C, as amended by PL 2003, c. 390, §15, is further amended to read:

§3203-C. Inventory tax

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203~~, subsection 1~~ has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

Sec. W-4. 36 MRSA §3321, sub-§1, as amended by PL 2007, c. 650, §3, is further amended to read:

1. Generally. Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203~~, subsections 1 and 1-B~~ are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index as computed in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports to suppliers, distributors and retail dealers.

Sec. W-5. 36 MRSA §3321, sub-§2, as enacted by PL 2001, c. 688, §8, is amended to read:

2. Method of calculation; inflation index defined. The inflation index for 2003 is 1.118, representing annual inflation adjustments for the years 1999 to 2002, inclusive. Starting in 2004 and every year thereafter, the inflation index is the Consumer Price Index as defined in section 5402, subsection 1 for the calendar year ending on the December 31st immediately preceding the calculation date, divided by the Consumer Price Index for the prior calendar year. <u>The inflation index may not be less than one.</u>

Sec. W-6. Application date. This Part takes effect July 1, 2009.

PART X

Sec. X-1. 30-A MRSA §6006-G, sub-§4, ¶A, as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

A. To make grants and loans to the Department of Transportation and municipalities under this section, except that such <u>grants may be used only for capital projects that have an anticipated useful life of at least 10 years and such</u> bonds may be used only for capital projects that have an antici-

pated useful life of at least ~~5 years greater than~~ as long as the bond term;

Sec. X-2. Authorization to issue TransCap Trust Fund revenue bonds for highways. Notwithstanding any other provision of law, the Maine Municipal Bond Bank, at the request of the Department of Transportation, is authorized to issue additional TransCap Trust Fund revenue bonds as provided in the Maine Revised Statutes, Title 30-A, section 6006-G in amounts not to exceed $30,000,000 for the purpose of funding capital highway projects with an estimated useful life of 10 years or greater.

Sec. X-3. Access to TransCap Trust Fund. The Department of Transportation is authorized to access and use all funds in the TransCap Trust Fund at the Maine Municipal Bond Bank available in the 2010-2011 biennium that are not allocated or otherwise committed as part of debt service or bond issuer requirements or otherwise committed for capital projects having an estimated useful life of at least 10 years.

Sec. X-4. Highway and Bridge Light Capital funding. The Joint Standing Committee on Transportation shall negotiate in good faith and develop a solution to fund the Highway and Bridge Light Capital program in the Department of Transportation so as to allow maintenance paving at a rate of 600 miles per year without further impact to the TransCap Trust Fund. The Joint Standing Committee on Transportation shall submit a bill to the Second Regular Session of the 124th Legislature to implement the solution.

PART Y

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

TRANSPORTATION, DEPARTMENT OF

Highway and Bridge Capital 0406

Initiative: Provides funding for capital projects utilizing $25,000,000 of the $30,000,000 Maine Municipal Bond Bank TransCap Trust Fund revenue bonds authorized in Part X.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$25,000,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$25,000,000	$0

Highway and Bridge Capital 0406

Initiative: Allocates funding for capital projects on a one-time basis from a portion of the 7.5% of fuel taxes previously transferred to the TransCap Trust Fund within the Maine Municipal Bond Bank.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Capital Expenditures	$4,736,405	$10,939,435
OTHER SPECIAL REVENUE FUNDS TOTAL	$4,736,405	$10,939,435

Highway and Bridge Light Capital Z095

Initiative: Deallocates on a one-time basis a portion of the Part A Highway Fund allocation for the Urban-Rural Initiative Program to provide funding for the Highway and Bridge Light Capital program to perform maintenance paving for approximately 135 miles of road statewide.

HIGHWAY FUND	2009-10	2010-11
Capital Expenditures	$5,000,000	$0
HIGHWAY FUND TOTAL	$5,000,000	$0

Urban-Rural Initiative Program 0337

Initiative: Deallocates on a one-time basis a portion of the Part A Highway Fund allocation for the Urban-Rural Initiative Program to provide funding for the Highway and Bridge Light Capital program to perform maintenance paving for approximately 135 miles of road statewide.

HIGHWAY FUND	2009-10	2010-11
All Other	($5,000,000)	$0
HIGHWAY FUND TOTAL	($5,000,000)	$0

Urban-Rural Initiative Program 0337

Initiative: Restores funding to the Urban-Rural Initiative Program eliminated in this Part by transferring a portion of the 7.5% of fuel taxes previously transferred to the TransCap Trust Fund within the Maine Municipal Bond Bank.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$5,000,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,000,000	$0

Urban-Rural Initiative Program 0337

Initiative: Provides funding on a one-time basis to replace the deallocation to the Urban-Rural Initiative

Program in Part A by utilizing $5,000,000 of the $30,000,000 Maine Municipal Bond Bank TransCap Trust Fund revenue bonds authorized in Part X.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$5,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$5,000,000

TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS	2009-10	2010-11
HIGHWAY FUND	$0	$0
OTHER SPECIAL REVENUE FUNDS	$34,736,405	$15,939,435
DEPARTMENT TOTAL - ALL FUNDS	$34,736,405	$15,939,435

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

Effective June 16, 2009, unless otherwise indicated.

CHAPTER 414

H.P. 631 - L.D. 913

An Act To Authorize Bond Issues for Ratification by the Voters for the November 2009 and June and November 2010 Elections

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:

PART A

Sec. A-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $71,250,000 for the purposes described in section 6 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. A-2. Records of bonds issued kept by Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. A-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

Sec. A-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. A-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Department of Transportation and the Department of Economic and Community Development.

Sec. A-6. Allocations from Highway Fund and General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

DEPARTMENT OF TRANSPORTATION	
Highway Fund	
Highway and bridge	$50,000,000
General Fund	
Highway and bridge	$5,000,000
Railroad	$4,000,000
Ports (including funds for port improvements in Eastport and Searsport)	$5,750,000
Ferry	$1,000,000

Island Explorer Phase II	$400,000
Aviation - FAA	$2,000,000
Island Airport Program	$400,000
Augusta Airport Upgrade	$200,000
The LifeFlight Foundation	$1,000,000
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT	
Gulf of Maine Research Institute	
Provides funding to rebuild a bulkhead and wharf at the Gulf of Maine Research Institute	$1,500,000

Sec. A-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. A-8. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. A-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. A-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a $71,250,000 bond issue for improvements to highways and bridges, airports, public transit facilities, ferry and port facilities, including port and harbor structures, as well as funds for the LifeFlight Foundation that will make the State eligible for over $148,000,000 in federal and other matching funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

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

PART B

Sec. B-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $25,000,000 for the purposes described in section 6 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. B-2. Records of bonds issued kept by Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. B-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

Sec. B-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. B-5. Disbursement of bond proceeds. The proceeds of the Historic Preservation Revolving Fund must be expended, under the direction and supervision of the Maine Historic Preservation Commission, for acquisition and resale subject to preservation easements or covenants of significant endangered historic buildings by qualified nonprofit historic preservation organizations in the State. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Department of Economic and Community Development and Finance Authority of Maine.

Sec. B-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

MAINE HISTORIC PRESERVATION COMMISSION	
Establishes a revolving fund for the purpose of acquiring significant historic properties.	$1,500,000
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT	
Provides funds to make investments under the Communities for Maine's Future Program in competitive community and economic revitalization projects, which must be matched with at least $3,500,000.	$3,500,000
Maine Technology Institute	
Provides funds for research and development and commercialization as prioritized by the Office of Innovation's current Science and Technology Action Plan for Maine. The funds must be allocated to environmental and renewable energy technology, biomedical an biotechnology, aquaculture and marine technology, composite materials technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology through a competitive process and must be awarded to Maine-based public and private institutions and must be awarded to leverage matching funds of at least $3,000,000.	$3,000,000
Brunswick Naval Air Station Redevelopment	
Provides for redevelopment projects at the Brunswick Naval Air Station, including the rehabilitation of buildings, federal Americans with Disabilities Act and fire code compliance and other site improvements, including up to $4,750,000 for the development of a higher education engineering and economic development center. These funds will leverage $32,500,000 in federal funds.	$8,000,000
FINANCE AUTHORITY OF MAINE	
Provides grants for food processing for fishing, agricultural, dairy and lumbering industries within the State.	$1,000,000
Economic Recovery Loan Program	$3,000,000
Small Enterprise Growth Fund	
Provides funds for disbursements to qualifying small businesses in the State seeking to pursue eligible projects.	$5,000,000

Sec. B-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. B-8. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended

within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. B-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. B-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in June 2010 following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

> "Do you favor a $25,000,000 bond issue to provide capital investment to stimulate economic development and job creation by making investments under the Communities for Maine's Future Program and in historic properties; providing funding for research and development investments awarded through a competitive process; providing funds for disbursements to qualifying small businesses; and providing grants for food processing for fishing, agricultural, dairy and lumbering businesses within the State and redevelopment projects at the Brunswick Naval Air Station that will make the State eligible for over $39,000,000 in federal and other matching funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

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

PART C

Sec. C-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $10,250,000 for the purposes described in section 6 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. C-2. Records of bonds issued kept by Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. C-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

Sec. C-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. C-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Department of Agriculture, Food and Rural Resources, the Department of Environmental Protection and the Department of Health and Human Services.

Sec. C-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Safe Drinking Water Revolving Loan Fund

Provides funds for a drinking water revolving loan fund to acquire, design, plan, construct, enlarge, repair, protect or improve drinking water supplies or treatment systems to be matched by $17,000,000 in other funds.	$3,400,000
DEPARTMENT OF ENVIRONMENTAL PROTECTION	
Small Community Grant Program	
Provides funding for grants to towns to help replace malfunctioning septic systems that are polluting a water body or causing a public nuisance.	$1,000,000
Wastewater Treatment Facility State Revolving Loan Fund	
Provides funds for a wastewater treatment facility state revolving loan fund to be matched by $15,000,000 in other funds.	$3,000,000
Uncontrolled Sites	
Provides funds to investigate and clean up uncontrolled hazardous substance contamination at sites posing unacceptable threats to public health and water quality.	$750,000
Wastewater Treatment Facility Construction Grants	
Provides funds for wastewater treatment facility construction grants to be matched by $900,000 in other funds.	$600,000
Overboard Discharge	
Provides funds to assist homeowners whose homes are serviced by substandard or malfunctioning waste water treatment systems, including straight pipe discharges, individual overboard discharge systems, subsurface waste water disposal systems, septic tanks, leach fields and cesspools, which systems result in direct discharges of domestic pollutants to the surface waters of the State.	$500,000
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES	
Agriculture Water Source Development Program	
Provides funds to assist farmers in the development of environmentally sound water sources to manage weather-related risk and to comply with in-stream flow rules that will leverage $350,000 in other funds.	$1,000,000

Sec. C-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. C-8. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. C-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. C-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in June 2010 following passage of this Act. The municipal officers of this State shall notify the inhabitants of

their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

> "Do you favor a $10,250,000 bond issue to improve water quality, support drinking water programs and the construction of wastewater treatment facilities and to assist farmers in the development of environmentally sound water sources that will leverage $33,250,000 in federal and other funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

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

PART D

Sec. D-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $33,500,000 for the purposes described in section 6 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. D-2. Records of bonds issued kept by Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. D-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

Sec. D-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. D-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Public Utilities Commission, University of Maine System, the Maine Maritime Academy, the Maine Community College System and the Department of Administrative and Financial Services.

Sec. D-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

PUBLIC UTILITIES COMMISSION	
Public Utilities Commission	
Provides funds for weatherization and energy efficiency programs for low and middle income households and small businesses. If the energy efficiency programs of the commission are transferred to another entity established by the Legislature, the commission shall transfer all unexpended funds to that entity.	$12,000,000
UNIVERSITY OF MAINE SYSTEM	
University of Maine System	
Provides funds for energy and infrastructure upgrades at all campuses of the University of Maine System.	$9,500,000
MAINE COMMUNITY COLLEGE SYSTEM	
Maine Community College System	
Provides funds for energy and infrastructure upgrades at all campuses of the Maine Community College System.	$5,000,000

MAINE MARITIME ACADEMY	
Maine Maritime Academy	
Provides funds for energy and infrastructure upgrades at the Maine Maritime Academy.	$1,000,000
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES	
Maine Marine Wind Energy Demonstration Site Fund	
Provides funds for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites.	$6,000,000

Sec. D-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. D-8. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. D-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. D-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in June 2010 following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

> "Do you favor a $33,500,000 bond issue to provide for investments in weatherization and energy efficiency projects; for infrastructure and energy efficiency upgrades at campuses of the University of Maine System, the Maine Community College System and the Maine Maritime Academy; and for the creation of a fund to develop one or more ocean wind energy demonstration sites?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

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

PART E

Sec. E-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $10,000,000 for the purposes described in section 6 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. E-2. Records of bonds issued kept by Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. E-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the debt service account established for the retirement of these bonds.

Sec. E-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. E-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in this Part under the direction and supervision of the Executive Department, State Planning Office and the Department of Conservation. The proceeds of the bonds for the Land for Maine's Future Board must be expended for acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife and fish habitat, farmland preservation in accordance with the provisions for such acquisitions under the Maine Revised Statutes, Title 5, chapter 353 and working waterfront preservation in accordance with the terms of this Part, including all costs associated with such acquisitions, except that use of the proceeds of these bonds is subject to the following conditions and requirements.

1. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws, rules and regulations and except for working waterfront projects and farmland protection projects.

2. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Part. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this subsection that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland.

3. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least $6,500,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating entities, as defined in Title 5, section 6201, subsection 2, when property interests have a direct relationship to the property proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities.

4. Of the bond proceeds allocated to the Land for Maine's Future Board, $1,000,000 must be made available to protect farmland in accordance with Title 5, section 6207.

5. Of the bond proceeds allocated to the Land for Maine's Future Board, $2,000,000 must be made available to protect working waterfront properties in accordance with Public Law 2005, chapter 462, Part B, section 6.

6. To the extent the purposes are consistent with the disbursement provisions in this Part, 100% of the bond proceeds may be considered as state match for any federal funding to be made available to the State.

Sec. E-6. Allocations from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule.

EXECUTIVE DEPARTMENT	
State Planning Office	
Land for Maine's Future Board	
Provides funds in order to leverage $6,500,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife and fish habitat; outdoor recreation, including hunting and fishing; and farmland preservation.	$6,500,000
Provides funds to be used for working farmland preservation in order to leverage $1,000,000 in other funds.	$1,000,000
Provides funds to be used for working waterfront preservation in order to leverage $2,000,000 in other funds.	$2,000,000
DEPARTMENT OF CONSERVATION	
Bureau of Parks and Lands	
Provides funds to preserve state parks and properties managed by the Department of Conservation.	$500,000

Sec. E-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. E-8. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered

appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. E-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. E-10. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in November 2010 following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

> "Do you favor a $10,000,000 bond issue to invest in land conservation and working waterfront preservation and to preserve state parks to be matched by $9,500,000 in federal and other funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

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

PART F

Sec. F-1. Rulemaking. The Finance Authority of Maine shall establish rules to administer funds for food processing for the fishing and agricultural industries in this State for grants. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. F-2. Contingent effective date. This Part takes effect only if the General Fund bond issue proposed in Part B is approved by the voters of the State.

PART G

Sec. G-1. 5 MRSA §13056-D is enacted to read:

§13056-D. Communities for Maine's Future Program

1. Program established; administration. The Communities for Maine's Future Program, referred to in this section as "the program," is established within the department to assist and encourage communities to revitalize and to promote community development and enhance projects. The department shall administer the program to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. All funds received for this program must be deposited into the Communities for Maine's Future Fund established in subsection 7.

2. Review panel. The Community for Maine's Future Review Panel, referred to in this section as "the panel," is established to evaluate proposals and determine funding under the program. The panel consists of:

A. The commissioner;

B. The Director of the Maine Historic Preservation Commission;

C. The Director of the State Planning Office within the Executive Department; and

D. Four members of the public, one with experience in economic and community development, one with experience in historic preservation, one with experience in downtown revitalization and one with experience in tourism development and promotion. The first 2 of these members are appointed by the President of the Senate and the remaining 2 by the Speaker of the House.

3. Review process. The panel shall review proposals for funding under the program in accordance with this subsection.

A. The panel shall establish the deadline by which proposals must be postmarked and received.

B. Department staff shall undertake the initial review and preliminary scoring of proposals.

C. A subcommittee appointed by the panel to score proposals shall review and determine the final score for the proposals.

D. A subcommittee appointed by the panel to nominate finalists shall review all of the proposals, identify issues for full review and discussion by the panel and recommended project finalists to

the full panel for detailed review and consideration.

E. The panel shall review all the proposals submitted, select the finalists and allocate funding.

In reviewing proposals, the panel shall use the scoring system established in subsection 5.

4. Applicant requirements. An applicant for funding under this section must:

A. Be a city or town; and

B. Demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this paragraph, the panel may consider all relevant factors, including but not limited to the applicant's level of debt; fund-raising ability; past economic and community development activities; grants from federal, state or local sources; previous historic preservation, rehabilitation or enhancement activity; organizational history; scope of economic or revitalization vision; and evidence of success in previous efforts.

5. Scoring system. The department and the panel shall develop a scoring system for use by the panel in evaluating proposals under this section. The scoring system must be designed to identify those projects that are most aligned with the State's economic and community development and historic preservation and enhancement priorities. The scoring system must assign points according to the relative value of:

A. The economic significance of the proposed project to the immediate vicinity and to the State as a whole;

B. The level of compatibility with the historic community character;

C. The value of the proposed project with respect to historic preservation and rehabilitation;

D. The value of the proposed project with respect to downtown revitalization;

E. The value of the proposed project to encourage or accomplish sustainable, mixed-use, pedestrian-oriented or transit-oriented development;

F. The extent to which the proposed project meets or exceeds minimum energy efficiency standards, uses green building practices or materials, or both;

G. The value of the proposed project with respect to tourism promotion and development;

H. The degree of community support for the proposed investment;

I. The extent to which the proposed project involves other preservation partnerships and meets multiple criteria within this section;

J. The match provided by the applicant; and

K. Related public funding sources supporting the project.

6. Additional criteria. In addition to evaluating the proposals using the scoring system established in subsection 5, the panel shall also consider criteria in reviewing a proposal:

A. The level to which a proposal supports the open space or recreation objectives, or both, of a local comprehensive plan;

B. The extent to which a project is consistent with an adopted comprehensive plan that meets the standards of the laws governing growth management pursuant to Title 30-A, chapter 187;

C. The extent to which a project is consistent with an existing strategic plan for downtown or village center revitalization;

D. The current and anticipated demand for use and diversity of uses of this site;

E. The extent to which the project is consistent with any relevant regional economic development plan or other relevant regional plan; and

F. Any additional benefits that contribute to the character of the town or region in which the project is situated, including the rehabilitation or renovation of mills and other buildings in the community.

7. Communities for Maine's Future Fund created. The Communities for Maine's Future Fund, known as "the fund," is established to provide funding for the rehabilitation, revitalization and enhancement of downtowns and village centers and main streets in the State. The fund is dedicated, nonlapsing fund, and all revenues deposited in the fund remain in the fund and must be disbursed in accordance with this section.

8. Rules. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. G-2. 5 MRSA §13056-E is enacted to read:

§13056-E. Assistance from Communities for Maine's Future Fund

1. Application for downtown improvement or asset grants. In addition to the other forms of financial assistance available, an eligible municipality or group of municipalities may apply for a downtown and community development grant from the Communities for Maine's Future Fund established in section

13056-D, subsection 7 and referred to in this section "the fund," the proceeds of which must be used to acquire, design, plan, construct, enlarge, repair, protect or enhance downtown improvements or assets. The department may prescribe an application form or procedure for an eligible municipality or group of municipalities to apply for a grant under this section. The application must include all information necessary for the purpose of implementing this section.

2. Eligibility certification. In addition to criteria established in section 13056-D:

A. The applicant must certify that it has secured all permits, licenses and approvals necessary to construct the improvements to be financed by the grant;

B. The department must affirm that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant if that municipality has adopted a growth management program certified under Title 30-A, section 4347-A that includes a capital improvement program composed of:

(a) An assessment of all public facilities and services, including, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire departments and police departments;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of divisions (a), (b) or (c) may jointly apply for assistance under this section; and

C. The department must affirm that the applicant has met the conditions of this paragraph. A municipality is eligible to receive a downtown improvement grant if that municipality has:

(1) Shown broad-based support for downtown revitalization;

(2) Established a comprehensive downtown revitalization work plan, including a definition and a map of the affected area;

(3) Developed measurable goals and objectives;

(4) Demonstrated a historic preservation ethic;

(5) Developed the capacity to report on the progress of the downtown program; and

(6) Established the ability and willingness to support integrated marketing efforts for retailers, services, activities and events.

3. Criteria; conditions for downtown village center grants. The department shall develop criteria and conditions for the award of downtown and village center grants to eligible municipalities subject to the requirements of this section, including:

A. Basic criteria for redevelopment or revitalization of a downtown growth area as defined under Title 30-A, section 4301, subsection 6-C or village;

B. A preference for capital investment projects that provide substantial regional benefits;

C. The adoption of other criteria as the department determines necessary to ensure that grants made under this section maximize the ability of municipalities to accommodate planned growth and economic development;

D. Consistency with the municipality's comprehensive plan or local growth management program;

E. Leveraging of other private, federal or local dollars; and

F. Economic gain to the community, including tax income and jobs created.

4. Coordination. The department shall coordinate the grants made under this section with community assistance loans and grants administered by the department and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, the Executive Department, State Planning Office, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Conservation and the Department of Environmental Protection.

5. Report to the Legislature. The department shall report to the joint standing committee of the Legislature having jurisdiction over economic development matters no later than January 1st of each odd-numbered year on the grants program. The department

may make any recommendations it finds necessary to more effectively achieve the purposes of this section, including the appropriation of any necessary additional funds.

Sec. G-3. 5 MRSA §13056-F is enacted to read:

§13056-F. Historic Preservation Revolving Fund

1. Fund established; administration. The Historic Preservation Revolving Fund, referred to in this section as "the revolving fund," is established within the Maine Historic Preservation Commission, referred to in this section as "the commission," in order to provide funds to qualified nonprofit historic preservation organizations in the State for the purpose of acquisition of endangered historic properties of local, state or national significance, as determined by the commission, for resale to new owners who agree to preserve, rehabilitate or restore the properties as necessary, subject to preservation easements or covenants held by the qualified organization. The commission may provide funds to the qualified organization for purposes outlined in subsection 4.

All funds received must be deposited into the revolving fund.

2. Review process. The commission shall review proposals for acquisition of historic properties by qualified organizations with funds from the revolving fund in accordance with this subsection.

3. Applicant requirements. An applicant for funding under this section must be a qualified nonprofit historic preservation organization. For purposes of this section, "qualified nonprofit historic preservation organization" or "qualified organization" means a nonprofit preservation or historical organization whose purposes include preservation of historic property or a governmental body. A qualified organization must also demonstrate previous historic preservation, rehabilitation or acquisition activity; availability of staff with demonstrated professional training and experience in administration of historic preservation programs; and familiarity with preservation standards and with acquisition and resale of historic property.

The qualified organization must also demonstrate the capacity to undertake the project with a reasonable prospect of bringing it to a successful conclusion. In assessing an applicant's ability to meet the requirements of this subsection, the commission may consider all relevant factors, including but not limited to the applicant's organizational purpose; organizational history; previous historic preservation, rehabilitation or acquisition activity; scope of economic or revitalization vision; and evidence of success in previous efforts.

4. Revolving fund expenditures. Payment from the revolving fund is made by the commission to qualified nonprofit historic preservation organizations for the purpose of preservation of significant endangered historic properties through acquisition and resale. Payments may include all costs associated with such an acquisition and carrying costs, as well as stabilization, rehabilitation and completion of a conditions study by the qualified organization for approval by the commission and may also include a fee for establishing a preservation easement or covenant to be held by the qualified organization. When possible, the qualified organization shall seek to secure the qualified property by option to be executed at closing to minimize carrying costs. The qualified organization shall seek to resell the property at fair market value to a new private, nonprofit or public owner who agrees to preserve, rehabilitate or restore the property as provided in the easement or covenant. Net proceeds from the resale of properties must be returned to the revolving fund within the commission. Funds returned to the revolving fund are to be used exclusively for the acquisition of additional historic properties, except that no more than 5% of the fund balance may be used by the commission to fund administration of the program by cooperating organizations.

5. Evaluation criteria. The commission shall evaluate proposals under this section. The commission shall seek to fund those proposals that best meet its historic preservation priorities for the State and region and that support its economic and community development and enhancement priorities and shall evaluate properties in such proposals relative to:

A. The level of historic or architectural significance;

B. The value with respect to historic preservation and rehabilitation;

C. The degree to which the property is endangered;

D. The economic significance to the immediate vicinity and to the State;

E. The value with respect to downtown revitalization, open space conservation or other public purposes;

F. The availability at fair market value;

G. The degree to which the property is available below fair market value;

H. The potential marketability;

I. The feasibility of rehabilitation or restoration and reuse;

J. The value of the proposed property with respect to tourism promotion and development;

K. The degree of community support; and

L. The extent to which the proposed project involves partnerships or meets multiple criteria.

6. Rules. The commission may adopt rules to implement this section. Rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Communities for Maine's Future Fund N064

Initiative: Establishes base allocations for the Communities for Maine's Future Program to assist and encourage communities to revitalize and to promote community development and enhance projects.

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

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
DEPARTMENT TOTALS	**2009-10**	**2010-11**
OTHER SPECIAL REVENUE FUNDS	**$500**	**$500**
DEPARTMENT TOTAL - ALL FUNDS	**$500**	**$500**

HISTORIC PRESERVATION COMMISSION, MAINE

Historic Preservation Revolving Fund N063

Initiative: Establishes base allocations for the Historic Preservation Revolving Fund in order to provide funds to qualified nonprofit historic preservation organizations to acquire significant historic properties.

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

HISTORIC PRESERVATION COMMISSION, MAINE		
DEPARTMENT TOTALS	**2009-10**	**2010-11**
OTHER SPECIAL REVENUE FUNDS	**$500**	**$500**
DEPARTMENT TOTAL - ALL FUNDS	**$500**	**$500**

SECTION TOTALS		
SECTION TOTALS	**2009-10**	**2010-11**
OTHER SPECIAL REVENUE FUNDS	**$1,000**	**$1,000**
SECTION TOTAL - ALL FUNDS	**$1,000**	**$1,000**

Sec. G-5. Contingent effective date. This Part takes effect only if the General Fund bond issue proposed in Part B is approved by the voters of the State.

PART H

Sec. H-1. Establishment of ocean wind energy demonstration sites

1. Fund established. The Maine Marine Wind Energy Demonstration Site Fund is established to provide the basic investment necessary to obtain matching funds and competitive grants and other funding from federal, state and private sources for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites.

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

A. "Fund" means the Maine Marine Wind Energy Demonstration Site Fund.

B. "Research and development" means applied engineering and scientific research and related commercial development conducted by the University of Maine, acting on behalf of the University of Maine System and its employees and students in the target areas and in conjunction with federal, state and local partners from the private, nonprofit and government sectors.

C. "Demonstration sites" means geographic locations within the jurisdiction of this State where applied research and development is considered most likely to produce significant benefits to the people and economy of the State.

3. Administration of fund. The University of Maine, acting on behalf of the Board of Trustees of the

University of Maine System, shall administer the fund. The university may utilize the assets of the fund to carry out and effectuate the purposes, duties and responsibilities of this Part, including, but not limited to:

A. To conduct siting studies for offshore wind sites, giving first priority to developments in state waters but also consider siting studies for developments in federal waters that could provide renewable and sustainable power for the State or provide significant economic opportunity. The siting studies will include consideration of wind resource, bathymetry, geophysical conditions, transmission and distribution infrastructure, engineering, environmental effects, multi-use potential, identification of exclusion zones and cost of energy from each site;

B. Using siting information collected under subsection 1, the University of Maine, acting on its own behalf or in conjunction with partners in the private, nonprofit or government sectors, may apply for all federal, state and local approvals necessary to develop a demonstration site to be used for research and development to evaluate new technologies and monitor environmental impacts. The University of Maine will construct and operate this site in a manner consistent with applicable federal, state and local laws and related licenses, permits or other authorizations. The university may contract, subcontract or collaborate with another public or private entity for any activity authorized by this subsection;

C. To design, prototype and test offshore structures composites components that could be manufactured by companies in this State; and

D. To provide a report to the Governor and the Legislature by March 1, 2010 setting forth:

(1) The operations and accomplishments of the fund during the most recent fiscal year;

(2) The results of monitoring of the effects of any structures placed in the waters on the environment and fish and wildlife, including marine mammals; and

(3) The assets and liabilities of the fund at the end of the most recent fiscal year.

Sec. H-2. Appropriations and allocations. The following appropriations and allocations are made.

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

Maine Marine Wind Energy Demonstration Site Fund N065

Initiative: Establishes a base allocation for the Maine Marine Wind Energy Demonstration Site Fund for funds received for research, development and product innovation associated with developing one or more ocean wind energy demonstration sites.

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

Sec. H-3. Contingent effective date. This Part takes effect only if the General Fund bond issue proposed in Part D is approved by the voters of this State.

Effective pending referendum.

CHAPTER 415

H.P. 1028 - L.D. 1475

An Act To Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

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

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

PART A

Sec. A-1. 3 MRSA §753, as repealed and replaced by PL 2007, c. 240, Pt. U, §1, is amended to read:

§753. Expenses

All administrative operating expenses of the ~~Maine~~ Legislative Retirement ~~System~~ Program must

be charged to the assets of the ~~Maine~~ Legislative Retirement ~~System~~ Program.

Sec. A-2. 4 MRSA §1301, first ¶, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

Every judge serving on the court on or after December 1, 1984~~, shall~~ must be a member of the ~~Maine~~ Judicial Retirement ~~System~~ Program as a condition of employment.

Sec. A-3. 4 MRSA §1357, sub-§3, as amended by PL 2007, c. 491, §58 and c. 523, §1, is repealed and the following enacted in its place:

3. Change of beneficiary. If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Public Employees Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit.

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date.

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2).

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C.

Sec. A-4. 5 MRSA §7051, sub-§6, as amended by PL 2007, c. 466, Pt. A, §15, is further amended to read:

6. Temporary and provisional appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to ~~be~~ the director. If the nominee is found by the director to have had experience and training that appear to qualify the nominee for the position, the nominee may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director.

A. The director may make a provisional appointment to fill a technical or professional position that requires a specialized knowledge or training to carry out the duties of the position and that cannot be filled from the eligible register.

B. The director shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time, not to exceed one year.

C. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments.

Sec. A-5. 5 MRSA §18252, as amended by PL 2007, c. 490, §1 and c. 491, §191, is repealed and the following enacted in its place:

§18252. Membership in districts with Social Security coverage

A person who is or would be covered by the United States Social Security Act as a result of employment by a participating local district with Social Security coverage may elect to join, not to join, to cease contributions to or to withdraw from the Participating Local District Retirement Program under the following conditions.

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

A. Purchase of service credit for the period during which the person was not a member of the

Participating Local District Retirement Program is governed by section 18305-A.

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

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

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

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

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

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

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

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

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

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

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

Sec. A-6. 5 MRSA §18252-A, sub-§1, as amended by PL 2007, c. 490, §2 and c. 491, §192, is repealed and the following enacted in its place:

1. Membership. An employee of a participating local district that does not have Social Security coverage and that has a plan provided by the employer under section 18252-B may elect to be a member under the Participating Local District Retirement Program or to be covered under the plan provided by the employer in accordance with the following.

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of hiring or rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B.

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

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

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

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

under division (a) and may, as permitted under other relevant retirement system law, rule and policy, repay other refunded contributions.

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

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

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

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

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

B. An employee of the participating local district who is a member under the Participating Local District Retirement Program on the date on which the employer provides a plan under section 18252-B may elect to remain a member under that program or to become covered under a plan provided by the employer under section 18252-B.

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

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

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

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

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

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B.

Sec. A-7. 12 MRSA §6702, sub-§6, as amended by PL 2007, c. 607, Pt. A, §2 and Pt. B, §2, is repealed and the following enacted in its place:

6. Violation. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

Sec. A-8. 12 MRSA §10001, sub-§53, as amended by PL 2007, c. 651, §2, is further amended to read:

53. Resident. ~~For the purposes of this subsection, "resident"~~ "Resident" means a citizen of the United States or an alien who has been domiciled in the State for one year who:

A. If registered to vote, is registered in this State;

B. If licensed to drive a motor vehicle, has made application for or possesses a motor vehicle operator's license issued by the State;

C. If owning a motor vehicle located within the State, has registered each such vehicle in the State; and

D. Is in compliance with the state income tax laws.

A person who is a full-time student at a college or university in the State and has satisfied the requirements of paragraphs A to D is rebuttably presumed to be a resident in the State during that period.

Sec. A-9. 13-C MRSA §1331, sub-§2, as amended by PL 2007, c. 323, Pt. C, §17 and affected by Pt. G, §4, is further amended to read:

2. Appropriate court. A corporation shall commence the proceeding under subsection 1 in the appropriate court of the county where the corporation's principal office is located or, if there is no principal office, ~~of~~ in Kennebec County. If the corporation is a foreign corporation, the corporation shall commence the proceeding in the county in this State where the principal office of the domestic corporation merged with the foreign corporation was located or, if the domestic corporation did not have its principal office in this State at the time of the transaction, ~~of~~ in Kennebec County.

Sec. A-10. 14 MRSA §3572, sub-§12, as enacted by PL 1985, c. 641, §3, is amended to read:

12. Transfer. "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, ~~or~~ of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease or creation of a lien or other encumbrance.

Sec. A-11. 22 MRSA §1971, sub-§1, as amended by PL 2007, c. 539, Pt. EE, §1 and c. 572, Pt. A, §16, is repealed and the following enacted in its place:

1. Establishment. The position of school nurse consultant is established jointly within the department and the Department of Education. The Director of the Maine Center for Disease Control and Prevention and the Policy Director of Special Services within the Department of Education shall jointly supervise the school nurse consultant.

Sec. A-12. 22 MRSA §3173-C, sub-§7, as amended by PL 2003, c. 451, Pt. H, §1 and affected by §3, is further amended to read:

7. Copayments. Notwithstanding any other provision of law, the following copayments per service per day are imposed and reimbursements are reduced, or both, to the following levels:

A. Outpatient hospital services, $3;

B. Home health services, $3;

C. Durable medical equipment services, $3;

D. Private duty nursing and personal care services, $5 per month;

E. Ambulance services, $3;

F. Physical therapy services, $2;

G. Occupational therapy services, $2;

H. Speech therapy services, $2;

I. Podiatry services, $2;

J. Psychologist services, $2;

K. Chiropractic services, $2;

L. Laboratory and x-ray services, $1;

M. Optical services, $2;

N. Optometric services, $3;

O. Mental health clinic services, $2;

P. Substance abuse services, $2;

Q. Hospital inpatient services, $3 per patient day;

R. Federally qualified health center services, $3 per patient day, effective July 1, 2004; and

S. Rural health center services, $3 per patient day.

The department may adopt rules to adjust the copayments set forth in this subsection. The rules may adjust amounts to ensure that copayments are deemed nominal in amount and may include monthly limits or exclusions per service category. The need to maintain

provider participation in the Medicaid program to the extent required by 42 United States Code, Section ~~1392(a)(30)(A)~~ 1396a(a)(30)(A) or any successor provision of law must be considered in any reduction in reimbursement to providers or imposition of copayments.

Sec. A-13. 24-A MRSA §3007, sub-§5, ¶B, as amended by PL 2005, c. 114, §4, is further amended to read:

B. Nonrenewal subject to this section is not effective prior to 30 days after receipt of ~~notice~~ written notice by the insured. Prior to the date of renewal of a policy that has been transferred by an insurer to an affiliate, the insured must receive notice of any changes to the terms of the policy that are less favorable to the insured.

Sec. A-14. 30-A MRSA §701, sub-§2, as amended by PL 2007, c. 653, Pt. A, §7 and c. 663, §1, is repealed and the following enacted in its place:

2. Preparation of noncorrectional services-related estimates. In order to assess a county tax for noncorrectional services-related expenses, the county commissioners, prior to November 7th in each year for counties on a January to December fiscal year and April 15th for counties on a July to June fiscal year, shall prepare estimates of the sums necessary to pay the noncorrectional services-related expenses that have accrued or may probably accrue for the coming year, including the building and repairing of courthouses and appurtenances, with the noncorrectional services-related debts owed by their counties.

The estimates must be drawn so as to authorize the appropriations to be made to each department or agency of the county government for the year. The estimates must provide specific amounts for personal services, contractual services, commodities, debt service and capital expenditures made or provided by the county for noncorrectional-related services. The estimates must include specific amounts for each noncorrectional service expenditure.

Sec. A-15. 31 MRSA §714, sub-§2, as amended by PL 2007, c. 231, §28 and repealed by c. 323, Pt. D, §19 and affected by Pt. G, §4, is repealed.

Sec. A-16. 32 MRSA §220, sub-§2, ¶B, as repealed and replaced by PL 2007, c. 390, §1 and amended by c. 402, Pt. F, §12, is repealed and the following enacted in its place:

B. A landscape architect must meet the qualifications established in this paragraph.

(1) To be qualified for admission to the examination to practice landscape architecture in this State, an applicant must submit evidence that:

(a) The applicant has completed a course of study in a school or college of landscape architecture approved by the board, with graduation evidenced by a diploma setting forth a satisfactory degree and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as a landscape architect in this State who has a current and valid license from another jurisdiction and a certificate from a recognized council of landscape architectural registration boards may offer to render landscape architectural services in the State prior to licensure by the board as long as the applicant first notifies the board in writing that the applicant will be present in the State to offer to render landscape architectural services. The applicant may not render landscape architectural services until duly licensed by the board.

(3) An applicant for renewal of a license issued pursuant to this section shall submit evidence that the applicant meets the qualifications established by the board.

Sec. A-17. 32 MRSA §1101, sub-§1, as amended by PL 1999, c. 386, Pt. F, §1, is further amended to read:

1. Apprentice electrician. "Apprentice electrician" means ~~a person~~ an apprentice, as defined in Title 26, ~~chapter 11~~ section 2006, subsection 5-A, paragraph A, subparagraph (1), who is engaged in a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician.

Sec. A-18. 32 MRSA §3824, sub-§5, as amended by PL 2007, c. 10, §1 and c. 402, Pt. Q, §8, is repealed and the following enacted in its place:

5. Temporary licensure. The board shall adopt rules for the granting of a temporary license to enable psychologists to practice in this State under supervision pending such examination as the board may require. An applicant who possesses at least 1,500 hours of postdoctoral experience and fulfills all the requirements for licensure, with the exception of any required examination, may apply to the board for a temporary license. Upon receiving a completed application and fee as set under section 3833-A, the board shall issue a temporary license that entitles the applicant to practice as a psychologist or psychological examiner under supervision while completing the requirements for

permanent licensure. The temporary license is effective for one year.

Sec. A-19. 32 MRSA §13723, sub-§7, ¶A, as amended by PL 2007, c. 344, §10 and c. 402, Pt. DD, §10, is repealed and the following enacted in its place:

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's authorized representatives, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances or to enforce conditions of probation or other supervision imposed by a court relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board, the Attorney General or the district attorney for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. A person having knowledge by virtue of the person's office of any such prescription, order or record may not divulge that knowledge, except before a licensing board or representative or in connection with a prosecution or proceeding in court.

Sec. A-20. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 2007, c. 609, §1 and c. 670, §17, is repealed and the following enacted in its place:

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the provisions of section 1931; the purposes of sections 3607-A and 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; or the investigation and hearing pursuant to Title 15, section 393, subsection 4-A;

Sec. A-21. 35-A MRSA §3210-C, sub-§3, as amended by PL 2007, c. 575, §2 and c. 656, Pt. B, §2, is repealed and the following enacted in its place:

3. Commission authority. The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; and

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids.

The commission may direct investor-owned transmission and distribution utilities to enter into contracts under this subsection only as agents for their customers and only in accordance with this section. The commission may permit, but may not require, investor-owned transmission and distribution utilities to enter into contracts for differences that are designed and intended to buffer ratepayers in the State from potential negative impacts from transmission development. To the greatest extent possible, the commission shall develop procedures for long-term contracts for investor-owned transmission and distribution utilities under this subsection having the same legal and financial effect as the procedures used for standard-offer service pursuant to section 3212 for investor-owned transmission and distribution utilities.

The commission may enter into contracts for interruptible, demand response or energy efficiency capacity resources. These contracts are not subject to the rules of the State Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the commission shall allow transmission and distribution utilities to submit bids for interruptible, demand response or energy efficiency capacity resources.

Capacity resources contracted under this subsection may not exceed the amount necessary to ensure the reliability of the electric grid of this State or to lower customer costs as determined by the commission pursuant to rules adopted under subsection 10.

Unless the commission determines the public interest requires otherwise, a capacity resource may not be contracted under this subsection unless the commission determines that the capacity resource is recognized as a capacity resource for purposes of any regional or federal capacity requirements.

The commission shall ensure that any long-term contract authorized under this subsection is consistent with the State's goals for greenhouse gas reduction under Title 38, section 576 and the regional greenhouse gas initiative as described in the state climate action plan required in Title 38, section 577.

Sec. A-22. 35-A MRSA §3210-C, sub-§7, as amended by PL 2007, c. 575, §3 and c. 656, Pt. B, §3, is repealed and the following enacted in its place:

7. Disposition of resources. An investor-owned transmission and distribution utility shall sell capacity resources and energy purchased pursuant to subsection

3 or take other action relative to such capacity resources and energy as directed by the commission.

Sec. A-23. 35-A MRSA §3210-C, sub-§8, as amended by PL 2007, c. 575, §4 and c. 656, Pt. B, §4, is repealed and the following enacted in its place:

8. Cost recovery. The commission shall ensure that an investor-owned transmission and distribution utility recovers in rates all costs of contracts entered into pursuant to subsection 3, including but not limited to any impacts on the utility's costs of capital. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the capacity resource is sold or any gains or losses derived from contracts for differences must be reflected in rates and may not be deemed to be imprudent.

Sec. A-24. 37-B MRSA §505, sub-§1-A, ¶A, as amended by PL 2007, c. 521, §2 and c. 678, §1, is repealed and the following enacted in its place:

A. The bureau may provide a grant of temporary assistance not to exceed $600 to a veteran currently a resident of this State who has filed a valid claim for a veteran's pension, pending notification of the award of such a pension, if that veteran is not incarcerated or a permanent resident of a nursing home and requests such assistance. For purposes of this paragraph, "claim for a veteran's pension" means a claim filed with the federal Veterans' Administration pursuant to 38 United States Code, Chapter 15.

Sec. A-25. 37-B MRSA §505, sub-§1-A, ¶B, as amended by PL 2007, c. 521, §2 and c. 678, §1, is repealed and the following enacted in its place:

B. The bureau may provide a grant of emergency assistance not to exceed $500 to a veteran currently a resident of this State who demonstrates to the bureau's satisfaction a financial need and suffers an emergency, such as damage to that veteran's home due to fire, flood or hurricane, that is not fully compensable by insurance; illness or the illness of an immediate family member; or a similar emergency. In the case of a veteran with terminal illness or catastrophic injury, the director may provide a grant of up to $1,000. No more than $1,000 in emergency assistance may be provided to a veteran in any 12-month period. For the purposes of this paragraph, "veteran" has the same meaning as "eligible veteran" in section 504, subsection 4, paragraph A-1. Grants may not be issued for fuel assistance or due to loss of income due to unemployment while the veteran is receiving other unemployment benefits.

Sec. A-26. PL 2007, c. 695, Pt. L, §1, as corrected by RR 2007, c. 2, §32, is repealed.

Sec. A-27. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 1054-A, in the chapter headnote, the words "additional support for people in retraining and education program" are amended to read "additional support for people in retraining and employment program" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 4 MRSA §162 is amended to read:

§162. Place for holding court; suitable quarters

In each division, the place for holding court ~~shall~~ must be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate on behalf of the State, the leases, contracts and other arrangements ~~he~~ the Chief Judge considers necessary, within the limits of the budget and the funds available ~~under section 163, subsection 3~~, to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session ~~shall~~ must be available for use by the District Court of that division in which such facilities are located. Arrangements for such use ~~shall~~ must be made by the Chief Judge.

If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as provided in the preceding paragraph, ~~he~~ the Chief Judge may, with the advice and approval of the Bureau of Public Improvements, negotiate on behalf of the State, the leases, contracts and other arrangements ~~he~~ the Chief Judge considers necessary, within the limits of the budget and funds available ~~under section 163, subsection 3~~, to provide suitable quarters, adequately furnished and equipped for the District Court in privately owned buildings.

Sec. B-2. 4 MRSA §163, sub-§3 is repealed.

Sec. B-3. 5 MRSA §12004-I, sub-§32, as enacted by PL 1987, c. 786, §5, is amended to read:

32.

Housing	Passamaquoddy Indian Housing Authority - Indian Township	Not Authorized	~~22 MRSA §4733~~ 30-A MRSA §4995

Sec. B-4. 5 MRSA §12004-I, sub-§33, as enacted by PL 1987, c. 786, §5, is amended to read:

33.

Housing	Passamaquoddy Indian Housing Authority - Pleasant Point	Not Authorized	~~22 MRSA §4733~~ 30-A MRSA §4995

Sec. B-5. 5 MRSA §12004-I, sub-§34, as amended by PL 1989, c. 503, Pt. A, §31, is further amended to read:

34.

Housing	Penobscot Tribal Reservation Housing Authority	Not Authorized	~~22 MRSA §4733~~ 30-A MRSA §4995

Sec. B-6. 18-A MRSA §5-411, sub-§(c), ¶(2), as enacted by PL 1997, c. 453, §2, is amended to read:

(2). Financial institutions authorized to do business in ~~the~~ this State ~~under~~ as defined in Title 9-B, section 131, subsection ~~12-A~~ 17-A, or their employees; and

Sec. B-7. 20-A MRSA §1486, sub-§3, ¶F, as amended by PL 2007, c. 668, §20 and by c. 695, Pt. G, §1, is repealed and the following enacted in its place:

F. The article to be voted on must be in the following form:

(1) "Do you favor approving the (name of regional school unit) budget for the upcoming school year that was adopted at the latest (name of regional school unit) budget meeting?

Yes No"

Sec. B-8. 20-A MRSA §1486, sub-§3, ¶G, as repealed by PL 2007, c. 668, §20 and amended by c. 695, Pt. G, §2, is repealed.

Sec. B-9. 30-A MRSA §4995, as enacted by PL 1993, c. 738, Pt. C, §7, is amended to read:

§4995. Create respective tribal housing authorities

The Passamaquoddy Tribe~~,~~ and the Penobscot Nation, as provided in Title 5, section 12004-I, and the Houlton Band of Maliseet Indians are authorized ~~by Title 5, section 12004, subsection 10~~ to create respective tribal housing authorities. The respective tribe, nation or band shall prescribe the manner of selection of the members, their terms and grounds for removal. Except as otherwise provided in this chapter or clearly indicated otherwise, the Maine Housing Authorities Act applies to the tribal housing authorities referred to in this chapter as "authority" or "authorities." The power of tribal housing authorities may be exercised only within the Indian territory of the respective tribe or nation or the trust land of the Houlton Band of Maliseet Indians. Tribal housing authorities are in substitution for any tribal housing authority previously existing under the laws of the State and assume all the rights and obligations of those predecessor housing authorities. The presently constituted tribal housing authority of the respective tribe or nation continues in existence and may exercise all the authority previously vested by law until the respective tribe or nation creates the tribal housing authority authorized by this section.

Sec. B-10. PL 2009, c. 213, Pt. A, §13, under the caption "CORRECTIONS, DEPARTMENT OF," in the 11th occurrence relating to "Correctional Center 0162," the Initiative is amended to read:

Initiative: Deappropriates funds from the elimination of one Office ~~Associate~~ Assistant II position.

Sec. B-11. PL 2009, c. 213, Pt. A, §24, under the caption "ENVIRONMENTAL PROTECTION, DEPARTMENT OF," in the 12th occurrence relating to "Administration - Environmental Protection 0251," the Initiative is amended to read:

Initiative: Eliminates one Office ~~Assistant~~ Associate II Supervisor position and one Office Associate II position and reduces funding for associated All Other costs.

PART C

Sec. C-1. 29-A MRSA §2558, sub-§2, ¶B, as enacted by PL 2009, c. 54, §6 and affected by §7, is amended to read:

B. A person who violates subsection 1 and at the time has one OUI conviction, one conviction for violating this section or one conviction for violating former section 2557 or section 2557-A within the previous 10 years commits a Class C crime for which a minimum fine of $1,000 and a minimum term of imprisonment of one year must be imposed, neither of which may be suspended by the court.

Sec. C-2. PL 2009, c. 54, §7 is amended to read:

Sec. 7. Retroactivity. ~~This~~ Sections 1 to 4 of this Act ~~applies~~ apply retroactively to September 1, 2008.

Sec. C-3. Retroactivity. That section of this Part that amends Public Law 2009, chapter 54, section 7 applies retroactively to April 22, 2009.

PART D

Sec. D-1. PL 2007, c. 661, Pt. C, §6, sub-§2 is amended to read:

2. Portions of townships and plantations. The following portions of townships and plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald Mountain Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above 2,700 feet in elevation; ~~a 146.6-acre parcel in the northeast corner of the Chain of Ponds, 07803, along the border with Canada;~~ Chain of Ponds, 07803, an approximately 1,578.4-acre parcel, bounded by the eastern town line at latitude 45.373, longitude -70.625484, proceeding westerly to latitude 45.370087, longitude -70.63231 then to latitude 45.368156, longitude -70.645478 where it intersects the 2,400-foot contour, proceeding along the 2,400-foot contour westerly and then northerly to the intersection of the 2,400-foot contour to the northern town line, following the town line eastward and then southward until reaching the beginning point, latitude 45.373, longitude -70.625484; the portion of Coplin Plt., 07040, north of Route 16; the portion of Dallas Plt., 07050, north of Route 16; the portion of Ebeemee Twp., 21853, east of Route 11; the portion of Kossuth Twp., 29808, north of Route 6; the portion of Lang Twp., 07813, north of Route 16; the portion of Lincoln Plt., 17160, north of Route 16; the portion of Long A Twp., 19809, east of Route 11; the portion of Long Pond Twp., 25833, south of Long Pond and Moose River; the 487.5-acre area above the 2,040-foot elevation around Green Top in Lynchtown Twp., 17810; the portion of Rockwood Strip T1 R1 NBKP, 25844, south of Moose River, Little Brassua Lake and Brassua Lake; the portion of Rockwood Strip T2 R1 NBKP, 25845, south of Little Brassua Lake and Brassua Lake; the portion of Salem Twp., 07820, south of Route 142; the portion of Sandwich Academy Grant Twp., 25849, south of Moose River, Little Brassua Lake and Brassua Lake; ~~that portion of Skinner Twp., 07822, composed of the 193.3-acre area that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line and on the north by the line from the 2,820-foot contour through the 3,220-foot contour from Kibby Mountain;~~ Skinner Twp., 07822, an approximately 193.4-acre parcel that follows the ridge to Kibby Mountain, bounded on the east and west by the 2,820-foot contour, on the south by the town line where it intersects the 2,820-foot contour and on the north by a line drawn from latitude 45.4121, longitude -70.54402 to latitude 45.41587, longitude -70.5349 intersecting the 2,820-foot contour; the portion of Soldiertown Twp., T2 R7 WELS, 19811, east of the East Branch Penobscot River; the portion of T1 R8 WELS, 19816, south of Millinocket Lake; the portion of T1 R9 WELS, 21833, southeast of Ambajejus Lake; T24 MD BPP, 29822, excluding a one-mile buffer around Mopang Stream; ~~the 51.9-acre area in T25 MD BPP, 29823, encompassing Black Brook and Black Brook Pond, and the area northeast of Holmes Falls Road;~~ T25 MD BPP, 29823, an approximately 558.5-acre parcel in the Bear Brook and Black Pond area, bounded by a point along the southern town line, latitude 44.805142, longitude -67.741067, and proceeding in a counterclockwise direction through the following points, latitude 44.808871, longitude -67.744217, latitude 44.812645, longitude -67.750877, latitude 44.816887, longitude -67.76346, latitude 44.817639, longitude -67.768806, latitude 44.817596, longitude -67.770188, latitude 44.817259, longitude -67.771089, latitude 44.816282, longitude -67.771687, latitude 44.815068, longitude -67.771704, latitude 44.810286, longitude -67.767988, latitude 44.802482, longitude -67.759738 intersecting the town line, proceeding easterly along the southern town line to beginning point latitude 44.805142, longitude -67.741067; the portion of T3 R7 WELS, 19821, east of the Seboeis River and East Branch Penobscot River; the portions of T4 Indian Purchase Twp., 19807, area northeast of North Twin Lake and south of Route 11; the portion of T4 R7 WELS, 19824, east of the Seboeis River; the portion of T4 R9 NWP, 21845, east of Route 11; the portion of T5 R7 WELS, 19827, east of the Seboeis River; and the portion of T6 R7 WELS, 19830, east of the Seboeis River; and

Sec. D-2. PL 2007, c. 661, Pt. C, §6, sub-§4 is amended to read:

4. Transition; establishment of expedited permitting area and permitted use. Notwithstanding any other provision of law, ~~prior to the Maine Land Use Regulation Commission's adoption of the rules required by this section,~~ the portion of expedited permitting area located in the State's unorganized and deorganized areas consists of the lands and state waters specified in this section and an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, is a use requiring a permit, but not a special exception, subject to permitting by the Maine Land Use Regulation Commission or Department of Environmental Protection in accordance with this Act and other applicable law, in all districts and subdistricts located within the expedited permitting area.

Sec. D-3. Related rulemaking. No later than June 1, 2010, the Maine Land Use Regulation Commission shall amend its rules adopted in accordance with Public Law 2007, chapter 661, Part C, section 6 to make them consistent with corrections to the descriptions of the expedited permitting area for wind energy development made under sections 1 and 2 of this Part.

PART E

Sec. E-1. PL 2009, c. 372, Pt. F, §5, sub-§2 is amended to read:

2. Prohibition. A state authority may not enter into a significant occupancy agreement allowing the installation of energy facilities in state transportation corridors until a law approving a plan governing such agreements is enacted. A state authority may not issue

a permit for an energy facility greater than 75 miles in length on land other than the submerged lands of this State or outside the territorial waters of this State as defined in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is repealed, except that:

A. An application from such an energy facility may be processed by a state authority up to, but not including, final decision on the application;

B. Any such applications processed by the Department of Environmental Protection or the Public Utilities Commission that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and

C. Any action, proceeding or decision by a state authority pertaining to such an application is governed by any law enacted pursuant to section 4, subsection 6.

A state authority may not sell or lease public lands as that term is used in Title 35-A, section 3132, subsection 13 for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted or until the energy facility receives a certificate of public convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain a certificate of public convenience and necessity as required by Title 35-A, section 3132.

Sec. E-2. PL 2009, c. 372, Pt. K, §5 is enacted to read:

Sec. K-5. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 35-A, section 3210, subsections 5, 6 and 6-A take effect July 1, 2010.

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

Effective June 17, 2009.

CHAPTER 416

H.P. 210 - L.D. 264

An Act To Amend the Surcharge for the E-9-1-1 System

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

Whereas, the State's E-9-1-1 service provides significant public safety benefits by enabling the public to dial 9-1-1 in the event of an emergency and speeding up the dispatch of emergency services through automatic caller location information; and

Whereas, the E-9-1-1 system is funded by a special statewide surcharge on telephone lines; and

Whereas, the E-9-1-1 surcharge is established in statute and had been fixed at 50¢ per line per month since 2001; and

Whereas, the surcharge was reduced from 50¢ to 30¢ in 2008; and

Whereas, it is necessary to set the E-9-1-1 surcharge as soon as possible to ensure that the money contributed by telephone ratepayers to fund the E-9-1-1 system is used for that purpose and the surcharge amount going forward is consistent with expenditure needs; and

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

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

Sec. 1. 25 MRSA §2927, sub-§1-B, as amended by PL 2007, c. 637, §1, is further amended to read:

1-B. Statewide E-9-1-1 surcharge. The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge levied on each residential and business telephone exchange line, including private branch exchange lines and Centrex lines, cellular or wireless telecommunications service customers, including prepaid wireless telephone service customers, interconnected voice over Internet protocol service customers and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines or numbers per customer billing account, except that this limitation does not apply to prepaid wireless telephone services. In the case of cellular or wireless telecommunications service customers, the place of residence of those customers must be determined according to the sourcing rules for mobile telecommunications services as set forth in Title 36, section 2556. ~~The~~ Beginning July 1, 2009, the statewide E-9-1-1 surcharge is ~~30¢~~ 37¢ per month per line or number or, in the case of prepaid wireless telephone services, ~~30¢~~ 37¢ per month or 30-day increment of service per customer. Beginning July 1, 2010, the statewide E-9-1-1 surcharge is 52¢ per month per line or number or, in the

case of prepaid wireless services, 52¢ per month or 30-day increment of service per customer. The statewide E-9-1-1 surcharge must be collected from the customer on a monthly basis by each local exchange telephone utility, cellular or wireless telecommunications service provider and interconnected voice over Internet protocol service provider and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill, except that in the case of prepaid wireless telephone service, the collection of the statewide E-9-1-1 surcharge is governed by subsection 1-C.

Sec. 2. Authority for legislation; E-9-1-1 surcharge. The Joint Standing Committee on Utilities and Energy may submit legislation regarding the E-9-1-1 surcharge to the Second Regular Session of the 124th Legislature. Before submitting legislation under this section, the committee shall consider E-9-1-1 surcharge revenue history and projections, including surcharge revenue from prepaid wireless services; E-9-1-1 fund expenditure history and projections; unexpended amounts in the E-9-1-1 fund; any opportunities to reduce expenditures related to the configuration of public safety answering points; and designated uses of the E-9-1-1 fund. The Public Utilities Commission, Emergency Services Communication Bureau shall provide relevant information regarding the E-9-1-1 surcharge and E-9-1-1 fund for the committee's consideration.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Emergency Services Communication Bureau 0994

Initiative: Allocates funds to the Emergency Services Communication Bureau for the E-9-1-1 program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$1,286,506	$4,043,303
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,286,506	$4,043,303

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2009.

Effective July 1, 2009.

CHAPTER 417

H.P. 545 - L.D. 796

An Act To Direct Fines Derived from Tribal Law Enforcement Activities to the Passamaquoddy Tribe and the Penobscot Nation

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

Sec. 1. 4 MRSA §1059 is enacted to read:

§1059. Fines; tribal law enforcement activities

1. Civil and criminal fines. Except as provided in subsection 2, a fine for a civil violation, traffic infraction or Class D or Class E crime imposed for a violation of any tribal or state law must be remitted to the Passamaquoddy Tribe or the Penobscot Nation, as appropriate, when a tribal law enforcement agency issued the ticket, complaint, summons or warrant or made the arrest related to the violation.

2. Exception; environmental violations. A fine imposed by a state court for a violation of Title 38 within the Indian territory of the Passamaquoddy Tribe or the Penobscot Nation may not be remitted to the Passamaquoddy Tribe or the Penobscot Nation. In addition to those costs awarded to the State pursuant to Title 14, section 1522, subsection 1, the court may award to the Passamaquoddy Tribe or the Penobscot Nation costs associated with investigating and otherwise contributing to any enforcement action for a violation of Title 38.

3. Repeal. This section is repealed June 30, 2012.

Sec. 2. Report. By January 15, 2012 the judicial branch shall submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters concerning the fiscal, administrative and practical effects of the Maine Revised Statutes, Title 4, section 1059. The Attorney General may provide information to the judicial branch to be included in the report.

See title page for effective date.

CHAPTER 418
H.P. 44 - L.D. 51

An Act To Allow Military Personnel Living in Maine To Benefit under the Maine Resident Homestead Property Tax Exemption

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, under the current law, military personnel who are permanently stationed in the State but are legal residents of another state are ineligible for the Maine resident homestead property tax exemption; and

Whereas, these men and women serving our country and residing in the State should not be deprived of a benefit given to others; and

Whereas, an application for the homestead exemption is required to be filed by April 1st; and

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

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

Sec. 1. 36 MRSA §681, sub-§4, as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

4. Permanent resident. "Permanent resident" means an individual who has established a permanent residence. For purposes of this subchapter, a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in this State is deemed to be a permanent resident. A member of the Armed Forces of the United States stationed in the State who applies for an exemption shall present certification from the commander of the member's post, station or base or from the commander's designated agent that the member is permanently stationed at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

Sec. 2. 36 MRSA §684, sub-§2, as enacted by PL 1997, c. 643, Pt. HHH, §3 and affected by §10, is amended to read:

2. False filing. An individual who knowingly gives false information for the purpose of claiming a homestead exemption under this subchapter commits a Class E crime. ~~An~~ Except for a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State, an individual who claims to be a permanent resident of this State under this subchapter who also claims to be a permanent resident of another state for the tax year for which an application for a homestead exemption is made commits a Class E crime.

Sec. 3. Application. This Act applies to property tax years beginning on or after April 1, 2008.

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Homestead Property Tax Exemption Reimbursement 0886

Initiative: Provides reimbursement to municipalities for 50% of the property tax revenue loss associated with allowing nonresident members of the United States Armed Forces permanently stationed in the State to be eligible for the Maine Resident Homestead Property Tax Exemption.

GENERAL FUND	2009-10	2010-11
All Other	$7,500	$5,000
GENERAL FUND TOTAL	$7,500	$5,000

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

Effective June 17, 2009.

CHAPTER 419
S.P. 423 - L.D. 1132

An Act To Establish the Maine Commission on Indigent Legal Services

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

90 days after adjournment unless enacted as emergencies; and

Whereas, under the United States Constitution and the Constitution of Maine, an indigent person who is facing incarceration in a criminal case, who is charged with a juvenile crime, who is a parent subject to a child protection action or who is facing involuntary commitment to a psychiatric hospital is entitled to counsel at state expense; and

Whereas, the State is obligated to ensure that such representation is provided and currently spends in excess of $10,000,000 per year; and

Whereas, the demand for such services has increased because the number of child protective hearings requiring counsel has doubled, the number of cases with mandatory jail time has increased and an increasing number of criminal defendants are indigent and entitled to such services; and

Whereas, a central agency to coordinate such services has never been established, despite the increase in services; and

Whereas, such representation is currently funded by an appropriation to the judicial branch; and

Whereas, such representation is managed by approximately 60 judges located in 40 court locations throughout the State, who approve vouchers to private attorneys acting as indigent legal counsel and who are located throughout the State; and

Whereas, the current method of paying for indigent legal services creates the appearance of a conflict of interest by placing judges in the position of ruling on compensation and reasonable effort and expenses for only one side in criminal, protective custody and involuntary commitment matters; and

Whereas, there is at least the appearance of further conflict because judges are authorizing payment of indigent legal fees out of appropriations intended to fund judicial branch operations; and

Whereas, the current system lacks a central authority to provide coordinated planning, oversight and management in order to ensure the delivery of quality legal representation in the most cost-effective manner; and

Whereas, it is necessary to provide independent oversight for the delivery of indigent counsel services, improve the quality of representation, ensure the independence of counsel, establish uniform policies and procedures for the delivery of such services and develop the statistics necessary to evaluate the quality and the cost-effectiveness of such services; and

Whereas, the current method of funding indigent legal services through the judicial branch budget creates the appearance of a conflict of interest and is contrary to accepted practices; 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. 2 MRSA §6, sub-§12 is enacted to read:

12. Range 52. The salary of the executive director of the Maine Commission on Indigent Legal Services is within salary range 52.

Sec. 2. 4 MRSA c. 37 is enacted to read:

CHAPTER 37

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

§1801. Maine Commission on Indigent Legal Services; established

The Maine Commission on Indigent Legal Services, established by Title 5, section 12004-G, subsection 25-A, is an independent commission whose purpose is to provide efficient, high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. The commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest.

§1802. Definitions

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

1. Assigned counsel. "Assigned counsel" means a private attorney designated by the commission to provide indigent legal services at public expense.

2. Commission. "Commission" means the Maine Commission on Indigent Legal Services under section 1801.

3. Contract counsel. "Contract counsel" means a private attorney under contract with the commission to provide indigent legal services.

4. Indigent legal services. "Indigent legal services" means legal representation provided to:

A. An indigent defendant in a criminal case in which the United States Constitution or the Con-

stitution of Maine or federal or state law requires that the State provide representation;

B. An indigent party in a civil case in which the United States Constitution or the Constitution of Maine or federal or state law requires that the State provide representation; and

C. Juvenile defendants.

"Indigent legal services" does not include the services of a guardian ad litem appointed pursuant to Title 22, section 4105, subsection 1.

§1803. Commission structure

1. Members; appointment; chair. The commission consists of 5 members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to serve as chair of the commission. One of the members must be appointed from a list of qualified potential appointees provided by the President of the Senate. One of the members must be appointed from a list of qualified appointees provided by the Speaker of the House of Representatives. One of the members must be appointed from a list of qualified potential appointees provided by the Chief Justice of the Supreme Judicial Court.

In determining the appointments and recommendations under this subsection, the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Judicial Court shall consider input from persons and organizations with an interest in the delivery of indigent legal services.

2. Qualifications. Individuals appointed to the commission must have demonstrated a commitment to quality representation for persons who are indigent and have the skills and knowledge required to ensure that quality of representation is provided in each area of law. No more than 3 members may be attorneys engaged in the active practice of law.

3. Terms. Members of the commission are appointed for terms of 3 years each, except that of those first appointed the Governor shall designate 2 whose terms are only one year, 2 whose terms are only 2 years and one whose term is 3 years. A member may not serve more than 2 consecutive 3-year terms plus any initial term of less than 3 years.

A member of the commission appointed to fill a vacancy occurring otherwise than by expiration of term is appointed only for the unexpired term of the member succeeded.

4. Quorum. Three members of the commission constitutes a quorum. A vacancy in the commission does not impair the power of the remaining members to exercise all the powers of the commission.

5. Compensation. Each member of the commission is eligible to be compensated as provided in Title 5, chapter 379.

§1804. Commission responsibilities

1. Executive director. The commission shall hire an executive director. The executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services.

2. Standards. The commission shall develop standards governing the delivery of indigent legal services, including:

A. Standards governing eligibility for indigent legal services;

B. Standards prescribing minimum experience, training and other qualifications for contract counsel and assigned counsel;

C. Standards for assigned counsel and contract counsel case loads;

D. Standards for the evaluation of assigned counsel and contract counsel;

E. Standards for independent, quality and efficient representation of clients whose cases present conflicts of interest;

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel; and

G. Other standards considered necessary and appropriate to ensure the delivery of adequate indigent legal services.

3. Duties. The commission shall:

A. Develop and maintain a system that uses appointed private attorneys, contracts with individual attorneys or groups of attorneys and consider other programs necessary to provide quality and efficient indigent legal services;

B. Develop and maintain an assigned counsel voucher review and payment authorization system;

C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load management systems so that detailed expenditure and case load data is accurately collected, recorded and reported;

D. Develop criminal defense, child protective and involuntary commitment representation training and evaluation programs for attorneys throughout the State to ensure an adequate pool of qualified attorneys;

E. Establish minimum qualifications to ensure that attorneys are qualified and capable of providing quality representation in the case types to which they are assigned, recognizing that quality representation in each of these types of cases requires counsel with experience and specialized training in that field;

F. Establish rates of compensation for assigned counsel;

G. Establish a method for accurately tracking and monitoring case loads of assigned counsel and contract counsel;

H. Submit to the Legislature, the Chief Justice of the Supreme Judicial Court and the Governor an annual report on the operation, needs and costs of the indigent legal services system;

I. Approve and submit a biennial budget request to the Department of Administrative and Financial Services, Bureau of the Budget, including supplemental budget requests as necessary; and

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, including but not limited to nonpayment of attorney vouchers, contract payments and the awarding of appointments or contracts.

4. Powers. The commission may:

A. Establish and maintain a principal office and other offices within the State as it considers necessary;

B. Meet and conduct business at any place within the State;

C. Use voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish standards under subsection 2, paragraph B are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and must be reviewed before final approval by the joint standing committee of the Legislature having jurisdiction over judiciary matters; and

E. Appear in court and before other administrative bodies represented by its own attorneys.

§1805. Executive director

The executive director of the commission hired pursuant to section 1804, subsection 1 shall:

1. Compliance with standards. Ensure that the provision of indigent legal services complies with all constitutional, statutory and ethical standards;

2. Development of standards. Assist the commission in developing standards for the delivery of adequate indigent legal services;

3. Delivery and supervision. Administer and coordinate delivery of indigent legal services and supervise compliance with commission standards;

4. Most effective method of delivery. Recommend to the commission the most effective method of the delivery of indigent legal services in furtherance of the commission's purposes;

5. Training for counsel. Conduct regular training programs for counsel providing indigent legal services;

6. Personnel. Subject to policies and procedures established by the commission, hire professional, technical and support personnel, including attorneys, considered reasonably necessary for the efficient delivery of indigent legal services;

7. Submissions to commission. Prepare and submit to the commission:

A. A proposed biennial budget for the provision of indigent legal services, including supplemental budget requests as necessary;

B. An annual report containing pertinent data on the operation, needs and costs of the indigent legal services system; and

C. Any other information as the commission may require;

8. Develop and implement. Coordinate the development and implementation of rules, policies, procedures, regulations and standards adopted by the commission to carry out the provisions of this chapter and comply with all applicable laws and standards;

9. Records. Maintain proper records of all financial transactions related to the operation of the commission;

10. Other funds. Apply for and accept on behalf of the commission funds that may become available from any source, including government, nonprofit or private grants, gifts or bequests;

11. Meetings of commission. Attend all commission meetings, except those meetings or portions of the meetings that address the question of appointment or removal of the executive director; and

12. Other assigned duties. Perform other duties as the commission may assign.

Sec. 3. 5 MRSA §959 is enacted to read:

§959. Maine Commission on Indigent Legal Services

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Maine Commission on Indigent Legal Services. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

A. Executive director.

Sec. 4. 5 MRSA §12004-G, sub-§25-A is enacted to read:

25-A.

Legal Services	Maine Commission on Indigent Legal Services	Legislative Per Diem Plus Expenses	4 MRSA §1801

Sec. 5. Transfer of personnel and funds. Funds necessary to staff the Maine Commission on Indigent Legal Services and carry this Act must be transferred from the judicial branch's General Fund Personal Services and All Other accounts to the Maine Commission on Indigent and Legal Services. Positions necessary to carry out the provisions of this Act must be transferred from the judicial branch to the Maine Commission on Indigent Legal Services.

Sec. 6. Transition. The Maine Commission on Indigent Legal Services and the judicial branch shall develop a process to provide for the transition from the existing voucher payment system to the payment system developed by the commission.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Transfers funds to create the Maine Commission on Indigent Legal Services, including the transfer of 2 Assistant Clerk positions and 2 Financial Screener positions in fiscal year 2009-10 and 6 Financial Screener positions in fiscal year 2010-11.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	(4.000)	(10.000)
Personal Services	($108,632)	($503,415)
All Other	($154,152)	($9,959,426)
GENERAL FUND TOTAL	($262,784)	($10,462,841)

Courts - Supreme, Superior and District 0063

Initiative: Transfers funds to the Maine Commission on Indigent Legal Services for the cost of court-appointed counsel for indigent legal services. These costs are reimbursed from individuals who are partially indigent.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	($363,897)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($363,897)

JUDICIAL DEPARTMENT DEPARTMENT TOTALS	2009-10	2010-11
GENERAL FUND	($262,784)	($10,462,841)
OTHER SPECIAL REVENUE FUNDS	$0	($363,897)
DEPARTMENT TOTAL - ALL FUNDS	($262,784)	($10,826,738)

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

Maine Commission on Indigent Legal Services N077

Initiative: Transfers funds to create the Maine Commission on Indigent Legal Services, including funds for one Executive Director position, one Staff Attorney position, one Administrative Assistant position, one Accounting Clerk position in fiscal year 2009-10 and 6 Financial Screener positions in fiscal year 2010-11.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	4.000	10.000
Personal Services	$108,632	$503,415
All Other	$154,152	$9,959,426
GENERAL FUND TOTAL	$262,784	$10,462,841

Maine Commission on Indigent Legal Services N077

Initiative: Transfers funds to the Maine Commission on Indigent Legal Services for the cost of court-appointed counsel for indigent legal services. These costs are reimbursed from individuals who are partially indigent.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11

All Other	$0	$363,897
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$363,897

MAINE COMMISSION ON INDIGENT LEGAL SERVICES

DEPARTMENT TOTALS	**2009-10**	**2010-11**
GENERAL FUND	**$262,784**	**$10,462,841**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$363,897**
DEPARTMENT TOTAL - ALL FUNDS	**$262,784**	**$10,826,738**

SECTION TOTALS	**2009-10**	**2010-11**
GENERAL FUND	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$0**	**$0**

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

Effective June 17, 2009.

CHAPTER 420

S.P. 142 - L.D. 400

An Act To Implement the Recommendations of the Blue Ribbon Commission To Study Long-term Home-based and Community-based Care

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

Whereas, citizens of the State who are elderly or who are adults with physical disabilities are in need of services, as evidenced by the waiting lists in November 2008 containing 870 persons for homemaker services and 375 persons for home-based care services; and

Whereas, the Federal Government has discontinued funding for the Aging and Disability Resource Centers that have been providing information to the elderly and adults with disabilities and their families; and

Whereas, the agencies and programs that provide the needed services lack the resources to serve the persons waiting for services and require immediate appropriations of funding to meet those needs; and

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

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

Sec. 1. 22 MRSA §7301, sub-§2, as enacted by PL 1981, c. 511, §1, is amended to read:

2. Policy. The Legislature declares that it is the policy of this State, with regard to in-home and community support services:

A. To increase the availability of ~~in-home and community support services~~ long-term care services that are consumer-driven, optimize individual choice and autonomy and maximize physical health, mental health, functional well-being and independence for adults with long-term care needs through high-quality services and supports in settings that reflect the needs and choices of consumers and that are delivered in the most flexible, innovative and cost-effective manner;

B. That the priority recipients of in-home and community support services, pursuant to this subtitle, ~~shall~~ must be ~~the elderly and disabled~~ adults with long-term care needs who are at the greatest risk ~~of being, or who already have been, placed inappropriately in an institutional setting~~ without needed in-home and community support services; ~~and~~

C. That a variety of agencies, facilities and individuals ~~shall~~ must be encouraged to provide in-home and community support services and to increase the percentages of adults with long-term care needs receiving in-home and community support services.~~;~~

D. To promote and encourage public and private partnerships among a variety of agencies, facilities and individuals;

E. To support the roles of family caregivers and a qualified workforce in the effort to streamline and facilitate access to high-quality services in the least restrictive and most integrated settings; and

F. To establish the most efficient, innovative and cost-effective system for delivering a broad array of long-term care services.

Sec. 2. 22 MRSA §7302, sub-§5, as enacted by PL 1981, c. 511, §1, is amended to read:

5. In-home and community support services. "In-home and community support services" means health and social services and other assistance required to enable adults with long-term care needs to remain in their places of residence. These services include, but are not limited to, medical and diagnostic services; professional nursing; physical, occupational and speech therapy; dietary and nutrition services; home health aide services; personal care assistance services; companion and attendant services; handyman, chore and homemaker services; respite care; hospice care; counseling services; transportation; small rent subsidies; various devices ~~which~~ that lessen the effects of disabilities; and other appropriate and necessary social services.

Sec. 3. Planning for comprehensive presentation of long-term care budget for services and supports for adults with long-term care needs. The Department of Health and Human Services shall undertake a process to provide a comprehensive presentation of a budget for long-term care services and supports for adults with long-term care needs that is complementary to the State's vision for a consumer-centered approach to long-term care. By January 1, 2010, the Commissioner of Health and Human Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

Sec. 4. Report. The Department of Health and Human Services shall report by January 1, 2010 to the joint standing committee of the Legislature having jurisdiction over health and human services matters on:

1. Waiting lists for services for home-based and community-based care and homemaker services for adults with long-term care needs and strategies to eliminate waiting lists;

2. Funding sources for assistive technologies to help accomplish the State's vision of long-term services and supports for adults with long-term care needs;

3. A comprehensive and systematic approach to training, reimbursement and benefits for direct care workers in home-based and community-based care, residential facilities and nursing facilities; and

4. Work done regarding the expenditures and the operations of the Aging and Disability Resource Centers and efforts to improve the discharge planning process and the provision of information to consumers and their families.

Sec. 5. Increase number of people served. The Department of Health and Human Services shall undertake efforts to increase the number of people served and funds spent in home-based and community support services for people with long-term care needs. The department shall report annually through 2015 on its progress regarding increased funding and access to in-home and community support services by February 1st beginning in 2010 to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters.

Sec. 6. Aging and Disability Resource Centers. As resources permit, the Department of Health and Human Services shall work with the 5 area agencies on aging to identify and seek federal or other appropriate funding sources to provide services on a statewide basis through the Aging and Disability Resource Centers.

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

Effective June 17, 2009.

CHAPTER 421

S.P. 135 - L.D. 393

An Act Relating to Death Benefits for Certain Law Enforcement Officers and Amending the Definition of Emergency Vehicles

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

Sec. 1. 20-A MRSA §12552, sub-§2, as amended by PL 1997, c. 160, §2, is further amended to read:

2. Law enforcement officer. "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, ~~liquor enforcement officer~~ forest ranger, Baxter State Park ranger, detective employed by the Office of the Attorney General pursuant to Title 5, section 202, person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, juvenile community corrections officer as described in Title 34-A, section 5602, probation officer, security officer appointed by the Commissioner of Public Safety pursuant to Title 25, section 2908, motor vehicle investigator or supervisor appointed by the Secre-

tary of State pursuant to Title 29-A, section 152, military security police officer appointed by the Adjutant General, University of Maine System police officer or marine patrol officer, if employed on a full-time basis in that position in this State.

Sec. 2. 25 MRSA §1611, sub-§5, as amended by PL 2005, c. 519, Pt. XXX, §1, is further amended to read:

5. Law enforcement officer or officer. "Law enforcement officer" or "officer" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, state judicial marshal or state judicial deputy marshal, ~~liquor enforcement officer~~ forest ranger, Baxter State Park ranger, a detective employed by the Office of the Attorney General pursuant to Title 5, section 202, a person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, a juvenile community corrections officer as described in Title 34-A, section 5602, a probation officer, a security officer appointed by the Commissioner of Public Safety pursuant to section 2908, a motor vehicle investigator or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, a military security police officer appointed by the Adjutant General, a University of Maine System police officer or marine patrol officer in this State.

Sec. 3. 25 MRSA §1612, sub-§7, as amended by PL 2005, c. 2, Pt. A, §12 and affected by §14, is further amended to read:

7. Payment from the Maine Budget Stabilization Fund. Benefits are payable from the Maine Budget Stabilization Fund as provided in Title 5, section 1532, subsection 6. If funds in the Maine Budget Stabilization Fund are insufficient to pay a death benefit when due, the benefit must be paid as soon as a sufficient balance exists.

Sec. 4. 29-A MRSA §2054, sub-§1, ¶B, as amended by PL 2007, c. 348, §18, is further amended to read:

B. "Authorized emergency vehicle" means any one of the following vehicles:

(1) An ambulance;

(2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;

(3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

(4) A Department of Conservation vehicle operated by a forest ranger;

(5) A Department of Conservation vehicle used for forest fire control;

(6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;

(7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;

(8) A Department of Public Safety vehicle operated by a capital security officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;

(9) An emergency medical service vehicle;

(10) A fire department vehicle;

(11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;

(12) A railroad police vehicle;

(13) A sheriff's department vehicle;

(14) A State Police or municipal police department vehicle;

(15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;

(16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;

(17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;

(18) A Federal Government vehicle operated by a federal law enforcement officer;

(19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief;

(20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202; ~~and~~

(21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator.~~;~~ and

(22) A University of Maine System vehicle operated by a University of Maine System police officer.

See title page for effective date.

CHAPTER 422
H.P. 338 - L.D. 450

An Act To Include Commercial Silvicultural Crop Production in the Sales Tax Exemption for Certain Products Used in Commercial Agricultural Crop Production Activities

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

Sec. 1. 36 MRSA §1760, sub-§7-B, as enacted by PL 2005, c. 12, Pt. GGG, §2, is amended to read:

7-B. Products used in commercial agricultural and silvicultural crop production. Sales of seed, fertilizers, defoliants and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial production of an agricultural or silvicultural crop.

See title page for effective date.

CHAPTER 423
S.P. 254 - L.D. 679

An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals

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

Sec. 1. 1 MRSA §409, sub-§4 is enacted to read:

4. Attorney's fees. In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010.

See title page for effective date.

CHAPTER 424
H.P. 370 - L.D. 525

An Act To Amend the Law Regarding Littering on Public Lands

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

Sec. 1. 17 MRSA §2264-B, sub-§5, as amended by PL 2007, c. 651, §21, is further amended to read:

5. License suspension. Surrender the person's motor vehicle operator's license for a period not exceeding 30 days ~~and the person's hunting and fishing licenses issued by the Department of Inland Fisheries and Wildlife for a period of up to one year if the violation occurred in a state-owned wildlife management area as designated in Title 12, section 12708 or a wildlife sanctuary as designated in Title 12, section 12706~~. The court may suspend an operator's license for any violation of section 2264-A that involves the use of a motor vehicle.

Sec. 2. Review and evaluation of the litter control laws. The Joint Standing Committee on Criminal Justice and Public Safety shall review the State's litter control laws regarding the dumping of waste material or unwanted objects on public and private property without the permission of the landowner, including, but not limited to, the history of those litter control laws, the effectiveness of those laws in preventing such dumping and the prosecutorial statistics for those responsible for such dumping. The committee shall determine changes needed to the litter control laws, in particular the penalty structure, to reduce the occurrence of people dumping waste material or unwanted objects on public and private property without the permission of the landowner, which has become more frequent, resulting in significant disposal costs for landowners and driving private landowners to post their property. The committee shall also seek to increase the rates of successful prosecution of those responsible for such dumping. The Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the Second Regular Session of the 124th Legislature regarding this matter.

See title page for effective date.

CHAPTER 425
S.P. 205 - L.D. 545

An Act To Amend the Tax Exemption Regarding Leased Property

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

Sec. 1. 36 MRSA §652, sub-§1, ¶K, as amended by PL 2007, c. 627, §20, is further amended to read:

K. ~~The~~ Except as otherwise provided in this subsection, the real and personal property leased by and occupied or used solely for its own purposes by an incorporated benevolent and charitable organization that is exempt from taxation under section 501 of the Code and the primary purpose of which is the operation of a hospital licensed by the Department of Health and Human Services, a health maintenance organization or a blood bank are exempt from taxation. For property tax years beginning on or after April 1, 2012, the exemption provided by this paragraph does not include real property.

See title page for effective date.

CHAPTER 426

H.P. 716 - L.D. 1041

An Act To Alter the Mechanism by which a Political Party is a Qualified Party

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

Sec. 1. 21-A MRSA §301, sub-§1, ¶C, as amended by PL 1999, c. 450, §1, is repealed.

Sec. 2. 21-A MRSA §301, sub-§1, ¶E is enacted to read:

E. At least 10,000 voters enrolled in the party voted in the last general election.

See title page for effective date.

CHAPTER 427

H.P. 494 - L.D. 711

An Act To Authorize the Social Work Education Loan Repayment Program

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

Sec. 1. 10 MRSA c. 110, sub-c. 2-B is enacted to read:

SUBCHAPTER 2-B

SOCIAL WORK EDUCATION LOAN REPAYMENT PROGRAM

§1038. Social Work Education Loan Repayment Program

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

A. "Fund" means the Social Work Education Loan Repayment Fund established in subsection 4.

B. "Program" means the Social Work Education Loan Repayment Program established in subsection 2.

2. Social Work Education Loan Repayment Program. The Social Work Education Loan Repayment Program is established for the purpose of increasing the number of social workers practicing in the State.

3. Criteria. For an applicant to participate in the program, the applicant must:

A. Be a social worker licensed under Title 32, chapter 83;

B. Have completed a bachelor's, master's or doctoral degree in social work from an accredited school of social work within 3 years prior to the date the applicant's application is received by the authority;

C. Possess an outstanding education loan relating to the degree;

D. Practice in an underserved practice area, including but not limited to the practice of social work:

(1) In a public or private child welfare or family service agency;

(2) In a public interest law service;

(3) In a public child care facility;

(4) In a public service for individuals with disabilities;

(5) In a public service for the elderly;

(6) In a public service for veterans; or

(7) At an organization exempt from taxation under the Unites States Internal Revenue Code, Section 501(c)(3).

Priority consideration must be given to social workers practicing in a public or private child welfare or family service agency, in a public service for the elderly or in a public service for individuals with disabilities;

E. Submit an application to the authority, which must include but is not limited to information concerning academic performance, awards and special honors and community involvement; and

F. Have signed a statement of intent in a form acceptable to the authority to work as a social worker in the State for a minimum of 3 years after acceptance into the program.

4. Social Work Education Loan Repayment Fund. The Social Work Education Loan Repayment Fund is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests and donations in addition to money appropriated or allocated by the State and any federal funds received by the State for the benefit of social workers who have outstanding education loans. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter.

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the program may be paid out of amounts in the fund.

5. Administration. The program and the fund are administered by the authority. The authority shall repay the loans of up to 3 applicants each year who meet the criteria in subsection 3 in the amount of up to $5,000 for each applicant. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 428

H.P. 331 - L.D. 443

An Act To Increase the Jurisdictional Limit for Small Claims

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

Sec. 1. 14 MRSA §7482, first ¶, as amended by PL 1997, c. 23, §1, is further amended to read:

~~A.~~ Notwithstanding the total amount of a debt or contract, a "small claim" means a right of action cognizable by a court if the debt or damage does not exceed ~~$4,500~~ $6,000 exclusive of interest and costs. It does not include an action involving the title to real estate.

Sec. 2. 14 MRSA §7484-A, sub-§3 is enacted to read:

3. Validation of debt in certain circumstances. If the plaintiff has purchased the debt being collected in the proceeding under this chapter, the plaintiff shall include with the filing of the complaint a statement listing the name and address of the original creditor.

Sec. 3. 14 MRSA §7485, as enacted by PL 1981, c. 667, §2, is amended to read:

§7485. Effect of judgment

Any fact found or issue adjudicated in a proceeding under this chapter~~,~~ may not be deemed found or adjudicated for the purpose of any other cause of action. The judgment obtained ~~shall be~~ is res judicata as to the amount in controversy. If a plaintiff has reduced the amount of a claim or contract to meet the jurisdictional limits of this chapter, the judgment obtained is res judicata as to the full amount of the debt or contract in controversy. The only recourse from an adverse decision ~~shall be~~ is by appeal.

Sec. 4. Legislative intent concerning filing fees for small claims actions. It is the Legislature's intent that the increase in the jurisdictional limit for small claims actions increase access to justice but not result in a decrease in General Fund revenue. The Legislature recommends that the Supreme Judicial Court review filing fees for small claims and revise the filing fees appropriately.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for one Assistant Clerk position and related costs to handle the projected increase in small claims cases.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$42,010	$55,282
All Other	$5,000	$2,500
GENERAL FUND TOTAL	$47,010	$57,782

See title page for effective date.

CHAPTER 429

H.P. 879 - L.D. 1260

An Act To Amend the Certificate of Need Act of 2002 for Nursing Facility Projects

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

Sec. 1. 22 MRSA §329, sub-§6, as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

6. Nursing facilities. The obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $510,000 or more and beginning January 1, 2010, the obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $1,000,000 or more.

A certificate of need is not required for the following:

A. A nursing facility converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, MaineCare and other public funds may not be obligated for payment of services provided in the converted beds unless approved by the department pursuant to the provisions of sections 333-A and 334-A;

B. Capital expenditures in the case of a natural disaster, major accident or equipment failure;

C. Replacement equipment, other than major medical equipment as defined in section 328, subsection 16; and

D. Information systems, communication systems, parking lots and garages.

Sec. 2. 22 MRSA §333-A, sub-§1, as enacted by PL 2007, c. 440, §11, is amended to read:

1. Nursing facility MaineCare funding pool. ~~Savings~~ Except as set forth in subsection 3 and section 334-A, savings to the MaineCare program as a result of delicensing of nursing facility beds on or after July 1, 2005, including savings from lapsed beds but excluding savings from reserved beds, must be credited to the nursing facility MaineCare funding pool, which must be maintained by the department to provide for the development of new beds or other improvements requiring a certificate of need. The balance of the nursing facility MaineCare funding pool, as adjusted to reflect current costs consistent with the rules and statutes governing reimbursement of nursing facilities, serves as a limit on the MaineCare share of all incremental 3rd-year operating costs of nursing facility projects requiring review under this chapter, except as set forth in subsection 3 and section 334-A~~, subsection 2~~.

Sec. 3. 22 MRSA §334-A, sub-§1, as enacted by PL 2007, c. 440, §13, is repealed and the following enacted in its place:

1. Projects that expand current bed capacity. Nursing facility projects that propose to add new nursing facility beds to the inventory of nursing facility beds within the State may be grouped for competitive review purposes consistent with funds available from the nursing facility MaineCare funding pool. Such projects may not be grouped for competitive review if approved under paragraph B or C. A nursing facility project that proposes to add new beds is subject to review. Any related renovation, replacement or other actions may also be subject to review if such actions are above the applicable thresholds for review. Such projects may be approved only if:

A. Sufficient funds are available from the nursing facility MaineCare funding pool or are added to the pool by an act of the Legislature, except that the department may approve, without available funds from the pool, projects to reopen beds previously reserved by a nursing facility through a voluntary reduction pursuant to section 333 if the annual total of reopened beds approved does not exceed 100;

B. The petitioner, or one or more nursing facilities under common ownership or control, has agreed to delicense a sufficient number of beds from the total number of currently licensed or reserved beds, or is otherwise reconfiguring its operations, so that the MaineCare savings associated with such actions are sufficient to fully offset any incremental MaineCare costs that would otherwise arise from implementation of the certificate of need project and, as a result, there are no net incremental MaineCare costs arising from implementation of the certificate of need project; or

C. The petitioner, or one or more nursing facilities under common ownership or control, has acquired bed rights from another nursing facility or facilities that agree to delicense beds or that are ceasing operations or otherwise reconfiguring their operations, and that the MaineCare revenues associated with these acquired bed rights and related actions are sufficient to cover the additional requested MaineCare costs associated with the project.

Certificate of need projects described in this subsection are not subject to or limited by the nursing facility MaineCare funding pool.

Sec. 4. 22 MRSA §334-A, sub-§2, as enacted by PL 2007, c. 440, §13, is amended to read:

2. Projects to relocate beds. Nursing facility projects that do not add new nursing facility beds to the inventory of nursing facility beds within the State, but instead propose to relocate beds from one ~~facility~~

~~to another~~ or more nursing facilities to one or more existing or new ~~facility~~ nursing facilities:

A. May also propose renovation, replacement or other actions requiring certificate of need review; and

B. May be approved by the department upon a showing by the petitioner that the petitioner has acquired bed rights from another nursing facility or facilities that agree to delicense beds, or that are ceasing operations or otherwise reconfiguring their operations, and that the MaineCare revenues associated with these acquired bed rights and related actions are sufficient to cover the additional requested MaineCare costs associated with the project.

Certificate of need projects described in this subsection are not subject to or limited by the nursing facility MaineCare funding pool.

Sec. 5. 22 MRSA §334-A, sub-§2-A is enacted to read:

2-A. Other types of certificate of need projects. Other types of nursing facility projects that do not add new nursing facility beds to the inventory of nursing facility beds within the State and do not propose to relocate beds from one facility to another existing or new facility and that propose any renovation, replacement or other actions requiring certificate of need review, such as capital expenditures for equipment and renovations that are above applicable thresholds, or that propose actions that do not require a certificate of need, such as the addition of residential care beds to be funded by the MaineCare program, may be approved by the department upon a showing that:

A. The petitioner, or one or more nursing facilities under common ownership or control, has agreed to delicense a sufficient number of beds from the total number of currently licensed or reserved beds, or is otherwise reconfiguring its operations, so that the MaineCare savings associated with such actions are sufficient to fully offset any incremental MaineCare costs that would otherwise arise from implementation of the certificate of need project and, as a result, there are no net incremental MaineCare costs arising from implementation of the certificate of need project; or

B. The petitioner, or one or more nursing facilities under common ownership or control, has acquired bed rights from another nursing facility or facilities that agree to delicense beds or that are ceasing operations or otherwise reconfiguring their operations, and that the MaineCare revenues associated with these acquired bed rights and related actions are sufficient to cover the additional requested MaineCare costs associated with the project.

Certificate of need projects described in this subsection are not subject to or limited by the nursing facility MaineCare funding pool.

Sec. 6. Review of flexibility in MaineCare budget neutrality requirements. The Department of Health and Human Services shall work with stakeholders to identify possible methods for creating more flexibility in the laws governing nursing facility projects that are subject to MaineCare budget neutrality requirements, including, but not limited to, the conversion of nursing facility beds to residential care facility beds, transfers between nursing facilities and residential care facilities and transfers of ownership. In conducting this review the department shall consider the available data and information on the adequacy of existing nursing facilities, residential care facilities and long-term care facilities. The department shall report recommendations, including any necessary legislation, to the Joint Standing Committee on Health and Human Services no later than February 15, 2010. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to the recommendations to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 430

H.P. 803 - L.D. 1164

An Act To Amend the Maine Certificate of Need Act of 2002 To Change Nursing Facilities Review Thresholds for Energy Efficiency Projects and for Replacement Equipment

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

Sec. 1. 22 MRSA §329, sub-§6, as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

6. Nursing facilities. The obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $510,000 or more and, beginning January 1, 2010, the obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of $1,000,000 or more.

A certificate of need is not required for the following:

A. A nursing facility converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, MaineCare and other public funds may not be obligated for payment of services provided in the converted beds unless ap-

proved by the department pursuant to the provisions of sections 333-A and 334-A;

B. Capital expenditures in the case of a natural disaster, major accident or equipment failure;

C. Replacement equipment, other than major medical equipment as defined in section 328, subsection 16;

D. Information systems, communication systems, parking lots and garages; and

E. Certain energy-efficient improvements, as described in section 334-A, subsection 4.

Sec. 2. 22 MRSA §334-A, sub-§3, ¶A, as enacted by PL 2007, c. 440, §13, is amended to read:

A. Allow gross square footage per licensed bed of not less than 500 square feet unless the applicant specifies a smaller allowance for the project; ~~and~~

Sec. 3. 22 MRSA §334-A, sub-§3, ¶B, as enacted by PL 2007, c. 440, §13, is amended to read:

B. Exclude the projected incremental cost associated with replacement of equipment.; and

Sec. 4. 22 MRSA §334-A, sub-§3, ¶C is enacted to read:

C. Exclude the incremental cost of energy-efficient improvements as defined in the rules governing MaineCare reimbursement for nursing facilities.

Sec. 5. 22 MRSA §334-A, sub-§4 is enacted to read:

4. Cost associated with energy-efficient improvements. The cost associated with energy-efficient improvements in nursing facilities, as set forth in rules governing special reimbursement provisions for energy-efficient improvements adopted by the department, must be excluded from the cost of a project in determining whether the project is subject to review.

Sec. 6. Cost associated with energy-efficient improvements. For purposes of the Maine Revised Statutes, Title 22, section 334-A, subsection 4, the rules governing special reimbursement provisions for energy-efficient improvements are set forth in the Department of Health and Human Services MaineCare Benefits Manual, Chapter III, Section 67, subsection 44.2.4. The rules must be amended and take effect no later than January 1, 2010. The rules must require that the department provide a response to provider requests for prior approval of energy-efficient improvements within 30 days following the receipt of a request supported by sufficient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 431

S.P. 512 - L.D. 1428

An Act Regarding the Pay of Tribal Representatives

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

Whereas, under current law Tribal Representatives to the Maine Legislature are not considered members of the House of Representatives for purposes of compensation; and

Whereas, this legislation amends the law to compensate Tribal Representatives in the same manner as other members of the House of Representatives; and

Whereas, it is necessary that this change be implemented immediately; and

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

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

Sec. 1. 3 MRSA §2, 8th ¶, as amended by PL 1989, c. 501, Pt. O, §4; c. 600, Pt. B, §§9 and 10; and c. 878, Pt. D, §§14 and 15, is further amended to read:

The member of the Penobscot Indian Nation and the member of the Passamaquoddy Indian Tribe elected to represent their tribes at the Legislature ~~shall~~ are entitled to receive a ~~compensation of $110 for each day's attendance during the first and 2nd regular sessions~~ salary equal to the salary of members of the Senate and the House of Representatives, including a cost-of-living adjustment, for each regular session and allowance for meals, constituent service, housing and travel expenses to the same extent as ~~any other member~~ members of the ~~Senate and~~ House of Representatives for attendance at each legislative session or authorized committee meeting. For the duration of any special session of the Legislature, they ~~shall~~ are entitled to receive the same per diem payment and allowances, including housing, meal and travel expenses, as any ~~other~~ member of the Senate and House of Representatives.

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

Effective June 17, 2009.

CHAPTER 432
S.P. 571 - L.D. 1491

An Act To Protect Maine Citizens and Franchised New Car and Truck Dealers

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

Whereas, the State has regulated the terms of franchise agreements between franchised new motor vehicle dealers and their manufacturers for decades; and

Whereas, the manufacture, distribution and sale of motor vehicles in this State and the ability of franchised new motor vehicle dealers to provide for the distribution, sale and repair of vehicles vitally affect the general economy of the State, the transportation system and the public interest and public welfare; and

Whereas, recent economic circumstances have created a crisis in the automobile industry; and

Whereas, manufacturers are attempting to use these economic circumstances to circumvent the laws of the State; and

Whereas, manufacturer efforts to circumvent the laws of the State will result in the loss of franchise rights and protections currently provided to Maine motor vehicle dealers under state law; and

Whereas, the circumvention of these laws will be to the detriment of Maine consumers, citizens and municipalities and towns; and

Whereas, Maine's franchise laws now balance the rights and obligations of motor vehicle dealers and manufacturers and the interests of the State and its citizens in a fair and reasonable manner; and

Whereas, the solvency and economic vitality of Maine motor vehicle dealerships are jeopardized by current economic conditions and the decision making of manufacturers; and

Whereas, new motor vehicle dealerships provide thousands of high-paying jobs in the State; and

Whereas, revenues crucial to the operation of state and local government, including property, excise and income taxes, in excess of 20% of all sales taxes, are collected as a result of the sale of motor vehicles; and

Whereas, it is crucial that Maine's motor vehicle dealership network around the State remain intact to provide for the distribution, sale and repair of motor vehicles in all areas of the State; and

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

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

Sec. 1. 10 MRSA §1171, sub-§16 is enacted to read:

16. Successor manufacturer; predecessor manufacturer. "Successor manufacturer" means any manufacturer that succeeds, or assumes any part of the business of, another manufacturer, referred to as the "predecessor manufacturer," as the result of:

A. A change in ownership, operation or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise;

B. The termination, suspension or cessation of a part or all of the business operations of the predecessor manufacturer;

C. The noncontinuation of the sale of the product line; or

D. A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether.

Sec. 2. 10 MRSA §1174, sub-§3-A is enacted to read:

3-A. Successor manufacturer. Successor manufacturer, for a period of 5 years from the date of acquisition of control by that successor manufacturer, to offer a franchise to any person for a line make of a predecessor manufacturer in any franchise market area in which the predecessor manufacturer previously cancelled, terminated, noncontinued, failed to renew or otherwise ended a franchise agreement with a franchisee who had a franchise facility in that franchise market area without first offering the franchise to the former franchisee at no cost, unless:

A. Within 30 days of the former franchisee's cancellation, termination, noncontinuance or nonrenewal, the predecessor manufacturer had consoli-

dated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing franchise facility in that franchise market area;

B. The successor manufacturer has paid the former franchisee the fair market value of the former franchisee's motor vehicle dealership in accordance with this subsection; or

C. The successor manufacturer proves that the former franchisee is not competent to be a franchisee.

For purposes of this subsection, "franchise market area" means the area located within 15 miles of the territorial limits of the municipality in which the former franchisee's franchise facility was located.

For purposes of this subsection, the fair market value of a former franchisee's motor vehicle dealership must be calculated as of the date of the following that yields the highest fair market value: the date the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal; the date the action that resulted in cancellation, termination, noncontinuance or nonrenewal became final; or the date 12 months prior to the date that the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal.

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

Effective June 17, 2009.

CHAPTER 433

S.P. 573 - L.D. 1496

An Act To Protect Benefits for State Retirees

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

Whereas, current law requires that cost-of-living adjustments in retirement benefits for state employees must be made when there is a percentage change in the Consumer Price Index; and

Whereas, there has been a percentage change in the Consumer Price Index; and

Whereas, it is imperative that this legislation take effect immediately so that the benefits for state retirees are protected; and

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

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

Sec. 1. 4 MRSA §1358, sub-§1, ¶A, as repealed and replaced by PL 1985, c. 693, §11, is amended to read:

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

Sec. 2. 4 MRSA §1358, sub-§1, ¶A-1 is enacted to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board as provided in paragraph A shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner.

Sec. 3. 5 MRSA §17806, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

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

Sec. 4. 5 MRSA §17806, sub-§1, ¶A-1 is enacted to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board as provided in paragraph A shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner.

Sec. 5. 5 MRSA §18407, sub-§4, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. ~~Whenever~~ Except as provided in paragraph A-1, whenever there is a percentage change in the Consumer Price Index from July 1st to June 30th,

the board shall automatically make an equal percentage increase or decrease in retirement benefits, beginning in September, up to a maximum annual increase or decrease of 4%.

Sec. 6. 5 MRSA §18407, sub-§4, ¶A-1 is enacted to read:

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board as provided in paragraph A shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner.

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

Effective June 17, 2009.

CHAPTER 434

H.P. 755 - L.D. 1093

An Act Concerning Technical Changes to the Tax Laws

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

Sec. 1. 10 MRSA §1020, sub-§2, ¶D, as enacted by PL 2007, c. 464, §6, is amended to read:

D. All revenue received from the State Tax Assessor pursuant to former subsection 6 and subsection 6-A.

Sec. 2. 10 MRSA c. 110, sub-c. 11, as amended, is repealed.

Sec. 3. 10 MRSA §1655 is amended to read:

§1655. Description of contents; identity of manufacturer or distributor

It ~~shall be~~ is unlawful for ~~any~~ a person, firm or corporation to store, keep, expose for sale, offer for sale or sell from any tank or container or from any pump or other distributing device or equipment~~,~~ any internal combustion engine fuels, lubricating oils or other similar products than those indicated by the name, trade name, symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed, and all tanks, containers, pumps or other distributing equipment containing internal combustion engine fuels, lubricating oils or other similar products ~~shall~~ must be plainly designated by the name, trademark, symbol, sign or other distinguishing mark or device of the manufacturer or distributor. ~~Any person, firm or corporation desiring to engage in the business of distribution of internal combustion engine fuels, lubricating oils or other similar products at wholesale shall apply to the State Tax Assessor for certificate allowing such distribution, and such applicant shall submit with such application to the State Tax Assessor samples or specifications of such fuels or oils as he desires to distribute. When such application, accompanied by such samples, has been received by the State Tax Assessor, he shall issue a certificate or permit to enable such person, firm or corporation to sell or distribute its products.~~

Sec. 4. 36 MRSA §111, sub-§5, as amended by PL 2007, c. 539, Pt. OO, §2, is further amended to read:

5. Tax. "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title and any amount assessed by the State Tax Assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if this debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

Sec. 5. 36 MRSA §112, sub-§8, ¶B, as enacted by PL 1981, c. 364, §7, is repealed.

Sec. 6. 36 MRSA §112, sub-§8, ¶C, as amended by PL 1983, c. 480, Pt. A, §39, is further amended to read:

C. Administration of the spruce budworm excise tax in accordance with Title 12, section 8427~~.~~; and

Sec. 7. 36 MRSA §112, sub-§8, ¶D is enacted to read:

D. Administration of the premium imposed on bulk motor vehicle oil under Title 10, section 1020.

Sec. 8. 36 MRSA §176-A, sub-§2, ¶B, as amended by PL 2001, c. 583, §5, is further amended to read:

B. If ~~any~~ a person liable to pay any delinquent tax neglects or refuses to pay that tax within 10 days after receipt of ~~the~~ notice ~~described in~~ pursuant to section 171, the State Tax Assessor may collect the tax and ~~such further sum as is~~ an additional amount sufficient to cover the expenses of the levy, by levy upon all property belonging to that person ~~liable to levy~~ except as provided in subsection 5. If the assessor makes a ~~finding that the collection of the tax is in~~ determination of jeopardy pursuant to section 145, having given notice of that determination and made demand for immediate payment of ~~the tax may be made by the assessor and, upon failure or refusal to pay~~ that

tax, the assessor may proceed immediately without regard to the 10-day period provided in section 171 to collect by levy the tax ~~by levy without regard to the 10-day period provided in this section~~ and an additional amount sufficient to cover the expenses of the levy.

Sec. 9. 36 MRSA §176-A, sub-§5, ¶A, as enacted by PL 1989, c. 880, Pt. E, §3, is amended to read:

A. The following property is exempt from levy:

(1) Items of wearing apparel and school books necessary for the taxpayer or the members of the taxpayer's family;

(2) If the taxpayer is the head of a family, the fuel, provisions, furniture and personal effects in the taxpayer's household, arms for personal use, livestock and poultry of the taxpayer, the total value of which does not exceed $1,500;

(3) Books and tools necessary for the trade, business or profession of the taxpayer, the value of which, in the aggregate, does not exceed $1,000;

(4) Any amount payable to the taxpayer with respect to the taxpayer's unemployment, including any portion payable with respect to dependents, under an unemployment compensation law of the United States or any state;

(5) Mail, addressed to any person, that has not been delivered to the addressee;

(6) Annuity or pension payments under the federal Railroad Retirement Act of 1974, 45 United States Code, ~~Section 231, et seq.~~ Chapter 9, Subchapter IV, benefits under the federal Railroad Unemployment Insurance Act, 45 United States Code, ~~Section 351~~ Chapter 11, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force and Coast Guard Medal of Honor Roll, 38 United States Code, ~~Section 562 (1982),~~ Chapter 15, Subchapter IV and annuities based on retired or retainer pay under 10 United States Code, Chapter 73 (1982);

(7) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of minor children, as much of the taxpayer's salary, wages or other income as is necessary to comply with ~~such a~~ that judgment;

(8) Any amount payable to or received by a taxpayer as wages or salary for personal services, during any period, to the extent that the total of the amounts payable to or received by the taxpayer during that period does not exceed the applicable exempt amount determined under paragraph D; and

(9) The principal residence of the taxpayer, unless the assessor has made a ~~finding~~ determination of jeopardy pursuant to ~~subsection 2, paragraph B, that the tax is in jeopardy~~ section 145 or the assessor personally approves in writing the levy of ~~such~~ that property.

Sec. 10. 36 MRSA §176-A, sub-§6, ¶B, as amended by PL 1999, c. 699, Pt. D, §27 and affected by §30, is further amended to read:

B. The assessor, as soon as practicable after the seizure of ~~the~~ property, shall ~~give notice to the owner or possessor in the manner prescribed in paragraph A and~~ cause a ~~notification~~ notice to be published in a newspaper of general circulation within the county where the seizure is made, or, if there is no such newspaper, post the notice at the city or town hall nearest the place where the seizure is made and in ~~not less than~~ at least 2 other public places. In the case of real property, the notice must be served on all persons holding an interest of record, including, without limitation, recorded leases and security interest of all types, in the property as reflected at the time the notice of levy is recorded by the indices of the registry of deeds in the county where the property is located. In the case of personal property that is a motor vehicle subject to a ~~Certificate~~ certificate of ~~Title~~ title issued by the Secretary of State, notice must be served on all persons holding a security interest of record in the motor vehicle as set forth in the records of the Secretary of State. In the case ~~of the type~~ of personal property that may be the subject of a security interest perfected by filing in the office of the Secretary of State, notice must be served upon all secured parties claiming an interest in the property seized as reflected at the time the notice of levy is recorded in the records maintained by the Secretary of State pursuant to Title 11. The notice must specify the property to be sold, subject to the liabilities of prior encumbrances, if any, and the time, place, manner and conditions of the sale. If levy is made without regard to the 10-day period provided in ~~subsection 2~~ section 171, public notice of sale of the property seized may not be made within the 10-day period unless subsection 7 applies. It is a Class E crime to intentionally remove or deface the posted notice of sale prior to the scheduled sale date, unless the property has been redeemed or the sale is for some other reason canceled. The assessor or any law enforcement officer may enter onto the land if necessary to carry out the purposes of this section.

Sec. 11. 36 MRSA §191, sub-§2, ¶O, as amended by PL 1997, c. 537, §60 and affected by §62 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

O. The disclosure to an authorized representative of the Department of Health and Human Services of an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, ~~47~~ 42 United States Code, Chapter 7, subchapter IV, Part D (1966), when a request containing the payor's social security number is made by the department;

Sec. 12. 36 MRSA §191, sub-§2, ¶Q, as amended by PL 2001, c. 396, §11, is further amended to read:

Q. The listing of ~~licensed special fuel suppliers~~ persons possessing certificates under section 3204 ~~and registered suppliers possessing certificates under section 3205~~;

Sec. 13. 36 MRSA §271, sub-§8, as enacted by PL 1985, c. 764, §8, is repealed.

Sec. 14. 36 MRSA §506-A, as amended by PL 1995, c. 57, §5, is further amended to read:

§506-A. Overpayment of taxes

Except as provided in section 506, a taxpayer who pays an amount in excess of that finally assessed must be repaid the amount of the overpayment plus interest from the date of overpayment at a rate to be established by the municipality. ~~With respect to overpayments of taxes relating to property tax years beginning prior to April 1, 1996, the rate of interest may not exceed the interest rate established by the municipality for delinquent taxes reduced by 4% but may not be less than 8% nor greater than 12%. With respect to overpayments of taxes relating to property tax years beginning on or after April 1, 1996, the~~ The rate of interest may not exceed the interest rate established by the municipality for delinquent taxes ~~or~~ nor may it be less than that rate reduced by 4%. If a municipality fails to ~~set~~ establish a rate of interest for overpayments of taxes, it shall pay interest at the rate it has established for delinquent taxes.

Sec. 15. 36 MRSA §574-B, sub-§1, as amended by PL 1999, c. 33, §1, is further amended to read:

1. Forest management and harvest plan. A forest management and harvest plan ~~has been~~ must be prepared for ~~the~~ each parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor for a parcel in a municipality or with the State Tax Assessor for ~~parcels~~ a parcel in the unorganized territory that a forest management and harvest plan has been prepared for the parcel. ~~A landowner with a parcel taxed pursuant to this subchapter on September 30, 1989 has until December 31, 1999 to comply with this requirement or to provide evidence to the municipal assessor or the State Tax Assessor for parcels in the unorganized territory that the landowner intends to develop a forest management and harvest plan by December 31, 2000 or has executed a contract with a licensed forester for the completion of a forest management and harvest plan by December 31, 2000. Until the plan is prepared or December 31, 2000, whichever is earlier, the land is subject to the applicability provisions under this section as it existed on April 1, 1982. A landowner who does not provide the municipal assessor or the State Tax Assessor for parcels in the unorganized territory by December 31, 1999 with a sworn statement that a forest management and harvest plan has been prepared or evidence that the landowner intends to develop a forest management and harvest plan or has executed a contract with a licensed forester for the completion of a forest management and harvest plan by December 31, 2000 shall pay a penalty of $100 to the municipal tax collector or the State Tax Assessor for parcels in the unorganized territory. This penalty is in addition to any penalty that is assessed pursuant to section 581 for withdrawal of land from classification under this subchapter and may be enforced in the same manner as a supplemental assessment under section 713.~~;

Sec. 16. 36 MRSA §843, sub-§4, as amended by PL 2001, c. 436, §1 and affected by §2, is further amended to read:

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, ~~provided~~ as long as that amount does not exceed the amount of taxes due in the current tax year~~,~~ or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. ~~This section applies to any property tax appeal filed on or after April 1, 1993.~~ This ~~section~~ subsection does not apply to property with a valuation of less than $500,000.

Sec. 17. 36 MRSA §844, sub-§4, as amended by PL 2003, c. 72, §1 and affected by §2, is further amended to read:

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, ~~provided~~ as long as that amount does not exceed the amount of taxes due in the current tax year~~,~~ or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, or according to a payment schedule mutually agreed to in writing by the taxpayer and the municipal officers, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date or written payment schedule date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. ~~This section applies to any property tax appeal filed on or after April 1, 1993.~~ This ~~section~~ subsection does not apply to property with a valuation of less than $500,000.

Sec. 18. 36 MRSA §1109, sub-§7, as enacted by PL 1989, c. 748, §5, is repealed.

Sec. 19. 36 MRSA §1112, last ¶, as enacted by PL 1993, c. 452, §13, is repealed.

Sec. 20. 36 MRSA §1483, as amended by PL 2007, c. 627, §32, is further amended to read:

§1483. Exemptions

The following are exempt from the excise tax:

1. State vehicles. Vehicles owned by this State ~~and~~ or by political subdivisions ~~thereof~~ of the State;

2. Driver education. Motor vehicles registered by municipalities for use in driver education in the secondary schools or ~~motor vehicles registered~~ by private secondary schools for use in driver education in ~~such~~ those schools;

3. Volunteer fire departments. Motor vehicles owned by volunteer fire departments;

4. Dealers or manufacturers. Vehicles owned by bona fide dealers or manufacturers of the vehicles~~,~~ ~~which vehicles~~ that are held ~~soley~~ solely for demonstration and sale and constitute stock in trade, and aircraft registered in accordance with Title 6, section 53;

5. Transporter registration. Vehicles to be lawfully operated on transporter registration certificates~~,~~;

6. Railroads. Vehicles owned by railroad companies that are subject to the excise tax imposed ~~in~~ under chapter 361~~.~~;

7. Benevolent and charitable institutions. Vehicles owned and used solely for their own purposes by benevolent and charitable institutions that are incorporated by this State and entitled to exemption from property tax ~~exemption in accordance with~~ under section 652, subsection 1;

8. Literary and scientific institutions. Vehicles owned and used solely for their own purposes by literary and scientific institutions ~~and~~ that are entitled to exemption from property tax ~~exemption in accordance with~~ under section 652, subsection 1;

9. Religious societies. Vehicles owned and used solely for their own purposes by houses of religious worship or religious societies that are entitled to exemption from property tax under section 652, subsection 1, paragraph G;

10. Certain nonresidents. Motor vehicles permitted to operate without Maine registration under Title 29-A, section 109;

11. Interstate commerce. Vehicles traveling in the State only in interstate commerce~~, and~~ that are owned in a state ~~wherein~~ where an excise or property tax ~~shall have~~ has been paid on the vehicle~~,~~ and ~~which~~ that grants to ~~Maine owned~~ Maine-owned vehicles the exemption ~~contained~~ provided in this subsection;

12. Certain veterans. Automobiles owned by veterans who are granted free registration of ~~such~~ those vehicles by the Secretary of State under Title 29-A, section 523, subsection 1;

13. Certain buses. Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers engaged in furnishing common carrier passenger service under an operating authority license issued pursuant to Title 29-A, section 552. At the option of the appropriate municipality, those buses may be subject to the excise tax provided in section 1482;

14. Antique and experimental aircraft. Antique and experimental aircraft as defined in Title 6, section 3, subsections 10-A and 18-E ~~and~~ that are registered ~~according to~~ in accordance with the provisions of Title 6;

15. Adaptive equipment. Adaptive equipment installed on a motor vehicle owned by a disabled person or the family of a disabled person to make that vehicle operable or accessible by a disabled person; and

16. Active military stationed in Maine. Vehicles owned by a person on active duty serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State. A member of the Armed Forces of the United States stationed in the State who desires to register that member's vehicle in this State shall present certification from the commander of the member's post, station or base, or from the commander's designated agent, that the member is permanently stationed

at that post, station or base. For purposes of this subsection, "a person on active duty serving in the Armed Forces of the United States" does not include a member of the National Guard or the Reserves of the United States Armed Forces.

Sec. 21. 36 MRSA §1487, sub-§2, as amended by PL 2007, c. 541, Pt. E, §1 and c. 693, §13, is repealed and the following enacted in its place:

2. State Tax Assessor. The State Tax Assessor shall appoint agents to collect the excise tax in the unorganized territory. Agents, including municipalities designated as agents, are allowed a fee of $6 for each tax receipt issued. The State Tax Assessor may authorize the offset of credit card fees incurred in the collection of the excise taxes against the receipts from those collections. Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

Sec. 22. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 2007, c. 627, §42 and affected by §96 and amended by c. 693, §14, is repealed and the following enacted in its place:

B. "Retail sale" does not include:

(1) Any casual sale;

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

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;

(4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;

(6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;

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

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

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

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

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

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

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration.

Sec. 23. 36 MRSA §1752, sub-§8-C is enacted to read:

8-C. Pet. "Pet" has the same meaning as under Title 7, section 3907, subsection 22-B.

Sec. 24. 36 MRSA §1760, sub-§5-A, as amended by PL 1975, c. 623, §57, is further amended to read:

5-A. Prosthetic devices. Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; and sale of crutches

and wheelchairs for the use of ~~invalids and crippled~~ sick, injured or disabled persons and not for rental.

Sec. 25. 36 MRSA §1760, sub-§8, ¶B, as amended by PL 1987, c. 798, §1, is further amended to read:

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet ~~or turbojet~~ engine aircraft; and

Sec. 26. 36 MRSA §1760-B, as amended by PL 1997, c. 526, §14, is repealed.

Sec. 27. 36 MRSA §2520, as repealed and replaced by PL 1973, c. 727, §10, is amended to read:

§2520. Reciprocal contracts of indemnity

Every attorney-in-fact of a reciprocal insurer by or through whom are issued policies or contracts of indemnity by a reciprocal insurer as ~~identified~~ defined in Title 24-A, ~~chapter 5~~ section 402, subsection 1, in lieu of all other taxation, state, county or municipal, in this State, shall pay a tax at the rate of 2% on gross premiums or deposits actually received during the year after deducting amounts that are actually returned to policyholders as the unused part of ~~such~~ a premium or deposit~~,~~ or ~~such part as may be~~ credited on the renewal or extension of the indemnity.

Sec. 28. 36 MRSA §2551, sub-§3, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

3. Fabrication services. "Fabrication services" means the production of tangible personal property for a consideration for a person who furnishes, either directly or indirectly, the materials used in that production. ~~"Fabrication services" does not include the production of tangible personal property if a sale to the consumer of the tangible personal property so produced would be exempt or otherwise not subject to tax under Part 3.~~

Sec. 29. 36 MRSA §2552, sub-§1, ¶I, as amended by PL 2007, c. 539, Pt. DDD, §6, is further amended to read:

I. Community support services for persons with mental retardation or autism; ~~and~~

Sec. 30. 36 MRSA §2552, sub-§1, ¶J, as amended by PL 2007, c. 539, Pt. DDD, §7 and c. 627, §67, is repealed and the following enacted in its place:

J. Home support services; and

Sec. 31. 36 MRSA §2552, sub-§1, ¶K, as repealed by PL 2007, c. 539, Pt. DDD, §8 and amended by c. 627, §68, is repealed.

Sec. 32. 36 MRSA §2557, sub-§33, as enacted by PL 2007, c. 627, §74, is amended to read:

33. International telecommunications service. Sales of international telecommunications service; ~~and~~

Sec. 33. 36 MRSA §2557, sub-§34, as enacted by PL 2007, c. 627, §75, is amended to read:

34. Interstate telecommunications service. Sales of interstate telecommunications service~~.~~;

Sec. 34. 36 MRSA §2557, sub-§35 is enacted to read:

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

Sec. 35. 36 MRSA §2557, sub-§36 is enacted to read:

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

Sec. 36. 36 MRSA §2557, as amended by PL 2009, c. 204, §13 and c. 211, Pt. B, §32, is further amended by adding at the end a new paragraph to read:

For the purposes of subsections 33 and 34, in determining whether a particular customer is a business or nonbusiness customer, a telecommunications company may rely upon existing customer classifications maintained in its books and records, such as "individual," "consumer," "enterprise," "business," "corporate" or "government." A telecommunications company is not required to change the customer classifications the telecommunications company maintains in its books and records. If as a result of an audit a telecommunications company is required to change a customer's status to that of a business customer or to a nonbusiness customer for purposes of applying the tax, the change applies prospectively only.

Sec. 37. 36 MRSA §2902, as amended by PL 2007, c. 438, §§63 and 64, is further amended to read:

§2902. Definitions

~~The terms~~ As used in this chapter ~~shall be construed as follows:~~, unless the context otherwise indicates, the following terms have the following meanings.

1. Distributor. "Distributor" means ~~any~~ a person~~, as defined, importing~~ that imports internal combustion engine fuel into the State, ~~or producing, refining, manufacturing or compounding within~~ produces, refines, manufactures or compounds internal combustion engine fuel in the State~~,~~ or ~~purchasing within~~ purchases internal combustion engine fuel in the State, principally for resale to others in bulk~~, internal combustion engine fuel as defined~~. "Distributor" includes licensed distributors and registered distributors.

1-A. Exporter. "Exporter" means ~~any~~ a person~~, as defined, other than~~ that is not a ~~licensed~~ distributor~~, who~~ that purchases internal combustion engine fuel in this State and exports that fuel from the State, or causes that fuel to be exported ~~such fuel~~ from the State, other than in fuel tanks attached to and forming a part of a motor vehicle ~~and used~~ for use in the engine of ~~said~~ that motor vehicle.

1-B. Importer. "Importer" means ~~any~~ a person~~, as defined, other than~~ that is not a ~~licensed~~ distributor~~, wherever resident or located, importing~~ that imports internal combustion engine fuel or ~~causing~~ causes internal combustion engine fuel to be imported for sale or ~~for~~ use in this State, ~~with the exception set forth, any internal combustion engine fuel as defined~~ other than in fuel tanks attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle.

1-C. Gross gallons. "Gross gallons" means actual measured gallons of internal combustion engine fuel received, sold or used, without adjustment for temperature or barometric pressure.

~~**2. Internal combustion engine.** "Internal combustion engine" shall mean any engine operated by explosion or quick burning therein of gasoline, benzol or other product.~~

3. Internal combustion engine fuel. "Internal combustion engine fuel"~~, except as respects fuel used for propelling aircraft, shall mean~~ means all products that are commonly or commercially known or sold as gasoline~~, including casinghead and absorption or natural gasoline, regardless of their classification or uses;~~ and includes any liquid fuel that is prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in spark-ignition internal combustion engines~~, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10% distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95% distilled (recovered) below 464° Fahrenheit (240° Centigrade)~~ that has greater than 90% of the energy potential of an equivalent volume of gasoline, determined by the number of British Thermal Units in a standard volume. ~~The term "internal~~ "Internal combustion engine fuel" ~~shall~~ does not include ~~commercial solvents or naphthas which distil, by American Society for Testing Materials Method D-86, nor more than 9% at 176° Fahrenheit and which have a distillation range of 150° Fahrenheit, or less, or~~ liquefied gases ~~which~~ that would not exist as liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

"Internal combustion engine fuel" ~~shall mean~~ includes any motor fuel that is used or sold for use in the propulsion of aircraft.

3-A. Licensed distributor. "Licensed distributor" means a distributor that is not a registered distributor.

3-B. Registered distributor. "Registered distributor" means a distributor that purchases or imports only internal combustion engine fuel on which the tax imposed by this chapter has been paid to a licensed distributor and that makes sales of internal combustion engine fuel only to retail dealers or directly into the fuel tanks of motor vehicles.

4-A. Retail dealer. "Retail dealer" means a person that operates in this State a place of business from which internal combustion engine fuel is sold at retail and delivered directly into the fuel tanks of motor vehicles or watercraft. A distributor or wholesaler is a retail dealer only with respect to internal combustion engine fuel delivered into a retail storage tank operated by that distributor or wholesaler or into a retail storage tank of a consignee or commission agent.

5. Terminal. "Terminal" means a storage and distribution facility for internal combustion engine fuel supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

6. Wholesaler. "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds the internal combustion engine fuel inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

Sec. 38. 36 MRSA §2903, sub-§1-C, as enacted by PL 2001, c. 688, §3, is amended to read:

1-C. Inventory tax. On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed ~~by this subsection~~ upon all internal combustion engine fuel that is held in inventory by a distributor, importer, wholesaler or retail dealer as of the end of the day prior to that date with respect to which the tax imposed pursuant to subsection 1 has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Distributors, importers, wholesalers and retail dealers that hold ~~such~~ tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the distributor, importer, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor. This ~~section~~ subsection

does not apply to internal combustion engine fuel that is purchased or used for the purpose of propelling jet ~~or turbojet~~ engine aircraft.

Sec. 39. 36 MRSA §2903, sub-§4, ¶D, as amended by PL 2007, c. 627, §78, is further amended to read:

D. Bought or used to propel ~~an~~ a jet engine aircraft in international flights. For purposes of this paragraph, fuel is bought or used to propel ~~an~~ a jet engine aircraft in an international flight if either the point of origin of the flight leg immediately preceding the delivery of the fuel into the fuel tanks of the jet engine aircraft or the destination point of the flight leg immediately following the delivery of the fuel into the fuel tanks of the jet engine aircraft is outside the United States;

Sec. 40. 36 MRSA §2904, as amended by PL 2007, c. 407, §2, is repealed and the following enacted in its place:

§2904. Certificates

Every person that is a distributor, wholesaler, importer or exporter of internal combustion engine fuel in the State shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor. A person may not sell or distribute internal combustion engine fuel until the certificate is furnished by the assessor and displayed as required by this section. One copy of the certificate, certified by the assessor, must be displayed in each place of business of the person. If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or rules adopted under this chapter, the assessor may on reasonable notice to the person suspend the person's certificate until satisfied to the contrary. A person whose certificate has been suspended may not act as a distributor, wholesaler, importer or exporter until the certificate is restored by the assessor. A suspended certificate must be surrendered to the assessor upon request. Notice is sufficient if sent by mail and addressed to the person at the address designated in the certificate. The suspension is subject to review as provided in section 151.

Sec. 41. 36 MRSA §2904-A, as enacted by PL 2007, c. 407, §3, is repealed.

Sec. 42. 36 MRSA §2906, sub-§1, as amended by PL 2007, c. 438, §66, is further amended to read:

1. Monthly reports. Every licensed distributor, wholesaler, importer and exporter shall file with the ~~assessor~~ State Tax Assessor on or before the 21st day of each month a return stating the number of gross gallons of internal combustion engine fuel received, sold and used in the State by that licensed distributor, wholesaler, importer or exporter during the preceding calendar month. The return must be filed on a form prescribed and furnished by the assessor and must include any other information reasonably required by the assessor.

Sec. 43. 36 MRSA §2906, sub-§2, as amended by PL 2007, c. 438, §67, is further amended to read:

2. Payment of tax. At the time of filing the return required by this section, each licensed distributor and importer shall pay to the assessor the tax imposed by section 2903 on each gallon reported as sold, distributed or used.

Sec. 44. 36 MRSA §2906, sub-§3, as repealed and replaced by PL 1997, c. 738, §5, is amended to read:

3. Allowance for certain losses. An allowance of not more than 1/2 of 1% from the amount of internal combustion engine fuel received by a licensed distributor, plus 1/2 of 1% on all transfers in vessels, tank cars or full tank truck loads by a licensed distributor in the regular course of the licensed distributor's business from one of the licensed distributor's places of business to another within the State, may be granted by the assessor to cover losses sustained by the licensed distributor through shrinkage, evaporation or handling. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1% of the receipts by the licensed distributor. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 45. 36 MRSA §2906, sub-§5, as amended by PL 2007, c. 438, §69, is repealed.

Sec. 46. 36 MRSA §2907 is repealed and the following enacted in its place:

§2907. Application of tax in special cases

A person that receives internal combustion engine fuel under circumstances that preclude the collection of the tax imposed under this chapter by the distributor, other than internal combustion engine fuel brought into the State in the ordinary standard equipment fuel tank attached to and forming a part of a motor vehicle for use in the engine of that motor vehicle, and that sells or uses that internal combustion engine fuel in this State is subject to the tax imposed by section 2903 and to the requirements of section 2906, subsections 1 and 2 on the same basis as a licensed distributor.

Sec. 47. 36 MRSA §3202, sub-§2-E is enacted to read:

2-E. Licensed supplier. "Licensed supplier" means a supplier that is not a registered supplier.

Sec. 48. 36 MRSA §3202, sub-§5-D is enacted to read:

5-D. Registered supplier. "Registered supplier" means a supplier that purchases or imports only distillates on which the tax imposed by this chapter has been paid to a licensed supplier and that makes sales of distillates only to retail dealers or directly into the fuel tanks of motor vehicles. A registered supplier may also purchase and sell dyed fuel.

Sec. 49. 36 MRSA §3202, sub-§7, as amended by PL 1999, c. 733, §2 and affected by §17, is repealed and the following enacted in its place:

7. Supplier. "Supplier" means a person that imports distillates into the State, exports distillates from the State, produces, refines, manufactures or compounds distillates in the State or purchases distillates in the State, principally for resale to others in bulk. "Supplier" includes licensed suppliers and registered suppliers.

Sec. 50. 36 MRSA §3203, sub-§5, as amended by PL 2007, c. 627, §81, is further amended to read:

5. Allowance for certain losses of undyed distillates. An allowance of not more than 1/4 of 1% from the amount of undyed distillates received by a licensed supplier, plus 1/4 of 1% on all transfers in vessels, tank cars or full tank truck loads by the licensed supplier in the regular course of business from one of the licensed supplier's places of business to another of the licensed supplier's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the licensed supplier. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1/2 of 1% of the receipts by the licensed supplier. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 51. 36 MRSA §3203-C, as amended by PL 2003, c. 390, §15, is further amended to read:

§3203-C. Inventory tax

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, ~~subsection~~ subsections 1 and 1-B has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers, wholesalers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor.

Sec. 52. 36 MRSA §3204, as amended by PL 1999, c. 733, §7 and affected by §17, is further amended to read:

§3204. Licenses

Every person operating as a supplier, wholesaler or retailer in the State~~, other than those who qualify under section 3205,~~ shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor~~, which contain the name under which the person is transacting business within the State, the place or places of business, location of distributing stations, agencies of the person, the names and addresses of the several persons constituting the firm or partnership, and, if a corporation, its corporate name and the names and addresses of its principal officers and agents within the State~~. A person may not sell or distribute ~~any~~ special fuel until the certificate is furnished by the ~~State Tax Assessor~~ assessor and displayed as required by this section. One copy of ~~each such~~ the certificate, certified by the ~~State Tax Assessor~~ assessor, must be displayed in each place of business of the person. ~~The State Tax Assessor, having~~ If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or ~~the~~ rules adopted under this chapter or has failed to appear in court for any violation of this chapter, the assessor may on reasonable notice to the person suspend the person's certificate until satisfied to the contrary. ~~In such case, the~~ A person whose certificate has been suspended may not act as a supplier, wholesaler or retailer until the certificate is restored by the ~~State Tax Assessor, either of the assessor's own initiative or at the person's request, and upon the State Tax Assessor being satisfied that cause for suspension no longer exists, or upon order of court~~ assessor. ~~In case of that suspension, all~~ Suspended certificates must ~~at once~~ be surrendered to the ~~State Tax Assessor~~ assessor upon request. ~~This revocation~~ The suspension is reviewable in accordance with section 151.

Sec. 53. 36 MRSA §3205, as amended by PL 2001, c. 396, §29, is repealed.

Sec. 54. 36 MRSA §3209, sub-§1, as amended by PL 2007, c. 438, §80, is further amended to read:

1. Suppliers and wholesalers. Every licensed supplier and wholesaler shall file on or before the last day of each month a return with the State Tax Asses-

sor stating the gross gallons of distillates received, sold and used in this State by that licensed supplier or wholesaler during the preceding calendar month, on a form prescribed and furnished by the assessor. The return must include any further information reasonably required by the assessor. At the time of filing the return required by this subsection, each licensed supplier or wholesaler must pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used.

Sec. 55. 36 MRSA §3209, sub-§5, as amended by PL 2007, c. 438, §80, is repealed.

Sec. 56. 36 MRSA §3211, as amended by PL 2007, c. 438, §82, is further amended to read:

§3211. Cancellation of licenses, registrations

If ~~any~~ a person licensed or registered under this chapter files a false report of the information required by this chapter, or fails, refuses or neglects to file a return required by this chapter or to pay the full amount of the tax as required by this chapter ~~or is in violation of the registration certificate as prescribed in section 3205~~, the State Tax Assessor may cancel the license or registration and ~~notify~~ give notice to that person ~~in writing~~ of the cancellation ~~by registered mail to the last known address of that person~~.

Upon receipt of a written request from ~~any~~ a person licensed or registered under this chapter to cancel the license or registration issued to that person, the assessor may cancel that license or registration effective 30 days from the date of the written request, in which event the license or registration certificate issued to that person must be surrendered to the assessor. If~~, upon investigation,~~ the assessor ~~finds~~ determines that ~~any~~ a person to whom a license or registration has been issued under this chapter is no longer engaged in the sale or use of special fuel and has not been so engaged for a period of 6 months, the assessor may cancel that license or registration by giving that person 30 days' notice of the cancellation ~~mailed to the last known address of that person~~, in which event the license or registration certificate issued to that person must be surrendered to the assessor.

Sec. 57. 36 MRSA §3212, as amended by PL 2007, c. 438, §83, is further amended to read:

§3212. Discontinuance

When a ~~supplier, retailer or user~~ person ceases to engage in business as a supplier, wholesaler, retailer or user of special fuel within this State, that ~~supplier, retailer or user~~ person shall notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter become due and payable concurrently with that discontinuance. The ~~supplier, retailer or user~~ person shall file a return and pay all the taxes, interest and penalties and surrender to the assessor the license or registration certificate issued to that ~~supplier, retailer or user~~ person by the assessor.

~~Any~~ A person ~~violating~~ that violates any of the provisions of this section commits a Class E crime.

Sec. 58. 36 MRSA §3214, as amended by PL 2007, c. 438, §84, is further amended to read:

§3214. Credit for tax paid on worthless accounts

The tax paid on sales made on credit and reported by a licensed supplier, wholesaler or retailer pursuant to section 3209 that are found to be worthless and actually charged off may be credited upon the tax due on a subsequent return~~, but if any such~~. If those accounts are ~~thereafter~~ subsequently collected by the licensed supplier, wholesaler or retailer, a tax must be paid upon the amounts so collected. The credit must be reported on the return for the month in which the charge-off occurred.

Sec. 59. 36 MRSA §3321, sub-§1, as amended by PL 2007, c. 650, §3, is further amended to read:

1. Generally. Beginning in 2003, and each calendar year thereafter, the excise tax imposed upon internal combustion engine fuel pursuant to section 2903, subsection 1 and the excise tax imposed upon distillates pursuant to section 3203, subsections 1 and 1-B are subject to an annual rate of adjustment pursuant to this section. On or about February 15th of each year, the State Tax Assessor shall calculate the adjusted rates by multiplying the rates in effect on the calculation date by an inflation index ~~as~~ computed as provided in subsection 2. The adjusted rates must then be rounded to the nearest 1/10 of a cent and become effective on the first day of July immediately following the calculation. The assessor shall publish the annually adjusted fuel tax rates and shall provide all necessary forms and reports ~~to suppliers, distributors and retail dealers~~.

Sec. 60. 36 MRSA §3321, sub-§3, as enacted by PL 2001, c. 688, §8, is further amended to read:

3. Exclusion. This section does not apply to internal combustion engine fuel purchased or used for the purpose of propelling jet ~~or turbojet~~ engine aircraft.

Sec. 61. 36 MRSA §4901, sub-§6, as enacted by PL 2005, c. 396, §8, is repealed.

Sec. 62. 36 MRSA §5111, sub-§4, as amended by PL 1999, c. 521, Pt. B, §1 and affected by §11, is further amended to read:

4. Additional tax. Additionally, a tax is imposed for each taxable year ~~beginning on or after January 1, 1989,~~ on the Maine adjusted gross income of every nonresident individual. The amount of the tax equals the tax computed under this section and chapter 805~~,~~ as if the nonresident individual were a resident indi-

vidual, multiplied by the ratio of the nonresident individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the ~~nonresident's~~ nonresident individual's entire federal adjusted gross income, as modified by section 5122.

Sec. 63. 36 MRSA §5111, sub-§5, as enacted by PL 1991, c. 528, Pt. ZZ, §1 and affected by §4 and Pt. RRR and enacted by c. 591, Pt. ZZ, §1 and affected by §4, is repealed.

Sec. 64. 36 MRSA §5122, sub-§1, ¶O, as amended by PL 2003, c. 20, Pt. II, §1, is repealed.

Sec. 65. 36 MRSA §5122, sub-§1, ¶P, as amended by PL 2003, c. 20, Pt. II, §1, is repealed.

Sec. 66. 36 MRSA §5122, sub-§1, ¶Z, as enacted by PL 2007, c. 539, Pt. CCC, §4, is amended to read:

Z. For income tax years beginning on or after January 1, 2008, the amount of any qualified state and local tax benefit and any qualified payment excluded from gross income pursuant to the Code, Section ~~139(b)~~ 139B; and

Sec. 67. 36 MRSA §5122, sub-§2, ¶AA, as corrected by RR 2007, c. 2, §23, is amended to read:

AA. For taxable years beginning on or after January 1, 2009, an amount equal to the net decrease in the depreciation deductions allowable under sections 167 and 168 of the Code that would have been applicable to that property had the 50% bonus depreciation deduction under Section 103 of the Economic Stimulus Act of 2008, Public Law 110-185 not been claimed with respect to such property for which an addition was required under subsection 1, paragraph AA in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph AA and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA for the same property; ~~and~~

Sec. 68. 36 MRSA §5122, sub-§2, ¶BB, as reallocated by RR 2007, c. 2, §24, is amended to read:

BB. The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M that exceed the amount of military retirement plan pension benefits deducted under paragraph M and that are received by a person who practices as a licensed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855~~.~~; and

Sec. 69. 36 MRSA §5122, sub-§2, ¶CC is enacted to read:

CC. To the extent included in federal adjusted gross income, an amount constituting benefits received under a municipal property tax assistance program established pursuant to section 6232, subsection 1-A.

Sec. 70. 36 MRSA §5175, as amended by PL 2003, c. 390, §37, is repealed.

Sec. 71. 36 MRSA §5142, sub-§1, as amended by PL 2005, c. 12, Pt. LLLL, §1, is further amended to read:

1. General. A tax is imposed for each taxable year on the Maine adjusted gross income of every nonresident individual. The amount of the tax equals the tax computed under section 5111 and chapter 805, as if the nonresident were a resident, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the nonresident's entire federal adjusted gross income, as modified by section 5122. The Maine adjusted gross income of a nonresident individual derived from or connected with sources in this State is the sum of the following:

A. The net amount of items of income, gain, loss, and deduction entering into the nonresident individual's federal adjusted gross income that are derived from or connected with sources in this State including (i) the individual's distributive share of partnership or limited liability company income and deductions determined under section 5192, (ii) the individual's share of estate or trust income and deductions determined under section 5176, and (iii) the individual's pro rata share of the income of an S corporation derived from or connected with sources in this State; and

B. The portion of the modifications described in section 5122, subsections 1 and 2 that relates to income derived from or connected with sources in this State, including any modifications attributable to the nonresident individual as a partner of a partnership, shareholder of an S corporation, member of a limited liability company or beneficiary of an estate or trust.

Sec. 72. 36 MRSA §5175-A is enacted to read:

§5175-A. Maine taxable income of a nonresident estate or trust

The Maine taxable income of a nonresident estate or trust is equal to its share in that portion of the distributable net income of the estate or trust that is derived from or connected with sources in this State, including items of income, gain, loss and deduction from another estate or trust of which the first estate or trust is a beneficiary, increased or reduced by the amount of any items that are recognized for federal income tax purposes but excluded from the distributable net income of the estate or trust and modified by the addition or subtraction of its share of the fiduciary adjustment determined under section 5164, less the amount of the deduction for its federal exemption. The source of items of income, gain, loss or deduction must be determined in accordance with section 5142 as if the estate or trust were a nonresident individual.

Sec. 73. 36 MRSA §5176, as amended by PL 1995, c. 639, §19, is repealed and the following enacted in its place:

§5176. Share of a nonresident estate, trust or beneficiary in income from sources in this State

1. General rule. The share of a nonresident estate or trust in items of income, gain, loss and deduction derived from or connected with sources in this State that are included in the distributable net income of the nonresident estate or trust and the share for purposes of section 5142 of a nonresident beneficiary of an estate or trust in items of income, gain, loss and deduction of that estate or trust must be determined pursuant to this subsection. A modification may not be made under this section that has the effect of duplicating an item already included in the distributable net income of the estate or trust.

A. To the extent the modifications relate to items of income, gain, loss and deduction derived from or connected with sources in this State that are included in the distributable net income of a nonresident estate or trust, the modifications provided under section 5122 must be added to or subtracted from the amount of those items.

B. The amount determined under paragraph A must be allocated among the nonresident estate or trust and its beneficiaries, including, solely for the purpose of this allocation, resident beneficiaries, in proportion to their respective shares in the distributable net income of the estate or trust. The amounts so allocated have the same character as for federal income tax purposes. An item that is not characterized for federal income tax purposes is deemed to have been realized directly from the source from which it was realized by the estate or trust or incurred in the same manner as it was incurred by the estate or trust.

C. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the net amount determined under paragraph A must be in proportion to the beneficiary's share of the estate or trust income for the taxable year that is required to be distributed currently and any other income that is actually distributed in that taxable year. The balance of the net amount must be allocated to the estate or trust.

2. Alternate methods. The State Tax Assessor may authorize, upon the taxpayer's written request, the use of another method of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources in this State, and in the modifications related to that income, that the assessor determines to be appropriate and equitable.

Sec. 74. 36 MRSA §5200-A, sub-§1, ¶O, as amended by PL 2003, c. 20, Pt. II, §3, is repealed.

Sec. 75. 36 MRSA §5200-A, sub-§1, ¶P, as amended by PL 2007, c. 539, Pt. CCC, §13, is repealed.

Sec. 76. 36 MRSA §5203-B, as amended by PL 2003, c. 673, Pt. JJ, §2 and affected by §6, is repealed.

Sec. 77. 36 MRSA §5203-C, sub-§1, ¶F, as enacted by PL 2003, c. 673, Pt. JJ, §3 and affected by §6, is amended to read:

F. "Regular income tax" means:

(1) For resident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or 5163;

(2) For nonresident individuals, estates and trusts, the amount derived by multiplying the applicable tax rate or rates by taxable income under section 5121 or ~~5175~~ 5175-A, the result of which is adjusted for nonresident individuals in accordance with section 5111, subsection 4; or

(3) For taxable corporations, the amount derived by multiplying the applicable tax rate or rates against Maine net income under section 5102, subsection 8.

Sec. 78. 36 MRSA §5217-D, sub-§5, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

5. Conditions for an employer claiming the credit. A taxpayer constituting an employer may claim the credit under this section under the following circumstances. The employer may undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf of a qualified employee, having taken reasonable steps to ascertain that the employee is in fact a qualified employee, and may claim

a credit based on amounts that came due and were paid by the employer during the term of employment. To receive the credit, the employer must retain for 5 years any proof of eligibility that the employee or independent contractor provides.

The employer may claim a credit for the amount that the qualified employee could have claimed during any months when the qualified employee was employed, had the qualified employee made the partial or full loan payments instead, under conditions where the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed only on a part-time basis, the employer may claim a credit only up to half of the total that the qualified employee could have claimed had the qualified employee made all payments and earned sufficient income to claim the full credit for the taxable year, but the amount the employer claims must still be based on amounts actually paid.

~~An employer claiming this credit on behalf of a qualified employee for a taxable year may not simultaneously claim a credit under section 5219-V on the behalf of the same employee.~~

Sec. 79. 36 MRSA §5220, sub-§4, ¶A, as amended by PL 2005, c. 618, §15 and affected by §22, is further amended to read:

A. Any Maine taxable income as determined under section ~~5175, subsection 2~~ 5175-A;

Sec. 80. 36 MRSA §5334, as repealed and replaced by PL 1979, c. 701, §34, is amended to read:

§5334. Venue

~~The failure to do any act required by or under~~ A violation of this Part ~~shall be~~ is deemed ~~an act~~ to have been committed in part ~~at the principal office of the assessor~~ in Kennebec County. ~~Any prosecution under this Part~~ Prosecution may be ~~conducted~~ brought in any county where the person ~~or corporation~~ to whose liability the proceeding relates resides or has a place of business~~,~~ or in any county~~,~~ in which ~~such crime is~~ the violation was committed.

Sec. 81. 36 MRSA §6209, sub-§4, as enacted by PL 2007, c. 700, Pt. A, §4, is amended to read:

4. Income eligibility adjustment. Beginning March 1, 2009, the State Tax Assessor shall annually multiply the household income eligibility adjustment factor by the maximum income eligibility amounts specified in section 6207, subsection ~~2~~ 2-A, as previously adjusted. The result must be rounded to the nearest $50 and applies to the application period beginning the next August 1st.

Sec. 82. 36 MRSA §6753, sub-§12, as amended by PL 2005, c. 351, §23 and affected by §26, is further amended to read:

12. Qualified employee. "Qualified ~~employees~~ employee" means a new, full-time ~~employees~~ employee hired in this State by a qualified business ~~and~~, for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, ~~Sections 101 to 1461, as amended,~~ Chapter 18 and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed ~~and whose state~~, as long as Maine income tax withholding ~~taxes are~~ attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter. "Qualified ~~employees~~ employee" does not include ~~employees~~ an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

Sec. 83. 36 MRSA §6754, sub-§1, ¶D, as amended by PL 2003, c. 688, Pt. D, §6, is further amended to read:

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5250-I, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-O, the reimbursement under this subsection is equal to 80% of the withholding taxes withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years. In no event may reimbursement under this ~~subsection~~ paragraph be paid for years beginning after December 31, 2018.

Sec. 84. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 10, section 1020, subsection 2, paragraph D applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 2903, subsection 4, paragraph D applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 3203-C applies retroactively to July 18, 2008. That section of this Act that amends Title 36, section 5122, subsection 1, paragraph Z applies retroactively to tax years beginning on or after January 1, 2008. That section of this Act that enacts Title 36, section 5122, subsection 2, paragraph CC applies retroactively to tax years beginning on or after January 1, 2008.

Sec. 85. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 5142, subsection 1 applies to tax years beginning on or after January 1, 2010.

Sec. 86. Contingent effective date. That section of this Act that enacts the Maine Revised Stat-

utes, Title 36, section 1752, subsection 8-C takes effect only if Title 36 is amended in the First Regular Session of the 124th Legislature to enact a sales tax on pet grooming or pet boarding services.

See title page for effective date, unless otherwise indicated.

CHAPTER 435

S.P. 438 - L.D. 1190

An Act To Amend the Motor Vehicle Laws

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

Sec. 1. 29-A MRSA §453, sub-§3-A, as enacted by PL 2003, c. 434, §9 and affected by §37, is amended to read:

3-A. Restrictions. The Secretary of State, in the Secretary of State's discretion, may refuse to issue or may recall a vanity plate that:

A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;

B. Promotes abusive or unlawful activity;

C. Falsely suggests an association with public institutions; or

D. Is duplicative.

Sec. 2. 29-A MRSA §456-A, sub-§1, as enacted by PL 2001, c. 623, §4, is amended to read:

1. Lobster plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of lobster special registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. The Secretary of State may issue lobster plates to certain state-owned vehicles in accordance with section 517.

Sec. 3. 29-A MRSA §456-F, sub-§1, as enacted by PL 2007, c. 703, §10, is amended to read:

1. Agriculture education plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501, section 504, subsection 1 or section 505 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of agriculture education special registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. The Secretary of State may issue agricultural education plates to certain state-owned vehicles in accordance with section 517.

Sec. 4. 29-A MRSA §517, sub-§2, as amended by PL 2003, c. 490, Pt. D, §2, is further amended to read:

2. Plates. The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Notwithstanding section 501, subsection 11, the Secretary of State shall issue distinctive municipal plates under this subsection to a low-speed vehicle owned by a municipality or loaned by a dealer to a municipality. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Department of Inland Fisheries and Wildlife or the Department of Conservation with authorization from the department's commissioner. The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Baxter State Park Authority with authorization from the Commissioner of Inland Fisheries and Wildlife in the commissioner's capacity as a member of the Baxter State Park Authority. A state-owned vehicle issued environmental registration plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 455, subsection 4.

The Secretary of State may issue agricultural education plates to a state-owned vehicle assigned to the Department of Agriculture, Food and Rural Resources with authorization from the Commissioner of Agriculture, Food and Rural Resources. A state-owned vehicle issued agricultural education plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-F, subsection 2.

The Secretary of State may issue lobster plates to a state-owned vehicle assigned to the Department of Marine Resources with authorization from the Commissioner of Marine Resources. A state-owned vehicle issued lobster plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 456-A, subsection 2.

Sec. 5. 29-A MRSA §517-B is enacted to read:

§517-B. Registration exemption for antique farm tractors used in demonstrations, parades, ceremonies and organized charitable events

Farm tractors or farm equipment at least 25 years old, as determined by the model year, are exempt from registration requirements and registration fees when used for demonstrations, ceremonies, parades or organized charitable events.

Sec. 6. 29-A MRSA §552, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. B, §6 and affected by Pt. C, §15 is further amended to read:

§552. Operating authority license required

1. License required. A person transporting ~~freight, merchandise, household goods or~~ passengers by motor vehicle for hire, or advertising the transportation of passengers by limousine, on public ways between points within this State, or points within and without the State, must obtain an operating authority license. ~~A person licensed only to transport intrastate passengers for hire is not required to obtain a separate license as a freight and merchandise carrier.~~

2. Fee. The initial application fee for ~~an intrastate-exempt license or a license exempted by the Interstate Commerce Commission~~ a license to transport intrastate passengers for hire is $25. ~~For a passenger carrier, the~~ The annual renewal fee is $15.

3. Transfer. A license may not be transferred except, if the holder incorporates, the holder may transfer a license to the corporation upon the payment of a transfer fee and the filing of written notice of intent to transfer with the Secretary of State.

4. Effect. A license is not a termination, restriction in scope or suspension of a prior intrastate certificate of public convenience and necessity as defined in 49 United States Code, Section 306(6).

~~**5. Passenger vehicles.** A motor vehicle licensed to transport passengers for hire is not required to obtain a separate license as a freight and merchandise carrier.~~

6. One permit. Only one interstate or intrastate license is required.

~~**7. Deemed to hold permit.** Notwithstanding any other provision of this section, any person, firm or corporation transporting freight, merchandise, household goods or passengers by motor vehicle for hire in this State, on the effective date of this Act, pursuant to a certificate, permit or a license issued by the Public Utilities Commission or the Department of Transportation, as the case may be, is deemed to hold an operating permit as required by this section.~~

Sec. 7. 29-A MRSA §553, as amended by PL 1995, c. 65, Pt. A, §94 and affected by §153 and Pt. C, §15, is repealed.

Sec. 8. 29-A MRSA §554, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. B, §7 and affected by Pt. C, §15, is repealed.

Sec. 9. 29-A MRSA §651, sub-§6, as amended by PL 2007, c. 466, Pt. A, §47 and affected by §49, is further amended to read:

6. Manufactured housing. Beginning October 1, 2007, the Secretary of State shall issue certificates of title for new single-unit manufactured housing beginning with model year 2007. Beginning October 1, 2007 and ending September 30, 2009, the Secretary of State shall issue a certificate of title for used manufactured housing that was previously issued a State of Maine certificate of title. Beginning October 1, 2009, the Secretary of State may issue a certificate of title for used manufactured housing that was previously issued a State of Maine certificate of title or a model year 2007 or later model that was never issued a certificate of title. A certificate of title issued pursuant to this subsection remains in effect unless cancelled pursuant to section 669.

Sec. 10. 29-A MRSA §652, sub-§13, as repealed and replaced by PL 1999, c. 470, §9, is amended to read:

13. Certain automobiles, commercial vehicles and vehicles. Automobiles and all over-the-road commercial vehicles ~~and vehicles that are more than 15 years old~~ with a model year prior to 1995, except when the Secretary of State determines it is in the best interest of the State and the applicant to issue a title to a vehicle ~~more than 15 years old~~ with a model year prior to 1995;

Sec. 11. 29-A MRSA §661, sub-§2, as amended by PL 2001, c. 361, §22 and affected by §38, is further amended to read:

2. Time. The Secretary of State is not required to issue ~~an additional~~ a duplicate until 15 days after the previous ~~duplicate~~ title was issued.

Sec. 12. 29-A MRSA §701, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Additional. Upon request of the owner or subordinate lienholder, and receipt of an owner's application and fee, a lienholder in possession of the certificate of title shall deliver the certificate ~~to the subordinate lienholder for delivery~~ to the Secretary of State. ~~Upon receipt from the subordinate lienholder of an owner's application and fee, the lienholder shall deliver them to the Secretary of State with the certificate.~~ The Secretary of State shall record the subordinate lien and reissue the title to the first lienholder. The delivery of the certificate does not affect the rights of the first lienholder under that lienholder's security agreement.

Sec. 13. 29-A MRSA §705, sub-§5 is enacted to read:

5. Manufactured housing. This subsection governs satisfaction of a security interest in manufactured housing.

A. Upon satisfaction of a security interest in manufactured housing, the lienholder whose security interest is satisfied shall execute, within 60 days, a release in the form the Secretary of State prescribes and mail or deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive that release. The lienholder shall also within 60 days of satisfaction of its security interest notify the Secretary of State in the form the Secretary of State prescribes that the lien has been satisfied.

B. The owner and subordinate lienholder, if any, may each recover $1,000 from a lienholder who fails to release the security interest and notify the Secretary of State that the lien has been satisfied within the 60-day time period under paragraph A.

Sec. 14. 29-A MRSA §903, sub-§3, as amended by PL 2005, c. 433, §12 and affected by §28, is further amended to read:

3. Plate reduction. Upon renewal of a dealer license, the number of plates allowed a motor vehicle dealer who fails to sell ~~a minimum of one vehicle per month or~~ at least 12 vehicles within a 12-month period must be reduced to ~~one~~ 2 dealer ~~plate~~ plates, and the motor vehicle dealer may not be issued a dealer plate under section 1002, subsection 1, paragraph B. Upon a 2nd application for renewal of a dealer license, a motor vehicle dealer must be denied renewal if the Secretary of State determines that the dealer sold fewer than 4 vehicles in the previous license year, at which time all dealer credentials issued previously must be returned to the Secretary of State.

A motor vehicle dealer who is denied a license renewal under this subsection may not reapply until the license has been expired at least one year.

A motor vehicle dealer who holds a vehicle auction business license under section 1051 is exempt from this subsection.

A motor vehicle dealer who engages primarily in the sale of vehicles more than 15 years old, emergency vehicles or industrial or farm equipment or who sells only trucks with a gross vehicle weight rating of more than 26,000 pounds is exempt from this subsection.

Sales of vehicles to dealerships under the same ownership must be excluded when determining total sales.

Sec. 15. 29-A MRSA §957, sub-§3, as amended by PL 2007, c. 5, §1, is further amended to read:

3. Attended sales promotion. The Secretary of State may issue to a dealer a ~~90-day~~ permit for up to 90 days to operate an attended sales promotion at one or more locations inside this State. A request for an attended sales promotion must be submitted to the Secretary of State at least 48 hours before the proposed promotion and must contain the proposed promotion dates. The promotion must comply with applicable building codes and zoning and land use ordinances. A new vehicle dealer who requests a permit under this subsection for a promotion involving new vehicles may not locate the promotion outside that dealer's area of responsibility as defined by the dealer's franchise agreement. A dealer who operates an attended sales promotion at an agricultural fair or other agricultural event or at a charitable event where a vehicle is displayed or offered as a prize for fund-raising purposes is exempt from this subsection. An equipment dealer or trailer dealer is exempt from this subsection if the sales promotion does not include motor vehicles and does not exceed 90 continuous days. ~~The fee for a 90-day attended sales promotion permit is $150. The permit may be renewed.~~ The fee for an attended sales promotion is:

A. Fifty dollars if the promotion runs for 7 or fewer days;

B. One hundred dollars if the promotion runs for more than 7 but no more than 60 days; and

C. One hundred fifty dollars if the promotion runs for more than 60 days but no more than 90 days.

Sec. 16. 29-A MRSA §1002, sub-§6, ¶C, as amended by PL 1999, c. 470, §15, is further amended to read:

C. The annual fee for a dealer wrecker plate is $50 per plate for attachment to a wrecker that does not exceed ~~24,000~~ 26,000 pounds gross vehicle weight and $200 for attachment to a wrecker that does not exceed 80,000 pounds gross vehicle weight.

Sec. 17. 29-A MRSA §1102-A is enacted to read:

§1102-A. Mobile crushers

A person operating a mobile crusher in this State, whether based in or outside of the State, is subject to the provisions of this subchapter except the provisions of section 1103. The Secretary of State may adopt rules for the permitting of mobile crushers. For purposes of this section, "mobile crusher" means a transportable device that is used to crush motor vehicles.

Sec. 18. 29-A MRSA §1110, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Availability. The records, the place of business and the vehicles and vehicle parts in the possession of the licensee must be available for inspection during normal business hours by the Secretary of State, a law enforcement officer or representatives of the office of the Attorney General.

The operator of a mobile crusher as defined in section 1102-A shall make that operator's records available in this State during normal business hours or in accordance with rules adopted by the Secretary of State.

Sec. 19. 29-A MRSA §1407, as amended by PL 1995, c. 645, Pt. B, §15, is further amended to read:

§1407. Change of location or status

When a person, after applying for or receiving a driver's license or registration, moves from the address named in the application or on the license or registration issued or changes name, that person shall, within ~~10~~ 30 days, notify the Secretary of State, in writing or by other means approved by the Secretary of State, of the old and new addresses or former and new names and of the number of the licenses and registrations held.

Sec. 20. 29-A MRSA §1611, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Additional requirements. In addition to this section, those for-hire carriers not exempted under section 556 must comply as required pursuant to ~~sections~~ section 552 ~~and 553~~.

Sec. 21. 29-A MRSA §1854, sub-§3, as amended by PL 2001, c. 563, §3, is further amended to read:

3. Response. On receipt of the notification, the Secretary of State shall inform the vehicle owner and lienholder, if any, by regular mail that the vehicle is being claimed under the abandoned vehicle law. The notice to the vehicle owner and lienholder, if any, must identify the vehicle by the year, make, model and vehicle identification number, give the name and address of the party claiming ownership, state the charges against the vehicle that the owner and lienholder, if any, must pay to retrieve the vehicle, and the date that the title or letter of ownership will pass to the new owner. If the party is claiming ownership of the vehicle pursuant to section 603, subsection 6, the notice must inform the vehicle owner and lienholder that the owner must pay ~~$23~~ to the Secretary of State the fee required in section 603 to transfer the title. A copy of this letter must be provided to the person claiming ownership.

Sec. 22. 29-A MRSA §2502, sub-§2, as amended by PL 2001, c. 511, §7, is further amended to read:

2. Suspension of special license. If the person refuses or fails to complete the alcohol and other drug program pursuant to Title 5, section 20073-B within ~~6~~ 3 months after receiving a special license, the Secretary of State, following notice of that refusal or failure, shall suspend the special license until the person completes the program. The suspension must continue until the Secretary of State receives written notification from the Office of Substance Abuse that the person has satisfactorily completed all required components of that program. The Secretary of State shall provide notice of suspension and opportunity for hearing pursuant to Title 5, chapter 375, subchapter ~~IV~~ 4. The sole issue at the hearing is whether the person has written notification from the Office of Substance Abuse establishing that the person has satisfactorily completed all components of that program pursuant to Title 5, section 20073-B.

Sec. 23. Appropriations and allocations. The following appropriations and allocations are made.

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Provides a one-time allocation for programming changes to extend title requirements to motor vehicles manufactured in 1995 and after.

HIGHWAY FUND	2009-10	2010-11
All Other	$738	$0
HIGHWAY FUND TOTAL	$738	$0

See title page for effective date.

CHAPTER 436

H.P. 209 - L.D. 263

An Act To Provide Placards to Drivers Who for Medical Reasons Are Not Required To Wear Seat Belts

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

Sec. 1. 29-A MRSA §2081, sub-§4, ¶A-1, as enacted by PL 1995, c. 432, §3 and affected by §4, is amended to read:

A-1. The requirements of subsection 3-A do not apply to a driver or passenger who has a medical condition that, in the opinion of a physician, warrants an exemption from the requirements of subsection 3-A and that medical condition and opinion are documented by a certificate from that physician. That certificate is valid for ~~5 years~~ the pe-

riod designated by the physician, which may not exceed one year. The Secretary of State may issue a removable windshield placard that is visible to law enforcement officers to a person with a certificate from a physician. A removable windshield placard is a 2-sided permit designed to hang from the rearview mirror when the vehicle is in motion without obstructing the view of the operator. The placard must be displayed by hanging it from the rearview mirror so that it may be viewed from the front and rear of the vehicle when the vehicle is in motion. If the vehicle is not equipped with a rearview mirror, the placard must be displayed on the dashboard. The placard must be identifiable as a seat belt placard as designed by the Secretary of State. A placard issued to a person under this paragraph expires when the physician's certificate expires.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Provides a one-time allocation to manufacture placards for drivers who for medical reasons cannot wear a seat belt.

HIGHWAY FUND	2009-10	2010-11
All Other	$2,235	$0
HIGHWAY FUND TOTAL	$2,235	$0

See title page for effective date.

CHAPTER 437

H.P. 814 - L.D. 1175

An Act To Add Combat Action Badges and Ribbons to the Special Commemorative Decals for Veterans License Plates

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

Sec. 1. 29-A MRSA §523, sub-§5, as amended by PL 2005, c. 683, Pt. A, §§47 and 48, is further amended to read:

5. Special commemorative decals for medals, badges or ribbons awarded. The Secretary of State may issue special commemorative decals for use with special veterans registration plates to any person who served in the United States Armed Forces, was honorably discharged and was awarded a medal, badge or ribbon described in paragraphs A to ~~Q~~ Z when that person's application is accompanied by the appropriate military certification verifying that the medal, badge or ribbon was awarded to the applicant. One set of commemorative decals may be issued for each set of special veterans registration plates issued under this section. One set of 2 commemorative decals must be displayed on the front and back plates. The fee for a set of commemorative decals may not exceed $5.

Special commemorative decals may be issued to applicants awarded the following medals, badges or ribbons:

A. Distinguished Service Cross;

B. Navy Cross;

C. Air Force Cross;

D. Silver Star;

E. Distinguished Flying Cross;

F. Bronze Star;

G. Soldier's Medal;

H. Navy or Marine Corps Medal;

I. Airman's Medal;

J. Coast Guard Medal;

K. Asiatic-Pacific Campaign Medal;

L. European-African-Middle Eastern Campaign Medal;

M. Korean Service Medal;

N. Vietnam Service Medal;

O. Southwest Asia Service Medal;

P. Armed Forces Expeditionary Medal;

Q. Kosovo Service Medal;

R. Korea Defense Service Medal;

S. Global War on Terrorism Medal;

T. Iraq Campaign Medal; ~~and~~

U. Afghanistan Campaign Medal~~.~~;

V. United States Army Combat Infantry Badge;

W. United States Army Combat Medic Badge;

X. United States Army Combat Action Badge;

Y. United States Navy, Marine Corps or Coast Guard Combat Action Ribbon; and

Z. United States Air Force Combat Action Medal.

Sec. 2. 29-A MRSA §523, sub-§7 is enacted to read:

7. Moratorium on special commemorative decals for medals, badges or ribbons awarded. During the period beginning October 1, 2009 and ending

October 1, 2014, the Secretary of State may not issue any special commemorative decals not authorized by subsection 5, paragraphs A to Z or subsection 6, paragraphs A to E for use with special veterans registration plates.

Sec. 3. Report. The Secretary of State shall review the data and report on the numbers of commemorative decals listed in the Maine Revised Statutes, Title 29-A, section 523, subsection 5 issued for the years 2007 and 2008 with a recommendation of a minimum usage threshold that would result in removal of a specific decal from the available list. The report must also include the cost of acquiring and distributing the decals as well as the revenue received from the issuance of the decals. The Secretary of State shall submit the report and recommendations to the Joint Standing Committee on Transportation by February 28, 2010. The Joint Standing Committee on Transportation may submit a bill on the results of the report to the Second Regular Session of the 124th Legislature.

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

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Provides one-time funding to purchase materials for decals issued for veterans license plates.

HIGHWAY FUND	2009-10	2010-11
All Other	$5,652	$0
HIGHWAY FUND TOTAL	$5,652	$0

See title page for effective date.

CHAPTER 438

H.P. 681 - L.D. 989

An Act To Allow for a Dual Liquor License

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

Sec. 1. 28-A MRSA §10, sub-§4 is enacted to read:

4. Application. This section does not apply to a dual license holder licensed under section 1207.

Sec. 2. 28-A MRSA §1051, sub-§3, as amended by PL 1999, c. 236, §2, is further amended to read:

3. Liquor not to be consumed elsewhere. Except as provided in paragraphs A and B and in section 1207, no licensee for the sale of liquor to be consumed on the premises where sold may personally or by an agent or employee, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises. The service and consumption of liquor must be limited to areas that are clearly defined and approved in the application process by the bureau as appropriate for the consumption of liquor. Outside areas must be controlled by barriers and by signs prohibiting consumption beyond the barriers.

A. Subject to law and the rules of the bureau, hotel or bed and breakfast licensees may sell liquor in the original packages or by the drink to bona fide registered room guests. Any sale to a guest may be delivered to the guest's room only by a hotel or bed and breakfast employee.

B. A licensee may serve liquor at locations other than the licensed premises under the off-premise catering license issued under section 1052.

Sec. 3. 28-A MRSA §1201, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

3. Cannot sell liquor to be consumed on the premises. ~~No~~ Except as provided in section 1207, a person licensed under this section may not sell malt liquor or wine to be consumed on the premises.

Sec. 4. 28-A MRSA §1206, as enacted by PL 1993, c. 266, §23, is amended to read:

§1206. Consumption prohibited on off-premise retail premises

A person may not consume liquor on the premises of an off-premise licensee licensed under this chapter except as provided in ~~section~~ sections 1205 and 1207.

Sec. 5. 28-A MRSA §1207 is enacted to read:

§1207. Dual liquor license

Notwithstanding any other provision of law, the bureau may issue a dual liquor license to a retail establishment to serve wine to be consumed on the premises in accordance with subsection 2 if that establishment is licensed to sell wine to be consumed off the premises and meets the criteria listed in subsection 1.

1. Minimum criteria. In order for the bureau to issue a dual liquor license in accordance with this section the following criteria must be met:

A. The licensee has submitted an application as prescribed by the bureau and the fee under subsection 3 to the bureau;

B. The licensee's establishment includes a full kitchen that prepares hot and cold meals to be consumed on the premises;

C. The licensee's establishment includes at least 2 restrooms available for use by patrons;

D. The licensee has dedicated an area of the establishment with table seating for a minimum of 16 people to sit and eat a meal prepared by the licensee;

E. The licensee carries a stock of at least $35,000 of wine;

F. The licensee has not committed a violation of this chapter during the past 2 years; and

G. The licensee has received approval from the appropriate municipal officers prior to submitting an application to the bureau.

2. License requirements. The holder of a dual liquor license is governed by the following when serving wine to be consumed on the premises:

A. Each serving of wine must be dispensed by the licensee or an employee of the licensee who is at least 21 years of age from a stock of wine that is separated from the wine that is for sale for consumption off the premises;

B. The licensee shall ensure that at least 2 employees at least 21 years of age are present at all times when wine is being consumed on the premises with at least one whose primary responsibility is sales of wine and other items sold to be consumed off the premises;

C. Wine may be served only to be consumed on the premises when accompanied by a full meal. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking;

D. Patrons of the establishment may not consume any alcoholic beverage on the premises unless it is served in accordance with this section by the licensee or an employee of the licensee; and

E. A licensee may not serve wine to be consumed on the premises after 8:00 p.m.

3. License fee. The license fee for a dual liquor license is $600 annually in addition to the license to sell malt liquor or wine for consumption off the premises.

4. Rules. The bureau shall adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Liquor Enforcement 0293

Initiative: Provides funding for one Public Safety Inspector II position and related All Other costs.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$63,106	$66,852
All Other	$12,000	$12,000
GENERAL FUND TOTAL	$75,106	$78,852

See title page for effective date.

CHAPTER 439

H.P. 830 - L.D. 1205

An Act To Establish a Health Care Bill of Rights

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

PART A

Sec. A-1. 24-A MRSA §2809-A, sub-§1-A, ¶B-2 is enacted to read:

B-2. All notices of cancellation sent to certificate holders pursuant to paragraph B-1 must include a toll-free telephone number that certificate holders can call to determine if the policy has been cancelled for nonpayment of premium or if the policy has been reinstated because the premium has been paid.

Sec. A-2. 24-A MRSA §4302, sub-§1, ¶A, as enacted by PL 1995, c. 673, Pt. C, §1 and affected by §2, is amended to read:

A. Coverage provisions, benefits and any exclusions by category of service, type of provider and, if applicable, by specific service, including but not limited to the following types of exclusions and limitations:

(1) Health care services excluded from coverage;

(2) Health care services requiring copayments or deductibles paid by enrollees;

(3) Restrictions on access to a particular provider type; ~~and~~

(4) Health care services that are or may be provided only by referral; and

(5) Childhood immunizations as recommended by the United States Department of Health and Human Services, Centers for Dis-

ease Control and Prevention and the American Academy of Pediatrics;

Sec. A-3. 24-A MRSA §4303, sub-§12 is enacted to read:

12. Publication of policies by carriers. A carrier must publish at least 5 individual health plans with the highest level of enrollment and at least 5 small group health plans with the highest level of enrollment on the carrier's publicly accessible website in a manner that will allow consumers to review the coverage offered under each policy. The policies posted on the website must be updated when changes are made to the policies by the carrier. The appearance of the policy on the website must duplicate the appearance of a paper copy of the policy. The bureau shall provide a link from its website to each carrier's website. A carrier must review annually which policies to post and make any necessary changes on its website. A carrier must post the required policies on its website within 90 days after the effective date of this subsection.

Sec. A-4. 24-A MRSA §4303, sub-§13 is enacted to read:

13. Explanation of benefits. A carrier offering an individual expense-incurred health plan to residents of this State or an expense-incurred group health plan to an employer in this State shall provide individual policyholders and group certificate holders with clear written explanations of benefit documents in response to the filing of any claim providing for coverage of hospital or medical expenses. The explanation of benefits must include all of the following information:

A. The date of service;

B. The provider of the service;

C. An identification of the service for which the claim is made;

D. Any amount the insured is obligated to pay under the policy for copayment or coinsurance;

E. A telephone number and address where the insured may obtain clarification of the explanation of benefits;

F. A notice of appeal rights; and

G. A notice of the right to file a complaint with the bureau after exhausting any appeals under a carrier's internal appeals process.

The superintendent shall establish by rule the minimum information and standards for explanation of benefits forms used by carriers, taking into consideration any input from stakeholders and any national standards for explanation of benefits forms. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. This subsection applies to any explanation of benefits form issued on or after January 1, 2010.

Sec. A-5. 24-A MRSA §4303, sub-§14 is enacted to read:

14. Policy terms. The superintendent may by rule define standard policy terms that must be used in all policies issued by carriers offering health plans in the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-6. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Insurance - Bureau of 0092

Initiative: Allocates funds for the one-time costs of required rule-making proceedings.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$2,100	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,100	$0

PART B

Sec. B-1. 24-A MRSA §4301-A, sub-§16-A is enacted to read:

16-A. Provider profiling program. "Provider profiling program" means a program that uses provider data in order to rate or rank provider quality or efficiency of care by the use of a grade, star, tier, rating or any other form of designation.

Sec. B-2. 24-A MRSA §4302, sub-§1, ¶J, as enacted by PL 1999, c. 742, §5, is amended to read:

J. A description of the independent external review procedures and the circumstances under which an enrollee is entitled to independent external review as required by this chapter; ~~and~~

Sec. B-3. 24-A MRSA §4302, sub-§1, ¶K, as enacted by PL 1999, c. 742, §5, is amended to read:

K. A description of the requirements for enrollees to obtain coverage of routine costs of clinical trials and information on the manner in which enrollees not eligible to participate in clinical trials may qualify for the compassionate use program of the federal Food and Drug Administration for use of investigational drugs pursuant to 21 Code of Federal Regulations, Section 312.34, as amended~~.~~; and

Sec. B-4. 24-A MRSA §4302, sub-§1, ¶L is enacted to read:

L. A description of a provider profiling program that may be a part of the health plan, including the location of provider performance ratings in the plan materials or on a publicly accessible website, information explaining the provider rating system and the basis upon which provider performance is measured, the limitations of the data used to measure provider performance, the process for selecting providers and a conspicuous written disclaimer explaining the provider performance ratings should only be used as a guide for choosing a provider and that enrollees should consult their current provider before making a decision about their health care based on a provider rating.

Sec. B-5. 24-A MRSA §4303, sub-§2, ¶E is enacted to read:

E. A carrier with a provider profiling program shall:

(1) Disclose to providers the methodologies, criteria, data and analysis used to evaluate provider quality, performance and cost-efficiency ratings;

(2) Create and share with providers their provider profile at least 60 days prior to using or publicly disclosing the results of the provider profiling program;

(3) Afford providers the opportunity to correct errors, submit additional information for consideration and seek review of data and performance ratings; and

(4) Afford providers due process appeal rights to challenge the profiling determination described in this subsection and by Bureau of Insurance Rule Chapter 850, Health Plan Accountability.

If a carrier has a provider profiling program that includes out-of-network providers, a carrier must meet the requirements of this paragraph with regard to an out-of-network provider as well as for a provider in a carrier's network.

PART C

Sec. C-1. 24-A MRSA §2736, sub-§1, as amended by PL 2009, c. 14, §4 and c. 244, Pt. G, §1, is repealed and the following enacted in its place:

1. Filing of rate information. Every insurer shall file for approval by the superintendent every rate, rating formula, classification of risks and every modification of any formula or classification that it proposes to use in connection with individual health insurance policies and certain group policies specified in section 2701. If the filing applies to individual health plans as defined in section 2736-C, the insurer shall simultaneously file a copy with the Attorney General. Every such filing must state the effective date of the filing. Every such filing must be made not less than 60 days in advance of the stated effective date, unless the 60-day requirement is waived by the superintendent, and the effective date may be suspended by the superintendent for a period of time not to exceed 30 days. A filing required under this section must be made electronically in a format required by the superintendent unless exempted by rule adopted by the superintendent. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. C-2. 24-A MRSA §2736, sub-§2, as amended by PL 1997, c. 344, §8, is further amended to read:

2. Filing; information. When a filing is not accompanied by the information upon which the insurer supports such filing, or the superintendent does not have sufficient information to determine whether such filing meets the requirements that rates not be excessive, inadequate or unfairly discriminatory, the superintendent shall require the insurer to furnish the information upon which it supports the filing. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a 3rd party, are public records ~~within the meaning of~~ notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to section 2736-A.

Sec. C-3. 24-A MRSA §2736-A, first ¶, as amended by PL 2007, c. 629, Pt. M, §3, is further amended to read:

If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates not be excessive, inadequate, unfairly discriminatory or not in compliance with ~~former~~ section 6913 or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. If a filing proposes an increase in rates in an individual health plan as defined in section 2736-C, the superintendent shall cause a hearing to be held at the request of the Attorney General. In any hearing conducted under this section, the insurer has the burden of proving rates are not excessive, inadequate or unfairly discriminatory and in compliance with section 6913.

PART D

Sec. D-1. 24-A MRSA §2808-B, sub-§2-A, ¶B, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

B. A filing and all supporting information, except for protected health information required to be kept confidential by state or federal statute and except for descriptions of the amount and terms or conditions or reimbursement in a contract

between an insurer and a 3rd party, are public records ~~except as provided by~~ notwithstanding Title 1, section 402, subsection 3, paragraph B and become part of the official record of any hearing held pursuant to subsection 2-B, ~~paragraphs~~ paragraph B or F.

Sec. D-2. 24-A MRSA §2808-B, sub-§6, ¶A, as amended by PL 2001, c. 410, Pt. A, §6, is further amended to read:

A. Each carrier must actively market small group health plan coverage, including any standardized plans required to be offered pursuant to subsection 8-A, to eligible groups in this State.

Sec. D-3. 24-A MRSA §2808-B, sub-§8-A is enacted to read:

8-A. Authority of the superintendent. The superintendent may by rule define one or more standardized small group health plans that must be offered by all carriers offering small group health plans in the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. D-4. Superintendent of Insurance report. The Superintendent of Insurance shall review possible ways to improve the availability and affordability of the State's individual health insurance market, including, but not limited to, increases in the minimum loss-ratio standards applicable to that market and consideration of an insurer's loss experience in all lines of insurance marketed by a carrier in this State when reviewing health insurance rate filings. The superintendent shall report the results of the review, including any recommendations for legislation, to the Joint Standing Committee on Insurance and Financial Services no later than February 1, 2010. The joint standing committee may report out a bill based on the report to the Second Regular Session of the 124th Legislature.

PART E

Sec. E-1. 24-A MRSA §221, sub-§5 is enacted to read:

5. Examination of health carriers. The superintendent shall examine the market conduct of each domestic health carrier, as defined in section 4301-A, subsection 3, and each foreign health carrier with at least 1,000 covered lives in this State, offering a health plan as defined in section 4301-A, subsection 7, no less frequently than once every 5 years. An examination under this subsection may be comprehensive or may target specific issues of concern observed in the State's health insurance market or in the company under examination. In lieu of an examination conducted by the superintendent, the superintendent may participate in a multistate examination, or, in the case of a foreign company, approve an examination by the company's domiciliary regulator upon a finding that the examination and report adequately address relevant aspects of the company's market conduct within this State.

Sec. E-2. Transition. The Superintendent of Insurance shall begin conducting the market conduct examinations required by the Maine Revised Statutes, Title 24-A, section 221, subsection 5 during calendar year 2010, and all health carriers subject to the examination requirement must be examined at least once before January 1, 2015.

PART F

Sec. F-1. 24-A MRSA §4303, sub-§7-A is enacted to read:

7-A. Continuity of prescriptions. If an enrollee has been undergoing a course of treatment with a prescription drug by prior authorization of a carrier and the enrollee's coverage with one carrier is replaced with coverage from another carrier pursuant to section 2849-B, the replacement carrier shall honor the prior authorization for that prescription drug and provide coverage in the same manner as the previous carrier until the replacement carrier conducts a review of the prior authorization for that prescription drug with the enrollee's prescribing provider. Policies must include a notice of the right to request a review with the enrollee's provider, and the replacing carrier must honor the prior carrier's authorization for a period not to exceed 6 months if the enrollee's provider participates in the review and requests the prior authorization be continued. The replacing carrier is not required to provide benefits for conditions or services not otherwise covered under the replacement policy, and cost sharing may be based on the copayments and coinsurance requirements of the replacement policy.

See title page for effective date.

CHAPTER 440

H.P. 1043 - L.D. 1488

An Act To Provide Free Admission to State Parks to All Maine Veterans

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to be in effect for the upcoming summer season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following

legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §1819-A, as amended by PL 2009, c. 220, §1, is further amended to read:

§1819-A. Day use passes for certain veterans

Notwithstanding section 1819, the commissioner shall enter into a memorandum of agreement with the Department of Defense, Veterans and Emergency Management for the issuance of a free day use pass to state parks and historic sites to each veteran determined by the Department of Defense, Veterans and Emergency Management to meet the criteria established in Title 37-B, section ~~6~~ 8. The pass entitles the holder~~, and the holder's spouse and children when accompanied by the holder,~~ to admission free of charge to all state parks and historic sites ~~for the period described in Title 37-B, section 6. This section is repealed June 30, 2015.~~

Sec. 2. 12 MRSA §10853, sub-§13, as enacted by PL 2005, c. 268, §2, is amended to read:

13. Certain veterans. The commissioner shall enter into a memorandum of agreement with the Department of Defense, Veterans and Emergency Management for the issuance of a free resident hunting license and a free resident fishing license to each veteran determined by the Department of Defense, Veterans and Emergency Management to meet the criteria established in Title 37-B, section ~~6~~ 9 and other criteria for issuance of licenses. Each license is valid for the period described in Title 37-B, section ~~6~~ 9. This subsection is repealed June 30, 2010.

Sec. 3. 37-B MRSA §6, as amended by PL 2009, c. 220, §3 and affected by §5, is repealed.

Sec. 4. 37-B MRSA §7, as enacted by PL 2009, c. 220, §4, is amended to read:

§7. Issuance of free day use pass to active military personnel

The Commissioner of Defense, Veterans and Emergency Management, in accordance with a memorandum of agreement entered into with the Commissioner of Conservation and this section, shall issue a free day use pass to state parks and historic sites to eligible active duty military personnel.

1. Eligibility. The Department of Defense, Veterans and Emergency Management shall determine, based on an examination of an individual's military identification, whether the following criteria are met:

A. The person's home of residence is this State; and

B. The person is serving in an enlisted grade in the armed forces as defined in 10 United States Code, Section 101(a)(4).

2. Duration of passes. A pass issued in accordance with this section is valid for 12 months from the date of issuance and may be renewed upon verification of continuing eligibility.

3. Responsibilities of commissioner. The Commissioner of Defense, Veterans and Emergency Management shall identify a point of contact within the department to issue passes in accordance with this section and the memorandum of agreement entered into with the ~~Department~~ Commissioner of Conservation. The ~~commissioner~~ Commissioner of Defense, Veterans and Emergency Management shall periodically report to the Department of Conservation with a listing of the names and addresses of all persons receiving passes to state parks and historic sites and the expiration dates for those passes.

Sec. 5. 37-B MRSA §8 is enacted to read:

§8. Issuance of free day use pass to veterans

The Commissioner of Defense, Veterans and Emergency Management, in accordance with a memorandum of agreement entered into with the Commissioner of Conservation and this section, shall issue a free day use pass to state parks and historic sites to eligible veterans.

1. Eligibility. The Department of Defense, Veterans and Emergency Management shall determine, based on an examination of an individual's discharge certificate from active duty services, also known as the DD214, whether the following criteria are met:

A. The person is a resident of this State; and

B. The person received an honorable discharge or general discharge under honorable conditions.

2. Responsibilities of commissioner. The Commissioner of Defense, Veterans and Emergency Management shall identify a point of contact within the department to issue passes in accordance with this section, Title 12, section 1819-A and the memorandum of agreement entered into with the Commissioner of Conservation. The Commissioner of Defense, Veterans and Emergency Management shall periodically report to the Department of Conservation with a listing of the names and addresses of all persons receiving passes to state parks and historic sites and the beginning dates for those passes. A pass issued under this section does not expire and is valid for the lifetime of the holder.

Sec. 6. 37-B MRSA §9 is enacted to read:

§9. Issuance of free fishing license and free hunting license to veterans

The Commissioner of Defense, Veterans and Emergency Management, in accordance with a memorandum of agreement entered into with the Commissioner of Inland Fisheries and Wildlife and this section, shall issue a free fishing license and free hunting license to eligible veterans who meet other criteria of the Department of Inland Fisheries and Wildlife for the issuance of licenses.

1. Eligibility. The Department of Defense, Veterans and Emergency Management shall determine, based on an examination of an individual's discharge certificate from active duty services, also known as the DD214, whether the following criteria are met:

A. The person is a resident of this State;

B. The person received an honorable discharge or general discharge under honorable conditions; and

C. Between October 1, 2001 and January 1, 2010, while a member of the Maine National Guard or an active or reserve member of the uniformed services as defined in 10 United States Code, Section 101(a)(5), the person served for a minimum of 3 continuous months outside the United States either:

(1) On an operational mission for which members of the reserve were ordered to active duty; or

(2) During a period of war declared by the United States Congress or a period of national emergency declared by the President of the United States or Congress.

2. Duration of licenses. A license issued in accordance with this section is valid for a minimum of 12 months from the date of an eligible veteran's discharge from active duty. The memorandum of agreement between the commissioners may allow issuance of licenses for a period longer than 12 months.

3. Responsibilities of commissioner. The Commissioner of Defense, Veterans and Emergency Management shall identify a point of contact within the department to issue licenses in accordance with this section and the memorandum of agreement entered into with the Commissioner of Inland Fisheries and Wildlife. The Commissioner of Defense, Veterans and Emergency Management shall periodically report to the Department of Inland Fisheries and Wildlife with a listing of the names and addresses of all persons receiving fishing licenses and hunting licenses and the expiration dates for those licenses.

4. Repeal. This section is repealed June 30, 2010.

Sec. 7. Transition. A free day use pass to state parks and historic sites issued to a veteran in accordance with the Maine Revised Statutes, Title 37-B, section 6 prior to June 30, 2010 is valid for free admission for the veteran and that veteran's spouse and children when they are accompanying the pass holder until the expiration date on the pass. A pass issued after the effective date of this Act entitles only the veteran to free day use admission.

The Commissioner of Defense, Veterans and Emergency Management shall accept requests for passes under Title 37-B, section 8 on the effective date of this Act and begin issuing the new passes no later than 6 months after the effective date of this Act. Pending issuance of the passes by the Department of Defense, Veterans and Emergency Management pursuant to Title 37-B, section 8, state parks and historic sites shall grant free day use admission to a veteran upon the veteran's good faith production of easily recognizable identification, including but not limited to discharge papers and license plates.

Sec. 8. Authority to submit legislation. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation to the Second Regular Session of the 124th Legislature regarding the issuance of free day use passes to veterans.

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

Effective June 18, 2009.

CHAPTER 441

H.P. 34 - L.D. 39

An Act To Enhance Motorcycle Safety

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

Sec. 1. 23 MRSA §1352 is enacted to read:

§1352. Installation of rumble strip signs

The department shall install signs on any state highway where centerline rumble strips are located to inform a driver that the driver is approaching a rumble strip. The signs must be placed in advance of the centerline rumble strip for both directions of travel where passing is permitted at a location to be determined by the department. The lettering, style, colors, size and format of the sign must comply with the latest edition of the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration under 23 Code of Federal Regulations, Part 655, Subpart F as adopted by the department.

See title page for effective date.

CHAPTER 442

H.P. 605 - L.D. 874

An Act To Amend the Laws Governing Axle Weights

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

Sec. 1. 29-A MRSA §2353, sub-§8 is enacted to read:

8. Vehicles within maximum gross vehicle weight limits. Notwithstanding any provision of this subchapter to the contrary, if a vehicle that exceeds axle weight limits and axle weight tolerance restrictions imposed by this subchapter by less than 5,000 pounds is within the applicable maximum gross vehicle weight limit including tolerances, the fine imposed under this subchapter is reduced by 50%.

This subsection does not apply to vehicles traveling on the Interstate Highway System except that portion of Interstate 95 designated as the Maine Turnpike.

Sec. 2. 29-A MRSA §2360, sub-§7, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. C, §9 and affected by §15, is further amended to read:

7. Redistribution of load. Notwithstanding subsections 1 to 6, when an officer determines that a vehicle that is within the gross vehicle weight limit is in violation of an axle weight limit, the officer shall permit the operator to redistribute the load once before proceeding. If redistribution brings the vehicle into compliance with axle limits, then the fine is reduced as follows:

A. If the violation is less than 2,000 pounds, no penalty; and

B. If the violation is less than 3,000 pounds, by 66%~~; and~~.

~~C. If the violation is less than 4,000 pounds, by 50%.~~

See title page for effective date.

CHAPTER 443

H.P. 752 - L.D. 1090

An Act To Provide a Waiver of the Tuition Remaining after the Application of Federal Department of Veterans Affairs Payments to Veterans Eligible for Benefits under the Post-9/11 Veterans Educational Assistance Act of 2008

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

Sec. 1. 20-A MRSA §10010 is enacted to read:

§10010. Veterans

Regardless of the state of residence, a veteran of the Armed Forces of the United States using the benefits under the Post-9/11 Veterans Educational Assistance Act of 2008 must receive a waiver from the tuition that remains after the application of all payments from the federal Department of Veterans Affairs, including payments under the Yellow Ribbon G.I. Education Enhancement Program in the Post-9/11 Veterans Educational Assistance Act of 2008. This section applies to all veterans enrolled at any campus of the University of Maine System, the Maine Community College System or Maine Maritime Academy in an undergraduate program of education.

See title page for effective date.

CHAPTER 444

S.P. 81 - L.D. 240

An Act To Extend the Exception to Axle Fines during the Midwinter Season

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

Whereas, there is an exception to axle fines during the midwinter season; and

Whereas, this section of law is repealed on September 15, 2009, and this date may be earlier than the effective date of this session's enacted laws; and

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

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

Sec. 1. 29-A MRSA §2360-A, sub-§3, as enacted by PL 2007, c. 453, §1, is amended to read:

3. Repeal. This section is repealed September 15, ~~2009~~ 2011.

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

Effective June 18, 2009.

CHAPTER 445

S.P. 572 - L.D. 1493

An Act To Clarify the Rights of Bondholders and Noteholders in the Event a School Administrative Unit with Outstanding Bonds or Notes Is Dissolved or Is No Longer Authorized by Law

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

Whereas, unless this measure is enacted as emergency legislation, the rights of bondholders or noteholders of school administrative units are subject to potential risk; and

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

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

Sec. 1. 20-A MRSA §15695-A is enacted to read:

§15695-A. Bondholders of school administrative units

1. Rights of bondholders of school administrative units. If legislation, including a ballot measure approved at referendum, becomes effective that dissolves a school administrative unit that has issued outstanding general obligation bonds or notes or repeals the laws pursuant to which such a school administrative unit is organized and exists, the rights of the holders of the outstanding bonds and notes issued by that school administrative unit are not impaired and the underlying indebtedness of any such outstanding general obligation bonds or notes is deemed to survive, whether or not replacement or successor school administrative units are organized or established, and any state subsidy with respect to those outstanding obligations or the relative portion of those outstanding obligations to be paid or reimbursed by the State is not affected.

2. Power to tax. Until one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1 and assume the outstanding bonds or notes issued by such former school administrative unit, all taxable property located in the municipalities that were members of that former school administrative unit is subject to ad valorem taxation to pay the underlying indebtedness of the bonds or notes issued by the former school administrative unit to the same extent as that taxable property was subject to ad valorem taxation in the former school administrative unit and as if such bonds or notes remained outstanding. Taxes to pay the underlying indebtedness of the outstanding bonds or notes of the former school administrative unit as described in subsection 1 must be levied and collected by the municipalities located in the former school administrative unit in the same manner as the taxes of the municipalities. If one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1, all taxable property located in the municipalities that were members of the former school administrative unit and that are located within the replacement or successor school administrative unit or school administrative units is subject to ad valorem taxation to pay the underlying indebtedness of the bonds or notes of the former school administrative unit to the same extent as that taxable property was subject to ad valorem taxation in the former school administrative unit. Taxes to pay the underlying indebtedness of the outstanding bonds or notes of the former school administrative unit as described in subsection 1 must be levied and collected by the replacement or successor school administrative unit in the same manner as the taxes of the replacement or successor school administrative unit.

3. Power to levy. The holders of bonds and notes as described in subsection 1 retain the right to levy on taxable property located in the former school administrative unit and that taxable property is subject to Title 30-A, section 5701.

4. Payment responsibility. Until one or more school administrative units are organized or established to replace or succeed a former school administrative unit as described in subsection 1, the municipalities that were members of the former school administrative unit shall pay the underlying indebtedness of the bonds or notes of the former school administrative unit in accordance with their terms. As between the municipalities that were members of the former school administrative unit, payment responsibility for the underlying indebtedness of the bonds or notes of the former school administrative unit must be allocated in proportion to the most recent state valuations of those municipalities.

A school administrative unit or school administrative units organized or established to replace or succeed a

former school administrative unit as described in subsection 1 shall pay the underlying indebtedness of the bonds and notes of the former school administrative unit in accordance with their terms. As between replacement or successor school administrative units of a former school administrative unit, payment responsibility for the underlying indebtedness of the bonds or notes must be allocated based upon the most recent state valuations of the municipalities that are located in each of the replacement or successor school administrative units and that were members of the former school administrative unit.

Nothing contained in this subsection may be construed to prohibit the organization or establishment of a school administrative unit or school administrative units that replace or succeed a former school administrative unit from employing a different method of allocating payment responsibility for the underlying indebtedness of the bonds or notes described in subsection 1.

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

Effective June 18, 2009.

CHAPTER 446

S.P. 15 - L.D. 6

An Act To Establish a Distracted Driver Law

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

Sec. 1. 29-A MRSA §2117 is enacted to read:

§2117. Failure to maintain control of a motor vehicle

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

A. "Operation of a motor vehicle while distracted" means the operation of a motor vehicle by a person who, while operating the vehicle, is engaged in an activity:

(1) That is not necessary to the operation of the vehicle; and

(2) That actually impairs, or would reasonably be expected to impair, the ability of the person to safely operate the vehicle.

2. Failure to maintain control of a motor vehicle. A person commits the traffic infraction of failure to maintain control of a motor vehicle if the person:

A. Commits either a traffic infraction under this Title or commits the crime of driving to endanger under section 2413 and, at the time the traffic infraction or crime occurred, the person was engaged in the operation of a motor vehicle while distracted; or

B. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 2251, subsection 1 that resulted in property damage and, at the time the reportable accident occurred, the person was engaged in the operation of a motor vehicle while distracted.

A person may be issued a citation or summons for any other traffic infraction or crime that was committed by the person in relation to the person's commission of the traffic infraction of failure to maintain control of a motor vehicle.

See title page for effective date.

CHAPTER 447

S.P. 532 - L.D. 1447

An Act Clarifying the Manner in Which a Person's Alcohol Level Is Determined under Maine Law

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

Sec. 1. 5 MRSA §3360, sub-§3, ¶E, as amended by PL 2003, c. 243, §1, is further amended to read:

E. Operating under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, as described in Title 29-A, section 2411;

Sec. 2. 6 MRSA §202, sub-§11, as enacted by PL 1993, c. 467, §3, is amended to read:

11. Operating an aircraft under the influence or with excessive alcohol level. For any person to operate or attempt to operate an aircraft under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive ~~blood-alcohol~~ alcohol level. Notwithstanding section 203, a person is guilty of a Class D crime if that person operates or attempts to operate an aircraft:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; or

B. While having ~~0.04% or more by weight of alcohol in that person's blood~~ an alcohol level of

0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; and

Sec. 3. 6 MRSA §204, as enacted by PL 1993, c. 467, §4, is amended to read:

§204. Implied consent to chemical tests

A person who operates or attempts to operate an aircraft within this State has a duty to submit to chemical testing to determine that person's ~~blood-alcohol~~ alcohol level and drug concentration by analysis of blood, breath or urine if there is probable cause to believe that the person has operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs. The duty to submit to a chemical test includes the duty to complete either a blood, breath or urine test. Tests and procedures applicable in determining whether a person is under the influence are governed by section 205.

Sec. 4. 6 MRSA §205, as enacted by PL 1993, c. 467, §4 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§205. Operating an aircraft under the influence or with an excessive alcohol level; tests and procedures

1. Blood or breath test. If the law enforcement officer has probable cause to believe a person operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs, then the officer shall inform the person that a breath test will be administered, unless, in the determination of the officer, it is unreasonable for a breath test to be administered, in which case another chemical test must be administered. When a blood test is required, the test may be administered by a physician of the accused's choice, at the request of the accused and if reasonably available. The law enforcement officer may determine which type of breath test, as described in subsection 5, will be administered.

2. Prerequisites to tests. Before any test is given, the law enforcement officer shall inform the person to be tested that, if that person fails to comply with the duty to submit to and complete the required chemical test at the direction of the officer, that person commits a civil violation for which the person may be required to pay a civil forfeiture of up to $500. The officer shall also inform the person that the failure to comply with the duty to submit to chemical tests is admissible as evidence against that person at any trial for operating under the influence of intoxicating liquor or drugs.

No test results may be excluded as evidence in a proceeding before an administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

3. Results of test. Upon the request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests must be made available to that person or that person's attorney by the law enforcement officer.

4. Alcohol level. The following ~~percentages by weight~~ quantities of alcohol in the defendant's blood or breath have the following evidentiary effects.

A. If ~~there was~~ the defendant, at the time alleged, ~~0.02% or less by weight of alcohol in the defendant's blood~~ had an alcohol level of 0.02 grams or less of alcohol per 100 milliliters of blood or 210 liters of breath, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If ~~there was~~ the defendant, at the time alleged, ~~in excess of 0.02% but less than 0.04% by weight of alcohol in the defendant's blood~~ had an alcohol level of more than 0.02 grams but less than 0.04 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 202, subsection 11, it is presumed that a person was under the influence of intoxicating liquor when that person has ~~a blood-alcohol level of 0.04% or more by weight~~ an alcohol level of 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

~~D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.~~

5. Administration of tests. Persons conducting analyses of blood, breath or urine for the purpose of determining the ~~blood-alcohol~~ alcohol level or drug concentration must be certified for this purpose by the Department of Health and Human Services under certification standards set by that department.

Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the ~~blood-alcohol~~ alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath specimens. When a person draws a specimen of blood

at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the ~~blood-alcohol~~ alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a ~~chemcial~~ chemical test. The sample specimen must be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests of the sample specimen to determine the ~~blood-alcohol~~ alcohol level or drug concentration of that sample.

Only equipment approved by the Department of Health and Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting tests of the sample specimen to determine the ~~blood-alcohol~~ alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Health and Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs, by use of a self-contained, breath-alcohol testing apparatus to determine the ~~blood-alcohol~~ person's alcohol level, ~~provided~~ as long as the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Health and Human Services. The result of any such test must be accepted as prima facie evidence of the ~~blood-alcohol~~ alcohol level of a person in any court.

Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of ~~blood-alcohol~~ alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Health and Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

6. Liability. No physician, physician's assistant, registered nurse, person certified by the Department of Health and Human Services or hospital or other health care provider in the exercise of due care is liable in damages or otherwise for any act done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

7. Evidence. The drug concentration in the defendant's blood or ~~percentage by weight of alcohol in~~ the defendant's ~~blood~~ alcohol level at the time alleged, as shown by the chemical analysis of the defendant's blood, breath or urine or by results of a self-contained, breath-alcohol testing apparatus authorized by subsection 5 is admissible in evidence.

When a person, certified under subsection 5, conducts a chemical analysis of blood or breath to determine ~~blood-alcohol~~ alcohol level, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine

specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Health and Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration in the defendant's blood or ~~percentage by weight of alcohol in~~ the defendant's ~~blood~~ alcohol level was, at the time the blood or breath sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the ~~blood-alcohol~~ alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the ~~percentage by weight of alcohol in the~~ defendant's ~~blood~~ alcohol level was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

Transfer of sample specimens to and from a laboratory for purposes of analysis is by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

The failure of a person to comply with the duty to submit to and complete a chemical test under section 204 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a chemical test is not admitted into evidence, the court may inform the jury of the fact that no test result is available.

If a test result is not available for a reason other than failing to comply with the duty to submit to and complete a chemical test, the unavailability and the reason are admissible in evidence.

8. Statements by accused. Any statement by a defendant that the defendant was the operator of an aircraft that the defendant is accused of operating in violation of section 202, subsection 11 is admissible if it was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the aircraft was operated and was operated by the defendant.

9. Payment for tests. Persons authorized to take specimens of blood at the direction of a law enforcement officer and persons authorized to perform chemical tests of specimens of blood or breath must be paid from the Highway Fund.

10. Accidents and officer's duties. The law enforcement officer has the following duties.

A. After a person has been charged with operating or attempting to operate an aircraft while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 202, subsection 11 or adjudications for failure to comply with the duty to submit to and complete a chemical test under section 204. As part of that investigation, the officer shall review the records maintained by the courts, the department, the State Bureau of Identification or the Secretary of State, including telecommunications of records maintained by the Secretary of State.

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of ~~blood-alcohol~~ an alcohol level or drug concentration.

C. A law enforcement officer shall report the results of a chemical test administered, or the refusal of a person to submit to a chemical test, pursuant to this section to the Federal Aviation Administration.

11. Fatalities. Notwithstanding any other provision of this section, an operator of an aircraft who is involved in an aircraft accident that results in the death of a person must submit to and complete a chemical test to determine that person's ~~blood-alcohol~~ alcohol level or drug concentration by analysis of blood, breath or urine. A law enforcement officer may determine which type of test will be administered. The result of a test taken pursuant to this subsection is not admissible at trial unless the court is satisfied that probable cause exists, independent of the test result, to believe that the operator was under the influence of

intoxicating liquor or drugs or had an excessive ~~blood-alcohol~~ alcohol level.

Sec. 5. 12 MRSA §10701, sub-§1-A, as enacted by PL 2003, c. 655, Pt. B, §74 and affected by §422, is amended to read:

1-A. Prohibition. Prohibitions against hunting and operating under the influence are as follows.

A. A person may not hunt wild animals or wild birds:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having ~~0.08% or more by weight of alcohol in that person's blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or

(3) If less than 21 years of age, while having ~~any amount of alcohol in that person's blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

B. A person may not operate or attempt to operate a watercraft:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having ~~0.08% or more by weight of alcohol in that person's blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or

(3) If less than 21 years of age, while having ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

C. A person may not operate or attempt to operate a snowmobile:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having ~~0.08% or more by weight of alcohol in that person's blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or

(3) If less than 21 years of age, while having ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

D. A person may not operate or attempt to operate an ATV:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having ~~0.08% or more by weight of alcohol in that person's blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or

(3) If less than 21 years of age, while having ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

Sec. 6. 12 MRSA §10701, sub-§3, ¶A, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §75 and affected by §422, is further amended to read:

A. In the case of a person having no previous convictions of a violation of subsection 1-A within the previous 6-year period, the fine may not be less than $400. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete ~~a blood-alcohol~~ an alcohol test under section 10702, subsection 1, the fine may not be less than $500. A conviction under this paragraph must include a period of incarceration of not less than 48 hours, none of which may be suspended, when the person:

(1) Was tested as having ~~a blood-alcohol~~ an alcohol level of ~~0.15% or more~~ 0.15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

(2) Failed or refused to stop upon request or signal of an officer in uniform, pursuant to section 6953 or 10651, during the operation that resulted in prosecution for operating under the influence or with ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; or

(3) Failed to submit to a chemical test to determine that person's ~~blood-alcohol~~ alcohol level or drug concentration, requested by a law enforcement officer on the occasion that resulted in the conviction.

Sec. 7. 12 MRSA §10701, sub-§3, ¶B, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §75 and affected by §422, is further amended to read:

B. In the case of a person having one previous conviction of a violation of subsection 1-A within the previous 6-year period, the fine may not be less than $600. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete ~~a~~

~~blood-alcohol~~ an alcohol level or drug concentration test under section 10702, subsection 1, the fine may not be less than $800. A conviction under this paragraph must include a period of incarceration of not less than 7 days, none of which may be suspended.

Sec. 8. 12 MRSA §10701, sub-§3, ¶C, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §75 and affected by §422, is further amended to read:

C. In the case of a person having 2 or more previous convictions of violations of subsection 1-A within the previous 6-year period, the fine may not be less than $1,000. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete ~~a blood-alcohol~~ an alcohol level or drug concentration test under section 10702, subsection 1, the fine may not be less than $1,300. A conviction under this paragraph must include a period of incarceration of not less than 30 days, none of which may be suspended.

Sec. 9. 12 MRSA §10702, sub-§1, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §76 and affected by §422, is amended to read:

1. Duty to submit. A person who hunts wild animals or wild birds or operates or attempts to operate a watercraft, snowmobile or ATV within this State has a duty to submit to a test to determine that person's ~~blood-alcohol~~ alcohol level or drug concentration by analysis of blood, breath or urine if there is probable cause to believe that the person is hunting wild animals or wild birds or operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs. The duty to submit to ~~a blood-alcohol~~ an alcohol level or drug concentration test includes the duty to complete either a blood, breath or urine test or any combination of those tests. Tests and procedures for determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 10703.

Sec. 10. 12 MRSA §10702, sub-§2, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §76 and affected by §422, is amended to read:

2. Failure to comply with duty to submit. A person shall submit to and complete ~~a blood-alcohol~~ an alcohol level or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person hunted or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

Sec. 11. 12 MRSA §10703, sub-§4, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §78 and affected by §422, is further amended to read:

4. Alcohol level. The following ~~percentages by weight~~ quantities of alcohol in the defendant's blood or breath have the following evidentiary effect.

A. If ~~there was~~, at the time alleged, ~~0.05% or less by weight of alcohol in the blood of~~ a defendant who was 21 years of age or older at the time of arrest had an alcohol level of 0.05 grams or less of alcohol per 100 milliliters of blood or 210 liters of breath, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If ~~there was~~, at the time alleged, ~~in excess of 0.05% but less than 0.08% by weight of alcohol in the blood of~~ a defendant who was 21 years of age or older at the time of the arrest had an alcohol level of 0.05 grams of alcohol or more but less than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 10701, subsection 1-A, it is presumed that a person was under the influence of intoxicating liquor when that person has:

(1) For a person 21 years of age or older, ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more by weight~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; and

(2) For a person less than 21 years of age, ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

~~D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.~~

Sec. 12. 12 MRSA §10703, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

5. Administration of tests. Persons conducting analyses of blood, breath or urine for the purpose of determining ~~the blood-alcohol~~ an alcohol level or drug concentration must be certified for each purpose by the Department of Health and Human Services under certification standards set by that department.

A. Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine ~~the blood-alcohol~~ an alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine ~~the blood-alcohol~~ an alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

B. A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a chemical test. The sample specimen must be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests of the sample specimen to determine ~~the blood-alcohol~~ an alcohol level or drug concentration of that sample.

C. Only equipment approved by the Department of Health and Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting tests of the sample specimen to determine ~~the blood-alcohol~~ an alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Health and Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

D. As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe hunted wild birds or wild animals or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine ~~the blood-alcohol~~ an alcohol level, ~~provided~~ as long as the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Health and Human Services. The result of any such test must be accepted as prima facie evidence of ~~the blood-alcohol~~ an alcohol level in any court.

E. Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

F. Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of ~~blood-alcohol~~ an alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

G. Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Health and Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

H. A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

Sec. 13. 12 MRSA §10703, sub-§7, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c.

614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

7. Evidence. The ~~percentage by weight of alcohol in the~~ defendant's ~~blood~~ alcohol level at the time alleged and the concentration of drugs at the time alleged, as shown by the chemical analysis of the defendant's blood, breath or urine or by any test authorized by subsection 5 is admissible in evidence.

A. When a person certified under subsection 5 conducts a chemical analysis of blood, breath or urine to determine ~~blood-alcohol~~ an alcohol level or drug concentration, the person conducting the analysis may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Health and Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration in the defendant's blood or ~~percentage by weight of alcohol in~~ the defendant's ~~blood~~ alcohol level was, at the time the blood, breath or urine sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

B. A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine ~~the blood-alcohol~~ an alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that ~~the percentage by weight of alcohol in~~ the defendant's ~~blood~~ alcohol level was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

C. Transfer of sample specimens to and from a laboratory for purposes of analysis must be by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

D. The failure of a person to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a chemical test is not admitted into evidence, the court may inform the jury of the fact that a test result is not available.

E. If a test result is not available for a reason other than a person's failure to comply with the duty to submit to and complete a chemical test, the unavailability and the reason are admissible in evidence.

Sec. 14. 12 MRSA §10703, sub-§10, ¶A, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §80 and affected by §422, is further amended to read:

A. After a person has been charged with hunting wild animals or wild birds or with operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 10701, subsection 1-A or adjudications for failure to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1. As part of that investigation, the officer shall review the records maintained by the courts, the State Bureau of Identification, the Secretary of State, including telecommunications of records maintained by the Secretary of State, or the department.

Sec. 15. 12 MRSA §10703, sub-§11, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that results in the death of any person must submit to and complete chemical tests to determine that

person's ~~blood-alcohol~~ alcohol level or other chemical use by analysis of blood, breath or urine. A law enforcement officer may determine which types of tests will be administered. The results of tests taken pursuant to this subsection are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive ~~blood-alcohol~~ alcohol level.

Sec. 16. 15 MRSA §3103, sub-§1, ¶F, as amended by PL 2003, c. 410, §5, is further amended to read:

F. The criminal violation of operating a motor vehicle under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, as defined in Title 29-A, section 2411, and offenses defined in Title 29-A as Class B or C crimes;

Sec. 17. 16 MRSA §357, 2nd ¶, as amended by PL 2007, c. 63, §1, is further amended to read:

Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility that reflects ~~blood-alcohol~~ an alcohol level, a detectable urine-drug level~~,~~ and a detectable blood-drug level may not be excluded as evidence in a criminal or civil proceeding by reason of any claim of confidentiality or privilege and may be admitted ~~provided that~~ as long as the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle, snowmobile, all-terrain vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs and the court is satisfied that probable cause exists to believe that the operator committed the offense charged.

Sec. 18. 17-A MRSA §1057, sub-§1, ¶B, as enacted by PL 1989, c. 917, §2, is amended to read:

B. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive ~~blood-alcohol~~ alcohol level, the person possesses a firearm in a licensed establishment.

Sec. 19. 17-A MRSA §1057, sub-§4, as enacted by PL 1989, c. 917, §2, is amended to read:

4. A law enforcement officer who has probable cause to believe that a person has violated subsection 1, paragraph B, may require that person to submit to chemical testing to determine ~~blood-alcohol~~ an alcohol level or drug concentration. If the court is satisfied that the law enforcement officer had probable cause to believe that the defendant was in violation of subsection 1, paragraph B, and that the person was informed of the requirement to submit to chemical testing, the person's failure to comply with the requirement to submit to chemical testing is admissible evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs.

Sec. 20. 17-A MRSA §1057, sub-§5, as amended by PL 1995, c. 65, Pt. A, §57 and affected by §153 and Pt. C, §15, is further amended to read:

5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive ~~blood-alcohol~~ alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive ~~blood-alcohol~~ alcohol level" means ~~0.08% or more by weight of alcohol in the blood~~ an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive ~~blood-alcohol~~ alcohol level within the meaning of this section are those applicable pursuant to Title 29-A, sections 2411 and 2431; except that the suspension of a permit to carry concealed firearms issued pursuant to Title 25, chapter 252, or of the authority of a private investigator licensed to carry a concealed firearm pursuant to Title 32, chapter 89, is as provided in those chapters.

Sec. 21. 22 MRSA §567, sub-§1, as amended by PL 1999, c. 62, §3, is further amended to read:

1. Acceptable data. Except as provided in this subsection, 6 months after the adoption of rules specified in subsection 2, certification is required of any commercial, industrial, municipal, state or federal laboratory that analyzes water, soil, air, solid or hazardous waste, or radiological samples for the use of programs of the department or the Department of Environmental Protection, except as provided under chapter 411, the Maine Medical Laboratory Act; Title 26, chapter 7, subchapter ~~III-A~~ 3-A, Substance Abuse Testing; and Title 29-A, section 2524, administration of tests to determine ~~blood-alcohol~~ an alcohol level or drug concentration.

A laboratory operated by a waste discharge facility licensed pursuant to Title 38, section 413 may analyze waste discharges for total suspended solids, settleable solids, biological or biochemical oxygen demand, chemical oxygen demand, pH, chlorine residual, fecal coliform, E. coli, conductivity, color, temperature and dissolved oxygen without being certified under this section. The exception provided under this paragraph applies to a laboratory testing its own samples for pollutants listed in its permit or license; pretreatment samples; and samples from other wastewater treatment plants for up to 60 days per year. The time period provided in this paragraph, which is a maximum period for each treatment plant for which analysis is provided, may be extended by memorandum of agreement between the Department of Environmental Protection and the Health and Environmental Testing Laboratory.

Sec. 22. 24-A MRSA §2303-A, as amended by PL 1995, c. 65, Pt. A, §67 and affected by §153 and Pt. C, §15, is further amended to read:

§2303-A. Surcharge

~~No~~ An insurer may not surcharge a motor vehicle insurance policy based on a motor vehicle operator's license suspension when that suspension is pursuant to Title 29-A, section 2472, subsection 3, paragraph B, except in accordance with this section. If the person had ~~a blood-alcohol~~ an alcohol level of at least ~~0.05%, but less than 0.08% by weight~~ 0.05 grams or more of alcohol but less than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath, the surcharge is limited to 20%. If the person had ~~a blood-alcohol~~ an alcohol level of at least ~~0.02% but less than 0.05% by weight~~ 0.02 grams of alcohol but less than 0.05 grams of alcohol per 100 milliliters of blood or 210 liters of breath, the surcharge is limited to 10%. If the policy covers multiple vehicles, the surcharge may be applied only to that portion of the rate attributable to a single vehicle.

Sec. 23. 25 MRSA §1541, sub-§4-A, ¶A, as enacted by PL 1999, c. 260, Pt. B, §2 and affected by §18, is amended to read:

A. Fingerprints and other criminal history record information pertinent to the identification of individuals who have been arrested as fugitives from justice or who have been arrested or charged with any criminal offense under the laws of this State except a violation of Title 12 or 29-A that is a Class D or E crime other than an alcohol-related or drug-related offense. For purposes of this paragraph, an "alcohol-related or drug-related offense" is a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level or the operation or attempted operation of a motorcraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level. The commanding officer may collect and maintain fingerprints and other criminal history record information that may be related to other criminal offenses or to the performance of the commanding officer's obligations under state laws and under agreements with agencies of the United States or any other jurisdiction; and

Sec. 24. 25 MRSA §1547, as repealed and replaced by PL 1999, c. 260, Pt. B, §17 and affected by §18, is amended to read:

§1547. Courts to submit criminal records to the State Bureau of Identification

At the conclusion of a juvenile court proceeding or at the conclusion of a prosecution for a criminal offense except a violation of Title 12 or Title 29-A that is a Class D or E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, the court shall transmit to the State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

Sec. 25. 25 MRSA §2005, sub-§1, ¶D, as enacted by PL 1989, c. 917, §13, is amended to read:

D. For conduct that occurred after a permit was issued, that the permit holder was convicted of operating a motor vehicle, snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level and, by a preponderance of the evidence, that at the time of the offense the permit holder was in possession of a loaded firearm; or

Sec. 26. 26 MRSA §682, sub-§7, as amended by PL 2001, c. 556, §1 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

7. Substance abuse test. "Substance abuse test" means any test procedure designed to take and analyze body fluids or materials from the body for the purpose of detecting the presence of substances of abuse. The term does not include tests designed to determine ~~blood-alcohol concentration~~ the alcohol levels from a sample of an individual's breath.

A. "Screening test" means an initial substance abuse test performed through the use of immunoassay technology, or a test technology of similar or greater accuracy and reliability approved by the Department of Health and Human Services under rules adopted under section 687, and that is used as a preliminary step in detecting the presence of substances of abuse.

(1) A screening test of an applicant's urine or saliva may be performed at the point of collection through the use of a noninstrumented point of collection test device approved by the federal Food and Drug Administration. Section 683, subsection 5-A governs the use of such tests.

B. "Confirmation test" means a 2nd substance abuse test performed through the use of gas chromatography-mass spectrometry that is used to verify the presence of a substance of abuse indicated by an initial positive screening test result.

(1) The Department of Health and Human Services may recommend to the joint standing committee of the Legislature having jurisdiction over labor matters that other testing

technologies be authorized for use in confirmation tests if the department finds those technologies to be of equal or greater accuracy and reliability than gas chromatography-mass spectrometry.

Sec. 27. 29-A MRSA §1253, sub-§2, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. Protect public safety by removing from public ways a commercial driver who has:

(1) Operated or attempted to operate a commercial vehicle while having ~~0.04% or more by weight of alcohol in that driver's blood~~ an alcohol level of 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

(2) Refused to submit to or complete a lawfully requested test to determine ~~blood-alcohol~~ that driver's alcohol level; or

(3) Operated or attempted to operate a motor vehicle while under the influence of intoxicating liquor or drugs; and

Sec. 28. 29-A MRSA §1253, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Operation with an alcohol level of 0.04 grams or more or under the influence of intoxicating liquor or drugs. The Secretary of State shall suspend, without preliminary hearing, the commercial license of a person who has operated or attempted to operate a commercial motor vehicle while having ~~0.04% or more by weight of alcohol in the blood~~ an alcohol level of 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath or while under the influence of intoxicating liquor or drugs.

The period of suspension must satisfy the regulations adopted by the United States Secretary of Transportation under the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII.

Sec. 29. 29-A MRSA §1404, sub-§2, as amended by PL 2005, c. 606, Pt. B, §4, is further amended to read:

2. Prior convictions. A person convicted of operating under the influence of intoxicating liquor or drugs or with an excessive ~~blood-alcohol~~ alcohol level, as defined in section 2453, subsection 2, within 10 years of the date the license is issued, reissued or returned after a period of suspension bears a coded notation of that fact.

The Secretary of State may, at the request of a licensee, remove the coded notation from the license of a person convicted for a first operating-under-the-influence offense as defined in section 2453, subsection 2 after 6 years from the date of the conviction if the person has not been convicted or adjudicated of the offense of speeding more than 15 miles per hour over the maximum speed limit or any offense described under section 2551-A, subsection 1, paragraph A or had a license suspended or revoked within that 6-year period.

Sec. 30. 29-A MRSA §1551, sub-§9, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

9. OUI. "OUI" means operating under the influence of intoxicants or with an excessive ~~blood-alcohol~~ alcohol level.

Sec. 31. 29-A MRSA §1653, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Liability. An owner or person having control of a motor vehicle who, having knowledge or reason to know that a person is under the influence of intoxicating liquor or drugs or has ~~a blood-alcohol~~ an alcohol level of ~~.08% or more by weight of alcohol in the blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath, permits that person to operate that motor vehicle is jointly and severally liable with that person for damages caused by the negligence of the person.

Sec. 32. 29-A MRSA §2401, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Alcohol level. "~~Blood-alcohol~~ Alcohol level" means ~~a stated percentage by weight of alcohol in the blood, based on grams of alcohol per 100 milliliters of blood~~ either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Sec. 33. 29-A MRSA §2401, sub-§3, as amended by PL 1995, c. 368, Pt. AAA, §3, is further amended to read:

3. Chemical test or test. "Chemical test" or "test" means a test or tests used to determine ~~blood-alcohol~~ alcohol level or drug concentration by analysis of blood, breath or urine.

Sec. 34. 29-A MRSA §2401, sub-§8, as amended by PL 1995, c. 482, Pt. A, §26, is further amended to read:

8. OUI. "OUI" means operating under the influence of intoxicants or with an excessive ~~blood-alcohol~~ alcohol level under section 2411, 2453, 2454, 2456, 2457 or 2472.

Sec. 35. 29-A MRSA §2401, sub-§9, ¶E, as amended by PL 1995, c. 65, Pt. A, §113 and affected by §153 and Pt. C, §15, is further amended to read:

E. In a tribal court of the Penobscot Nation or the Passamaquoddy Tribe, a court of the United States or a court of a state that is not a party to the

compact, an offense for which punishment includes the possibility of incarceration, whether or not actually imposed, and the elements of the offense as provided in the law of that jurisdiction include operation of a motor vehicle while intoxicated, impaired or under the influence of alcohol, intoxicating liquor or drugs or with a level of ~~blood-alcohol~~ alcohol sufficient for conviction under the laws of that jurisdiction; or

Sec. 36. 29-A MRSA §2404, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2404. Owner liable for damage by impaired operator

An owner or person having control over a motor vehicle who, having knowledge or reason to know that a person under the influence of intoxicants has ~~a~~ ~~blood-alcohol~~ an alcohol level of ~~.08% or more by weight of alcohol in the blood~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath, permits that person to operate that motor vehicle is jointly and severally liable with that person for damages caused by the negligence of the person. This section is not in derogation of, does not limit and does not diminish any cause of action or right of recovery that is or may become available under the common law.

Sec. 37. 29-A MRSA §2411, sub-§1-A, ¶A, as enacted by PL 2003, c. 452, Pt. Q, §78 and affected by Pt. X, §2, is amended to read:

A. Operates a motor vehicle:

(1) While under the influence of intoxicants; or

(2) While having ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

Sec. 38. 29-A MRSA §2411, sub-§1-A, ¶D, as amended by PL 2005, c. 606, Pt. A, §1, is further amended to read:

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person;

(1-A) In fact causes the death of another person; or

(2) Has either a prior conviction for a Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with ~~a blood-alcohol~~ an alcohol level of ~~0.08% or greater~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

Sec. 39. 29-A MRSA §2411, sub-§2, as amended by PL 2003, c. 452, Pt. Q, §79 and affected by Pt. X, §2, is further amended to read:

2. Pleading and proof. The alternatives outlined in subsection 1-A, paragraph A may be pleaded in the alternative. The State is not required to elect between the alternatives prior to submission to the fact finder. In a prosecution under subsection 1-A, paragraph D, the State need not prove that the defendant's condition of being under the influence of intoxicants or having ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath caused the serious bodily injury or death alleged. The State must prove only that the defendant's operation caused the serious bodily injury or death. The court shall apply Title 17-A, section 33 in assessing any causation under this section.

Sec. 40. 29-A MRSA §2411, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Arrest. A law enforcement officer may arrest, without a warrant, a person the officer has probable cause to believe has operated a motor vehicle while under the influence of intoxicants if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of ~~blood-alcohol~~ an alcohol level or drug concentration.

Sec. 41. 29-A MRSA §2411, sub-§5, ¶A, as amended by PL 2003, c. 673, Pt. TT, §4, is further amended to read:

A. For a person having no previous OUI offenses within a 10-year period:

(1) A fine of not less than $500, except that if the person failed to submit to a test, a fine of not less than $600;

(2) A court-ordered suspension of a driver's license for a period of 90 days; and

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

(i) Was tested as having ~~a blood-alcohol~~ an alcohol level of ~~0.15% or more~~ 0.15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

(ii) Was exceeding the speed limit by 30 miles per hour or more;

(iii) Eluded or attempted to elude an officer; or

(iv) Was operating with a passenger under 21 years of age; and

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer;

Sec. 42. 29-A MRSA §2411, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Surcharge. A surcharge must be charged for a conviction under this section. The surcharge is $30, except that, when the person operated or attempted to operate a motor vehicle while under the influence of drugs or a combination of liquor and drugs, the surcharge is $125. For the purposes of collection procedures, the surcharge is considered a fine. Notwithstanding section 2602, this surcharge accrues to the Highway Fund for the purpose of covering the costs associated with the administration and analysis of ~~blood-alcohol~~ alcohol level tests.

Sec. 43. 29-A MRSA §2421, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Seizure of vehicle of owner-operator. A motor vehicle operated by a sole owner is subject to seizure by a law enforcement officer when:

A. The owner-operator operates or attempts to operate that motor vehicle under the influence of intoxicating liquor or drugs or while having ~~0.08% of alcohol by weight in the blood~~ an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; and

B. The owner-operator is under suspension or revocation as a result of a previous conviction of operating under influence of alcohol or drugs or while having ~~0.08% of alcohol by weight in the blood~~ an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

Sec. 44. 29-A MRSA §2431, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Test results. Test results showing a drug ~~concentrations~~ concentration or ~~blood-alcohol~~ alcohol level at the time alleged are admissible in evidence. Failure to comply with the provisions of sections 2521 and 2523 may not, by itself, result in the exclusion of evidence of ~~blood-alcohol~~ alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Sec. 45. 29-A MRSA §2431, sub-§2, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A person certified in accordance with section 2524 conducting a chemical analysis of blood, breath or urine to determine ~~blood-alcohol~~ an alcohol level or drug concentration may issue a certificate stating the results of the analysis.

Sec. 46. 29-A MRSA §2431, sub-§2, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

C. A certificate issued in accordance with paragraph A or B, when duly signed and sworn, is prima facie evidence that:

(1) The person taking the specimen was authorized to do so;

(2) Equipment, chemicals and other materials used in the taking of the specimen were of a quality appropriate for the purpose of producing reliable test results;

(3) Equipment, chemicals or materials required to be approved by the Department of Health and Human Services were in fact approved;

(4) The sample tested was in fact the same sample taken from the defendant; and

(5) The ~~blood-alcohol~~ alcohol level or drug concentration in the blood of the defendant at the time the sample was taken was as stated in the certificate.

Sec. 47. 29-A MRSA §2431, sub-§2, ¶G, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

G. The results of a self-contained breath-alcohol apparatus test is prima facie evidence of ~~blood-alcohol~~ an alcohol level.

Sec. 48. 29-A MRSA §2432, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2432. Alcohol level; evidentiary weight

1. Level less than 0.05 grams. If a person has ~~a blood-alcohol~~ an alcohol level of ~~0.05% or less~~ 0.05 grams or less of alcohol per 100 milliliters of blood or 210 liters of breath, it is prima facie evidence that that person is not under the influence of alcohol.

2. Level greater than 0.05 grams and less than 0.08 grams. If a person has ~~a blood-alcohol~~ an alcohol level in excess of ~~0.05%, but less than 0.08%~~ 0.05 grams of alcohol but less than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is relevant evidence, but not prima facie, indicating whether or not that person is under the influence of intoxicants to be considered with other competent evidence.

3. Level of 0.08 grams or greater. In proceedings other than under section 2411, a person is pre-

sumed to be under the influence of intoxicants if that person has ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

Sec. 49. 29-A MRSA §2453, as amended by PL 2003, c. 434, §29 and affected by §37, is further amended to read:

§2453. Suspension on administrative determination; excessive alcohol level

1. Purpose. The purpose of this section is:

A. To provide maximum safety for all persons who travel on or otherwise use the public ways; and

B. To remove quickly from public ways those persons who have shown themselves to be a safety hazard by operating a motor vehicle with an excessive ~~blood-alcohol~~ alcohol level.

2. Definition. For the purposes of this section, "operating a motor vehicle with an excessive ~~blood-alcohol~~ alcohol level" means operating a motor vehicle with ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

3. Suspension. The Secretary of State shall immediately suspend a license of a person determined to have operated a motor vehicle with an excessive ~~blood-alcohol~~ alcohol level.

4. Drug and alcohol program. The Secretary of State may not suspend a license solely because a person has not satisfactorily completed an alcohol and drug program, as defined in subchapter ~~I~~ 1. This limitation does not affect statutory restoration authority.

5. Stay. If, within 10 days from the effective date of the suspension, the Secretary of State receives a request in writing for a hearing in accordance with section 2483, the suspension is stayed until a hearing is held and a decision is issued.

6. Period of suspension. The following periods of suspension apply.

A. The same suspension period applies as if the person were convicted of OUI.

C. If a person's license is also suspended for an OUI conviction arising out of the same occurrence, the period of time the license has been suspended under this section prior to the conviction must be deducted from the period of time of a court-imposed suspension.

D. The period of suspension is a minimum and the Secretary of State may suspend the license for an additional period under section 2451, subsection 3.

7. Restoration of license. The Secretary of State may issue a license or permit as follows.

A. Restoration of any license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license suspended under this section must be in accordance with sections 2502 to 2506.

8. Hearing. The scope of the hearing must include whether:

A. The person operated a motor vehicle with an excessive ~~blood-alcohol~~ alcohol level; and

B. There was probable cause to believe that the person was operating a motor vehicle with an excessive ~~blood-alcohol~~ alcohol level.

Sec. 50. 29-A MRSA §2455, sub-§1, as amended by PL 1995, c. 645, Pt. B, §20, is further amended to read:

1. Report by district attorney. The district attorney shall forward a report to the Secretary of State when any person is convicted of a criminal homicide or adjudicated to have committed a juvenile offense of criminal homicide as the result of that person's operation of a motor vehicle when:

A. The person was operating under the influence of intoxicating liquor or drugs, or with ~~a blood-alcohol~~ an alcohol level of ~~0.08% or greater~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

B. The person had not attained the legal drinking age and was operating a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath;

C. There was probable cause to believe that the person was operating under the influence of intoxicating liquor or drugs and failed to comply with that person's duty to submit to and complete required chemical testing; or

D. There was probable cause to believe that the person had not attained the legal drinking age and was operating a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath and failed to comply with the duty to submit to and complete a test to determine ~~blood-alcohol~~ alcohol level.

Sec. 51. 29-A MRSA §2456, sub-§1, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. While having ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ more than 0.08 grams per 100 milliliters of blood or 210 liters of breath; or

Sec. 52. 29-A MRSA §2456, sub-§3, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. The person, at that time, had an excessive ~~blood-alcohol~~ alcohol level, or was under the influence of intoxicants or may be penalized for failure to submit to required chemical testing; and

Sec. 53. 29-A MRSA §2457, sub-§1, ¶B, as amended by PL 1995, c. 368, Pt. AAA, §20, is further amended to read:

B. As the Secretary of State determines, has operated a motor vehicle while having ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

Sec. 54. 29-A MRSA §2457, sub-§2, as amended by PL 1995, c. 368, Pt. AAA, §21, is further amended to read:

2. Duty to submit to test. A person who operates a motor vehicle with a conditional license shall submit to a test if there is probable cause to believe that person holds a conditional license and operated a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath. The other provisions of subchapter ~~IV~~ 4 apply, except the suspension must be for a period of not less than 2 years.

Sec. 55. 29-A MRSA §2457, sub-§3, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. If a person is determined to have operated a motor vehicle with ~~a blood-alcohol~~ an alcohol level of ~~0.08% or more~~ 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath and both this section and section 2453 apply, the longer period of suspension applies.

Sec. 56. 29-A MRSA §2457, sub-§4, as amended by PL 1995, c. 368, Pt. AAA, §22, is further amended to read:

4. Hearing; stay; issues. If a hearing is requested in accordance with section 2483, the suspension under subsection 1, paragraph B is stayed pending the outcome of the hearing. The scope of the hearing must include whether:

A. The person operated a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath;

B. There was probable cause to believe that the person was operating with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath; and

C. The person held a conditional license.

Sec. 57. 29-A MRSA §2472, sub-§1, as amended by PL 2005, c. 433, §26 and affected by §28, is further amended to read:

1. Licensee not yet 21 years of age. A license issued to a person who has not yet attained the age of 21 years is a provisional license for a period of 2 years following the date of issue or until the holder attains 21 years of age, whichever occurs last. That license remains in force as a nonprovisional license to the next normal expiration date. A license issued by another jurisdiction to a person who has not yet attained the age of 21 years is a provisional license for the purpose of operating a motor vehicle within this State.

A license of a person who has not yet attained 21 years of age includes the condition that the person not operate a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath. When a person who has not yet attained 21 years of age operates a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath, the provisions of section 1251, subsection 1, paragraph B apply.

Sec. 58. 29-A MRSA §2472, sub-§3, as amended by PL 1997, c. 737, §17, is further amended to read:

3. Suspension for OUI conviction or certain alcohol level. The Secretary of State shall suspend, without preliminary hearing, a juvenile provisional license of a person who:

A. Receives an OUI conviction; or

B. Operates a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath.

Sec. 59. 29-A MRSA §2472, sub-§3-A, as enacted by PL 1997, c. 737, §18, is amended to read:

3-A. Juvenile provisional license; suspension for OUI conviction or certain alcohol level. Unless a longer period of suspension applies, the Secretary of State shall suspend, without a preliminary hearing, a juvenile provisional license pursuant to subsection 3 for the following periods:

A. One year for a first offense; and

B. Two years for a 2nd offense.

If the Secretary of State determines that the person operated the motor vehicle at the time of the offense with a passenger under 21 years of age, an additional suspension period of 180 days must be imposed.

Sec. 60. 29-A MRSA §2472, sub-§4, as amended by PL 1997, c. 737, §19, is further amended to read:

4. Duty to submit to test. A person under 21 years of age who operates a motor vehicle shall submit to a chemical test if there is probable cause to believe that person has operated a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath. The provisions of subchapter ~~IV~~ 4 apply, except the suspension is:

A. Eighteen months for the first refusal; and

B. Thirty months for a 2nd or subsequent refusal.

If the Secretary of State determines that the person operated the motor vehicle at the time of the offense with a passenger under 21 years of age, an additional suspension period of 180 days must be imposed.

Sec. 61. 29-A MRSA §2472, sub-§5, ¶A, as amended by PL 1995, c. 26, §2, is further amended to read:

A. There was probable cause to believe that the person was under 21 years of age and operated a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath;

Sec. 62. 29-A MRSA §2472, sub-§5, ¶B, as amended by PL 1995, c. 26, §2, is further amended to read:

B. The person operated a motor vehicle with ~~any amount of alcohol in the blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath; and

Sec. 63. 29-A MRSA §2481, sub-§1, as corrected by RR 1995, c. 2, §73, is amended to read:

1. Report of officer. A law enforcement officer who has probable cause to believe a person has violated the terms of a conditional driver's license, commercial driver's license or provisional license or committed an OUI offense shall send to the Secretary of State a report of all relevant information, including, but not limited to, the following:

A. Information adequately identifying the person charged;

B. The ground that the officer had for probable cause to believe that the person violated the terms of a conditional driver's license, commercial driver's license or provisional license or committed an OUI offense;

C. A certificate of the results of ~~blood-alcohol~~ alcohol level tests conducted on a self-contained breath-alcohol testing apparatus; and

D. If a person fails to submit to a test, the law enforcement officer's report may be limited to a written statement under oath stating that the officer had probable cause to believe that the person violated the terms of a conditional driver's license, commercial driver's license or provisional license, or committed an OUI offense and failed to submit to a test.

The report must be under oath and on a form approved by the Secretary of State.

If the ~~blood-alcohol~~ alcohol level test was not analyzed by a law enforcement officer, the person who analyzed the results shall send a copy of that certificate to the Secretary of State.

Sec. 64. 29-A MRSA §2482, sub-§2, ¶F, as amended by PL 1997, c. 776, §50, is further amended to read:

F. If the suspension or revocation is based on a report under section 2481, that a copy of the report of the law enforcement officer and any ~~blood-alcohol~~ alcohol test certificate will be provided to the person upon request to the Secretary of State.

Sec. 65. 29-A MRSA §2506, as amended by PL 2001, c. 671, §31, is further amended to read:

§2506. Conditional license

A license, including a nonresident's operating privilege, issued to a person with an OUI conviction must be issued on the condition that the person not operate a motor vehicle with ~~any amount of alcohol in the person's blood~~ an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath for the following periods from the license reinstatement date: on first conviction, one year; and on a 2nd or subsequent conviction, 10 years. The provisions of sections 1251, subsection 1 and 2457 apply.

Sec. 66. 29-A MRSA §2521, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Mandatory submission to test. If there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine ~~blood-alcohol~~ an alcohol level and drug concentration by analysis of blood, breath or urine.

Sec. 67. 29-A MRSA §2522, sub-§1, as amended by PL 2003, c. 565, §1, is further amended to read:

1. Mandatory submission to test. If there is probable cause to believe that death has occurred or will occur as a result of an accident, an operator of a motor vehicle involved in the motor vehicle accident shall submit to a chemical test, as defined in section 2401, subsection 3, to determine ~~blood-alcohol~~ an al-

cohol level or drug concentration in the same manner as for OUI.

Sec. 68. 29-A MRSA §2523, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Mandatory submission to test. A person who operates a commercial motor vehicle shall submit to a test to determine ~~the blood-alcohol~~ that person's alcohol level or drug concentration if there is probable cause to believe that the person has operated a commercial motor vehicle while having ~~a blood-alcohol~~ an alcohol level of ~~0.04% or more~~ 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath or while under the influence of drugs.

Sec. 69. 29-A MRSA §2523, sub-§3, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. There is probable cause to believe the person operated a commercial motor vehicle while under the influence of drugs or with ~~a blood-alcohol~~ an alcohol level of ~~.04% or more by weight of alcohol~~ 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

Sec. 70. 29-A MRSA §2524, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4. Chemical tests on breath and urine specimens. A sample specimen of breath or urine may be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests to determine ~~blood-alcohol~~ alcohol level or drug concentration.

Sec. 71. 29-A MRSA §2524, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

5. Equipment for taking specimens. Only equipment having a stamp of approval affixed by the Department of Health and Human Services may be used to take a sample specimen of breath or urine, except that a self-contained, breath-alcohol testing apparatus if reasonably available may be used to determine the ~~blood-alcohol~~ alcohol level.

Approved testing apparatus must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp is valid for no more than one year.

Sec. 72. Implementation. The Department of Public Safety and the Secretary of State shall implement the provisions of this Act within existing budgeted resources.

See title page for effective date.

CHAPTER 448

S.P. 491 - L.D. 1356

An Act To Improve the Ability of the Department of Education To Conduct Longitudinal Data Studies

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

Sec. 1. 20-A MRSA §6005 is enacted to read:

§6005. Maine Statewide Longitudinal Data System

The department shall develop and maintain the Maine Statewide Longitudinal Data System, a continuing program of information management, the purpose of which is to compile, maintain and disseminate information concerning the educational histories, placement, employment and other measures of success of participants in state educational programs. The commissioner may require a school administrative unit to collect and report individual student social security numbers to implement the Maine Statewide Longitudinal Data System only if additional federal funding is received to expand the department's kindergarten to grade 12 longitudinal data system existing as of the effective date of this section to a statewide system.

1. Placement information. A project conducted by the department that requires placement information must use information provided through the Maine Statewide Longitudinal Data System. The department shall implement an automated system that matches the social security numbers of former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment and United States armed services records and shall implement procedures to identify the occupations of those former participants whose social security numbers are found in employment records.

2. Dissemination of education records. The Maine Statewide Longitudinal Data System may not make public any information that could identify an individual or the individual's employer. The department must ensure that the purpose of obtaining placement information is to evaluate and improve education programs or to conduct research for the purpose of improving education services. Education records must be managed in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA." Personally identifiable informa-

tion in an education record that is not directory information may be released to other agencies within State Government, including postsecondary institutions, only under a signed memorandum of understanding requiring compliance with FERPA.

3. Notification and consent. If the commissioner requires a school administrative unit to collect and report individual social security numbers pursuant to section 15689-B, subsection 7, the school administrative unit must notify parents in the annual notice required under FERPA that the data is being collected and used for longitudinal data purposes and must request the parent to provide written consent to use the child's social security number for the collection of longitudinal data. The parental notification must include an explanation of the parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for longitudinal data purposes unless the parent provides prior written consent. When a student attains 18 years of age, the written consent must be obtained from the student, and the rights accorded to the parent before the student attained 18 years of age are then accorded to the student.

Sec. 2. 20-A MRSA §15689-B, sub-§7, as amended by PL 2007, c. 539, Pt. C, §13, is further amended to read:

7. Required data; subsidy payments withheld. A school administrative unit shall provide the commissioner with information that the commissioner requests to carry out the purposes of this chapter, according to time schedules that the commissioner establishes. For the purposes of the Maine Statewide Longitudinal Data System established pursuant to section 6005, the commissioner may require a school administrative unit to collect and report individual student social security numbers. The commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in the specified format and with specific content and within the specified time schedules. If the school administrative unit files the information in the specified format, the ~~Department of Education~~ department shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

Sec. 3. Administrative letter. The Commissioner of Education shall send an administrative letter to superintendents, principals and school counselors regarding the establishment of the Maine Statewide Longitudinal Data System pursuant to the Maine Revised Statutes, Title 20-A, section 6005. The letter must provide school officials with information regarding the requirements of this Act, including suggested language to be included in the annual notice to parents required under the Family Educational Rights and Privacy Act of 1974. The suggested language for parental notification must include an explanation of a parent's right that the child's social security number is not required as a condition of enrollment and that the child's social security number may not be used for the purposes of the Maine Statewide Longitudinal Data System unless the parent provides prior written consent.

See title page for effective date.

CHAPTER 449

H.P. 447 - L.D. 633

An Act To Amend the Laws Pertaining to Refusing To Submit to Arrest or Detention

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

Sec. 1. 17-A MRSA §751-A, as amended by PL 2001, c. 128, §1, is repealed.

Sec. 2. 17-A MRSA §751-B is enacted to read:

§751-B. Refusing to submit to arrest or detention

1. A person is guilty of refusing to submit to arrest or detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention of that person, the person:

A. Refuses to stop on request or signal of a law enforcement officer. Violation of this paragraph is a Class E crime;

B. Uses physical force against the law enforcement officer. Violation of this paragraph is a Class D crime; or

C. Creates a substantial risk of bodily injury to the law enforcement officer. Violation of this paragraph is a Class D crime.

2. It is a defense to prosecution under this section that the person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer. It is a defense to prosecution under subsection 1, paragraph A that the law enforcement officer acted unlawfully in attempting to effect the arrest or detention.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS - STATE BOARD OF

State Board of Corrections Investment Fund Z087

Initiative: Appropriates funds for the incremental costs associated with one projected incarceration in a county jail.

GENERAL FUND	2009-10	2010-11

All Other	$2,959	$2,959
GENERAL FUND TOTAL	$2,959	$2,959

CORRECTIONS - STATE BOARD OF

DEPARTMENT TOTALS	**2009-10**	**2010-11**
GENERAL FUND	**$2,959**	**$2,959**
DEPARTMENT TOTAL - ALL FUNDS	**$2,959**	**$2,959**

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for court-appointed counsel.

GENERAL FUND	**2009-10**	**2010-11**
All Other	$350	$350
GENERAL FUND TOTAL	$350	$350

JUDICIAL DEPARTMENT

DEPARTMENT TOTALS	**2009-10**	**2010-11**
GENERAL FUND	**$350**	**$350**
DEPARTMENT TOTAL - ALL FUNDS	**$350**	**$350**

SECTION TOTALS	**2009-10**	**2010-11**
GENERAL FUND	**$3,309**	**$3,309**
SECTION TOTAL - ALL FUNDS	**$3,309**	**$3,309**

See title page for effective date.

CHAPTER 450

H.P. 981 - L.D. 1402

An Act To Enact the Uniform Prudent Management of Institutional Funds Act

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

Sec. 1. 13 MRSA c. 97, as amended, is repealed.

Sec. 2. 13 MRSA c. 99 is enacted to read:

CHAPTER 99

UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

§5101. Short title

This chapter may be known and cited as "the Uniform Prudent Management of Institutional Funds Act."

§5102. Definitions

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

1. Charitable purpose. "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose or any other purpose the achievement of which is beneficial to the community.

2. Endowment fund. "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.

3. Gift instrument. "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to or held by an institution as an institutional fund.

4. Historic dollar value. "Historic dollar value" means the aggregate value in dollars of:

A. Each endowment fund at the time it became an endowment fund;

B. Each subsequent donation to the fund at the time the donation is made; and

C. Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

An institution's determination of historic dollar value made in good faith is conclusive.

5. Institution. "Institution" means:

A. A person, other than an individual, organized and operated exclusively for charitable purposes;

B. A government or governmental subdivision, agency or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

C. A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

6. Institutional fund. "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include:

A. Program-related assets;

B. A fund held for an institution by a trustee that is not an institution; or

C. A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

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

8. Program-related asset. "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

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

§5103. Standard of conduct in managing and investing institutional fund

1. Consideration of purposes. Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

2. Loyalty; good faith; care. In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

3. Costs; facts. In managing and investing an institutional fund, an institution:

A. May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution and the skills available to the institution; and

B. Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

4. Pooling funds. An institution may pool 2 or more institutional funds for purposes of management and investment.

5. Rules. Except as otherwise provided by a gift instrument, the following rules apply.

A. In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences, if any, of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(5) The expected total return from income and the appreciation of investments;

(6) Other resources of the institution;

(7) The needs of the institution and the fund to make distributions and to preserve capital; and

(8) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

B. Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

C. Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with this section.

D. An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

E. Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

F. A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

G. An institution shall track the historic dollar value of its institutional funds. For purposes of

this paragraph, "historic dollar value" means the aggregate value in dollars of:

(1) Each endowment fund at the time it became an endowment fund;

(2) Each subsequent donation to the fund at the time the donation is made; and

(3) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

§5104. Appropriation for expenditure or accumulation of endowment fund; rules of construction

1. Appropriate; accumulate; donor-restricted; good faith; care. Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

A. The duration and preservation of the endowment fund;

B. The purposes of the institution and the endowment fund;

C. General economic conditions;

D. The possible effect of inflation or deflation;

E. The expected total return from income and the appreciation of investments;

F. Other resources of the institution; and

G. The investment policy of the institution.

2. Limitation. To limit the authority to appropriate for expenditure or accumulate under subsection 1, a gift instrument must specifically state the limitation.

3. Terms. Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits," or "to preserve the principal intact" or words of similar import:

A. Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

B. Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1.

4. Track historic dollar value. An institution shall track the historic dollar value of its institutional funds.

5. Aggregate value of $2,000,000 or more. An institution administering endowment funds with an aggregate value of $2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of this Act.

6. Aggregate value of less than $2,000,000. An institution administering endowment funds with an aggregate value of less than $2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds. During the 60-day period, the Attorney General may require the institution to obtain court approval for the proposed expenditure.

7. Rebuttable presumption. The appropriation for expenditure in any year of an amount greater than 7% of the fair market value of an endowment fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than 3 years immediately preceding the year in which the appropriation for expenditure is made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for less than 3 years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument.

§5105. Delegation of management and investment functions

1. Delegation. Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

A. Selecting an agent;

B. Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

C. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

2. Agent's duty. In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

3. Liability of institution. An institution that complies with subsection 1 is not liable for the decisions or actions of an agent to which the function was delegated.

4. Submits to jurisdiction. By accepting delegation of a management or investment function from an institution that is subject to the laws of this State, an agent submits to the jurisdiction of the courts of this State in all proceedings arising from or related to the delegation or the performance of the delegated function.

5. Committees; officers; employees. An institution may delegate management and investment functions to its committees, officers or employees as authorized by the laws of this State other than provisions of this chapter.

§5106. Release or modification of restrictions on management, investment or purpose

1. Release or modification of restriction with consent. If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

2. Modification of restriction by court. The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the Attorney General of the application and the Attorney General must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

3. Modification by court when unlawful, impracticable, impossible or wasteful restriction. If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the Attorney General of the application and the Attorney General must be given an opportunity to be heard.

4. Release or modification by institution. This subsection governs the release or modification of a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund that the institution determines is unlawful, impracticable, impossible to achieve or wasteful.

A. If an institution determines that a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund is unlawful, impracticable, impossible to achieve or wasteful, the institution, 60 days after notification to the Attorney General and if the Attorney General does not object, may release or modify the restriction, in whole or part, if:

(1) The institutional fund subject to the restriction has a total value of less than $25,000, except that the dollar limit established in this paragraph must be adjusted to reflect changes in the Consumer Price Index for all Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics, or its successor index, using 2009 as the base year. On or before January 1, 2011, and each odd-numbered year thereafter, the dollar value must be adjusted for the next 2-year cycle if the cumulative percentage of change in the index, from the base year or from a later year that was the basis of an adjustment of this amount pursuant to this subparagraph, rounded to the nearest whole percentage point, is in excess of 10%. The adjusted exemption must be rounded upward to the nearest $5,000 increment. The dollar value must not be reduced below $25,000;

(2) More than 20 years have elapsed since the fund was established; and

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

B. If the Attorney General objects under paragraph A, the institution may seek to release or modify the restriction in court pursuant to subsection 3.

§5107. Reviewing compliance

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken and not by hindsight.

§5108. Application to existing institutional funds

This chapter applies to institutional funds existing on or established after July 1, 2009. As applied to institutional funds existing on July 1, 2009, this chapter governs only decisions made or actions taken on or after that date.

§5109. Relation to federal Electronic Signatures in Global and National Commerce Act

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede 15 United States Code, Section 7001(a), or authorize electronic delivery of any of the notices described in 15 United States Code, Section 7003(b).

§5110. Uniformity of application and construction

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§5111. Effective date

This chapter takes effect July 1, 2009.

Sec. 3. Retroactivity. This Act applies retroactively to July 1, 2009.

See title page for effective date.

CHAPTER 451

H.P. 805 - L.D. 1166

An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness

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

Sec. 1. 25 MRSA §2803-B, sub-§1, ¶J, as corrected by RR 2003, c. 2, §90, is amended to read:

J. Public notification regarding persons in the community required to register under Title 34-A, chapter 15; ~~and~~

Sec. 2. 25 MRSA §2803-B, sub-§1, ¶K, as reallocated by RR 2003, c. 2, §91, is amended to read:

K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases~~.~~; and

Sec. 3. 25 MRSA §2803-B, sub-§1, ¶L is enacted to read:

L. Mental illness and the process for involuntary commitment.

Sec. 4. 25 MRSA §2803-B, sub-§2, as repealed and replaced by PL 2005, c. 397, Pt. C, §17, is amended to read:

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; ~~and~~ policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

Sec. 5. 25 MRSA §2803-B, sub-§3, as repealed and replaced by PL 2005, c. 331, §16 and affected by §33, is amended to read:

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; ~~and~~ certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and

training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; ~~and~~ certification for orientation and training with respect to policies regarding the recording and preservation of ~~interview~~ interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

Sec. 6. 25 MRSA §2804-C, sub-§2-D is enacted to read:

2-D. Training regarding people who have mental illness and the involuntary commitment process. The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the clinical, safety and procedural components of the involuntary commitment process, including the provision of a uniform checklist that includes reference to Title 34-B, section 1207, subsection 7 for law enforcement officers to use in order to effectively describe the seriousness of a case to a mental health professional.

Sec. 7. 34-B MRSA §1207, sub-§6-A, as enacted by PL 2007, c. 310, §6, is amended to read:

6-A. Disclosure of danger. A licensed mental health professional ~~may~~ shall disclose protected health information that the professional believes is necessary to avert a serious and imminent threat to health or safety when the disclosure is made in good faith to any person, including a target of the threat, who is reasonably able to prevent or minimize the threat.

Sec. 8. 34-B MRSA §1207, sub-§7 is enacted to read:

7. Disclosure to law enforcement. A licensed mental health professional shall disclose protected health information when the disclosure is made in good faith for a law enforcement purpose to a law enforcement officer if the conditions, as applicable, are met as described in 45 Code of Federal Regulations, Section 164.512(f) (2008).

Sec. 9. 34-B MRSA §1207, sub-§8 is enacted to read:

8. Disclosure of knowledge of firearms. A licensed mental health professional shall notify law enforcement when the notification is made in good faith that the licensed mental health professional has reason to believe that a person committed to a state mental health institute has access to firearms.

Sec. 10. 34-B MRSA §3863, sub-§6-A is enacted to read:

6-A. Notification to law enforcement of release after examination. When a person is taken by a law enforcement officer to a hospital for examination under this section and not admitted but released, the chief administrative officer of the hospital shall notify the law enforcement officer or the law enforcement officer's agency of that release.

Sec. 11. 34-B MRSA §3871, sub-§7 is enacted to read:

7. Firearms and discharge planning. Discharge planning must include inquiries and documentation of those inquiries into access by the patient to firearms and notification to the patient, the patient's family and any other caregivers that possession, ownership or control of a firearm by the person to be discharged is prohibited pursuant to Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

Sec. 12. Mental illness training in the tactical team certification. The Board of Trustees of the Maine Criminal Justice Academy shall incorporate specific training on mental illness as a component of the police tactical team certification process. The board is not required to provide an electronic version of the training.

Sec. 13. Development of uniform checklist for law enforcement. The Commissioner of Health and Human Services shall develop, in cooperation with representatives of state, local and county law enforcement, a uniform checklist to be used by all law enforcement officers in order to effectively describe the seriousness of a case to a mental health professional.

Sec. 14. Education regarding prohibition of firearms. The Commissioner of Health and Human Services shall develop a method to provide education to all mental health professionals regarding the prohibition of possessing firearms by certain persons as described in the Maine Revised Statutes, Title 15, section 393.

See title page for effective date.

CHAPTER 452

H.P. 1008 - L.D. 1456

An Act To Ensure That Construction Workers Are Protected by Workers' Compensation Insurance

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

Sec. 1. 26 MRSA §1302-A is enacted to read:

§1302-A. Insurance coverage posted on public construction projects

1. List of contractors. At the onset of work on any construction project undertaken by the State, the University of Maine System or the Maine Community College System, the general contractor or designated project construction manager, if any, shall provide to the contracting agency a list of all subcontractors and independent contractors on the job site and a record of the entity to whom that subcontractor or independent contractor is directly contracted and by whom that subcontractor or independent contractor is insured for workers' compensation purposes. The list must be posted on the contracting agency's publicly accessible website and updated as needed.

2. Minimum standards. This section provides minimum disclosure standards regarding subcontractors and does not preclude the contracting agency from setting more rigorous standards for construction work under its jurisdiction.

3. Noncompliance. If the general contractor or designated project construction manager has failed to provide the contracting agency with the information required by subsection 1, that person is subject to forfeiture in accordance with section 1312.

Sec. 2. 26 MRSA §1312, sub-§1, as amended by PL 1999, c. 181, §3, is further amended to read:

1. Violation by contractor or subcontractor. Except as provided in section 1308, subsection 1-A, any contractor or subcontractor who willfully and knowingly violates section 1302-A or sections 1304 to 1313 is subject to a forfeiture of not less than $250.

Sec. 3. 39-A MRSA §102, sub-§11, ¶A, as amended by PL 2007, c. 350, §1, is further amended to read:

A. "Employee" includes officials of the State and officials of counties, cities, towns, water districts and all other quasi-public corporations of a similar character, every duly elected or appointed executive officer of a private corporation other than a charitable, religious, educational or other nonprofit corporation, and every person in the service of another under any contract of hire, express or implied, oral or written, except:

(1) Persons engaged in maritime employment or in interstate or foreign commerce who are within the exclusive jurisdiction of admiralty law or the laws of the United States, except that this section may not be construed to exempt from the definition of "employee" a person who is employed by the State and is thereby barred by the State's sovereign immunity from bringing a claim against that person's employer under admiralty law or other laws of the United States for claims that are otherwise cognizable under this Act;

(2) Firefighters, including volunteer firefighters who are active members of a volunteer fire association as defined in Title 30-A, section 3151; volunteer emergency medical services persons as defined in Title 32, section 83, subsection 12; and police officers are employees within the meaning of this Act. In computing the average weekly wage of an injured volunteer firefighter or volunteer emergency services person, the average weekly wage must be taken to be the earning capacity of the injured employee in the occupation in which the employee is regularly engaged. Employers who hire workers within this State to work outside the State may agree with these workers that the remedies under this Act are exclusive as regards injuries received outside this State arising out of and in the course of that employment; and all contracts of hiring in this State, unless otherwise specified, are presumed to include such an agreement. Any reference to an employee who has been injured must, when the employee is dead, include the employee's legal representatives, dependents and other persons to whom compensation may be payable;

(3) Notwithstanding any other provisions of this Act, any charitable, religious, educational or other nonprofit corporation that may be or may become an assenting employer under this Act may cause any duly elected or appointed executive officer to be an employee of the corporation by specifically including the executive officer among those to whom the corporation secures payment of compensation in conformity with chapter 5; and the executive officer must remain an employee of the corporation under this Act while such payment is so secured. With respect to any corporation that secures compensation by making a contract of workers' compensation insurance, specific inclusion of the executive officer in the contract causes the officer to be an employee of the corporation under this Act;

(4) Except for persons engaged in harvesting of forest products, any person who, in a written statement to the board, waives all the benefits and privileges provided by the workers' compensation laws, provided that the board has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person

is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" means a domestic or foreign professional corporation as defined in Title 13, section 723.

Any person may revoke or rescind that person's waiver upon 30 days' written notice to the board and that person's employer. The parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child of a person who has made a waiver under the previous sentence may state, in writing, that the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment and if the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child is employed by the same corporation that employs the person who has made the first waiver;

(5) Except for persons engaged in harvesting of forest products, the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child of a partner who is employed by the partnership of that partner or the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child of a member of a limited liability company who is employed by that limited liability company may state, in writing, that the parent, spouse, domestic partner as defined in Title 24, section 2319-A, subsection 1 or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment;

(6) Employees of an agricultural employer when harvesting 150 cords of wood or less each year from farm wood lots, provided that the employer is covered under an employer's liability insurance policy as required in subsection 17;

(7) An independent contractor;

(8) Except as otherwise provided in ~~section~~ sections 105-A and 401, if a person employs an independent contractor, any employee of the independent contractor is not considered an employee of that person for the purposes of this Act. The person who employs an independent contractor is not responsible for providing workers' compensation insurance covering the payment of compensation and benefits to the employees of the independent contractor. An insurance company may not charge a premium to any person for any employee excluded by this subparagraph; or

(9) A state or municipal employee while the employee is on assignment as a certified disaster service volunteer for the American Red Cross pursuant to Title 5, section 19-B or Title 30-A, section 2705. Duties performed while on a volunteer disaster relief assignment for the American Red Cross may not be considered a work assignment by a state agency or municipality.

Sec. 4. 39-A MRSA §102, sub-§13, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

13. Independent contractor. ~~"Independent~~ Except as otherwise provided by section 105-A, "independent contractor" means a person who performs services for another under contract, but who is not under the essential control or superintendence of the other person while performing those services. In determining whether such a relationship exists, the board shall consider the following factors:

A. Whether or not a contract exists for the person to perform a certain piece or kind of work at a fixed price;

B. Whether or not the person employs assistants with the right to supervise their activities;

C. Whether or not the person has an obligation to furnish any necessary tools, supplies and materials;

D. Whether or not the person has the right to control the progress of the work, except as to final results;

E. Whether or not the work is part of the regular business of the employer;

F. Whether or not the person's business or occupation is typically of an independent nature;

G. The amount of time for which the person is employed; and

H. The method of payment, whether by time or by job.

In applying these factors, the board may not give any particular factor a greater weight than any other factor, nor may the existence or absence of any one factor be decisive. The board shall consider the totality of the relationship in determining whether an employer exercises essential control or superintendence of the person.

Sec. 5. 39-A MRSA §105-A is enacted to read:

§105-A. Construction contractors

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

A. "Construction site" means a location where a structure that is attached or will be attached to real property is constructed, altered or remodeled.

B. "Construction subcontractor" means a person who performs construction work on a construction site for a hiring agent if the person satisfies all of the following criteria:

(1) The person possesses or has applied for a federal employer identification number or social security number or has agreed in writing to carry out the responsibilities imposed on employers under this chapter;

(2) The person has control and discretion over the means and manner of performance of the construction work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the hiring agent;

(3) The person has control over the time when the work is performed and the time of performance is not dictated by the hiring agent. Nothing in this paragraph prohibits the hiring agent from reaching an agreement with the person as to a completion schedule, range of work hours and maximum number of work hours to be provided by the person;

(4) The person hires and pays the person's assistants, if any, and, to the extent such assistants are employees, supervises the details of the assistants' work;

(5) The person purports to be in business for that person's self;

(6) The person has continuing or recurring construction business liabilities or obligations;

(7) The success or failure of the person's construction business depends on the relationship of business receipts to expenditures;

(8) The person receives compensation for construction work or services performed and remuneration is not determined unilaterally by the hiring agent;

(9) The person is responsible in the first instance for the main expenses related to the service or construction work performed; however, nothing in this paragraph prohibits the hiring agent from providing the supplies or materials necessary to perform the work;

(10) The person is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work;

(11) The person supplies the principal tools and instruments used in the work, except that the hiring agent may furnish tools or instruments that are unique to the hiring agent's special requirements or are located on the hiring agent's premises; and

(12) The person is not required to work exclusively for the hiring agent.

C. "Construction work" means any part of the construction, alteration or remodeling of a structure, including related landscaping and other site work performed in connection with the performance of such work, but not including surveying, engineering, examination or inspection of a construction site or the delivery of materials to a construction site.

D. "Hiring agent" means a person that hires or contracts with a person to perform construction work, but excludes an owner or occupant of real property who hires a person or persons to perform construction work on that real property.

E. "Person" means:

(1) An individual;

(2) A sole proprietor;

(3) A working member of a partnership;

(4) A working member of a limited liability company;

(5) A parent, spouse or child of a sole proprietor, partner or working member of a limited liability company under section 102, subsection 11, paragraph A;

(6) A working owner or part owner of a corporation; and

(7) A working shareholder of a professional corporation.

2. Status of persons performing construction work. Beginning January 1, 2010, a person performing construction work on a construction site for a hiring agent is presumed to be the employee of the hiring agent for purposes of this Act, unless:

A. The person is a construction subcontractor; or

B. The person owns and operates an item of equipment weighing more than 7,000 pounds and is hired by the hiring agent to operate the equipment on the construction site or to use the equip-

ment to transport materials to or from the site. A person who leases such an item of equipment from a person in the leasing business, other than the hiring agent or an affiliate of the hiring agent, is regarded as the owner for the purposes of this paragraph. A truck with a gross vehicle weight rating greater than 7,000 pounds qualifies as an item of equipment under this paragraph.

3. Penalties. A person who is required to but fails to secure the payment of compensation with respect to persons deemed to be that person's employees under this section is subject to the penalties under section 324, subsection 3.

4. Insurer referral obligation. An insurer that believes in good faith that an insured employer withheld from it or from the State Tax Assessor records of payments to a person deemed to be the person's employee under this section may, but is not required to, refer the insured employer and person to the State Tax Assessor in order that the assessor may take appropriate action, and the insurer enjoys immunity for such actions.

Sec. 6. Report. By December 15, 2009, the Workers' Compensation Board and the Department of Labor shall report to the Joint Standing Committee on Labor any recommended changes to the provisions established by this Act and the resources required by the board and the department, if any, for implementation of this Act. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 453

H.P. 584 - L.D. 849

An Act To Clarify the Application of the Public Works Minimum Wage Laws

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

Sec. 1. 26 MRSA §1304, sub-§8, as amended by PL 2003, c. 197, §1, is further amended to read:

8. Public works. "Public works" includes public schools and all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, demolition, waterworks, airports and all other structures upon which construction may be let to contract by the State and which contract amounts to $50,000 or more.

See title page for effective date.

CHAPTER 454

S.P. 294 - L.D. 767

An Act To Promote Fairness and Protect Economic Development in Transportation Projects Undertaken by the State

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

Sec. 1. 23 MRSA §153-C is enacted to read:

§153-C. Acquisition of property identified in transportation planning; new bypass highway project

1. Acquisition of property. If the Department of Transportation prepares an environmental impact statement as required by the federal National Environmental Protection Act of 1969 for permitting for the location of a new bypass highway project and property will be affected by the limits of the final bypass right-of-way and the property owner submits a request in writing to the department that the department acquire that portion of the owner's property determined necessary for the new bypass highway project, the department shall acquire the property determined necessary if:

A. The department has received a least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers that will be incorporated into the environmental impact statement for corridor alignment indicating that certain property will be necessary for the purposes set forth in section 153-B, subsection 1; and

B. The fair market value is determined in accordance with this subchapter.

The request submitted by the property owner under this subsection must be submitted to the department within 9 months of the date that the department receives the least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers under paragraph A.

2. Deadline for acquisition; extension. The following provisions govern the deadline for acquisition of property by the Department of Transportation pursuant to subsection 1.

A. The department shall acquire affected properties pursuant to this subchapter within 2 years from the date of issuance of the least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers under subsection 1, paragraph A.

B. Notwithstanding paragraph A, if funding for the new bypass highway project is not available or if state or federal regulations preclude the department from acquiring real property, the department may extend the time period for acquisition of affected properties up to 2 years. Any extension under this paragraph must be submitted no later than 90 days before the expiration of the 2 years under paragraph A to the joint standing committee of the Legislature having jurisdiction over transportation matters for its review and comment.

3. Reservation of eminent domain powers. Nothing in this section affects or alters the rights of the Department of Transportation to exercise its rights of eminent domain under this Title.

See title page for effective date.

CHAPTER 455

H.P. 225 - L.D. 285

An Act To Amend the Laws Governing the Consolidation of School Administrative Units To Delay All Penalties for One Year

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 deadline for reorganization of school administrative units is approaching; and

Whereas, if a school administrative unit does not reorganize, penalties will be imposed against the school administrative unit; and

Whereas, this legislation will give school administrative units additional time to reorganize; and

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

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

Sec. 1. 20-A MRSA §15696, sub-§1, as amended by PL 2007, c. 668, §§39 to 41 and c. 695, Pt. A, §23, is further amended to read:

1. Authorized adjustments. Notwithstanding any other provision of this Title, the following adjustments to the calculation of subsidy under chapter 606-B are required beginning July 1, ~~2009~~ 2010 for a school administrative unit that is not a conforming school administrative unit:

A. The school administrative unit is eligible for only 50% of the minimum state allocation under section 15689, subsection 1;

B. The school administrative unit's total cost of education is reduced by adjusting the cost component for system administration under section 15680, subsection 1, paragraph A by half;

C. The school administrative unit is not eligible for a transition adjustment under section 15686 or any comparable year-over-year transition amount;

D. The school administrative unit receives less favorable consideration for approval and funding for school construction pursuant to rules of the state board; and

E. The school administrative unit's full-value education mill rate pursuant to section 15671-A is increased by 2% for the purpose of calculating the school administrative unit's required contribution to meet the local share of education costs established pursuant to section 15688, subsection 3-A.

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

Effective June 19, 2009.

CHAPTER 456

S.P. 401 - L.D. 1083

An Act Regarding the Payment of Medicare Part B Premiums for Employees Eligible for Medicare

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

Sec. 1. 5 MRSA §285, sub-§14 is enacted to read:

14. Employees eligible for Medicare. Notwithstanding subsection 7, if an active employee eligible for Medicare elects to enroll in Medicare, the State shall pay 100% of the employee's share of the premiums for Medicare Part B until such time as the employee enrolls as an eligible retiree pursuant to this section.

See title page for effective date.

CHAPTER 457
H.P. 158 - L.D. 193

An Act To Amend the Laws Governing Tournament Games

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

Sec. 1. 17 MRSA §333-A, sub-§3, as amended by PL 2007, c. 610, §1, is further amended to read:

3. License. The license fee for a tournament game license is ~~$200 per tournament.~~ as follows:

A. Two hundred dollars for tournaments with up to 100 players;

B. Three hundred dollars for tournaments with 101 to 150 players;

C. Four hundred dollars for tournaments with 151 to 200 players;

D. Five hundred dollars for tournaments with 201 to 250 players; and

E. Six hundred dollars for tournaments with 251 to 300 players.

Sec. 2. 17 MRSA §333-A, sub-§4, as amended by PL 2007, c. 610, §2, is further amended to read:

4. Tournament. The organization licensed to conduct a tournament game under this section shall display the rules of the game and the license issued to conduct the tournament. The maximum number of players allowed is 100 unless the tournament is held on premises owned by the licensee, in which case the maximum number of players allowed is 300. Winners are determined by a process of elimination. The use of currency is prohibited as part of tournament play. The maximum entry fee to play in the tournament is $100, except the organization may add to the player entry fee to defray the cost of the license fee, as long as the total additional amount collected from all players does not exceed $200. Only one entry fee is permitted per person. A tournament must be completed within 48 hours. Other games of chance are prohibited, except for lucky seven or similar sealed tickets.

Sec. 3. 17 MRSA §333-A, sub-§5, as amended by PL 2007, c. 610, §3, is further amended to read:

5. Proceeds. ~~Seventy-five percent~~ No less than 75% of the entry fees under subsection 4 must be paid as prizes to the winners of the tournament.

See title page for effective date.

CHAPTER 458
H.P. 318 - L.D. 430

An Act To Allow the Licensing of Minibars in Hotel Rooms

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

Sec. 1. 28-A MRSA §2, sub-§19-A is enacted to read:

19-A. Minibar. "Minibar" means a self-contained, locking cabinet, refrigerated or unrefrigerated, designed for the storage, dispensation and sale of alcoholic beverages and related merchandise.

Sec. 2. 28-A MRSA §1012, sub-§6 is enacted to read:

6. Minibar license. The bureau may issue a license for the placement of a minibar to an operator of a hotel licensed under section 1061 or in accordance with the license required by Title 30-A, section 3811 subject to the following conditions and applicable rules established by the bureau:

A. The fee for a minibar license for a hotel holding an existing license under section 1061 is $100 annually plus $5 for each room in which a minibar is placed, not to exceed a maximum of $900 per hotel;

B. The fee for a minibar license for a hotel holding an existing license under Title 30-A, section 3811 is $200 annually plus $10 for each room in which a minibar is placed;

C. A minibar may be stocked with beer, wine and distilled spirits as well as other complementary merchandise;

D. Supplies of beer and wine for a hotel minibar must be purchased from a wholesale licensee;

E. Supplies of distilled spirits for a hotel minibar must be purchased from an agency liquor store;

F. A hotel must maintain invoices for all alcoholic beverages stocked in a minibar and must maintain records of all sales of alcoholic beverages sold or dispensed from a minibar;

G. A minibar must be equipped with a secure locking device that may be unlocked only by persons 21 years of age or older;

H. A hotel room equipped with a minibar may be rented only to a person who is 21 years of age or older and who has demonstrated proof of age by presenting proper identification as described in section 2087 unless the minibar is secured in a manner that prevents access by a person under 21 years of age;

I. The registered occupant of a hotel room equipped with a minibar is liable for any violation of liquor laws by anyone under 21 years of age who also occupies or enters the room; and

J. A minibar may be stocked and serviced only by an employee who is 21 years of age or older.

The Department of Public Safety may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Implementation. The Department of Public Safety shall implement the provisions of this Act using existing departmental personnel and resources.

See title page for effective date.

CHAPTER 459

H.P. 353 - L.D. 498

An Act Regarding Alcoholic Beverage Tastings

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

Sec. 1. 28-A MRSA §460 is enacted to read:

§460. Agency liquor store taste testing of distilled spirits

1. Taste testing on agency liquor store premises. Subject to the conditions in subsection 2, the bureau may authorize an agency liquor store stocking at least 200 different codes of distilled spirits products to conduct taste testing of distilled spirits on that licensee's premises. Any other consumption of alcoholic beverages on an agency liquor store's premises is prohibited, except as permitted under section 1205 or 1207.

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

A. Distilled spirits may not be served to persons who have not yet attained 21 years of age.

B. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce servings, of distilled spirits having an alcohol content of 80 proof or less; or, for distilled spirits containing an alcohol content of greater than 80 proof, a person may not be served more than a total of 3/4 of an ounce in 1/4 ounce servings.

C. Distilled spirits must be dispensed using a standard measuring device.

D. Distilled spirits having an alcohol content of greater than 80 proof may not be offered for tasting at the same time as distilled spirits having an alcohol content of 80 proof or less.

E. A person may not be charged a fee for any distilled spirits served as part of a taste-testing activity.

F. A person may not be served who is visibly intoxicated.

G. Taste testing must be limited to a designated area.

H. Taste testing must be conducted within the hours of retail sale established in this Title.

I. The agency liquor store must obtain the written permission of the bureau before conducting any taste-testing activity.

J. The agency liquor store may conduct up to 3 tastings per month but no more than 12 taste-testing events per year, including tastings conducted under sections 1205 and 1207.

K. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

L. The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events.

M. The agency liquor store must purchase all distilled spirits served at a taste testing from the wholesale liquor provider as defined in section 501.

N. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 28-A MRSA §1205, as amended by PL 2005, c. 32, §1, is further amended to read:

§1205. Taste testing of wine

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee~~, 50% or more of whose gross income is derived from the sale of wine, malt liquor or spirits,~~ stocking at least 125 different wine labels or a fine wine store to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages

on an off-premise retail licensee's premises is prohibited.

2. Conditions on taste-testing activities. The following conditions apply to taste-testing activities under this section:

A. ~~No wine~~ Wine may not be served to persons who have not yet attained the age of 21 years;

B. ~~No~~ A person may not be served more than a total of 5 ounces of wine having an alcohol content of 14% or less; or, for wine having an alcohol content greater than 14%, a person may not be served more than a total of 3 ounces of wine;

C. ~~No~~ A person may not be charged a fee for any wine served as part of a taste-testing activity;

D. ~~No~~ A person may not be served who is visibly intoxicated;

E. Taste testing ~~is~~ must be limited to a designated area;

F. Taste testing ~~shall~~ must be conducted within the hours of retail sale established in this Title;

G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity;

H. ~~A~~ The retail licensee may conduct up to 3 tastings per month but no more than ~~one taste testing~~ 12 taste-testing events per ~~month~~ year, including tastings conducted under sections 460 and 1207;

I. Taste testing is not allowed in any municipality where ~~on-premise~~ on-premises and ~~off-premise~~ off-premises sales are not allowed pursuant to chapter 5;

J. The retail licensee must notify the ~~Bureau of Liquor Enforcement~~ bureau of the date and time scheduled for ~~an on-premise taste testing~~ all taste-testing events; ~~and~~

K. The retail licensee must purchase all wine served at a taste testing from a wholesale licensee.; and

L. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

For the purposes of this section, "fine wine store" means a store that carries at least 250 different wine labels or carries at least 125 different wine labels, holds a wine license only and meets the compatible merchandise requirement of section 1201, subsections 6 and 7.

Sec. 3. 28-A MRSA §1206, as enacted by PL 1993, c. 266, §23, is amended to read:

§1206. Consumption prohibited on off-premises retail premises

A person may not consume liquor on the premises of an off-premise retail licensee licensed under this chapter except as provided in ~~section~~ sections 460, 1205 and 1207.

Sec. 4. 28-A MRSA §1207 is enacted to read:

§1207. Taste testing of malt liquor

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee stocking at least 100 different brands of malt liquor to conduct taste testing of malt liquor on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as permitted under section 460 or 1205.

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

A. Malt liquor may not be served to persons who have not yet attained 21 years of age.

B. A person may not be served more than a total of 12 ounces of malt liquor having an alcohol content of 6% or less; for malt liquor having an alcohol content greater than 6% but less than 12%, a person may not be served more than a total of 6 ounces; or, for malt liquor having an alcohol content of 12% or greater, a person may not be served more than a total of 3 ounces.

C. A person may not be charged a fee for any malt liquor served as part of a taste-testing activity.

D. A person may not be served who is visibly intoxicated.

E. Taste testing must be limited to a designated area.

F. Taste testing must be conducted within the hours of retail sale established in this Title.

G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity.

H. The retail licensee may conduct up to 3 tastings per month but no more than 12 taste-testing events per year, including tastings under section 460 or 1205.

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events.

K. The retail licensee must purchase all malt liquor served at a taste testing from a wholesale licensee.

L. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 28-A MRSA §1505 is enacted to read:

§1505. Participation in tasting events

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460 or 1205 subject to the provisions of this section.

1. Educational presentations. A sales representative participating in a tasting event pursuant to this section may provide written or oral educational presentations and materials relating to the brands and products being offered for tasting at the event, as long as no cost is imposed for the presentations or materials on the licensee or the consumer.

2. Complimentary food or snacks. A sales representative participating in a tasting event pursuant to this section may provide and distribute, at no cost to the consumer or the licensee, complimentary food or snacks to be offered and consumed in conjunction with the products to be tasted, as long as the total cost for the food or snacks does not exceed $200 per event. Any remaining food or snacks provided in conjunction with a tasting event must be removed from the licensee's premises by the sales representative at the conclusion of the tasting event.

3. Records and invoices. A sales representative participating in a tasting event pursuant to this section shall keep and maintain records and invoices showing the costs for any food, snacks or educational or informational materials provided at any approved tasting event.

4. Pour or distribute. A sales representative participating in a tasting event pursuant to this section may not pour or distribute to consumers the products being offered for tasting during the event.

The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Implementation. The Department of Public Safety shall implement the provisions of this Act using existing departmental personnel and resources.

See title page for effective date.

CHAPTER 460

H.P. 937 - L.D. 1333

An Act To Ensure that Replacement Culverts Permit Fish Passage

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

Sec. 1. 38 MRSA §480-Q, sub-§2, ¶B, as repealed and replaced by PL 1995, c. 27, §1, is amended to read:

B. Crossings do not block passage for fish ~~passages~~ or other aquatic organisms in water courses. Culverts and installation techniques utilized must achieve natural stream flow. This paragraph applies only to water courses containing fish;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 1993, c. 315, §2, is further amended to read:

2-A. Existing road culverts. In any protected natural resource area, a permit is not required for the repair and maintenance of an existing road culvert or for the replacement of an existing culvert, as long as the replacement culvert is:

B. Not more than 25% longer than the culvert being replaced; and

C. Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this subsection shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block passage for fish ~~passage~~ in the water course or passage for other aquatic organisms in the water course if passage for fish is required under this subsection. Replacement culverts and techniques used in installing the culverts must achieve natural stream flow. This subsection applies only to water courses containing fish.

Sec. 3. Fish passage rules. The Department of Environmental Protection shall amend its rules, Chapter 305, Permit By Rule to require municipalities to achieve natural stream flow when they are repairing or maintaining roads or stream crossings. These rule changes apply only to water courses containing fish. The amendments must establish standards that ensure:

1. Adequate flow during high water conditions;

2. Upstream and downstream movement for aquatic organisms and downstream and lateral movement of materials;

3. Vertical gradient that matches up and down stream; and

4. Horizontal alignment that matches up and down stream.

Sec. 4. Rules. Rules adopted pursuant to or to implement the provisions of this Act are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and must be submitted to the Legislature by January 1, 2011 for review by the joint standing committee of the Legislature having jurisdiction over natural resources matters.

Sec. 5. Road construction; maintenance. The provisions of this Act do not affect forestry management activities, including associated road construction or maintenance.

See title page for effective date.

CHAPTER 461

H.P. 1024 - L.D. 1473

An Act To Reaffirm Maine's Commitment to Business by Amending the Pine Tree Development Zone Laws

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

Sec. 1. 5 MRSA §1710-F, sub-§2, as amended by PL 1997, c. 157, §1, is further amended to read:

2. Biennial revenue projections. The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee. Revenue projections for the General Fund may not include revenue that accrues pursuant to Title 30-A, section 5250-I, subsection 14 and is deposited into the Pine Tree Development Zone Reserve Fund pursuant to Title 30-A, section 5250-J, subsection 4-B that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in Title 30-A, section 5250-I, subsection 17, paragraph A.

Sec. 2. 30-A MRSA §5250-I, sub-§2, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed.

Sec. 3. 30-A MRSA §5250-I, sub-§4, as amended by PL 2009, c. 21, §1, is further amended to read:

4. Base level of employment. "Base level of employment" means the greater of either the total employment in the State of a business as of March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the year of the business's application to become a certified Pine Tree Development Zone business divided by 4 or its average employment during the base period. Pursuant to section 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence.

Pursuant to section 5250-J, subsection 4-C, "base level of employment" must be adjusted for a qualified business that has more than one location in the State and creates 250 or more jobs at one of these locations, so that the base level of employment is calculated from the location of the significant employment expansion of 250 jobs or more on the basis of that specific location.

Sec. 4. 30-A MRSA §5250-I, sub-§9, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

9. Labor market average weekly wage. "Labor market average weekly wage" means the average weekly wage as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application ~~for zone designation~~.

Sec. 5. 30-A MRSA §5250-I, sub-§10, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unem-

ployment rate as published by the Department of Labor for the labor market or markets in which potential qualified Pine Tree Development Zone employees are located for the 12 most recently reported months preceding the date of application ~~for zone designation~~.

Sec. 6. 30-A MRSA §5250-I, sub-§11, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed and the following enacted in its place:

11. Manufacturing. "Manufacturing" means:

A. The production of tangible personal property intended to be sold or leased ultimately for final use or consumption;

B. The production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof; or

C. To make, process, convert or transform raw materials, components or parts into finished goods or products for final use or consumption to meet customer expectations or specifications.

Sec. 7. 30-A MRSA §5250-I, sub-§11-A, as enacted by PL 2005, c. 650, §1, is amended to read:

11-A. Military redevelopment zone. "Military redevelopment zone" means a specified area within a municipality that is contained within a labor market that includes a military facility that sustained a loss of 400 or more employed workers, if the loss was caused by a federal military facility closure or downsizing, during the 5-year period immediately preceding the time of application for designation as a military redevelopment zone, or is projected to sustain a loss of 400 or more employed workers during the 5-year period immediately following the time of application, and has been designated by the commissioner as a military redevelopment zone under section 5250-J, subsection ~~2-A~~ 3-A.

Sec. 8. 30-A MRSA §5250-I, sub-§13, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

13. Pine Tree Development Zone. "Pine Tree Development Zone" or "zone" means a specified area within the boundaries of ~~a unit of local government, or within the boundaries of cooperating units of local government in a multijurisdictional application,~~ the State that has been designated by the commissioner as a Pine Tree Development Zone in accordance with section 5250-J, subsection 3-A or 3-B.

Sec. 9. 30-A MRSA §5250-I, sub-§19, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

19. State average weekly wage. "State average weekly wage" means the average weekly wage as published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application ~~for zone designation~~.

Sec. 10. 30-A MRSA §5250-I, sub-§20, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

20. State unemployment rate. "State unemployment rate" means the average unemployment rate published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application ~~for zone designation~~.

Sec. 11. 30-A MRSA §5250-I, sub-§21-A is enacted to read:

21-A. Tier 1 location. "Tier 1 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 10 years.

Sec. 12. 30-A MRSA §5250-I, sub-§21-B is enacted to read:

21-B. Tier 2 location. "Tier 2 location" means a location designated by the department to be eligible for Pine Tree Development Zone benefits for a period of 5 years. After the 5 years, all Pine Tree Development Zone benefits expire, except for the expanded employment tax increment financing benefits under Title 36, chapter 917, which must be recalculated at that time to reflect the standard rates under that chapter.

Sec. 13. 30-A MRSA §5250-J, sub-§1, as amended by PL 2007, c. 466, Pt. A, §53, is repealed.

Sec. 14. 30-A MRSA §5250-J, sub-§2, as enacted by PL 2003, c. 688, Pt. D, §2, is amended to read:

2. Requirements for designation. The commissioner shall adopt rules establishing the minimum requirements for the designation of Pine Tree Development Zones pursuant to subsections 3-A and 3-B. ~~Additionally, each participating unit of local government must agree to maintain at least one prepermitted construction or development site available within the zone on a continual basis throughout the term of the zone.~~

Sec. 15. 30-A MRSA §5250-J, sub-§2-A, as enacted by PL 2005, c. 650, §5, is repealed.

Sec. 16. 30-A MRSA §5250-J, sub-§3, as amended by PL 2005, c. 650, §6 and c. 669, §1, is further amended to read:

3. Limitations. The designation of Pine Tree Development Zones is subject to the following limitations:

~~A. The total area of a zone may not exceed 5,000 acres, which need not be contiguous. In calculating the 5,000-acre limit, only developable acres may be counted;~~

~~B. A zone located in Aroostook County as described in subsection 1, paragraph A may include~~

~~property that is also included within the Aroostook County Empowerment Zone as designated by the federal Community Renewal Tax Relief Act of 2000, Public Law 106-554;~~

C. Pine Tree Development Zone benefits may not be used to encourage or facilitate the transfer of existing positions or property of a qualified business or affiliated businesses to a qualified business activity from a nonqualified activity elsewhere in the State;

D. Pine Tree Development Zone benefits may not be provided based upon any property, employees or positions transferred by the business or affiliated businesses to a qualified business activity from a nonqualified activity; and

F. One or more qualified Pine Tree Development Zone business activities must be a permissible activity in the Pine Tree Development Zone~~;~~.

~~G. Except for a military redevelopment zone established pursuant to subsection 1, paragraph F, all property included within a Pine Tree Development Zone must meet one of the following:~~

~~(1) The property is located within a market area for which the labor market unemployment rate is greater than the state unemployment rate at the time of the application; or~~

~~(2) The property is included within a county in which the average weekly wage is below the state average weekly wage at the time of the application.~~

~~In the case of a multijurisdictional or joint application, the requirements of this paragraph are met if the combined unemployment rate of the cooperating units of local government meets the requirements of subparagraph (1) or the average weekly wage of the cooperating units of local government, on a per-employed-worker basis, meets the requirements of subparagraph (2); and~~

~~H. The restrictions contained in paragraph G may be waived for:~~

~~(1) Property that is contained within a labor market area that has sustained a greater than 5% loss of population or employed workers during the 3-year period immediately preceding the time of application if the loss was caused by business closings; or~~

~~(2) Property that is contained within an industrial site with appropriate infrastructure and zoning or other land use regulations in place that has sustained a minimum loss of 500 employed workers during the 5-year period immediately preceding the time of application, as long as an application for a waiver under this subparagraph is received by August 1, 2010. Only a qualified business with a base level of employment equal to zero is eligible to receive Pine Tree Development Zone benefits under this subparagraph.~~

Sec. 17. 30-A MRSA §5250-J, sub-§3-A is enacted to read:

3-A. Pine Tree Development Zone classification; tier 1 locations. Beginning January 1, 2009, the department shall classify the following units of local government on an annual basis as tier 1 locations:

A. From January 1, 2009 to December 31, 2009, all units of local government; and

B. Beginning January 1, 2010, a unit of local government that is contained in a county other than Cumberland County or York County, as well as a unit of local government that is contained in Cumberland County or York County with a municipal unemployment rate that is 15% higher than its labor market unemployment rate, based upon data published by the Department of Labor from the last completed calendar year.

A unit of local government that has been designated by the department as a participating municipality in the Pine Tree Development Zone program as of December 31, 2008 will be classified as a tier 1 location.

Property within a military redevelopment zone as long as the property is classified by the department no later than December 31, 2018.

Sec. 18. 30-A MRSA §5250-J, sub-§3-B is enacted to read:

3-B. Pine Tree Development Zone classification; tier 2 locations. Beginning January 1, 2010, the department shall classify the following units of local government on an annual basis as tier 2 locations:

A. All units of local government contained in Cumberland County or York County that are not classified as tier 1 locations pursuant to subsection 3-A.

Sec. 19. 30-A MRSA §5250-J, sub-§4, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed.

Sec. 20. 30-A MRSA §5250-J, sub-§4-B is enacted to read:

4-B. Pine Tree Development Zone Reserve Fund established. The Pine Tree Development Zone Reserve Fund, referred to in this subsection as "the fund," is established as a nonlapsing fund to capture all net positive revenues pursuant to section 5250-I, subsection 14 that accrue to the State and that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in section 5250-I, subsection 17, paragraph A. The Office of the State Controller shall administer the fund, which notwithstanding Title 5, section 1666 is not subject to

legislative allocation. The fund must be established and held separate from any other fund and used and administered exclusively for the purposes of this section. The fund consists of all revenues received pursuant to section 5250-I, subsection 14.

The State Tax Assessor shall identify all revenues that accrue to the State pursuant to section 5250-I, subsection 14 and deposit them into the fund. The State Controller shall transfer or authorize the transfer of funds from the fund in accordance with Title 36, sections 2016 and 6758 and any other relevant provisions. Any excess revenues not transferred pursuant to this section must be deposited by the State Controller into the General Fund.

Sec. 21. 30-A MRSA §5250-J, sub-§4-C is enacted to read:

4-C. Significant employment expansion; Pine Tree Development Zone benefits. A qualified Pine Tree Development Zone business that expands its employment at one of its locations in the State may apply for an adjustment of the base level of employment if it:

A. Has more than one location in the State;

B. Creates 250 or more jobs at one location;

C. Maintains its total employment in the State above 50% of its growth at the location of the employment expansion; and

D. Has appropriate infrastructure and zoning or other land use regulations in place.

For purposes of this section and calculation of Pine Tree Development Zone benefits in section 5250-I, subsection 14, the base level of employment must be calculated from the location where the business produces significant employment expansion of 250 jobs or more. The department shall determine on an annual basis if the business has produced significant employment expansion. If the department determines that the business does not meet the requirements of this section and its total employment in the State falls below 50% of its growth at this location of expansion, the business may not receive the adjustment pursuant to this section and the department shall calculate the base level of employment pursuant to section 5250-I, subsection 4.

Sec. 22. 30-A MRSA §5250-J, sub-§5, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed and the following enacted in its place:

5. Termination. A qualified Pine Tree Development Zone business located in a tier 1 location may not be certified under this subchapter after December 31, 2018, and a qualified Pine Tree Development Zone business located in a tier 2 location may not be certified under this subchapter after December 31, 2013. All Pine Tree Development Zone benefits provided under this subchapter are terminated on December 31, 2028.

Sec. 23. 30-A MRSA §5250-K, as amended by PL 2005, c. 351, §6 and affected by §26, is repealed.

Sec. 24. 30-A MRSA §5250-L, as enacted by PL 2003, c. 688, Pt. D, §2, is repealed.

Sec. 25. 36 MRSA §2016, sub-§6, as enacted by PL 2005, c. 351, §9 and affected by §26, is amended to read:

6. Payment of claims. The State Tax Assessor shall determine the benefit for each claimant under this section and certify to the State Controller the amount to be transferred from the Pine Tree Development Zone Reserve Fund, established pursuant to Title 30-A, section 5250-J, subsection 4-B, to the Pine Tree Development Zone reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the sales tax category. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

Sec. 26. 36 MRSA §6753, sub-§4, as amended by PL 2009, c. 21, §6, is repealed and the following enacted in its place:

4. Base level of employment. "Base level of employment" means the greater of either the total employment of a business as of the March 31st, June 30th, September 30th and December 31st of the calendar year immediately preceding the application for approval of the employment tax increment financing development program divided by 4 or its average employment during the base period.

A. Pursuant to Title 30-A, section 5250-J, subsection 4-A, "base level of employment" may be adjusted to mean 25% of the average number of employees of that business over the 3 months immediately preceding the catastrophic occurrence.

B. Pursuant to Title 30-A, section 5250-J, subsection 4-C, "base level of employment" must be adjusted to be calculated from the location where the business produced the significant employment expansion of 250 jobs or more.

Sec. 27. 36 MRSA §6754, sub-§1, ¶D, as amended by PL 2003, c. 688, Pt. D, §6, is further amended to read:

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5250-I, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-O, the re-

imbursement under this subsection is equal to 80% of the withholding taxes withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years for tier 1 locations and no more than 5 years for tier 2 locations. In no event may reimbursement under this subsection be paid for years beginning after December 31, ~~2018~~ 2028.

Sec. 28. 36 MRSA §6758, sub-§3, as enacted by PL 1995, c. 669, §5, is amended to read:

3. Deposit and payment of revenue. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit from the Pine Tree Development Zone Reserve Fund, established pursuant to Title 30-A, section 5250-J, subsection 4-B, an amount equal to the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs in the state employment tax increment contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues for the preceding calendar year.

See title page for effective date.

CHAPTER 1

S.P. 50 - L.D. 131

An Act To Amend the Charter of the Athens Standard Water District

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

Sec. 1. P&SL 2005, c. 32, §4 is amended to read:

Sec. 4. Number of trustees. The board of trustees of the district is composed of 3 trustees. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, a trustee must be a taxpayer of the Town of Athens ~~and~~ or a ratepayer of the district.

See title page for effective date.

CHAPTER 2

H.P. 121 - L.D. 142

An Act To Revise the Boundary between the City of Waterville and the Town of Oakland

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

Sec. 1. Boundary between the City of Waterville and the Town of Oakland. The boundary between the City of Waterville and the Town of Oakland is as follows: beginning at a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk on the northerly line of the Town of Sidney having a Maine State Plane Zone West coordinate of N=610577.214, E=3069216.442, said monument being along the northerly line of the Town of Sidney on a bearing of S 77°11'29"E, a distance of 2,405.61 feet from the base of a 4 inch x 15 inch granite stone monument, 2 1/2 feet above ground marked "W-S-1825", on the easterly side of the Middle Road, said 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk also being along the northerly line of the Town of Sidney on a bearing of N 77°11'29"W, a distance of 10,275.92 feet from the base of a 7 inch x 34 inch granite stone monument, 3 feet above ground marked "W-S-1804", on the westerly side of the River Road; thence N 10°32'57"E, a distance of 2,159.09 feet to another 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane Zone West coordinate of N=612699.809, E=3069611.731; thence N 38°23'42"E, a distance of 1,268.53 feet to another 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane Zone West coordinate of N=613694.015, E=3070399.589, on the northerly side of the Trafton Road; thence continuing N 38°23'42"E, an additional distance of 2,094.98 feet to a 2 1/2 inch bronze disk set in a stone in a stone wall, having a Maine State Plane Zone West coordinate of N=615338.299, E=3071702.600; thence continuing N 38°23'42"E, an additional distance of 905.02 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=616045.258, E=3072262.828; thence continuing N 38°23'42"E, an additional distance of 1,720.63 feet to the base of an 8 inch x 9 inch granite stone monument, 1 foot above ground, having a Maine State Plane Zone West coordinate of N=617394.079, E=3073331.497, southerly of the center of the Webb Road; thence N 38°58'31"E, a distance of 1,250.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=618365.571, E=3074117.713; thence continuing N 38°58'31"E, an additional distance of 1,664.29 feet to a 2 1/2 inch bronze disk set in a stone in a stone wall, having a Maine State Plane Zone West coordinate of N=619659.414, E=3075164.527; thence N 36°58'31"E, a distance of 1,565.64 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=620910.196, E=3076106.214; thence continuing N 36°58'31"E, an additional distance of 1,139.36 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=621820.421, E=3076791.510; thence continuing N 36°58'31"E, an additional distance of 860.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=622507.472, E=3077308.773, westerly of the center of Shores Road, and northerly of the center of Hilltop Drive; thence continuing N 36°58'31"E, an additional distance of 1,632.38 feet to a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane Zone West coordinate of N=623811.566, E=3078290.606, westerly of the center of Shores Road, and southerly of the center of Kennedy Memorial Drive; thence continuing N 36°58'31"E, an additional distance of 100.00 feet to a point, having a Maine State Plane West Zone coordi-

nate of N=623891.455, E=3078350.753, in the traveled area of Kennedy Memorial Drive; thence N 38°19'20"E, a distance of 105.00 feet to a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane West Zone coordinate of N=623973.831, E=3078415.862, northerly of the center of Kennedy Memorial Drive; thence continuing N 38°19'20"E, a distance of 2,490.70 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, on the westerly line of Interstate 95, having a Maine State Plane West Zone coordinate of N=625927.880, E=3079960.301; thence continuing N 38°19'20"E, an additional distance of 886.38 feet to a 1/2 inch iron rebar with a 2 inch bronze cap on the easterly line of Interstate 95, having a Maine State Plane West Zone coordinate of N=626623.277, E=3080509.928; thence continuing N 38°19'20"E, an additional distance of 1,853.63 feet to a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane West Zone coordinate of N=628077.518, E=3081659.330, westerly of the center of Washington Street; thence N 35°55'31"E, a distance of 1,071.50 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane West Zone coordinate of N=628945.200, E=3082288.011, westerly of the center of Washington Street; thence continuing N 35°55'31"E, an additional distance of 100.00 feet to a point, having a Maine State Plane Zone West coordinate of 629026.178, E=3082346.684, in the traveled area of Washington Street; thence N 11°25'31"E, a distance of 100.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane West Zone coordinate of N=629124.196, E=3082366.493, westerly of the center of Washington Street; thence continuing N 11°25'31"E, an additional distance of 1,187.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane West Zone coordinate, of N=630287.675, E=3082601.625, westerly of the center of Washington Street; thence N 21°25'31"E, a distance of 1,003.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane West Zone coordinate of N=631221.362, E=3082968.008, westerly of the center of Washington Street; thence continuing N 21°25'31"E, an additional distance of 20.00 feet to a point, having a Maine State Plane West Zone coordinate of N=631239.980, E=3082975.314, westerly of the center of Washington Street; thence N 00°34'29"W, a distance of 20.00 feet to a 1/2 inch iron rebar with a 2 inch bronze cap, having a Maine State Plane Zone West coordinate of N=631259.979, E=3082975.113, westerly of the center of Washington Street; thence continuing N 00°34'29"W, an additional distance of 601.91 feet to a point, having a Maine State Plane West Zone coordinate of N=631861.858, E=3082969.076, in the traveled area of Washington Street; thence N 62°21'56"W, a distance of 151.40 feet to a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane West Zone coordinate of N=631932.081, E=3082834.948, southerly of the center of the Rice Rips Road; thence N 80°06'01"W, a distance of 165.00 feet to a 4 inch x 4 inch granite monument with a 2 1/2 inch bronze disk, having a Maine State Plane West Zone coordinate of N=631960.449, E=3082672.404, southerly of the center of the Rice Rips Road; thence N 84°13'35"W, a distance of 676.65 feet to a 7 inch x 16 inch granite stone monument, flush with the ground, having a Maine State Plane West Zone coordinate of N=632028.520, E=3081999.189, southerly of the center of the Rice Rips Road.

Bearings are referenced to Grid True North - Maine State Plane West Zone.

See title page for effective date.

CHAPTER 3

H.P. 358 - L.D. 513

An Act To Update the Casco Bay Island Transit District Enabling Law

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

Sec. 1. P&SL 1981, c. 22, §1, 3rd sentence is amended to read:

The district so formed ~~shall be~~ is a body politic and corporate~~,~~ and may sue and be sued, plead and be impleaded, adopt a name, adopt and alter a common seal~~,~~ and do things necessary to furnish waterborne transportation in this area, including incidental tour and charter service and providing for parking, for public purposes in the interest of public health, safety, comfort and convenience of the inhabitants of the islands comprising the district and other passengers served by the district.

Sec. 2. P&SL 1981, c. 22, §2, 3rd sentence is amended to read:

Three of such directors ~~shall~~ must be residents or property owners of Peaks Island, one director ~~shall~~ must be a resident or property owner of Little Diamond Island, one director ~~shall~~ must be a resident or property owner of Great Diamond Island, one director ~~shall~~ must be a resident or property owner of Long Island, one director ~~shall~~ must be a resident or property owner of Cliff Island, one director ~~shall~~ must be a resident or property owner of ~~Great~~ the Town of Chebeague Island, and two directors ~~shall~~ must be residents or property owners of the State.

Sec. 3. P&SL 1981, c. 22, §7 is amended to read:

Sec. 7. Powers of directors. The directors of the district may take, purchase, hold, maintain, operate, lease, rent, mortgage and convey any and all real

and personal property, or lease or sublease the same, or enter into contracts with private companies, for the purpose of providing public transportation and support services, such as providing for parking, and for such purpose contract with the federal, state and municipal governments for donations, loans, grants, gifts or other assistance and in such contracts agree to be bound by all applicable provisions of federal, state and municipal statutes and regulations as the case may be.

Sec. 4. P&SL 1981, c. 22, §10 is amended to read:

Sec. 10. Powers. The district may acquire by purchase any properties, stock, franchises, rights and privileges of the owners of Casco Bay Lines. For the purpose of providing necessary and convenient transportation to its service area, the district may also purchase other properties necessary for providing transportation and support services such as providing for parking.

See title page for effective date.

CHAPTER 4

H.P. 588 - L.D. 857

An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 32

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

Whereas, on December 12, 2007 the State Board of Education granted concept approval to School Administrative District No. 32 for a school construction project to construct and equip a new prekindergarten to grade 12 school in the Town of Ashland and approved $22,057,929 as the total cost for that project with $20,217,001 in indebtedness approved for a state and local debt service subsidy and $1,720,928 in indebtedness approved as local-only debt and the remainder of the project to be financed through a Maine High Performance Schools energy grant not to exceed $120,000; and

Whereas, on January 31, 2008 at a district referendum the voters of School Administrative District No. 32 approved the school construction project by a vote of 789 in favor and 38 opposed; and

Whereas, on June 11, 2008 the State Board of Education granted site preparation design and funding approval for phase I of the school construction project with a total approved project bonded indebtedness not to exceed $21,937,929; and

Whereas, on August 12, 2008 the State Board of Education granted design and funding approval for that school construction project with total approved project bonded indebtedness not to exceed $21,937,929; and

Whereas, pursuant to the Maine Revised Statutes, Title 20-A, section 1311, subsection 6, the aggregate principal amount of outstanding bonds or notes issued by a school administrative district for school construction purposes may not exceed, at any one time, 10% of the total of the last preceding state valuation of all the municipalities within the district, plus an amount not to exceed 4% of that total district valuation set by the State Board of Education at the time of the initial approval of a school construction project; and

Whereas, at the time that the State Board of Education approved the School Administrative District No. 32 school construction project, the total indebtedness authorized for the school construction project exceeded the limits on indebtedness established by the Maine Revised Statutes, Title 20-A, section 1311, subsection 6; and

Whereas, the 2009 state valuation of all municipalities in School Administrative District No. 32 is $176,750,000; and

Whereas, the total indebtedness authorized by the State Board of Education for the School Administrative District No. 32 school construction project in the amount of $21,937,929 is within 10% plus 4% of the 2009 state valuation of all municipalities in School Administrative District No. 32; and

Whereas, School Administrative District No. 32 has signed a construction contract and borrowed funds in anticipation of the issuance of permanent bonds to finance the school construction project; and

Whereas, legislative validation of the proceedings of the State Board of Education and the referendum on the school construction project conducted by School Administrative District No. 32 and legislative authorization for School Administrative District No. 32 to issue permanent bonds for the school construction project is required in order for School Administrative District No. 32 to issue bonds in the amount necessary to complete the school construction project; 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. Validation and authorization. Notwithstanding the Maine Revised Statutes, Title 20-A, section 1311, subsection 6 and any other provision of

law, the concept approval and the design and funding approvals granted by the State Board of Education to School Administrative District No. 32 for a school construction project to construct and equip a prekindergarten to grade 12 school in the Town of Ashland and the school construction referendum on that project conducted on January 31, 2008 and all subsequent bond anticipation borrowings by the district for that school construction project are validated and the district is authorized to issue bonds or notes in the name of the district for school construction purposes in an amount not to exceed $21,937,929 to construct and equip that school construction project.

Sec. 2. Retroactivity. This Act applies retroactively to December 12, 2007.

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

Effective April 13, 2009.

CHAPTER 5

H.P. 218 - L.D. 275

An Act To Amend the Charter of the Limestone Water and Sewer District

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

Whereas, the amendments proposed in this bill are necessary for the Limestone Water and Sewer District and the Loring Development Authority of Maine to proceed with the upgrade of the Greater Limestone Wastewater Treatment Facility; and

Whereas, the American Recovery and Reinvestment Act of 2009 was signed by the President on February 17, 2009, and within 120 days of signature the Department of Environmental Protection must obligate 50% of the $30,000,000 allotted to the State for wastewater projects, such as the proposed upgrade to the Greater Limestone Wastewater Treatment Facility; and

Whereas, priority ranking for the wastewater project funding is a function of the project's readiness to proceed, and the readiness of the Greater Limestone Wastewater Treatment Facility project depends on the amendments contained in this Act; and

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

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

Sec. 1. P&SL 1957, c. 59, §8-A is enacted to read:

Sec. 8-A. Wastewater facility board. If the district acquires title to the Greater Limestone Wastewater Treatment Facility, the board of trustees is expanded to form the Greater Limestone Wastewater Treatment Facility Board, referred to in this section as "the wastewater facility board," when the board of trustees considers those matters pertaining to the management and oversight of the Greater Limestone Wastewater Treatment Facility.

1. Composition of wastewater facility board. The wastewater facility board consists of the 3 members of the board of trustees and 2 appointed members. One appointed member must be appointed by the trustees of the Loring Development Authority of Maine, and one appointed member must be a member of the Limestone Board of Selectpeople appointed by the selectpeople. The 2 appointed members serve without compensation and serve at the pleasure of their appointing entities and may be removed without cause by their appointing entities at any time.

2. Function of wastewater facility board. Whenever the board of trustees takes up matters concerning the management and oversight of the Greater Limestone Wastewater Treatment Facility, the board of trustees shall sit as the wastewater facility board. At such times, the appointed members of the wastewater facility board are entitled to sit with the board of trustees and to speak and vote on those matters specifically relating to the Greater Limestone Wastewater Treatment Facility, including, but not limited to, operation and maintenance of that facility, compliance with environmental regulations applicable to that facility, rate changes and changes in the terms and conditions of wastewater service provided by the district to the Loring Development Authority of Maine.

Sec. 2. P&SL 1957, c. 59, §12, first sentence, as amended by P&SL 1981, c. 40, is further amended to read:

For accomplishing the purposes of this ~~act~~ Act, ~~said~~ the district, through its trustees, is authorized to borrow money temporarily in an amount not to exceed ~~$1,500,000~~ $8,000,000, and to issue ~~there for~~ for the borrowing of money the interest-bearing negotiable notes of the district and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this ~~act~~ Act, including the expenses incurred in the creation of the district, in reimbursing ~~said~~ the town, in acquiring the ~~aforesaid~~ properties, privileges and franchises of the Limestone Water and Sewer Company, its successors

or assigns, by purchase or otherwise, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing and maintaining and operating a water, sewerage and drainage system, and making extensions, additions and improvements to the same, the ~~said~~ district through its trustees may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees ~~therefor~~ for the issuance of bonds, maturing at one time or in uniform or varying installments with or without call provisions and at or without any premium.

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

Effective April 16, 2009.

CHAPTER 6

S.P. 287 - L.D. 740

An Act To Validate the Property Tax Commitments in the Towns That are Members of Community School District No. 9

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 towns of Crystal, Dyer Brook, Island Falls, Merrill, Oakfield and Smyrna are the member towns of Community School District No. 9; and

Whereas, in accordance with the school budget validation process mandated by state law, the voters of Community School District No. 9 repeatedly rejected the school budget as proposed by the district's board of directors during the summer and fall of 2008; and

Whereas, the repeated rejection of the school budget by the voters prevented the member towns of the district from committing their property taxes in a timely manner, which led to the necessary and budgeted expenditures of those communities exceeding their revenues; and

Whereas, the 6 member towns of Community School District No. 9 committed their property taxes on the basis of a reasonably estimated school district budget; 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. Validation and authorization. Notwithstanding any other provision of law, the property taxes committed by the towns of Crystal, Dyer Brook, Island Falls, Merrill, Oakfield and Smyrna in 2008 are validated.

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

Effective April 16, 2009.

CHAPTER 7

H.P. 28 - L.D. 33

An Act To Change the Name of Township 16, Range 4, WELS, to Madawaska Lake

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, this legislation proposes a referendum to ratify changing the name of the unorganized area referred to currently as Township 16, Range 4, WELS, and located in Aroostook County to Madawaska Lake. The proposal results from the desire of residents of the township to preserve the area's identity and to erect signs to indicate this name; 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. Madawaska Lake. Wherever the designation Township 16, Range 4, WELS, appears or reference is made to that unorganized territory, that designation or reference means Madawaska Lake.

Sec. 2. Referendum for ratification. This Act must be submitted to the legal voters residing in the unorganized territory of Township 16, Range 4,

WELS, in Aroostook County. The date of the submission must be determined by the Aroostook County Board of Commissioners but may not be later than 6 months after adjournment of the First Regular Session of the 124th Legislature. The Aroostook County commissioners are authorized to expend such funds as necessary to implement the referendum.

The county commissioners shall cause the preparation of the required ballots, on which they shall state the subject matter of this Act in the following question:

"Do you favor changing the name of Township 16, Range 4, WELS, to Madawaska Lake?"

The voters shall indicate by a cross or a check mark placed against the words "Yes" or "No" their opinion of the question.

This Act takes effect immediately upon its acceptance by a majority of the legal voters voting at the election.

The result of the election must be declared by the Aroostook County commissioners and due certificate filed with the Secretary of State.

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

Effective April 17, 2009.

CHAPTER 8

H.P. 165 - L.D. 200

An Act To Amend the Charter of the Caribou Utilities District

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

Sec. 1. P&SL 1945, c. 83, §1 is amended to read:

Sec. 1. Territorial limits and corporate name and purposes. The inhabitants and territory within the ~~town~~ City of Caribou in the ~~county~~ County of Aroostook ~~shall be, and hereby are, constituted~~ constitute a body politic and corporate under the name of the Caribou Utilities District, referred to in this Act as "the district," for the purpose of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the city with pure water for domestic, commercial, sanitary and municipal purposes, including the extinguishment of fires, and of supplying the ~~town~~ City of Caribou and the inhabitants of ~~said town~~ the city or any part of ~~said town~~ the ~~City~~ city with suitable and adequate sewerage facilities.

Sec. 2. P&SL 1945, c. 83, §2 is amended to read:

Sec. 2. Powers of Caribou Utilities District. ~~Said Caribou Utilities District~~ The district is ~~hereby~~ authorized for the purposes ~~aforesaid~~ of this Act to take, collect, store, flow, use, detain, distribute and convey to the ~~town~~ City of Caribou or any part ~~thereof~~ of the city water from any lake, pond, stream~~,~~ or river and from any surface or underground brook, spring or vein of water in ~~said town~~ the City of Caribou~~,~~ and is also authorized to locate, construct and maintain aqueducts, pipes, conduits, standpipes, hydrants, pumping stations and other necessary structures and equipment ~~therefore,~~ for the aqueducts, pipes, conduits, standpipes, hydrants and pumping stations and do all things necessary to furnish water~~,~~ and sewerage and drainage for public purposes and for public health, comfort and convenience of the inhabitants of ~~said~~ the district.

Sec. 3. P&SL 1945, c. 83, §3 is repealed and the following enacted in its place:

Sec. 3. Right of eminent domain conferred. The district is authorized and empowered to acquire and hold real and personal property necessary or convenient for its purposes. The district is granted the right of eminent domain as specified in the Maine Revised Statutes, Title 38, section 1152 with respect to its sewer functions and is granted the right of eminent domain as specified in Title 35-A, section 6408 with respect to its water functions.

Sec. 4. P&SL 1945, c. 83, §4 is amended to read:

Sec. 4. Authorized to lay mains, pipes, conduits through public ways and across private lands. The ~~said~~ district is ~~hereby~~ authorized to lay in and through the streets, roads, ways and highways of the ~~town~~ City of Caribou and other towns served by ~~it~~ the district and across private lands ~~therein,~~ in the city and other towns and to maintain, repair and replace all such pipes, mains, conduits, aqueducts~~,~~ and fixtures as may be necessary and convenient for its corporate purposes, and whenever ~~said~~ the district ~~shall lay~~ lays any pipes, aqueducts or conduits in any street, roadway or highway, ~~it~~ the district shall cause the same to be done with as little obstruction as practicable to the public travel~~,~~ and shall at ~~its~~ the district's own expense, without unnecessary delay, cause the earth and pavement removed by ~~it~~ the district to be replaced in proper conditions.

Sec. 5. P&SL 1945, c. 83, §4-A is enacted to read:

Sec. 4-A. Sewer extensions. Sewer extensions are governed by the Maine Revised Statutes, Title 38, section 1252, subsection 7.

Sec. 6. P&SL 1945, c. 83, §5, as repealed and replaced by P&SL 1981, c. 47, §1, is repealed and the following enacted in its place:

Sec. 5. Procedure as to the exercise of right of eminent domain for sewer; appeal. In exercising rights of eminent domain with respect to its sewer functions, the district shall comply with the procedures established in the Maine Revised Statutes, Title 38, sections 1152-A, 1153 and 1154.

Sec. 7. P&SL 1945, c. 83, §6 is repealed.

Sec. 8. P&SL 1945, c. 83, §6-A is enacted to read:

Sec. 6-A. Procedure as to the exercise of right of eminent domain for water. In exercising rights of eminent domain with respect to its water functions, the district shall comply with the procedures established in the Maine Revised Statutes, Title 35-A, section 6409.

Sec. 9. P&SL 1945, c. 83, §8-A is enacted to read:

Sec. 8-A. Trustees' compensation. Trustees' compensation is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 5.

Sec. 10. P&SL 1945, c. 83, §8-B is enacted to read:

Sec. 8-B. Trustees' retirement eligibility. Trustees' retirement is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 6.

Sec. 11. P&SL 1945, c. 83, §11, as repealed and replaced by P&SL 1981, c. 47, §4, is repealed and the following enacted in its place:

Sec. 11. Procedures for acquisition of property and franchise of Caribou Water Works Corporation. Before exercising any right of eminent domain conferred under this Act with respect to the property of the Caribou Water Works Corporation, the district shall make a reasonable effort to acquire the property by purchase. The district shall cause the property to be appraised for the purpose of determining the amount that could constitute just compensation for the taking of the property. The district's agents, employees or designees may, upon 30 days' written notice to the Caribou Water Works Corporation, enter upon the real property of the Caribou Water Works Corporation and make surveys, examinations, photographs, tests and samplings of the real or personal property of the Caribou Water Works Corporation for the purpose of appraising the real or personal property. The entry must take place during daylight hours. The entry and activities authorized by this Act do not constitute a trespass, but the district is liable for physical injury to, and for substantial interference with possession or use of, property of the Caribou Water Works Corporation caused by the district's entry and activities upon the property, which damages may be recovered by complaint in a civil action. The district shall establish the amount that the district believes to be just compensation for the property and shall submit to the Caribou Water Works Corporation a proposed offer to purchase the property for the amount established. Compliance by the district with this section is determined to be and constitutes a reasonable effort by the district to acquire the property by purchase.

Sec. 12. P&SL 1945, c. 83, §12, first sentence, as repealed and replaced by P&SL 1981, c. 47, §5, is amended to read:

Sec. 12. Authorized to borrow money; to issue bonds and notes. For accomplishing the purposes of this Act, the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to borrow money temporarily and to issue ~~therefore~~ for the borrowing of money its negotiable notes~~; and for~~. For the purpose of renewing and refunding the indebtedness ~~so~~ created, or paying any necessary expenses and liabilities incurred under the provisions of this Act, and in acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing, constructing, maintaining and operating a water system and a sewerage system and making renewals, additions, extensions and improvements to the system and to cover interest payments during any period of construction~~;~~, the district, by vote of its board of trustees, without district vote, except as provided in this section, is authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district, bearing interest at such rate or rates, and having such terms and provisions as the trustees ~~shall~~ determine~~; provided that in~~. In the case of a vote by the trustees to authorize bonds or notes to pay for the acquisition of property, for the cost of a water system or sewerage system or part ~~thereof~~ of a water system or sewerage system, for renewal or additions or for other improvements in the nature of capital costs, the estimated cost of which, singly or in the aggregate included in any one financing is $150,000 or more, subject to the annual consumer price index, as published by the ~~appropriate governmental agency~~ United States Department of Labor for all urban consumers, United States city average, and as defined in the Maine Revised Statutes, Title 36, section 5402, ~~must first be approved by local referendum of the voters of the district, but not for the acquisition of the property of the Caribou Water Works Corporation provided in this Act, and not for the already planned for local share of sewerage treatment plant, the aggregate of both of which shall not exceed $6,000,000 or for renewing or refunding existing indebtedness or to pay for maintenance, repairs or current expenses~~ the district shall comply with the provisions of Title 35-A, section 6310.

Sec. 13. P&SL 1945, c. 83, §13 is amended to read:

Sec. 13. Property, tax exempt. The property of ~~said Caribou Utilities District~~ the district ~~shall be~~ is exempt from all taxation in the ~~town~~ City of Caribou.

Sec. 14. P&SL 1945, c. 83, §15, as repealed and replaced by P&SL 1981, c. 47, §6, is repealed and the following enacted in its place:

Sec. 15. Rates. All water rates, tolls, rents and charges of the district are governed by the Maine Revised Statutes, Title 35-A, chapter 3 and chapter 61. All sewer rates, tolls, rents and charges of the district are governed by Title 38, section 1202.

Sec. 15. P&SL 1945, c. 83, §16-A, as enacted by P&SL 1957, c. 7, §2, is amended to read:

Sec. 16-A. Rights of abutters to enter sewer. The district at all times ~~shall be~~ is bound to permit the ~~owners~~ owner or agent of premises abutting upon ~~its~~ the district's lines of pipes and conduits to enter the same with all proper sewage, upon conformity to the rules and regulations of the district and payment of the rates, tolls, rents and charges established ~~therefor~~. Every building in the district intended for human habitation or occupancy on premises abutting on a street in which there is a public sewer or any such building within 100 feet of a public sewer ~~shall~~ must have a sewerage system ~~which shall be caused to be~~ connected ~~with~~ to the public sewer by the owner or agent of the premises in the most direct manner possible, and, if feasible, with a separate connection for each house or building~~; except that existing buildings which are already served by a satisfactory private sewage disposal system which meets and continues to meet the requirements of section 122 (b) of the state plumbing code and amendments thereto shall not be required to connect with the public sewer~~. ~~Any such~~ Exceptions to the requirement to connect to the public sewer are governed by the Maine Revised Statutes Title 38, section 1252, subsection 3. A private sewage disposal system ~~which~~ that is not required to connect to the public sewer pursuant to Title 38, section 1252, subsection 3 that fails to meet or continue to meet the requirements ~~of section 122 (b)~~ of the state plumbing code and amendments ~~thereto~~ to the state plumbing code is ~~hereby~~ declared to be a public nuisance.

Sec. 16. P&SL 1945, c. 83, §16-B, as enacted by P&SL 1957, c. 7, §2, is repealed and the following enacted in its place:

Sec. 16-B. Lien for payment of rates. Liens for unpaid water rates, tolls, rents or charges are governed by the Maine Revised Statutes, Title 35-A, section 6111-A. Liens for unpaid sewer rates, tolls, rents or charges are governed by Title 38, section 1208.

See title page for effective date.

CHAPTER 9

H.P. 254 - L.D. 318

An Act Regarding Rockport College

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

Whereas, authorization by the Legislature is required for any institution of higher education to confer academic, educational, literary or professional degrees, upon the recommendation of the State Board of Education; and

Whereas, Rockport College, which does business as Maine Media College, offers professional certification and graduate education in the fields of photography, filmmaking and video and multimedia and intends to offer a Master of Fine Arts degree and needs to receive approval of degree-granting authority; and

Whereas, it is necessary for the Legislature to grant this authority in order that the school may begin offering degrees for students currently enrolled in programs; and

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

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

Sec. 1. Degree. The school known as Rockport College is renamed Maine Media College and is authorized until June 30, 2010 to confer upon all who successfully complete its prescribed course of study the degree of Master of Fine Arts as is usually conferred by like institutions of higher learning.

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

Effective April 17, 2009.

CHAPTER 10

S.P. 373 - L.D. 994

An Act To Amend the Charter of the Milo Water District

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

Sec. 1. P&SL 1941, c. 62, §1, as amended by PL 1975, c. 461, §7, is repealed and the following enacted in its place:

Sec. 1. Territorial limits; corporate name; purpose. The inhabitants and territory of the Town of Milo constitute a body politic and corporate under the name of the Milo Water District, referred to in this Act as "the district," for the purpose of supplying the Town of Milo and the inhabitants and others of the district with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes and for the purpose of supplying the town and inhabitants and others within the territory of the district with sewer services.

See title page for effective date.

CHAPTER 11

H.P. 656 - L.D. 953

An Act To Amend the Charter of the Winterport Water District

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

Whereas, Private and Special Law 2005, chapter 50, section 8 gave the Winterport Water District authority to disconnect water for nonpayment of sewer service until 90 days after the adjournment of the Second Regular Session of the 123rd Legislature; and

Whereas, Private and Special Law 2007, chapter 8 extended that authority until 90 days after the First Regular Session of the 124th Legislature; and

Whereas, the Public Utilities Commission has monitored the district's use of the authority granted under Private and Special Law 2005, chapter 50, section 8 and has recommended that authority granted under Private and Special Law 2005, chapter 50, section 8 continue; and

Whereas, the authority to disconnect water for nonpayment of sewer service will cease 90 days after the adjournment of the First Regular Session of the 124th Legislature; and

Whereas, if this legislation is not an emergency, the Winterport Water District's authority to disconnect water for nonpayment of sewer service will cease; and

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

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

Sec. 1. P&SL 1969, c. 94, section 18-E, 2nd ¶, as amended by P&SL 2007, c. 8, §1, is repealed.

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

Effective April 17, 2009.

CHAPTER 12

S.P. 189 - L.D. 490

An Act To Amend the Laws Regarding Mandatory Electronic Filing of Certain Tax Returns

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

Whereas, the Department of Administrative and Financial Services, Bureau of Revenue Services has adopted a rule mandating that, beginning April 1, 2009, all persons preparing returns for sales, use and service provider tax that are required to be filed monthly must file the returns electronically; and

Whereas, this requirement creates hardship for some taxpayers and failure to comply may result in the imposition of tax penalties; 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. Electronic filing requirements. With regard to electronic filing requirements established by the Department of Administrative and Financial Services, Bureau of Revenue Services that begin on April 1, 2009, the bureau shall continue the practice of leniency in granting waivers of the electronic filing requirement for any taxpayer who has difficulty in meeting the requirements of electronic filing and shall provide clear explanation to taxpayers by the most expeditious method of the availability of waivers. The bureau shall report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the status of electronic filing requirements and the number of waivers requested and granted. The bu-

reau's reporting requirement under this section ends January 15, 2015.

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

Effective April 21, 2009.

CHAPTER 13

S.P. 234 - L.D. 619

An Act To Rename Certain Unorganized Townships in Washington County

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

PART A

Sec. A-1. Cathance Township. Wherever the designation No. 14 Twp. appears or reference is made to that unorganized territory, that designation or reference means Cathance Township.

PART B

Sec. B-1. Berry Township. Wherever the designation T 18 ED BPP appears or reference is made to that unorganized territory, that designation or reference means Berry Township.

PART C

Sec. C-1. Big Lake Township. Wherever the designation No. 21 Twp. appears or reference is made to that unorganized territory, that designation or reference means Big Lake Township.

PART D

Sec. D-1. Greenlaw Chopping Township. Wherever the designation T 27 ED BPP appears or reference is made to that unorganized territory, that designation or reference means Greenlaw Chopping Township.

PART E

Sec. E-1. Day Block Township. Wherever the designation T 31 MD BPP appears or reference is made to that unorganized territory, that designation or reference means Day Block Township.

See title page for effective date.

CHAPTER 14

S.P. 378 - L.D. 1014

An Act To Provide for the 2009 and 2010 Allocations of the State Ceiling on Private Activity Bonds

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

Whereas, the Maine Revised Statutes, Title 10, section 363 and Private and Special Law 2007, chapter 18 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 2009 but leave a portion of the state ceiling unallocated and do not provide sufficient allocations for certain types of private activity bonds that may require an allocation prior to the effective date of this Act if not enacted on an emergency basis; and

Whereas, if these bond issues must be delayed due to lack of available state ceiling, the rates and terms under which these bonds might be issued may be adversely affected, resulting in increased costs to beneficiaries or even unavailability of financing for certain projects; and

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

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

Sec. 1. Allocation to Treasurer of State. The $5,000,000 in state ceiling for calendar year 2009 previously allocated to the Treasurer of State remains allocated to the Treasurer of State to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 5 for calendar year 2009. Five million dollars of the state ceiling for calendar year 2010 is allocated to the Treasurer of State to be used or reallocated in accordance with Title 10, section 363, subsection 5.

Sec. 2. Allocation to Finance Authority of Maine. The state ceiling on private activity bonds allocated to the Finance Authority of Maine is as follows.

1. The $40,000,000 in state ceiling for calendar year 2009 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6 for calendar year 2009. Forty million dollars of the state ceiling for calendar year 2010 is

allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

2. The $50,000,000 in state ceiling for calendar year 2009 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine, the entity designated pursuant to the Maine Revised Statutes, Title 20-A, section 11407, to be used or reallocated in accordance with Title 10, section 363, subsection 8-A. Twenty million dollars of previously unallocated state ceiling for calendar year 2009 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6 for calendar year 2009. Sixty million dollars of the state ceiling for calendar year 2010 is allocated to the Finance Authority of Maine, the entity designated pursuant to Title 20-A, section 11407, to be used in accordance with Title 10, section 363, subsection 8-A.

Sec. 3. Allocation to Maine Municipal Bond Bank. The $10,000,000 of the state ceiling for calendar year 2009 previously allocated to the Maine Municipal Bond Bank remains allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7 for calendar year 2009. Ten million dollars of the state ceiling for calendar year 2010 is allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with Title 10, section 363, subsection 7.

Sec. 4. Allocation to Maine Educational Loan Authority. The $40,000,000 of the state ceiling for calendar year 2009 previously allocated to the Maine Educational Loan Authority remains allocated to the Maine Educational Loan Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 8 for calendar year 2009. Forty million dollars of the state ceiling for calendar year 2010 is allocated to the Maine Educational Loan Authority to be used in accordance with Title 10, section 363, subsection 8.

Sec. 5. Allocation to Maine State Housing Authority. The $40,000,000 of the state ceiling for calendar year 2009 previously allocated to the Maine State Housing Authority remains allocated to the Maine State Housing Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 4 for calendar year 2009. Ten million dollars of previously unallocated state ceiling for calendar year 2009 is allocated to the Maine State Housing Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 4 for calendar year 2009. Fifty million dollars of the state ceiling for calendar year 2010 is allocated to the Maine State Housing Authority to be used or reallocated in accordance with Title 10, section 363, subsection 4.

Sec. 6. Unallocated state ceiling. Of the state ceiling for calendar year 2009, $58,270,000 is unallocated and must be reserved for future allocation in accordance with applicable laws. Of the state ceiling for calendar year 2010, $68,270,000 is unallocated and must be reserved for future allocation in accordance with applicable laws.

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

Effective May 6, 2009.

CHAPTER 15

S.P. 331 - L.D. 883

An Act To Amend the Charter of the Tenants Harbor Standard Water District

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

Whereas, it is imperative that the election of the board of trustees of the Tenants Harbor Standard Water District be clarified; and

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

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

Sec. 1. P&SL 1997, c. 17, §5 is amended to read:

Sec. 5. Terms of trustees. ~~After~~ Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 1, after the election of the first board, trustees are elected to 3-year terms in accordance with ~~Title 35-A, section 6410, subsection 1~~ this section. When the term of office of a trustee expires, the trustee's successor is elected at large by a plurality vote of the voters of the district at the annual meeting of the district. A vacancy is filled in the same manner for the unexpired term by a special election called by the trustees. The trustees shall make and keep a complete list of all registered voters resident in the district. Notice of annual meetings and special elections to elect trustees must be published not less than 4 weeks before the meeting or election.

Sec. 2. Retroactivity. This Act is retroactive to January 1, 1999.

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

Effective May 8, 2009.

CHAPTER 16

H.P. 348 - L.D. 486

An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2010

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

Sec. 1. Allocation. Gross revenues of the Maine Turnpike Authority for the calendar year ending December 31, 2010 must be segregated, apportioned and disbursed as designated in the following schedule.

MAINE TURNPIKE AUTHORITY	2010
Administration	
Personal Services	$1,228,245
All Other	1,858,344
TOTAL	$3,086,589
Accounts and Controls	
Personal Services	$3,130,431
All Other	1,429,060
TOTAL	$4,559,491
Highway Maintenance	
Personal Services	$4,385,102
All Other	3,100,730
TOTAL	$7,485,832
Equipment Maintenance	
Personal Services	$1,070,368
All Other	2,299,303
TOTAL	$3,369,671
Fare Collection	
Personal Services	$11,711,809
All Other	4,943,656
TOTAL	$16,655,465
Public Safety and Special Services	
Personal Services	$471,666
All Other	5,398,112
TOTAL	$5,869,778
Building Maintenance	
Personal Services	$781,733
All Other	702,632
TOTAL	$1,484,365
Subtotal of Line Items Budgeted	$42,511,191
General Contingency - 5% of line items budgeted for 2010 (10% allowed)	2,125,560
MAINE TURNPIKE AUTHORITY TOTAL REVENUE FUNDS	$44,636,751

Sec. 2. Transfer of allocations. Any balance of the allocation for "General Contingency" made by the Legislature for the Maine Turnpike Authority may be transferred at any time prior to the closing of the books to any other allocation or subdivision of any other allocation made by the Legislature for the use of the Maine Turnpike Authority for the same calendar year. Any balance of any other allocation or subdivision of any other allocation made by the Legislature for the Maine Turnpike Authority that at any time is not required for the purpose named in the allocation or subdivision may be transferred at any time prior to the closing of the books to any other allocation or subdivision of any other allocation made by the Legislature for the use of the Maine Turnpike Authority for the same calendar year subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters. Financial statements describing the transfer, other than a transfer from "General Contingency," must be submitted by the Maine Turnpike Authority to the Office of Fiscal and Program Review 30 days before the transfer is to be

implemented. In the case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, amounts to be transferred, a description of the transfer and a detailed explanation as to why the transfer is needed.

Sec. 3. Encumbered balance at year-end. At the end of each calendar year, encumbered balances may be carried to the next calendar year.

Sec. 4. Supplemental information. As required by the Maine Revised Statutes, Title 23, section 1961, subsection 6, the following statement of the revenues in 2010 that are necessary for capital expenditures and reserves and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority during 2010, including debt service and the maintenance of reserves for debt service and reserve maintenance, is submitted.

Turnpike Revenue Bond Resolution Adopted April 18, 1991; Issuance of Bonds Authorized Pursuant to the Maine Revised Statutes, Title 23, section 1968, subsections 1 and 2-A	**2010**
Debt Service Fund	$26,264,560
Reserve Maintenance Fund	25,000,000
General Reserve Fund, to be applied as follows:	
Capital Improvements	12,679,899
Debt Service Fund under the General Special Obligation Bond Resolution Adopted May 15, 1996; Issuance of Bonds Authorized Pursuant to the Maine Revised Statutes, Title 23, section 1968, subsection 2-A	2,466,813
TOTAL	$66,411,272

See title page for effective date.

CHAPTER 17

H.P. 714 - L.D. 1039

An Act Concerning Advanced Directives To Give Effect to a Person's End-of-life Health Care Decisions

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

Sec. 1. Education about communicating end-of-life decisions. The Attorney General shall:

1. Develop a program to educate the public about end-of-life decisions and the steps individuals must take to have their end-of-life decisions honored by all medical personnel; and

2. Develop a program to educate the legal sector and others who prepare living wills and other advance directives about end-of-life decisions and the steps individuals must take to have their end-of-life decisions honored by all medical personnel.

See title page for effective date.

CHAPTER 18

H.P. 815 - L.D. 1176

An Act To Revise the Charter of the Portland Water District

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

Sec. 1. P&SL 1907, c. 433, §9, first ¶, as repealed and replaced by P&SL 1975, c. 84, is amended to read:

Sec. 9. Authorized to borrow money to issue bonds and notes. The district, through its trustees and without vote of its inhabitants, is authorized to issue from time to time bonds or notes of the district ~~to pay for the costs of capital outlay incurred by the district~~ in connection with accomplishing any of the purposes set forth in this Act, including to finance any necessary expenses and liabilities incurred in acquiring properties~~,~~; renovating properties~~,~~; laying pipes, aqueducts, conduits, drains, interceptor lines, trunk sewers, force mains~~,~~ and outfalls~~,~~; construction of treatment plants, laboratories and other water and ~~waste water~~ wastewater and sewer facilities; and ~~for~~ making renewals, additions, extensions and improvements, to finance any of the regional costs as defined in section 12, to provide funds to assist any participating municipality with respect to its financing costs assessed pursuant to section 13, subsection B and to fund the establishment of a reasonable reserve for future payments of debt service~~, and for interest on bonds or notes during the period of construction of items of capital out-~~

~~lay to be paid from the proceeds of such bonds or notes and for a period not exceeding one year thereafter. For the purpose of the preceding sentence, a reasonable reserve for future payment of debt services shall be deemed to mean a reserve, the amount of which shall not in the case of an issue of serial bonds or notes exceed the largest amount of principal and interest payable in any year except the last in which that issue of bonds or notes is outstanding and in the case of any other issue of bonds or notes exceed the lesser of the largest amount of any mandatory sinking fund payment payable on account of the particular issue of bonds or notes in any year except the last in which that issue of bonds or notes is outstanding, or 4% of the original principal amount of that issue plus in each case the largest amount of interest payable on that issue of bonds or notes in any such year.~~

Sec. 2. P&SL 1907, c. 433, §9, 2nd ¶, as enacted by P&SL 1975, c. 84, is amended to read:

~~Said~~ The bonds or notes ~~shall~~ must be issued in ~~such~~ an amount or amounts as the district, acting through its trustees and without vote of its inhabitants, may determine. ~~Said~~ The bonds or notes may be issued to mature serially, in annual installments of principal, ~~no one of which shall exceed by more than 25% any earlier installment and~~ which need not be equal, the first of which ~~shall~~ must be payable not later than 3 years from the date of ~~such~~ the bonds or notes and the last of which ~~shall~~ must be payable not later than 40 years from ~~said~~ that date. ~~Said~~ The bonds or notes may also be issued for a term of years not exceeding 40 years or in a combination to mature serially and for a term of years not exceeding 40 years, ~~all~~ as the trustees ~~shall~~ determine, and in the case of such term bonds, or combination of term bonds and serial bonds, the bonds in combination mature or are subject to an annual mandatory sinking fund redemption starting no later than 3 years after the bonds' date of issuance. ~~Said~~ The bonds may be callable with or without premium and ~~shall~~ must contain such terms and conditions~~,~~ and be sold in such manner, at public or private sale, with or without provisions for prepayment in advance of maturity, at par, at a discount or at a premium, ~~all~~ as the trustees ~~shall~~ determine. The trustees may determine or may authorize the treasurer or a committee of 2 or more trustees to determine the selling price and rate or rates of interest to be paid on bonds or notes and, if specifically authorized by the trustees, the rate of interest may vary.

Sec. 3. P&SL 1907, c. 433, §9, 3rd ¶, as amended by P&SL 1977, c. 48, §2, is further amended to read:

If the trustees vote to issue bonds or notes, the trustees may authorize the issuance, in the name of the district, of temporary notes for a period not to exceed 5 years in anticipation of the money to be received from the sale of such bonds or notes ~~but in no event later than one year after completion of construction of items of capital outlay to be paid from the proceeds of such temporary notes~~. The time within which ~~such~~ the temporary notes ~~shall~~ must be payable need not be included in determining the period for which bonds or notes may be issued.

Sec. 4. P&SL 1907, c. 433, §9, 4th ¶, as enacted by P&SL 1977, c. 48, §3, is amended to read:

For the purpose of paying preliminary expenses with respect to the investigation and planning for a ~~waste water~~ wastewater and sewage system or the improvement of an existing system for the benefit of a participating municipality not served or to be served by an existing system of the district, including without limitation expenses related to or incurred in connection with engineering, design, acquisition of ~~rights-of-way~~ rights of way, legal fees or financing, the district through its trustees and without vote of its inhabitants is authorized to borrow by the issuance of temporary notes, including notes authorized under section 10~~,~~ ~~2nd paragraph~~, for a period of not more than one year and to renew ~~such~~ the notes. Notes authorized under the authority of this paragraph ~~shall~~ must be paid from the proceeds of government grants, funded by bonds or notes issued to finance the particular system or improvement if and when the ~~same~~ bonds or notes have been authorized or paid from sums apportioned as financing costs pursuant to section 13 on the municipality or municipalities for whose benefit the proposed system or improvement was intended. Any borrowing under this paragraph ~~shall~~ must be paid or funded as ~~herein~~ provided ~~not later than 5 years after the date of issuance of the original note or notes evidencing such borrowing~~ in this Act.

Sec. 5. P&SL 1907, c. 433, §9, 7th ¶, as enacted by P&SL 1975, c. 84, is amended to read:

The district may refund from time to time in one or in separate series its bonds, notes or other evidences of indebtedness ~~provided, however, no refunding shall be earlier than 6 years before the maturity or earliest date of redemption of the bonds or notes to be refunded and provided further that pending the payment of the refunded bonds or notes, the proceeds of the refunding bonds or notes shall be held in trust and invested only in securities issued or guaranteed by the United States of America which mature not later than the maturity or redemption date of the bonds or notes to be refunded~~. All water bonds ~~shall~~ must have inscribed upon their face "Portland Water District" and "Water Bond" and ~~shall~~ must be executed as the trustees ~~shall~~ determine. All sewer bonds ~~shall~~ must have inscribed upon their face "Portland Water District" and "Sewer Bond" and ~~shall~~ must be executed as the trustees ~~shall~~ determine. All bonds issued in the exercise of the authorization of section 2, paragraph C, ~~shall~~ must have inscribed upon their face "Portland Water District" and "Purification"

and ~~shall~~ must be executed as the trustees ~~shall~~ determine.

Sec. 6. P&SL 1907, c. 433, §9, last ¶, as enacted by P&SL 1975, c. 84, is amended to read:

All ~~such~~ bonds, notes and evidences of indebtedness ~~so~~ issued by the district ~~shall be~~ pursuant to this section are legal obligations of the district, which is declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title ~~30~~ 30-A, section ~~5053~~ 5701, and all provisions of ~~said~~ section ~~shall be~~ 5701 are applicable ~~thereto~~. All bonds, notes and evidences of indebtedness issued by ~~said~~ the district pursuant to this Act ~~shall be~~ are legal investments for savings banks in the State of Maine, and ~~shall be~~ are exempt from Maine income tax.

Sec. 7. P&SL 1907, c. 433, §11, sub-§C, as enacted by P&SL 1975, c. 84, is amended to read:

C. To provide each year a sum equal to not less than ~~one nor more than 5%~~ 1% of the entire indebtedness created or assumed by the district, other than indebtedness that matures serially or that has mandatory sinking fund payments, for the water system~~, which~~. That sum ~~shall~~ must be turned into a sinking fund and there kept to provide for the extinguishment of ~~such~~ the indebtedness, or, if serial bonds ~~or~~, notes or term bonds with mandatory sinking fund payments are issued for water purposes, to pay the principal of ~~such~~ the bonds ~~or~~, notes or term bonds payable in ~~such~~ that year. The money set aside for the sinking fund ~~shall~~ must be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold.

Sec. 8. P&SL 1907, c. 433, §12, sub-§B, ¶(4), as repealed and replaced by P&SL 1977, c. 48, §5, is amended to read:

(4) Sinking fund payments; namely, a sum equal to not less than 2% ~~nor more than 5%~~ of:

(a) That portion of the final installment of principal of any issue of serial sewer bonds or notes or term sewer bonds or notes, with mandatory sinking fund payments, created or assumed by the district in connection with its ~~waste-water~~ wastewater and sewage system, ~~which~~ that for any such issue exceeds the average annual payment of principal paid or payable ~~thereon~~ in each year ~~except~~ excluding the last installment of principal from the calculation of the average annual payment; and

(b) The amount of principal of any term bonds issued without mandatory sinking fund payments assumed or issued by the district for ~~said waste-water~~ the wastewater and sewage system, which ~~shall~~ must be turned into a separate sinking fund and there kept together with any earnings on ~~said~~ the sinking fund to provide for the extinguishment of that portion of said indebtedness.

The money set aside for the sinking fund ~~shall~~ must be devoted to the retirement of the obligations of the district resulting from its ~~waste-water~~ wastewater and sewage system, and meanwhile may be invested in such securities as savings banks in the State of Maine are now or hereafter allowed to hold.

Sec. 9. P&SL 1907, c. 433, §12, sub-§D, as enacted by P&SL 1977, c. 48, §5, is amended to read:

D. The words "assess or assessment" as used in this Act ~~shall~~ mean, except when the context otherwise requires: The amount apportioned or allocated to a participating municipality ~~which~~ that has been certified by the trustees as hereinbefore provided or with respect to which a participating municipality has otherwise been notified hereunder that such amount is to be paid to the district.

If a surplus exists at the end of a calendar year, ~~it shall~~ the surplus must be transferred to a sewer surplus account, which ~~at no time shall~~ may not exceed 3%, unless otherwise approved by the trustees, of the net book value of the assets of the district attributable to the ~~waste-water~~ wastewater and sewage system. The trustees may add to the sinking fund so much of any excess over ~~said~~ the 3% as they determine advisable, and any remainder ~~shall~~ must be credited against sums otherwise to be assessed upon the participating municipalities on an equitable basis.

Sec. 10. P&SL 1907, c. 433, §13, sub-§B, as amended by P&SL 1977, c. 48, §§6 and 7, is repealed and the following enacted in its place:

B. Apportionment of financing costs:

(1) All financing costs of facilities used or to be used by only one of the participating municipalities must be apportioned to such municipality.

(2) All financing costs of any facility designed to be jointly used must be apportioned by the trustees between or among the participating municipalities for whose benefit the facilities were designed in the ratio of the percentage of use capability of the facility attributed to each participating municipality in the original design of the facility. If in the judgment of the trustees the actual use of this facility by one or more of the participating municipalities will not occur within 24 months of the actual use of the first participating municipality, financing costs must be apportioned under this paragraph to only those participating municipalities whose use or

joint use of the facilities is expected to take place within the 24-month period. Except as otherwise provided in this paragraph, when a participating municipality makes first use of a facility that had previously been used by one or more participating municipalities, that participating municipality must also be assessed for its fair share of the financing cost of the jointly used facility that had been previously assessed up to the time of the first use of the facility by the joining municipality. The additional share must be determined by the trustees on the same formula set forth in this paragraph. The trustees shall apportion the additional share and, in addition, if the trustees determine that it is appropriate and reasonable, an annual interest component at a rate to be determined by the trustees to the joining municipality over a period of years equal to the term for which the original bonded indebtedness was issued. The trustees shall make corresponding annual adjustments in the assessments of the participating municipalities previously using the facility by crediting the amount of the additional share to the participating municipalities in proportion to their respective total payments to the district on account of the financing costs of the facility made by the participating municipalities up to the time of first use of the facility by the joining municipality.

Any participating municipality has the right to prepay any portion of the original bonded indebtedness allocable to the participating municipality.

Sec. 11. P&SL 1907, c. 433, §14, as amended by P&SL 1977, c. 48, §8, is repealed and the following enacted in its place:

Sec. 14. Water use and records; billing agency. The district at cost, shall provide to any participating municipality upon written request, sufficient water use records to enable the municipality to determine sewer rates and charges and for other municipal purposes.

A participating municipality that has established a schedule of rates, fees and charges for the services furnished or to be furnished by its sewer system any of which are computed at least in part according to the amount of water consumed may, by resolution of its legislative body, request the district to collect the user charges on its behalf. Upon receipt of a request, the district shall enter into a contract with the participating municipality that provides for the following:

A. The date when collections under the contract period must begin, which may not be earlier than July lst nor later than December 31st next succeeding the year in which the request is made, and with respect to the manner in which the contract may be amended and terminated;

B. That the participating municipality shall during the period of the contract keep in force a schedule of rates, fees and charges sufficient to produce each year funds required to pay the costs apportioned or to be apportioned to the participating municipality for that year pursuant to sections 12 and 13;

C. That to the extent the district does not maintain such records in the ordinary course of its business, the participating municipality shall provide the district with a list of the users of its sewer system responsible for payment of the rates, fees and charges and keep the same up to date;

D. That the district shall on behalf of the participating municipality collect from the users the amounts due from time to time according to the schedule of rates, fees and charges and keep the sums collected in a separate account;

E. That the district shall keep its accounts and records showing the sums collected, payments made from the collected sums and charges remaining to be collected up to date at all times and shall provide for an audit of the accounts and records at least annually;

F. That the district may deduct at such times as stated in the contract, which must be at least monthly, that portion of sums collected that represent the amounts due to the district from the participating municipality pursuant to sections 12 and 13 and pay the balance of the funds to the participating municipality, and that to the extent the portions retained by the district fail to equal the portion of district costs then due from the participating municipality, the deficit must be paid to the district by the participating municipality;

G. For a method of resolving disagreements concerning operations under the contract, which may be by arbitration, except that the obligations of each of the parties to the contract with respect to the payment of money to the other must be unconditional and that neither party may withhold payment to the other of funds due under the contract during the pendency of any dispute; and

H. For such other related matters as determined appropriate by the parties to the contract.

A participating municipality with respect to fixing a schedule of rates, fees and other charges for the services furnished or to be furnished by or through its sewer system has such authority as may be granted by its charter, if any, by any private and special laws and by the Maine Revised Statutes, including, without limitation, Title 30-A, chapters 161 and 213, to the extent applicable. Notwithstanding any provision of

law to the contrary, a participating municipality may by vote of its legislative body authorize the exercise by the district on behalf of the participating municipality of any or all of the powers granted to the participating municipality to collect such rates and charges from the users of the sewer system of the participating municipality as provided in this Act, however, nothing in this section may be construed to permit the transfer by a participating municipality to the district of the right to make or collect assessments authorized by Title 30-A, chapter 161, subchapter 1, or any private and special law authorizing a participating municipality to make or collect such assessments.

In the event the user of the sewer system of the district or municipality fails within reasonable time to pay the statement of rates, fees or charges submitted by the district to the user, the district has the power to disconnect the water service of the user, notwithstanding any rule or statute to the contrary, as long as the action by the district is accomplished in accordance with the procedures set forth in applicable statutes and rules for the disconnection of utility services.

Nothing in the contract authorized under this section may affect in any way the unconditional obligation of the participating municipality to pay its share of the district's costs apportioned and certified as provided in section 13.

Sec. 12. P&SL 1907, c. 433, §18, 2nd ¶, as amended by P&SL 2001, c. 56, §2, is further amended to read:

Trustees are elected for a term of 5 years at elections as described in this paragraph. ~~Trustees elected from the City of Portland are elected at the City of Portland's regular municipal elections in November.~~ Trustees elected from the City of Portland, the City of South Portland, the Town of Cape Elizabeth, the City of Westbrook, the Town of Gorham ~~and~~, the Town of Scarborough, the Town of Windham and the Town of Raymond are elected at elections on the first Tuesday after the first Monday of November. The trustee elected from the Town of Cumberland and the Town of Falmouth is elected on a mutually coincident municipal election date in the Town of Cumberland and the Town of Falmouth in June, but, if there is not a mutually coincident municipal election date, then on the 2nd Tuesday of June. ~~The trustee elected from the Town of Raymond and the Town of Windham is elected on the date of municipal elections in the Town of Windham in June. The Town of Raymond shall hold a special town meeting to elect the trustee on the same day that the Town of Windham holds its election to elect the trustee.~~ Costs for any trustee election held concurrently with a federal, state or municipal election are divided between the municipality and the district. When there is a division of costs, the district is responsible for the costs proportional to the total number of offices and referenda issues voted upon at the election. If an election for a trustee results in a tie vote, the other trustees shall select the person who becomes a trustee.

Sec. 13. P&SL 1907, c. 433, §18, 6th ¶, as amended by P&SL 1979, c. 26, §2, is further amended to read:

The municipal clerks shall present the returns of their respective municipalities to the clerk of the district not later than 5 days after ~~said~~ the elections. The trustees shall at the ~~annual~~ first regular business meeting after the election determine and declare the successful candidates of each area.

Sec. 14. P&SL 1907, c. 433, §26 is enacted to read:

Sec. 26. Provision of administrative services to nonparticipating municipalities. The district is authorized to enter into contracts with nonparticipating municipalities, governmental entities or water and sewer utilities for the purposes of providing administrative services. Services may include but are not limited to billing services, accounting services and other administrative services related to water and sewer operations.

See title page for effective date.

CHAPTER 19

S.P. 170 - L.D. 467

An Act To Exempt School Administrative District 12, School Union 37 and School Union 60 from the Laws Requiring School Administration Consolidation

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 20-A, chapter 103-A requires the reorganization of school administrative units into regional state-approved units of administration; and

Whereas, the requirement for a minimum number of students is impractical for School Administrative District 12, School Union 37 and School Union 60 due to geographic isolation; 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. Exemption from school regionalization requirements. Notwithstanding the Maine Revised Statutes, Title 20-A, chapter 103-A and Public Law 2007, chapter 240, Part XXXX as amended by Public Law 2007, chapter 668, School Administrative District 12, serving the towns of Jackman and Moose River; School Union 37, serving the Town of Rangeley, Dallas Plantation, Lincoln Plantation, Magalloway Plantation, Rangeley Plantation and Sandy River Plantation; and School Union 60, serving the towns of Greenville, Shirley, Beaver Cove and Willimantic and Kingsbury Plantation are not required to join other towns to form a regional school unit with a student population exceeding 1,200.

In administering the Maine Revised Statutes, Title 20-A, chapter 103-A and for the purposes of implementing Public Law 2007, chapter 240, Part XXXX, section 36 as amended by Public Law 2007, chapter 668, the Commissioner of Education shall consider the towns of Jackman and Moose River together, the towns and plantations comprising Union 37 together and the towns and plantations comprising Union 60 together to be geographically isolated and provide to those towns exemptions from and accommodations to Title 20-A, chapter 103-A similar to those provided coastal islands.

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

Effective June 2, 2009.

CHAPTER 20

H.P. 921 - L.D. 1318

An Act To Create the Hancock Pond Water District

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

Whereas, the residents of the towns of Madison and Anson are in immediate need of forming a quasi-municipal regional entity to supply potable water within those towns; and

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

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

Sec. 1. Territorial limits; corporate name. Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 1, paragraphs A and B and subject to section 8 of this Act, the territory and the inhabitants of the Town of Madison and the Town of Anson constitute a standard water district under the name "Hancock Pond Water District," referred to in this Act as "the district."

Sec. 2. Powers; authority; duties. Except as otherwise expressly provided in this Act, the district has all the powers and authority and is subject to all the requirements and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64, and is authorized to perform all acts and to do all things necessary or convenient to carry out the purposes and powers provided in this Act or reasonably implied from those purposes and powers.

Sec. 3. Authority to take water and locate, construct and maintain dams, reservoirs, pipes, aqueducts and other structures and improvements. Notwithstanding any provision in the Maine Revised Statutes, Title 35-A, section 6404 to the contrary, the district has the power and authority to take, hold and convey water and to locate facilities as set forth in this section. The district is authorized to take, to hold and to convey within the Town of Madison and the Town of Anson and from any part of those towns water from any surface and groundwater source within the towns, including without limitation the Kennebec River, Wesserunsett Lake, also known as Hayden Lake, and Marshall's Pond. Pursuant to Title 35-A, section 6403, subsection 2, paragraph D, the district is authorized to take, to hold and to convey within the Town of Embden water from Hancock Pond, Sand Pond, Black Hill Pond, Mill Stream and Embden Pond and any of the tributary lakes and streams of those ponds and that stream. The district is authorized to erect, maintain and operate dams, reservoirs, gates, hydrants, standpipes and all other structures and improvements necessary or convenient for accomplishing the purposes of this Act and to lay down, maintain and operate pipes, aqueducts and all other structures and improvements necessary or convenient for accumulating, conducting, discharging, distributing and disbursing water, for forming proper reservoirs for those purposes and for accomplishing the purposes of this Act. Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 2, paragraphs F and G, the district is authorized to supply, furnish or otherwise provide water within the Town of Embden pursuant to contract and to construct, locate, acquire, equip, maintain and operate facilities and all other structures and improvements necessary or convenient for accomplishing those purposes. Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 2, paragraph F, the

district is authorized to lay in or through the streets and highways of the Town of Embden, and to maintain, operate, take up, repair and replace all pipes, aqueducts, fixtures and other structures and improvements within the Town of Embden necessary or convenient for accomplishing the purposes of this section.

Sec. 4. Additional powers; eminent domain. Notwithstanding the Maine Revised Statutes, Title 35-A, sections 6404, 6405, 6406, 6408, subsection 2 and 6409, the district has the powers and authority provided in this section.

The district has the power and is authorized to survey for, lay, erect and maintain suitable dams, reservoirs, aqueducts, pipes, hydrants, buildings, treatment or purification plants, pumping equipment and fixtures for flowage, power, pumping its water supply or conveying wastewater produced in the operation of a treatment or filtration facility through its mains, to enter upon any land or public way for laying, erecting and maintaining the pipes and structures and to make surveys for those purposes and to pass over, excavate and flow any lands.

The district is authorized to take and hold for public uses, by purchase, eminent domain or otherwise, any land that may be necessary for supplying, treating or purifying water, conveying wastewater, laying and maintaining its pipelines and constructing other structures, preserving the purity of its watershed and ensuring the purity of its water supply. The district is also authorized to take and hold in the same manner any land that may be necessary for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and land. The district may hold all real estate and personal property necessary or convenient for these purposes.

The district may not take by right of eminent domain any property or facilities of any other public utility used or acquired for future use in the performance of a public duty.

The district shall file in the registry of deeds for Somerset County plans and descriptions of the location of all the lands and water rights taken under the provisions of this Act and entry may not be made upon any land, except to make surveys, until the expiration of 10 days from the filing. The district may file with the plan a statement of the damages it is willing to pay to any person for any property or property rights taken. If the amount finally awarded does not exceed that sum, the district may recover costs against a person. Otherwise that person may recover costs against the district. Within 30 days after the filing of the plans and descriptions, the district shall publish notice of the taking and filing in a newspaper having circulation in the county, the publication to be continued 3 weeks successively.

Any person aggrieved by the determination of the damages awarded to owners of property or interests taken under this section may appeal, within 60 days after service of the condemnation order and check, to the Superior Court of Somerset County. The court shall determine damages by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest when interest is due and for costs in favor of the entitled party. A decision of the Superior Court may be appealed to the Law Court as in other civil actions.

Sec. 5. Trustees; how elected; first board; meetings; officers. All of the affairs of the district must be managed by a board of trustees composed of 7 members: 3 residents of the Town of Madison, 3 residents of the Town of Anson and one resident of the Town of Embden.

1. First board; nominations and elections. Notwithstanding any provision in the Maine Revised Statutes, Title 35-A, section 6410, subsections 1, 2, 3 and 4, to the contrary, the nomination, appointment and election of trustees and the appointment and terms of office of the first board of trustees are authorized by this subsection. The first board of trustees of the district is appointed. Within 30 days after the date on which this Act takes effect for all purposes pursuant to section 8 of this Act, the trustees of the Madison Water District shall appoint 3 trustees who must be residents of the Town of Madison, the trustees of the Anson Water District shall appoint 3 trustees who must be residents of the Town of Anson and the municipal officers of the Town of Embden shall appoint one trustee who must be a resident of the Town of Embden.

Each trustee appointed from the Town of Madison to the first board serves an initial term specified in the appointment by the trustees of the Madison Water District as follows: one for a term that expires on November 15th of the year that is one year after the year in which the trustee was appointed, one for a term that expires on November 15th of the year that is 2 years after the year in which the trustee was appointed and one for a term that expires on November 15th of the year that is 3 years after the year in which the trustee was appointed. Each trustee appointed from the Town of Anson to the first board serves an initial term specified in the appointment by the trustees of the Anson Water District as follows: one for a term that expires on November 15th of the year that is one year after the year in which the trustee was appointed, one for a term that expires on November 15th of the year that is 2 years after the year in which the trustee was appointed and one for a term that expires on November 15th of the year that is 3 years after the year in which the trustee was appointed. The trustee appointed from the Town of Embden to the first board serves for an initial term that expires on November 15th of the year that is

one year after the year in which the trustee was appointed.

When the term of office of a trustee from the Town of Madison or from the Town of Anson expires, the trustee's successor is elected at large by a plurality vote of the voters of the district. For the purpose of election, a special election must be called by the trustees and held on the date of a statewide election held in the month of November in the year in which the term of office of the trustee expires or, if there is no statewide election in November that year, on a date established by the trustees between November 1st and November 14th in the year in which the term of office of the trustee expires.

When the term of office of a trustee from the Town of Embden expires, the municipal officers of the Town of Embden shall appoint a successor trustee who must be a resident of the Town of Embden and who serves for a term that expires on November 15th of the year after the year in which the term of the predecessor trustee expires.

2. Organization; conduct of business. Except as otherwise expressly provided in this Act, the organization and powers of the board of trustees must be in accordance with the Maine Revised Statutes, Title 35-A, chapter 64.

Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 4, within 60 days after the date on which this Act takes effect for all purposes pursuant to section 8 of this Act, the trustees shall meet and organize by adopting a corporate seal and by electing a chair and a clerk from among them and by electing a treasurer who may or may not be a trustee, all to serve until November 15th of the year in which a trustee is elected pursuant to subsection 1 and until their successors are elected.

Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 5, within 30 days after November 15th of each year, the trustees of the district shall meet for the purposes of electing a chair and a clerk from among them and electing a treasurer who may or may not be a trustee, all to serve for the ensuing year and until their successors are elected.

A quorum of the board of trustees is four trustees.

3. Bylaws. The trustees may adopt and establish such bylaws as are necessary or convenient for the management of the affairs of the district.

4. Terms; eligibility requirements; vacancy. Notwithstanding any provision in the Maine Revised Statutes, Title 35-A, section 6410, subsections 1, 3 and 4 to the contrary, the terms of trustees, eligibility requirements and filling of vacancies are authorized by this subsection. Trustees from the Town of Madison and the Town of Anson serve 3-year terms. The appointed trustee from the Town of Embden serves a one-year term. The successor of a trustee who is a resident of the Town of Madison must be a resident of the Town of Madison elected by the inhabitants of the district. The successor of a trustee who is a resident of the Town of Anson must be a resident of the Town of Anson elected by the inhabitants of the district. A trustee elected in anticipation of the expiration of the term of a trustee serves for a term that expires on November 15th of the year that is 3 years after the year in which that trustee was elected. If the office of a trustee becomes vacant, the vacancy is filled in the same manner for the unexpired term by a special election called by the trustees of the district. When any trustee ceases to be a resident of the town in which the trustee resided when appointed or when nominated and elected, the trustee shall vacate the office of trustee and the vacancy must be filled as provided in this subsection. A trustee is eligible for reelection, but a person who is a municipal officer of the Town of Madison or the Town of Anson is not eligible for appointment or for nomination or election as a trustee.

Sec. 6. Finance. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6412, subsections 1 and 2 and section 6413, the district, in order to accomplish the purposes of this Act, by vote of its board of trustees and without district vote, is authorized to borrow money, including temporary borrowing, without limit, for the purposes of paying necessary expenses and liabilities incurred under this Act, acquiring properties, paying damages, laying pipes, mains, sewers, drains and conduits, purchasing, constructing, maintaining and operating a water system and making renewals, additions, extensions and improvements to that system and is authorized to issue, without limit, from time to time, bonds, notes or other evidences of indebtedness of the district in such amount or amounts, bearing interest at such rate or rates and having such terms and provisions as the trustees determine pursuant to this Act. In the case of a vote by the trustees to authorize bonds, notes or other evidences of indebtedness to pay for the acquisition of property, the cost of a water system or part of a water system, renewals or additions or for other improvements in the nature of capital costs, for renewing or refunding existing indebtedness or to pay for maintenance, repairs or current expenses, notice of the proposed debt and of the general purpose or purposes for which it was authorized must be given by the district by publication at least once in a newspaper having circulation in the towns of Madison and Anson.

Notwithstanding the Maine Revised Statutes, Title 35-A, section 6412, subsection 4, interest or dividends paid on bonds, notes or other evidences of indebtedness issued under this Act are exempt from taxation within the State, whether or not such income is subject to taxation under the United States Internal Revenue Code, as amended.

In addition to the authority set forth in the Maine Revised Statutes, Title 35-A, section 6416, all district funds, including reserve funds and trust funds to the extent that the terms of the instrument or vote creating the fund do not prohibit, may also be deposited or invested by the treasurer under the direction of the trustees according to the requirements for the deposit or investment of municipal funds contained in the Maine Revised Statutes, Title 30-A, section 5706 and section 5712, subsections 1, 2 and 3.

Sec. 7. Transfer of assets and liabilities of the Madison Water District and the Anson Water District. The district, through its trustees, shall acquire, in accordance with this section, all of the plants, properties, assets, franchises, rights and privileges of the Madison Water District and the Anson Water District, including, without limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, apparatus and appliances used or useful in supplying water for domestic, commercial, industrial and municipal purposes and shall, by appropriate instruments, assume, in accordance with this section, all of the outstanding debts, obligations and liabilities of the Madison Water District and the Anson Water District, including, without limitation, the assumption of any outstanding bonds, notes or other evidences of indebtedness of the Madison Water District and the Anson Water District that are due on or after the date of transfer.

The Madison Water District, a quasi-municipal corporation organized and existing pursuant to Private and Special Law 1913, chapter 121, as amended, and the Anson Water District, a quasi-municipal corporation organized and existing pursuant to Private and Special Law 1915, chapter 200, as amended, shall, through their respective trustees, assign, transfer and convey to the district by appropriate instruments of conveyance all, and not less than all, of their respective plants, properties, assets, franchises, rights and privileges, including, without limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, apparatus and appliances used or useful in supplying water for domestic, commercial, industrial and municipal purposes, in consideration of the assumption by the district of all of the outstanding debts, obligations and liabilities of the Madison Water District and the Anson Water District, including, without limitation, the assumption of any outstanding bonds, notes or other evidences of indebtedness of the Madison Water District and the Anson Water District that are due on or after the date of transfer.

The transfer by the Madison Water District and the Anson Water District to the district of their respective plants, properties, assets, franchises, rights and privileges, the assumption by the district of all of the outstanding debts, obligations and liabilities of the Madison Water District and the Anson Water District pursuant to this section and the subsequent use of the plants, properties, assets, franchises, rights and privileges by the district within the limits of the district are subject to the approval of the Public Utilities Commission as may be required by the Maine Revised Statutes, Title 35-A, Part 1.

Promptly after completion of the transfer and assumption of assets and liabilities pursuant to this section, the Madison Water District and the Anson Water District shall cause to be filed with the Secretary of State a certificate of dissolution certifying the name of that district and that all assets of that district and all debts, obligations and liabilities of that district have been transferred to the district and that is signed by the chair or presiding trustee of that district and by the clerk, secretary or another officer of that district. Upon the respective filing dates of the certificates of dissolution of the Madison Water District and the Anson Water District, the existence of that district ceases.

Sec. 8. Emergency clause; referendum; effective date. In view of the emergency cited in the preamble, this Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory described in section 1 of this Act at a referendum called for that purpose and held after May 1, 2009 but within 2 years after the effective date of this Act. The referendum must be called by the municipal officers of the respective towns and must be held at the regular voting places. The referendum must be called, advertised and conducted according to the law relating to municipal elections. The registrars shall make a complete list of all the eligible voters of the proposed district as described in this Act. The list prepared by the registrars governs the eligibility of a voter. For the purpose of registration of voters, the registrars of voters must be in session the regular workday preceding the referendum. The subject matter of this Act is reduced to the following question:

> "Do you favor creating the Hancock Pond Water District and permitting the Hancock Pond Water District to acquire the assets and assume the liabilities of the Madison Water District and the Anson Water District?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of Madison and the Town of Anson and due certificate of the results filed by the clerk with the Secretary of State.

This Act takes effect for all other purposes immediately upon its approval by a majority of the legal voters of each town voting at the referendum. Failure

to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held within 2 years after the effective date of this Act.

If, after May 1, 2009 but prior to approval of this Act, a referendum on the question specified in this section is held in accordance with this section and a majority of the legal voters of each town voting at the referendum cast votes in favor of the question and due certificate of the results are filed with the Secretary of State, this Act takes effect when approved.

Effective pending referendum.

CHAPTER 21

H.P. 920 - L.D. 1317

An Act To Amend the Charter of the Addison Point Water District

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

Whereas, it is imperative that the election of the board of trustees of the Addison Point Water District be clarified prior to the next annual meeting of the district; and

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

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

Sec. 1. P&SL 1953, c. 73, §7 is repealed and the following enacted in its place:

Sec. 7. Board of trustees; election; terms of trustees; vacancies; officers. All the affairs of the district are managed by a board of 5 trustees. Trustees are elected at the annual meeting of the district. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 1, when the term of office of a trustee expires, the trustee's successor is elected at large by a plurality vote of the voters of the district at the annual meeting to serve for a term of 3 years. A vacancy is filled in the same manner for the unexpired term by a special election called by the trustees. Notice of annual meetings and special elections to elect trustees must be published not less than 2 weeks before the meeting or election.

The trustees of the district shall elect a chair from among the trustees and elect a treasurer who may or may not be a trustee and fix the treasurer's salary.

Sec. 2. P&SL 1953, c. 73, §8 is repealed and the following enacted in its place:

Sec. 8. Annual meeting. The board of trustees may hold an annual meeting upon 14 days' public notice to elect trustees and transact any other business as may properly come before the board. Ten percent of the voters qualified to vote at such meetings constitutes a quorum.

Sec. 3. P&SL 1953, c. 73, §12 is repealed and the following enacted in its place:

Sec. 12. Authorized to receive government aid, borrow money and issue bonds and notes. The authority of the district to receive government aid, borrow money and issue bonds and notes is governed by the Maine Revised Statutes, Title 35-A, section 6412.

Sec. 4. P&SL 1953, c. 73, §14 is repealed and the following enacted in its place:

Sec. 14. Rates. The rates of the district must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61. The rates must be sufficient to provide revenue to the district to carry out the purposes of its incorporation, without the need for any financial assistance from any municipality, other than the normal payment of water charges for services rendered and any loan or loans provided to the district for initial funds as set forth in Title 35-A, section 6412. All customers of the district shall pay to the treasurer or other designated officer of the district the rates established by the district.

Sec. 5. Transition; trustees in office. Trustees of the Addison Point Water District in office on the effective date of this Act may continue in office until the first annual meeting of the district after the effective date of this Act. At that annual meeting, 5 trustees must be elected, one for 3 years, 2 for 2 years and 2 for one year. When the term of office of a trustee expires, that trustee's successor is elected in accordance with this Act.

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

Effective June 2, 2009.

CHAPTER 22

H.P. 959 - L.D. 1369

An Act To Amend the Charter of the Clinton Water District

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

Sec. 1. P&SL 1945, c. 72, §1, 2nd ¶ is repealed and the following enacted in its place:

The area within the district is to be composed of that part of the town of Clinton bounded and described as follows: Beginning at a point where the Clinton-Benton town line crosses the Sebasticook River one mile south of Clinton Village; thence northeast to a point crossing Bellsqueeze Road, 1,000 feet south of Hinkley Road intersection; continuing northwest to a point at Morrison Corner where Town House Hill Road meets Battle Ridge Road to Goodrich Road; thence southeasterly along Goodrich Road to Whitten Road; continuing southeasterly, crossing Mutton Lane Road on the southern side of the I-95 overpass; continuing straight to the Sebasticook River where the Waldo-Kennebec County line crosses the Sebasticook River; following the Sebasticook River to the Benton-Clinton line; thence westerly to the point of beginning.

Sec. 2. P&SL 1945, c. 72, §1, 3rd ¶, as amended by PL 1975, c. 461, §8, is repealed.

Sec. 3. P&SL 1945, c. 72, §8 is amended to read:

Sec. 8. Board of trustees. All the affairs of ~~said~~ the district ~~shall be~~ are managed by a board of 3 trustees, resident ~~therein~~ of the district, who ~~shall be appointed by the municipal officers of the town of Clinton~~ are elected at the annual meeting of the water district. They shall hold office as ~~hereinafter~~ provided in the charter and until their respective successors are ~~appointed~~ elected and qualified. ~~Whenever the term of office of a trustee expires, the municipal officers of the town of Clinton shall appoint a successor to serve the full term of 3 years and in case of any other vacancy arising from any cause, it shall be filled in like manner for the unexpired term.~~ When any trustee ceases to be a resident of ~~said~~ the district, ~~his~~ that trustee's office as trustee ~~shall be~~ is declared vacant. ~~During his term of office no selectman~~ A selectperson of ~~said~~ the town of Clinton ~~shall~~ may not serve as a member of the board of trustees of the district while serving as a selectperson.

Sec. 4. P&SL 1945, c. 72, §9 is amended to read:

Sec. 9. Trustees; how elected; meetings; officers; vacancies filled for the unexpired term. The first board of trustees ~~shall~~ must be appointed within 10 days after the acceptance of this act by the voters of ~~said~~ the district, one to serve until the first annual meeting of the district, one until the second, and one until the third ~~such~~ annual meeting. Thereafter, one member ~~shall~~ must be ~~appointed~~ elected at the time of each annual meeting to serve for a term of 3 years. As soon as convenient after their appointment, the trustees first appointed shall hold a meeting at some convenient place in the district, to be called by any member ~~thereof~~ of the board, in writing, designating the time and place, and delivered in hand to the other ~~two~~ 2 members not less than 2 full days before the meeting; ~~provided,~~ however, ~~that~~ they may meet by agreement and waiver without such notice. They shall then organize by the election of a ~~chairman~~ chair and clerk from their own number, adopt a corporate seal and by-laws, and perform any other acts within the powers delegated to them by law. As necessary, they may choose agents and other needful officers who ~~shall~~ serve at their pleasure, and whose compensation ~~shall be~~ is fixed by ~~said~~ the trustees. They shall choose annually a treasurer to serve for a term of ~~1~~ one year~~,~~ and fix the treasurer's salary~~, which shall in no case exceed $200 per year, and fill vacancies in that office~~. The treasurer shall furnish a bond, issued in such sum by a surety company as the trustees may approve, and the expense of securing the bond is to be borne by the district. Members of the board ~~shall be~~ are eligible to any office under the board, but ~~shall~~ may not receive compensation ~~therefor~~, except as trustee, unless authorized by vote of the municipal officers of the town of Clinton.

~~The~~ Beginning October 1, 2009, the compensation of the trustees ~~shall not exceed $50~~ is $700 each per year, unless otherwise provided by vote~~, as above defined~~. Increases in trustee compensation are governed by the Maine Revised Statutes, Title 35-A, section 6410, subsection 7.

The trustees ~~shall~~ must be sworn to the faithful performance of their duties as such, which ~~shall~~ include the duties of any member as clerk or clerk pro tempore. They shall make and publish an annual report, which ~~shall~~ must also contain a report of the treasurer.

Nominations and elections of trustees and provisions for filling vacancies on the board of trustees are governed by the Maine Revised Statutes, Title 35-A, section 6410, subsection 1.

Sec. 5. P&SL 1945, c. 72, §10 is amended to read:

Sec. 10. Annual meeting of district; qualification of voters of district. After the acceptance of this charter and the organization of the board, the annual meeting of the district ~~shall~~ must be held within the district ~~on the 1st Monday of March~~ at a date selected by the trustees, at such hour and place as may be designated by resolution of the board of trustees as provided in the by-laws. Notice ~~thereof~~ of the annual meeting; signed by the ~~chairman~~ chair or clerk of the

board, ~~shall~~ must be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board in like manner at any time, and notice of special meetings ~~shall~~ must state the business to be transacted ~~thereat~~ at the meeting. Ten per cent of the voters qualified to vote in such meetings ~~shall constitute~~ constitutes a quorum. ~~If for any reason a legally sufficient annual meeting is not held on the above date, a meeting in lieu thereof may be called in like manner to be held within 2 months from said date.~~

Sec. 6. Transition; trustees in office. Trustees of the Clinton Water District in office on the effective date of this Act may continue in office for the remainder of their terms. When the term of office of a trustee expires, that trustee's successor is elected in accordance with this Act.

See title page for effective date.

CHAPTER 23

H.P. 729 - L.D. 1054

An Act To Promote Economic Development in the Greater Portland Region

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

Sec. 1. P&SL 1945, c. 123, §2, as amended by P&SL 1951, c. 204, §1, is further amended to read:

Sec. 2. Powers. The said corporation ~~shall have~~ has the power, within the confines of Portland ~~and~~, South Portland, Westbrook, Falmouth, Cape Elizabeth and Scarborough, to ~~acquire, manage, operate or lease any business, facility structure, building, machinery or equipment owned by the federal government or any agency thereof, which may hereafter become surplus property and not needed for any function of said federal government, including, but not restricting the power aforesaid, the utilization of shipyards, wharves, trackage, dry docks and any facilities useful or necessary in connection therewith, and shall also have the power to acquire, build, manage, operate, rent or lease, other properties both real and personal, within said confines of Portland and South Portland, and for those purposes to purchase, lease, hold, own, manage, control, sell, mortgage, lease or let land, buildings, real estate and rights in real estate, and all manner of personal property,~~ administer loans and grants to businesses and nonprofits for purposes of stimulating economic growth and revitalization efforts and fostering coordination between economic development entities within the confines of Portland, South Portland, Westbrook, Falmouth, Cape Elizabeth and Scarborough and to accept gifts thereof in trust, or otherwise.

Sec. 2. P&SL 1945, c. 123, §5, as amended by P&SL 1951, c. 204, §3, is further amended to read:

Sec. 5. Annual report. The corporation shall ~~have power to fix and receive by private contract or regularly established fees, revenue for the use, occupation or enjoyment of any of its property, and shall devote the same exclusively to the management, repair, replacement, construction, and reconstruction, purchase and general development of its property within the scope of its powers as herein defined, and shall render an account thereof annually to the governor and his council. It shall be the policy of the said corporation to establish as rental for the facilities to be leased by it a sum which will be in parity with comparable facilities established by private enterprises so as to prevent any undue competitive condition which would tend to handicap, destroy or put out of business existing competitive comparable facilities.~~ submit to the Governor, and the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters, not later than 120 days after the close of the corporation's fiscal year, a complete report on the activities of the corporation. The report must include all of the following for the previous year:

1. A description of the corporation's operations;

2. An accounting of the corporation's receipts, expenditures, assets and liabilities at the end of its fiscal year;

3. A statement of the corporation's proposed and projected activities for the ensuing year; and

4. Recommendations regarding further actions that may be suitable for achieving the purposes of this charter.

Sec. 3. Conduct of business. Notwithstanding Resolve 2007, c. 224, the Greater Portland Public Development Commission may expend funds, incur new liabilities and obligations and conduct current and new business activities in carrying out its powers.

See title page for effective date.

CHAPTER 24

H.P. 774 - L.D. 1119

An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay

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

PART A

Sec. A-1. P&SL 1883, c. 248, §1, as amended by P&SL 2005, c. 68, §1, is further amended to read:

Sec. 1. Boundaries extended. All that part of the city of Saco lying within the following described lines and boundaries, namely; commencing at the easterly corner between the said city of Saco and the town of Scarborough; thence by the line between said city of Saco and said town of Scarborough northwesterly to a stone in the sea wall; thence N 42°55' W by a set line 693 rods, to a granite stone placed at a point where the line between said city of Saco and said town of Scarborough intersects with a line in the said city of Saco known as the Granger line; thence S 47°12' W 5,416 feet, more or less, to a granite stone inscribed "S" on the northwest side and "O" on the southeast side found set in the ground on the southwesterly side of the old location of the "East Old Orchard" Road; thence continuing on the same course 4,252.10 feet to a point located N 43°42'45" W 4.50 feet from a granite monument with drill hole found set in the ground; thence N 43°42'45" W 31.54 feet to a granite monument with drill hole found set in the ground; thence N 46°40'30" E 273.94 feet to the base of an old loose granite monument found set in the ground; thence N 47°11'45" W 148.88 feet to a granite monument with drill hole found set in the ground; thence S 55°19'45" W 1,451.87 feet to an iron pipe found driven into the ground; thence S 47°57'30" E 389.34 feet to a point located N 47°57'30" W 1.97 feet from a granite monument with drill hole found set in the ground; thence S 47°12'00" W 862.86 feet to a granite monument with iron rod inscribed "S" on the northwest side and "O" on the southeast side found set in the ground on the "Middle Line" so-called; thence continuing on the same course 3,850 feet, more or less, to a granite stone on the bank of Goose Fair Brook in said city of Saco; thence southeasterly by said Goose Fair Brook to the sea; thence southeasterly, on the same course ~~1,000 feet~~ 3 miles to a point; thence northeasterly, parallel to and ~~1,000 feet~~ 3 miles distant from the shore to a point ~~1,000 feet~~ 3 miles southeasterly from the boundary first above named; thence northwesterly ~~1,000 feet~~ 3 miles to the boundary first above named, or to such distance as the city of Saco may have owned or controlled prior to February 20, 1883; with all the sea shore and flats and all other interests in said land lying between the medial line of said Goose Fair Brook extended and said easterly corner of the city of Saco; and also that parcel of land described as follows: Beginning at a capped iron rod set (PLS #2190) on the northwesterly sideline of a private way known as Trotter Lane and the existing town line of Old Orchard Beach and city of Saco as of May 10, 2006 at the corner of land now or formerly of Ronald Patoine; said point of beginning being N 37° 07' 57" W a distance of 59.85 feet from a capped iron rod found (PLS #2190) in the town of Old Orchard Beach at the intersection of the southeasterly sideline of said Trotter Lane and the northwesterly sideline of the cul-de-sac of Patoine Place, so-called, at the easterly corner of land of Ronald Patoine; thence from said point of beginning S 49° 46' 25" W across the land of Ronald Patoine and along the existing Old Orchard Beach and city of Saco town line as of May 10, 2006 a distance of 210.17 feet to a point and land now or formerly of Ronald and June LaPointe; thence N 37° 07' 57" W along the land of said LaPointe a distance of 149.81 feet to a capped iron rod found (PLS #1235) and land now or formerly of Biddeford & Saco Water Company; thence N 57° 55' 58" E along the land of Biddeford & Saco Water Company a distance of 594.18 feet to a capped iron rod to be set (PLS #2190) and land now or formerly of Richard and Ronald Patoine; thence S 41° 07' 26" E along the land of Richard and Ronald Patoine a distance of 65.27 feet to a capped iron rod found (PLS #1293) and the northwesterly sideline of said Trotter Lane and the existing town line of Old Orchard Beach and city of Saco as of May 10, 2006; thence S 49° 46' 25" W along the northwesterly sideline of said Trotter Lane and along the existing town line of Old Orchard Beach and city of Saco as of May 10, 2006 a distance of 387.11 feet to the point of beginning is hereby incorporated into a separate town by the name of Old Orchard Beach and the inhabitants thereof are hereby invested with all the powers and privileges and are made subject to all the duties and liabilities incident to other towns within this state. ~~Provided the town of Old Orchard Beach pay to the city of Saco, as damages, such an amount as a committee, composed of the chairs of the boards of assessors of said Saco and of said Old Orchard Beach and one other disinterested person by them selected, may determine is just and equitable.~~ Notwithstanding the 3-mile seaward boundary of the town of Old Orchard Beach, the islands of Bluff and Stratton remain as part of the city of Saco.

Sec. A-2. Contingent effective date; notice. This Part does not take effect unless the Town of Old Orchard Beach adopts a municipal zoning ordinance relating to marinas that includes standards that are at least as strict as those adopted in the City of Saco at the time of passage of this Act.

Upon adoption of the ordinance and determination by the town manager of Old Orchard Beach that it is at least as strict as the City of Saco ordinance, the town manager of Old Orchard Beach shall notify the City of Saco and the Revisor of Statutes of this adoption.

PART B

Sec. B-1. Working group established. The Town of Old Orchard Beach and the City of Saco may provide representatives to convene a working group to examine regulatory jurisdictions, including zoning, parameters for future development in Saco Bay, uniform environmental regulations for Saco Bay and the feasibility of establishing an oversight group made up of residents from communities bordering Saco Bay. If a working group is convened, the Legislature intends that the Director of the State Planning Office within

the Executive Department or the director's designee be invited as well as representatives of the Department of Marine Resources and the Department of Conservation, Bureau of Parks and Lands and any other departments that are determined appropriate by the working group. Representatives of the Town of Scarborough and the City of Biddeford must also be invited to participate in the working group.

Sec. B-2. Working group report. If a working group is established pursuant to section 1, it is authorized to submit a report on its findings related to municipal boundaries, regulatory jurisdictions, uniform environmental regulations and future development strategies in Saco Bay to the Joint Standing Committee on State and Local Government no later than February 15, 2010.

Sec. B-3. Authority to submit legislation. The Joint Standing Committee on State and Local Government is authorized to submit legislation concerning the working group's findings to the Second Regular Session of the 124th Legislature.

See title page for effective date, unless otherwise indicated.

CHAPTER 25

H.P. 594 - L.D. 863

An Act To Continue the Position of Director of Recreational Access and Landowner Relations

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

Sec. 1. Transfer; Department of Inland Fisheries and Wildlife, Carrying Balances - General Fund account. Notwithstanding any other provision of law, on or before September 1, 2009, the State Controller shall transfer $45,214 from the Department of Inland Fisheries and Wildlife, Other Special Revenue Funds account to the Department of Conservation, Maine State Parks Development Fund, Other Special Revenue Funds account to fund 1/2 of the cost of the limited-period landowners relations program for fiscal year 2009-10.

Sec. 2. Working group on the recreational access and landowner relations program. The Commissioner of Inland Fisheries and Wildlife and the Commissioner of Conservation shall jointly convene a working group on the recreational access and landowner relations program, referred to in this section as "the program." At least one other employee from each department shall serve on the working group and the commissioners shall invite the participation of a least 2 landowners and 2 recreation users in the working group. The working group shall:

1. Create a work plan for the program through June 2011;

2. Review the scope of the duties, structure, funding level and support for the position of the Director of Recreational Access and Landowner Relations, referred to in this section as "the position";

3. Identify sustainable funding sources for the position as a permanent position;

4. Propose grant-funding opportunities to strengthen outreach efforts;

5. Develop recommendations for enhanced volunteer efforts, including building on existing agency volunteer programs;

6. Review distribution of the costs of and support for the program to ensure that it is fairly aligned with those benefited by the program; and

7. Review landowner relations programs in other states.

The working group shall submit a report, including its findings, by December 31, 2009 to the Governor, the Joint Standing Committee on Inland Fisheries and Wildlife and the Joint Standing Committee on Agriculture, Conservation and Forestry. The working group shall include in its submission recommendations for permanent funding of the position for inclusion in the next biennial budget.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

CONSERVATION, DEPARTMENT OF

Administrative Services - Conservation 0222

Initiative: Continues one limited-period Public Service Coordinator I position in the Maine State Parks Development Fund program and provides funding for the associated All Other costs in the Administrative Services - Conservation program. This position was originally established in Resolve 2007, chapter 130. This position will end on June 11, 2011.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$2,500	$2,500
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,500	$2,500

Maine State Parks Development Fund 0342

Initiative: Continues one limited-period Public Service Coordinator I position in the Maine State Parks Development Fund program and provides funding for the

associated All Other costs in the Administrative Services - Conservation program. This position was originally established in Resolve 2007, chapter 130. This position will end on June 11, 2011.

OTHER SPECIAL REVENUE FUNDS	**2009-10**	**2010-11**
Personal Services	$84,382	$89,370
All Other	$6,045	$6,190
OTHER SPECIAL REVENUE FUNDS TOTAL	$90,427	$95,560

CONSERVATION, DEPARTMENT OF		
DEPARTMENT TOTALS	**2009-10**	**2010-11**
OTHER SPECIAL REVENUE FUNDS	**$92,927**	**$98,060**
DEPARTMENT TOTAL - ALL FUNDS	**$92,927**	**$98,060**

See title page for effective date.

CHAPTER 26

H.P. 1050 - L.D. 1494

An Act To Amend the Charter of the Limestone Water and Sewer District

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

Sec. 1. P&SL 1957, c. 59, §8-A, sub-§§1 and 2, as enacted by P&SL 2009, c. 5, §1, is amended to read:

1. Composition of wastewater facility board. The wastewater facility board consists of the 3 members of the board of trustees and 2 appointed members. One appointed member must be appointed by the trustees of the Loring Development Authority of Maine, and one appointed member must be a member of the Limestone Board of Selectpeople appointed by the selectpeople. The 2 appointed members serve without compensation and serve at the pleasure of their appointing entities and may be removed without cause by their appointing entities at any time. An appointed member who serves on the wastewater facility board is not eligible to serve as an officer of the elected board of trustees.

2. Function of wastewater facility board. Whenever the board of trustees takes up matters concerning the management and oversight of the Greater Limestone Wastewater Treatment Facility, the board of trustees shall sit as the wastewater facility board. At such times, the appointed members of the wastewater facility board are entitled to sit with the board of trustees and to speak and vote on those matters specifically relating to the Greater Limestone Wastewater Treatment Facility~~, including, but not limited to,~~. The jurisdiction of the wastewater facility board is limited to the operation and maintenance of that facility, compliance with environmental regulations applicable to that facility, rate changes and changes in the terms and conditions of wastewater service provided by the district to the Loring Development Authority of Maine. All other affairs of the district, including the authority to borrow money, to issue bonds and notes and to appropriate and expend funds remain vested in the board of trustees, duly elected pursuant to section 8.

Sec. 2. P&SL 1957, c. 59, §12, first sentence, as amended by P&SL 2009, c. 5, §2, is further amended to read:

For accomplishing the purposes of this Act, the district, through ~~its~~ the trustees, who are elected, is authorized to borrow money temporarily in an amount not to exceed $8,000,000, and to issue for the borrowing of money the interest-bearing negotiable notes of the district and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under this Act, including the expenses incurred in the creation of the district, in reimbursing the town, in acquiring the properties, privileges and franchises of the Limestone Water and Sewer Company, its successors or assigns, by purchase or otherwise, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing and maintaining and operating a water, sewerage and drainage system, and making extensions, additions and improvements to the same, the district through ~~its~~ the trustees, who are elected, may from time to time issue bonds of the district to an amount necessary in the judgment of the trustees for the issuance of bonds, maturing at one time or in uniform or varying installments with or without call provisions and at or without any premium.

See title page for effective date.

RESOLVES OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
2009

CHAPTER 1

H.P. 394 - L.D. 556

Resolve, Relating to Federal Stimulus Funds for Energy Programs

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

Whereas, federal legislation providing stimulus funds to the State is expected soon to be enacted; and

Whereas, the State must ensure that such funds designated for critical energy purposes are carefully applied in a timely fashion within the parameters established under federal law; and

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

Sec. 1. Legislative review of expenditures of federal stimulus funds relating to energy. Resolved: That, except as otherwise provided in this resolve, a state agency or authority may not expend or encumber any temporary increase in federal funds received by the State or by the agency or authority pursuant to a federal economic stimulus law that are expressly designated for energy-related purposes, referred to in this resolve as "energy stimulus funds," whether or not such funds are subject to state legislative allocation, unless:

1. In the case of energy stimulus funds subject to state legislative allocation, an allocation of those funds has been made. A financial order may not allow the expenditure of such funds prior to the enactment of such an allocation; and

2. In the case of energy stimulus funds not subject to state legislative allocation, either legislation authorizing a plan for the use of the funds is enacted or the Legislature fails to act upon a proposed plan submitted in accordance with section 2 during the legislative session in which that plan is submitted or during any subsequent session to which the legislative instrument allowing for review and action on that proposed plan is carried over.

For purposes of this resolve, "state agency or authority" includes but is not limited to the Governor, a state agency, a state department, the Public Utilities Commission and the Maine State Housing Authority. For purposes of this resolve, "energy-related purposes" includes but is not limited to purposes relating to energy efficiency or conservation, weatherization, fuel assistance, system conversion or augmentation to reduce fossil fuel utilization, the development or support of renewable energy resources or energy transmission or distribution systems or any other energy-related purposes. For purposes of this resolve, "federal economic stimulus law" means the finally enacted version of the federal American Recovery and Reinvestment Act of 2009, pending in Congress on February 11, 2009, or any successor or substantially similar legislation enacted by Congress prior to the repeal of this resolve; and be it further

Sec. 2. Submission of plans for use of new federal funds relating to energy. Resolved: That a state agency or authority receiving or expecting to receive or apply for energy stimulus funds shall, no later than 30 days after the enactment of a federal economic stimulus law, submit to the Legislature a proposed plan for the use of those funds together with a copy of all relevant federal laws or regulations governing the use of the funds and a written description of any discretion permitted in the application of the funds.

1. If the energy stimulus funds are subject to state legislative allocation, the state agency or authority shall submit the plan and required documents to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Utilities and Energy and the Joint Select Committee on Maine's Energy Future.

2. If the energy stimulus funds are not subject to state legislative allocation, the state agency or authority shall submit 30 copies of the proposed plan and required documents to the Executive Director of the Legislative Council, who shall immediately notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the proposed plan. The Executive Director of the Legislative Council shall provide the copies of the proposed plan and the required documents to the committee of the Legislature to which the legislative instrument is referred; and be it further

Sec. 3. Application. Resolved: That the requirements of sections 1 and 2 do not apply to any

energy stimulus funds that are subject to federal requirements or conditions that are inconsistent with the requirements of this resolve such that the application of this resolve to such funds would materially interfere with the State's receipt of such funds. The state agency or authority that receives or expects to receive or apply for energy stimulus funds subject to such federal requirements or conditions shall submit no later than 30 days after the enactment of a federal economic stimulus law a report to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Utilities and Energy and the Joint Select Committee on Maine's Energy Future that identifies such funds, the relevant federal requirements or conditions and the applicable inconsistencies; and be it further

Sec. 4. Repeal. Resolved: That this resolve is repealed June 17, 2009.

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

Effective February 27, 2009.

CHAPTER 2

H.P. 67 - L.D. 77

Resolve, Regarding Legislative Review of Portions of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a Major Substantive Rule of the Department of Education

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 181: Child Development Services System: Regional Provider Advisory Boards, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 6, 2009.

CHAPTER 3

H.P. 71 - L.D. 81

Resolve, Regarding Legislative Review of Portions of Chapter 10: Exemptions to the Ban on Flavored Cigarettes and Cigars, a Major Substantive Rule of the Office of the Attorney General

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 10: Exemptions to the Ban on Flavored Cigarettes and Cigars, a provisionally adopted major substantive rule of the Office of the Attorney General that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 6, 2009.

CHAPTER 4

H.P. 53 - L.D. 60

Resolve, To Rename the Father Curran Bridge in Augusta

Sec. 1. Calumet Bridge at Old Fort Western. Resolved: That the Father Curran Bridge in Augusta be renamed the Calumet Bridge at Old Fort Western.

See title page for effective date.

CHAPTER 5

H.P. 95 - L.D. 111

Resolve, To Name Part of Route 16 the Alton E. Worcester Highway

Sec. 1. Alton E. Worcester Highway. Resolved: That the part of Route 16 that extends northeast from the town line between Mayfield Township and Kingsbury Plantation to the town line between Kingsbury Plantation and the Town of Abbot be named the Alton E. Worcester Highway.

See title page for effective date.

CHAPTER 6

H.P. 236 - L.D. 296

Resolve, To Name the Gorham Bypass

Sec. 1. Bernard P. Rines Bypass. Resolved: That the new Gorham bypass be named the Bernard P. Rines Bypass.

See title page for effective date.

CHAPTER 7

S.P. 39 - L.D. 90

Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

Sec. 1. State Tax Assessor authorized to convey real estate. Resolved: That the State Tax Assessor is authorized to convey by sale the interest of the State in real estate in the Unorganized Territory as indicated in this resolve. Except as otherwise directed in this resolve, the sale must be made to the highest bidder subject to the following provisions.

1. Notice of the sale must be published 3 times prior to the sale, once each week for 3 consecutive weeks, in a newspaper in the county where the real estate lies, except in those cases in which the sale is to be made to a specific individual or individuals as authorized in this resolve, in which case notice need not be published.

2. A parcel may not be sold for less than the amount authorized in this resolve. If identical high bids are received, the bid postmarked with the earliest date is considered the highest bid.

If bids in the minimum amount recommended in this resolve are not received after the notice, the State Tax Assessor may sell the property for not less than the minimum amount without again asking for bids if the property is sold on or before April 1, 2010.

Employees of the Department of Administrative and Financial Services, Bureau of Revenue Services and spouses, siblings, parents and children of employees of the Bureau of Revenue Services are barred from acquiring from the State any of the real property subject to this resolve.

Upon receipt of payment as specified in this resolve, the State Tax Assessor shall record the deed in the appropriate registry at no additional charge to the purchaser before sending the deed to the purchaser.

Abbreviations and plan and lot references are identified in the 2006 State Valuation. Parcel descriptions are as follows:

2006 MATURED TAX LIENS

Prentiss TWP, Penobscot County

Map PE038, Plan 11, Lot 26	195400208-3
Noons, William	105 acres

TAX LIABILITY

2006	$85.82
2007	81.57
2008	82.24
2009 (estimated)	82.24
Estimated Total Taxes	$331.87

Interest	17.77
Costs	26.00
Deed	8.00
Total	$383.64

Recommendation: Sell to Noons, William for $383.64. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than $400.00.

T1 R1 NBKP (Rockwood Strip), Somerset County

Map SO033, Plan 8, Lots 36.6, 36.7 and 36.8 — 258440128-2

McCormick, George R., Jr. — 0.31 acre and building

TAX LIABILITY

2005	$69.42
2006	180.09
2007	177.72
2008	278.57
2009 (estimated)	278.57
Estimated Total Taxes	$984.37
Interest	51.56
Costs	26.00
Deed	8.00
Total	$1,069.93

Recommendation: Sell to McCormick, George R., Jr. for $1,069.93. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than $1,075.00.

T10 R3 NBPP, Washington County

Map WA024, Plan 2, Lot 1 — 298050016-1

Craig, Sherwood H. — 15.25 acres

TAX LIABILITY

2006	$340.36
2007	323.00
2008	297.14
2009 (estimated)	297.14
Estimated Total Taxes	$1,257.64
Interest	70.43
Costs	26.00
Deed	8.00
Total	$1,362.07

Recommendation: Sell to Craig, Sherwood H. for $1,362.07. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than $1,375.00.

See title page for effective date.

CHAPTER 8
H.P. 70 - L.D. 80

Resolve, Regarding Legislative Review of Portions of Chapter 33: Rules for the Certification of Family Child Care Providers, a Major Substantive Rule of the Department of Health and Human Services, Division of Licensing and Regulatory Services

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 33: Rules for the Certification of Family Child Care Providers, a provisionally adopted major substantive rule of the Department of Health and Human Services, Division of Licensing and Regulatory Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective April 16, 2009.

CHAPTER 9

H.P. 392 - L.D. 554

Resolve, To Allow the Department of Transportation To Transfer Certain Land to the Greater Grand Isle Historical Society

Sec. 1. Governor to convey certain real estate. Resolved: That the Governor, upon recommendation of the Commissioner of Transportation, shall transfer the State's fee interest in a parcel of land located in the Town of Grand Isle to the Greater Grand Isle Historical Society. The parcel of land is known as the Grand Isle Picnic and Rest Area.

See title page for effective date.

CHAPTER 10

H.P. 337 - L.D. 449

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Property Located at 17 School Street in Benedicta, Aroostook County

Sec. 1. Authority to convey state property. Resolved: That, notwithstanding any other provision of law, the State, by and through the Commissioner of Administrative and Financial Services, may:

1. Enter into a lease or leases or convey by sale the interests of the State in the state property described in section 2 with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies;

2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

3. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, subchapter 3, the power of eminent domain to quiet for all time any possible challenges to ownership of the state property;

4. Negotiate, draft, execute and deliver any easements or other rights that, in the commissioner's discretion, may contribute to the value of a proposed sale or lease of the State's interests; and

5. Release any interests in the state property that, in the commissioner's discretion, do not contribute to the value of the remaining state property; and be it further

Sec. 2. Property interests that may be conveyed. Resolved: That the state property authorized to be sold or leased is:

1. A parcel of land in Benedicta Township occupied by the Benedicta Elementary School consisting of approximately 8.34 acres conveyed to the Town of Benedicta School District in May 1975 and recorded in the Aroostook County Southern Registry of Deeds, Volume 1180, Page 171; and be it further

Sec. 3. Property to be sold as is. Resolved: That the Commissioner of Administrative and Financial Services may negotiate and execute leases and purchase and sale agreements upon terms the commissioner considers appropriate; however, the state property described in section 2 must be sold "as is," with no representations or warranties.

Title must be transferred by quitclaim deed without covenant or release deed and executed by the commissioner; and be it further

Sec. 4. Exemptions. Resolved: That any lease or conveyance pursuant to this resolve is exempt from any statutory or regulatory requirement that the state property described in section 2 first be offered to the Maine State Housing Authority or another state or local agency; and be it further

Sec. 5. Appraisal. Resolved: That the Commissioner of Administrative and Financial Services shall have the current market value of the state property described in section 2 determined by an independent appraiser. The commissioner may list the state property for sale or lease with private real estate brokers at the state property's appraised value and negotiate any sales or leases, solicit bids, sell directly to purchasers or enter directly into leases with tenants. The commissioner may reject any offers; and be it further

Sec. 6. Proceeds. Resolved: That any proceeds from the sale or lease of unorganized territory property pursuant to this resolve must be deposited into the Unorganized Territory Education and Services

Fund, as designated by the Commissioner of Administrative and Financial Services; and be it further

Sec. 7. Repeal. Resolved: That this resolve is repealed 5 years from its effective date.

See title page for effective date.

CHAPTER 11

H.P. 171 - L.D. 206

Resolve, To Fund the Nursing Education Loan Repayment Program

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

Whereas, the average age of the 20,597 nurses in the State this year who renewed their nursing licenses is 50.5 years of age, older than the average age of nurses nationally; and

Whereas, nurse faculty members generally are older workers with an average age of 54.5 years and nearly 1/3 of faculty in the State's nursing education programs do not plan to be working in 5 years; and

Whereas, the State's schools of nursing continue to turn away qualified applicants due to a lack of faculty needed to expand the nursing programs to accommodate more students; and

Whereas, the State created the nursing education loan repayment program under the Finance Authority of Maine to address the critical need for qualified faculty in the State's schools of nursing; and

Whereas, the nursing education loan repayment program has never received funding; 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. Nursing education loan repayment program. Resolved: That the Department of Health and Human Services, the Department of Labor and the Department of Education are directed to research federal funding sources to fund the nursing education loan repayment program established in the Maine Revised Statutes, Title 10, section 1019 and report to the Joint Standing Committee on Health and Human Services, the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Labor by January 1, 2010 with suggested plans to obtain federal funding from the sources identified.

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

Effective April 17, 2009.

CHAPTER 12

H.P. 211 - L.D. 268

Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization, and Approval of Education Personnel, Part I and Part II, a Major Substantive Rule of the Department of Education

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, Part I and Part II, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective April 17, 2009.

CHAPTER 13

H.P. 7 - L.D. 12

Resolve, Directing the Department of Professional and Financial Regulation To Amend Its Rules Governing Pastoral Counselors

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order for decisions regarding licensing of pastoral counselors to be made in a timely fashion; and

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

Sec. 1. Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure to amend rules. Resolved: That the Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure shall amend its rules governing licensed pastoral counselors to provide that the requirement for 400 contact hours in clinical pastoral education in a program accredited by the Association for Clinical Pastoral Education be changed to a requirement for 400 contact hours in clinical pastoral education in a program accredited by the Association for Clinical Pastoral Education or an equivalent organization or a nonaccredited program determined equivalent by the board. Rulemaking undertaken pursuant to this resolve is routine technical rulemaking as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 2. Application. Resolved: That the rules as amended pursuant to this resolve apply to an application for a license as a pastoral counselor filed from April 1, 2009 to June 1, 2009. Application materials that have been previously submitted to the Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure are not required to be resubmitted for new applications during this time period.

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

Effective April 21, 2009.

CHAPTER 14

H.P. 386 - L.D. 541

Resolve, Regarding the Retention of Dealer Plates in Light of Recent Economic Conditions

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

Whereas, it is important to provide immediate relief to small business owners and automobile dealers in light of recent economic conditions through a moratorium on dealer plate reductions and dealer license denials for failure to sell the required number of motor vehicles as provided in statute; 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. Moratorium on dealer plate reduction and dealer license denial. Resolved: That, notwithstanding the Maine Revised Statutes, Title 29-A, section 903, the number of dealer plates lawfully possessed by a motor vehicle dealer may not be reduced and a motor vehicle dealer may not be denied renewal of that dealer's license from February 1, 2009 to August 31, 2010 solely because of a failure to meet minimum sales requirements under section 903, subsection 3; and be it further

Sec. 2. Retroactivity. Resolved: That this resolve applies retroactively to February 1, 2009.

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

Effective April 21, 2009.

CHAPTER 15

H.P. 102 - L.D. 117

Resolve, To Facilitate the Creation of a Memorial for the Families and Friends of Children Who Have Died by Violence

Sec. 1. Memorial for the families and friends of children who have died by violence. Resolved: That the Capitol Planning Commission shall construct and maintain, in accordance with the Maine Revised Statutes, Title 5, chapter 14-A, a memorial for the families and friends of children who have died by violence; and be it further

Sec. 2. Memorial design. Resolved: That the Capitol Planning Commission may request assistance and advice in the design of the memorial from a nonprofit organization whose purpose is to support parents of murdered children; and be it further

Sec. 3. Memorial location. Resolved: That the Capitol Planning Commission shall locate the memorial within the proposed memorial park within the East Campus Zone as described in the Capitol Planning Commission rules, chapter 1; and be it further

Sec. 4. Funding assistance. Resolved: That the Capitol Planning Commission may accept state and local funds, gifts and other contributions to be used solely to carry out the provisions of this resolve. No General Fund money may be used for the construction of the memorial. If sufficient outside funding has not been received by June 30, 2010 to fully fund the costs of any meetings and the design, construction, installation and maintenance of the memorial, the memorial is not authorized; and be it further

Sec. 5. Account established. Resolved: That the Director of the Bureau of General Services within the Department of Administrative and Financial Services shall establish an account to administer state and local funds, gifts and other contributions under section 4 pursuant to the Maine Revised Statutes, Title 5, chapter 153 or as otherwise approved by the Director of the Bureau of General Services.

See title page for effective date.

CHAPTER 16

S.P. 163 - L.D. 460

Resolve, To Evaluate Climate Change Adaptation Options for the State

Sec. 1. Creation of stakeholder group; membership. Resolved: That the Department of Environmental Protection, referred to in this resolve as "the department," shall establish and convene a stakeholder group to evaluate the options and actions available to Maine people and businesses to prepare for and adapt to the most likely impacts of climate change. Convening this group to respond to climate change must not reduce continued strong state efforts to reduce greenhouse gas emissions. The department shall include in its stakeholder group and the evaluation process performed under section 2:

1. Representatives of business, industry and trade associations;

2. Representatives of nongovernmental organizations; and

3. State agencies with a current interest in these concerns and likely involvement in the implementation of recommendations.

The department must ensure that a balance of interests is represented in decision making. The department may ask the University of Maine and other higher education institutions to provide scientific and technical expertise to the stakeholder group; and be it further

Sec. 2. Evaluation. Resolved: That the department shall build upon the 2009 climate impact assessment by the University of Maine in evaluating the options available to Maine people and businesses for adapting to the likely environmental effects of climate change. That assessment concluded that climate change is already occurring in this State as a result of increased levels of greenhouse gases in the atmosphere and that, even with the greenhouse gas reduction goals set forth in the Maine Revised Statutes, Title 38, section 576, more thorough planning is necessary to identify and implement the State's responses to climate change in the areas of:

1. Ensuring sustainable opportunities for the development of greenhouse gas offset projects and low-greenhouse gas emission technologies and processes in the various sectors of Maine's economy;

2. Built infrastructure, including coastal and inland flooding effects on roads and facilities, heat effects in urban centers and beach scouring;

3. Habitat and fish and wildlife species, including the effects of invasive species, a lack of adequate conservation areas, a lack of connectivity between habitat and wildlife and inadequate wetlands protection;

4. Marine ecosystems;

5. Forests and forest management practices, including a higher incidence of pests and fires and a lack of biomass availability;

6. Agricultural and farming practices;

7. Human health, including increases in heat-related and vector-borne diseases;

8. Water supplies and drinking water; and

9. Emergency response systems and planning; and be it further

Sec. 3. Report. Resolved: That by February 27, 2010 the department shall report recommendations related to the evaluation under this resolve, along with any necessary implementing legislation, to the Joint Standing Committee on Natural Resources. The recommendations must be organized by the affected natural resource and economic sectors and may include proposals for legislation, modifications to existing rules and specific initiatives for one or more agencies to undertake in collaboration with stakeholder organizations to implement the recommendations. The Joint Standing Committee on Natural Resources is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4. Funding of report. Resolved: That the department is authorized to accept public and private funds for the costs incurred to prepare the report under section 3. All funds received for these purposes must be deposited into the Maine Environmental Protection Fund established in the Maine Revised Statutes, Title 38, section 351 and must be used exclusively for purposes related to the preparation of this report.

See title page for effective date.

CHAPTER 17

H.P. 579 - L.D. 843

Resolve, To Designate the Great South Bridge in the Town of Milbridge as the Harold West Bridge

Sec. 1. Bridge renamed. Resolved: That the Department of Transportation shall designate the Great South Bridge over the Narraguagus River, located 0.30 of a mile northeasterly of Route 1 on Route 1-A in the Town of Milbridge, as the Harold West Bridge in honor of town citizen Harold West's more than 50 years of service to the town.

See title page for effective date.

CHAPTER 18

SP. 151 - L.D. 407

Resolve, To Identify Funding Available To Promote the Use of Energy-efficient Furnaces

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to be in effect for the current heating season; and

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

Sec. 1. Public Utilities Commission to identify funding available to promote the use of energy-efficient furnaces. Resolved: That the Public Utilities Commission shall identify funding sources available to the State and strategies to use such funding to promote the use of energy-efficient furnaces, particularly among low-income residents.

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

Effective April 30, 2009.

CHAPTER 19

H.P. 271 - L.D. 335

Resolve, Regarding Legislative Review of Chapter 2: Administration of Trust, Budgeting, Project Selection Criteria and Procedures, Monitoring and Evaluation Requirements, a Major Substantive Rule of the Energy and Carbon Savings Trust

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 2: Administration of Trust, Budgeting, Project Selection Criteria and Procedures, Monitoring and Evaluation Requirements, a provisionally adopted major substantive rule of the Energy and Carbon Savings Trust that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if that portion of the rule pertaining to funding criteria is amended to provide that the trust may calculate reductions in greenhouse gas emissions and reductions in consumption of electricity on a basis other than simply reductions from current levels when the trust determines it is appropriate to calculate reductions from the level of greenhouse gas emissions or consumption of electricity that would exist if alternative, less energy efficient technologies were used for the program or project instead of the technologies proposed by the applicant.

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

Effective April 30, 2009.

CHAPTER 20

H.P. 272 - L.D. 336

Resolve, Regarding Legislative Review of Chapter 313: Net Energy Billing Rule To Allow Shared Ownership, a Major Substantive Rule of the Public Utilities Commission

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 313: Net Energy Billing Rule to Allow Shared Ownership, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. Definition of "eligible facility." That portion of the rule designated as definitions must be amended to include micro-combined heat and power systems within the definition of "eligible facility;"

2. Definition of "micro-combined heat and power system." That portion of the rule designated as definitions must be amended to add a definition of "micro-combined heat and power system" that specifies that a micro-combined heat and power system is a system that:

A. Produces heat and electricity from one fuel input, without restriction to specific fuel or generating technology;

B. Has an electric generating capacity rating of at least one kilowatt and not more than 30 kilowatts and a fuel system efficiency of not less than 80% in the production of heat and electricity or has an electric generating capacity of at least 31 kilowatts and not more than 660 kilowatts and a fuel system efficiency of not less than 65% in the production of heat and electricity;

C. May work in combination with supplemental or parallel conventional heating systems;

D. Is manufactured, installed and operated in accordance with applicable government and industry standards; and

E. Is connected to the electric grid and operated in conjunction with the facilities of a transmission and distribution utility; and

3. Installed capacity limit of eligible facilities. That portion of the rule regarding eligible facilities within the section on annualized consumer net energy billing must be amended to change the installed ca-

pacity limit for eligible facilities from 500 kilowatts to 660 kilowatts.

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

Effective April 30, 2009.

CHAPTER 21

H.P. 412 - L.D. 574

Resolve, To Increase the Blood Supply

Sec. 1. Assistance for approval to receive hereditary hemochromatosis donations. Resolved: That the Department of Health and Human Services shall provide information and guidance to assist blood donation centers in meeting the United States Department of Health and Human Services, Food and Drug Administration requirements to receive blood and blood components collected through therapeutic phlebotomies from individuals with diagnosed hereditary hemochromatosis.

See title page for effective date.

CHAPTER 22

H.P. 6 - L.D. 11

Resolve, To Encourage the Preservation of Dark Skies

Sec. 1. State Planning Office to establish standards. Resolved: That the Executive Department, State Planning Office shall review existing commercial outdoor lighting standards and make recommendations on standard language that will limit light pollution and encourage the preservation of the area's natural state, as well as identify policy options for promoting outdoor lighting standards for commercial development. The State Planning Office shall present its findings in a report to the Joint Standing Committee on Business, Research and Economic Development no later than January 15, 2010.

See title page for effective date.

CHAPTER 23

H.P. 285 - L.D. 378

Resolve, To Direct the Department of Marine Resources To Study the Issues Surrounding the Harvest of Bait Fish within Territorial Waters

Sec. 1. Harvest of bait fish within territorial waters of the State. Resolved: That the Commissioner of Marine Resources shall conduct, within the existing budget of the Department of Marine Resources, a study of the harvest of bait fish within the territorial waters of the State and develop a plan to address the issues surrounding the harvest of bait fish; and be it further

Sec. 2. Report. Resolved: That the Commissioner of Marine Resources shall report the findings, recommendations and plan developed as a result of the study to the Joint Standing Committee on Marine Resources by January 4, 2010. The report must also contain a series of regulatory options that may be used to implement the commissioner's recommendations and plan; and be it further

Sec. 3. Authority to submit legislation. Resolved: That the Joint Standing Committee on Marine Resources may submit legislation relating to the study to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 24

S.P. 48 - L.D. 129

Resolve, Directing the Secretary of State To Conduct a Pilot Program for Early Voting for the November 2009 Election

Sec. 1. Secretary of State to conduct a pilot program for early voting. Resolved: That the Secretary of State shall administer a pilot program that allows selected municipalities to conduct early voting at polling places up to 10 days prior to election day, November 3, 2009. The Secretary of State shall select the municipalities to participate in the program, subject to the consent of the municipal clerks. In administering the early voting program, the Secretary of State shall use findings of the April 1, 2007 report and

pilot program for early voting and the February 25, 2008 report on the November 2007 pilot program for early voting from the Office of the Secretary of State and best practices used by other states that have early voting laws; and be it further

Sec. 2. Reporting date established. Resolved: That the Secretary of State shall submit a report by January 15, 2010 to the Joint Standing Committee on Legal and Veterans Affairs detailing the results of the pilot program under section 1. The report may include suggested legislation necessary to implement early voting. The committee may submit legislation regarding early voting to the Legislature during the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 25

H.P. 64 - L.D. 74

Resolve, To Review and Update Sales Tax Exemptions for Products Purchased for Agricultural Use

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

Whereas, interpretations of statute and communication of interpretations are essential for consistent implementation of laws; and

Whereas, the review of certain sales tax exemptions by 3 state agencies is a first step in developing recommendations for improvements in rules and bulletins; and

Whereas, these recommendations need to come back to the joint standing committees of jurisdiction; and

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

Sec. 1. Review of rules and bulletins. Resolved: That the Department of Agriculture, Food and Rural Resources, referred to as "the department" in this resolve, shall review the rules and bulletins of the Department of Administrative and Financial Services, Bureau of Revenue Services, referred to in this resolve as "the bureau," related to sales tax exemptions for the purchase of products used in commercial agricultural crop production or in animal agriculture pursuant to the Maine Revised Statutes, Title 36, section 1760, subsections 7-B and 7-C and the refund of sales taxes related to machinery and equipment purchases for commercial agricultural production pursuant to Title 36, section 2013. The department shall determine whether or not the appropriate products, machinery and equipment are included in rules or in bulletins written and distributed by the bureau to interpret the statutory provisions for sales tax exemptions and sales tax refunds pertaining to agriculture.

The department shall confer with the Department of Conservation on the advisability of including the growing of trees for harvest in the definition of "commercial agricultural crop production." No later than September 15, 2009, the department shall provide the bureau with any recommended changes to the bureau's rules and bulletins; and be it further

Sec. 2. Notice of revisions to and interpretations of rules and bulletins. Resolved: That the bureau shall provide the department with a description of the process used to notify the public, and retailers and wholesalers in particular, of amendments to the bureau's rules and revisions to the bureau's bulletins regarding products qualifying for sales tax exemptions or equipment and machinery eligible for a sales tax refund. The bureau shall also provide the department with a description on how the bureau responds to requests for an interpretation of the statutes, rules or bulletins developed to implement the statutes. The bureau, in consultation with the department, shall develop a protocol for documenting requests for interpretations and responding to them. The goal of this review is to improve the bureau's ability to deliver consistent responses to inquiries and accountability within the bureau; and be it further

Sec. 3. Report and recommendations submitted to joint standing committees. Resolved: That the bureau shall review the recommendations of the department under section 1 and prepare proposed changes to the bureau's rules and bulletins based on the recommendations. The bureau shall prepare a response to the department's recommended changes that includes the bureau's comments on each recommended change and any statutory changes needed to implement the department's recommendations, and include this information in its report to the legislative committees along with an estimate of the fiscal impact of each recommendation.

The bureau shall report its findings and any recommendations to the Joint Standing Committee on Taxation and the Joint Standing Committee on Agriculture, Conservation and Forestry by January 15, 2010. The report must include a description of an improved protocol to respond to requests for interpretations as developed under section 2. The recommendations may include revisions to the bureau's bulletins or rules or convey a decision to adopt rules to clarify

products eligible for the sales tax exemption and purchases eligible for a refund of sales tax. The Joint Standing Committee on Taxation and the Joint Standing Committee on Agriculture, Conservation and Forestry may each submit legislation to the Second Regular Session of the 124th Legislature relating to the report.

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

Effective May 4, 2009.

CHAPTER 26

H.P. 439 - L.D. 625

Resolve, To Ensure All Children Covered by MaineCare Receive Early and Periodic Screening, Diagnosis and Treatment Services

Sec. 1. Early and periodic screening, diagnosis and treatment. Resolved: That the Department of Health and Human Services shall form a work group, including representation from the Department of Education and other public and private stakeholders, to evaluate the current system for provision of early and periodic screening, diagnosis and treatment services in the State and to make recommendations to improve the efficiency and effectiveness of those services in meeting the needs of MaineCare-eligible children. The department shall report to the Joint Standing Committee on Health and Human Services by January 15, 2010 on the findings and recommendations of this work group. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature to facilitate the implementation of the work group's recommendations.

See title page for effective date.

CHAPTER 27

H.P. 30 - L.D. 35

Resolve, Directing the State Tax Assessor To Work with Local Law Enforcement Agencies To Improve Tax Collection and Enforcement along the Border of the State

Sec. 1. State Tax Assessor to work with municipal and county officials and law enforcement agencies. Resolved: That the State Tax Assessor shall work with municipal and county officials and law enforcement agencies in areas close to the border with New Hampshire to identify residents of the State who register vehicles, aircraft or watercraft in another state to avoid paying excise taxes in the State and otherwise avoid state income and sales tax. The assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters by January 15, 2011 describing activities conducted pursuant to this resolve and reporting the amount of revenue collected as a result of those activities. The committee may submit legislation to the First Regular Session of the 125th Legislature related to the report.

See title page for effective date.

CHAPTER 28

S.P. 367 - L.D. 984

Resolve, To Establish a Pilot Program To Provide Greater Cooperation and Coordination between the University of Maine System and the Maine Community College System

Sec. 1. Pilot program established. Resolved: That Southern Maine Community College and Kennebec Valley Community College shall develop a pilot program with the University of Southern Maine and the University of Maine at Augusta, respectively, to provide a seamless transition process for students attending the Maine Community College System to earn an associate degree and to transfer their college credits to attend the University of Maine System with the goal of graduating with a baccalaureate degree; and be it further

Sec. 2. Goals. Resolved: That the goals of the pilot program are to develop a model for further collaboration between the participating colleges and universities in the service of student success, retention and degree completion and to provide data for future academic policy for all future student success. To achieve these goals, the participating colleges and universities shall ensure that the pilot program is a student-centered model that:

1. Leads to a seamless pathway between a community college and a university;

2. Supports students in obtaining appropriate information leading to course selection that maximizes the transfer of credits between institutions;

3. Produces a pathway that supports student completion of an associate degree at a participating community college and a baccalaureate degree at a participating university with the minimum number of credits required to graduate from each participating institution;

4. Supports and promotes student success in and between each participating institution; and

5. Leads to higher completion rates for students.

The participating colleges and universities shall ensure that they achieve their goals by designing an evaluation instrument to monitor progress of the pilot program; and be it further

Sec. 3. Report. Resolved: That the Maine Community College System and the University of Maine System shall provide an interim report on the progress of the pilot program no later than January 1, 2010 to the Joint Standing Committee on Education and Cultural Affairs. Following the completion and graduation of the first participating class of students involved in the pilot program, the Maine Community College System and the University of Maine System shall submit a report with an assessment and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters on the future of the pilot program. The joint standing committee is authorized to submit legislation regarding the report during the legislative session in which the report is submitted.

See title page for effective date.

CHAPTER 29

H.P. 508 - L.D. 749

Resolve, Directing the Department of Education To Take Measures To Assist Blind and Visually Impaired Students

Sec. 1. Braille transcriber and assistant. Resolved: That, in order to ensure that blind and visually impaired students are provided with assistance from professionals trained to transcribe and produce Braille documents for students, the Department of Education, referred to in this resolve as "the department," shall develop a proposal to establish standards for the credentialing of Braille transcribers and assistants. The department shall investigate the training required for Braille transcribers in other states in order to ensure comparable training for such a position; and be it further

Sec. 2. Provide for employment. Resolved: That the department may consider the employment of Braille transcribers and assistants who are receiving training in Braille as an approved special education cost; and be it further

Sec. 3. Report. Resolved: That the department shall present its proposal to the Joint Standing Committee on Education and Cultural Affairs no later than December 3, 2009. After receipt and review of the report, the Joint Standing Committee may report out legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 30

H.P. 399 - L.D. 561

Resolve, To Direct State Agencies To Develop Policies To Guide Employees When Accessing Private Woodland, Farmland or Coastal Lands

Sec. 1. Policies. Resolved: That the Department of Inland Fisheries and Wildlife, the Department of Environmental Protection, the Department of Marine Resources, the Department of Agriculture, Food and Rural Resources and the Department of Conservation, referred to in this resolve as "the departments," shall develop written policies regarding entering private woodland, farmland or coastal lands for nonemergency purposes to collect information. The policies must address such items as when prenotification or permission is appropriate; when no notification or permission is needed; what constitutes notification or permission; motorized and nonmotorized access; and when woodland or farmland owners or owners of coastal lands should be informed regarding potential uses of data or information collected. The departments may have different policies for accessing woodland, farmland or coastal lands for different purposes. This resolve does not interfere with the departments' enforcement authority; and be it further

Sec. 2. Feedback from woodland owners. Resolved: That, in developing the policies under section 1, the departments shall solicit feedback from woodland and farmland owners and owners of coastal lands. The departments shall ensure that department employees are aware of and comply with the policies. The departments may alter these policies as necessary; and be it further

Sec. 3. No rulemaking. Resolved: That the policies required under this resolve do not constitute rules and the departments are not required to further undertake rulemaking for purposes of adopting these policies; and be it further

Sec. 4. Report on policies; legislation authorized. Resolved: That the departments shall

report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2010 on the policies developed under section 1. The report must include a copy of each department's policies pertaining to accessing private woodlands, farmlands and coastal lands and a summary of input received from farmland and woodland owners and owners of coastal lands during the development of these policies. The report must also include a description of how information collected on private land is used by the departments, the types of information that are available to the public and how that information is provided.

The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation to the Second Regular Session of the 124th Legislature pertaining to state employees' access to private lands or the dissemination of information collected on private lands; and be it further

Sec. 5. Adoption. Resolved: That the policies required under this resolve must be adopted by January 1, 2010.

See title page for effective date.

CHAPTER 31

H.P. 239 - L.D. 299

Resolve, Regarding Legislative Review of Portions of Chapter 4: Water-based Fire Protection Systems, a Major Substantive Rule of the Office of the State Fire Marshal

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 4: Water-based fire protection systems, a provisionally adopted major substantive rule of the Department of Public Safety, Office of the State Fire Marshal that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective May 8, 2009.

CHAPTER 32

H.P. 505 - L.D. 722

Resolve, Directing a Review of the Management of Risks Associated with Surface Uses on Public Water Supplies

Sec. 1. Agency review of management of risks associated with surface uses on public water supplies; report; authority to submit legislation. Resolved: That the drinking water program of the Department of Health and Human Services is directed to review the management of risks associated with surface uses on lakes and ponds that are public water supplies. The drinking water program shall invite the participation of state agencies involved in locating, maintaining and managing access to and surface uses on lakes and ponds used as public water sources. By January 5, 2010, the drinking water program shall submit to the Joint Standing Committee on Natural Resources recommendations, including implementing legislation if any, on managing the risks in a way that balances public health and safety and recreational uses. The Joint Standing Committee on Natural Resources may submit legislation concerning the recommendations to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 33

S.P. 226 - L.D. 611

Resolve, To Provide Reimbursement in the MaineCare Program for Board-certified Behavior Analysts

Sec. 1. Reimbursement for board-certified behavior analysts. Resolved: That the Department of Health and Human Services shall amend the

rules of reimbursement for the provision of supervisory services by board-certified behavior analysts in the MaineCare programs for home and community benefits for persons with mental retardation or autistic disorders, developmental and behavioral clinical services, day habilitation services for persons with mental retardation, early intervention services, community support benefits for persons with mental retardation or autistic disorders, day treatment services, intermediate care facilities for persons with mental retardation and school-based rehabilitative services. As applicable, the rules must provide for membership by a board-certified behavior analyst on crisis assessment teams and multidisciplinary teams and, as appropriate, for consultation services by a board-certified behavior analyst and approval by a board-certified behavior analyst of written behavior intervention plans. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 2. Medicaid State Plan amendment; rules. Resolved: That the Department of Health and Human Services shall pursue amendment to the federally approved Medicaid state plan on a timely basis following the effective date of this resolve and, after amendment of the state plan, shall amend the MaineCare rules to provide for reimbursement of board-certified behavior analysts for supervision only.

See title page for effective date.

CHAPTER 34

H.P. 403 - L.D. 565

Resolve, To Direct the Board of Dental Examiners To Review the Definition of "Edentulous Arch" in the Rules Governing Denturists

Sec. 1. Board of Dental Examiners to review the rules regarding denturists. Resolved: That the Board of Dental Examiners, established in the Maine Revised Statutes, Title 5, section 12004-A, subsection 10, shall review the definition of "edentulous arch" in its rules governing denturists. The Board of Dental Examiners shall provide a summary of this review and any changes made pursuant to this section in a report to the Joint Standing Committee on Business, Research and Economic Development no later than January 30, 2010.

See title page for effective date.

CHAPTER 35

S.P. 140 - L.D. 398

Resolve, To Develop a Management Plan for the Nonwildlife Components of Swan Island and Little Swan Island in Perkins Township, Sagadahoc County

Sec. 1. Creation of a stakeholder group; membership and memorandum of agreement. Resolved: That the Department of Inland Fisheries and Wildlife and the Department of Conservation, referred to in this resolve as "the departments," shall establish and convene a stakeholder group to evaluate the options available to manage the nonwildlife components of Swan Island and Little Swan Island in Perkins Township, Sagadahoc County. The stakeholder group shall consider and, when possible, build upon the 1999 master plan for Swan Island in conducting its work pursuant to this section. The departments shall develop and enter into a memorandum of agreement for the management of the nonwildlife components of the islands based on the recommendations and findings of the stakeholder group. The stakeholder group consists of:

1. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;

2. The Commissioner of Conservation or the commissioner's designee;

3. A person representing the Town of Richmond;

4. A person or persons representing an adjacent municipality that expresses an interest in participating in the stakeholder group;

5. A person representing a nonprofit organization with the mission of preserving and protecting the ecosystem of Merrymeeting Bay;

6. A person representing a nonprofit organization that works to improve and promote Swan Island;

7. A person representing a business from the local community near Swan Island;

8. A person representing an historic preservation organization involved with or having a current interest in Swan Island;

9. A person from a state agency with a current interest in the management of Swan Island; and

10. A person not from a state agency with a current interest in the management of Swan Island.

The departments shall ensure that a balance of interests is present on the stakeholder group; and be it further

Sec. 2. Report. Resolved: That no later than February 1, 2010 the departments shall report the findings and recommendations of the stakeholder group established in this resolve and the memorandum of agreement developed between the departments as a result of the stakeholder group's findings and recommendations to the Joint Standing Committee on Inland Fisheries and Wildlife. The report must include any draft legislation needed to carry out the recommendations contained in the report. The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation to the Second Regular Session of the 124th Legislature regarding the report.

See title page for effective date.

CHAPTER 36

S.P. 161 - L.D. 458

Resolve, Directing the Department of Agriculture, Food and Rural Resources To Study Equine Husbandry Practices in the State

Sec. 1. Commissioner of Agriculture, Food and Rural Resources to convene a working group. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall convene a working group to evaluate the care of equines in the State and recommend any changes necessary to ensure the humane treatment of equines and effective enforcement of state laws. The commissioner shall invite the following to participate in the working group: a veterinarian specializing in equine care; a farrier; an owner of an equine breeding stable; an owner or operator of an equine boarding stable; an owner of show horses; a person who has served as a superintendent for equine pulling events; a person who owns one or more horses for pleasure and does not benefit commercially from an equine-related business; a representative of an animal shelter whose primary mission is the care and rehabilitation of abused equines; a member of the Maine Animal Control Association; and an attorney with knowledge of the State's animal welfare laws. The director of the animal welfare program within the Department of Agriculture, Food and Rural Resources, the state veterinarian assigned to the animal welfare program and a member of the Animal Welfare Advisory Council designated by the commissioner shall participate in the working group. The department shall provide staff to and coordinate meetings of the working group using existing resources or funds specifically donated to facilitate this undertaking; and be it further

Sec. 2. Duties. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, in consultation with the working group under section 1, shall:

1. Review annual reports submitted in accordance with the Maine Revised Statutes, Title 7, section 3906-B for 2006, 2007 and 2008 and examine summary data presented in these reports for data on the number of investigations of cruelty to equines and the final disposition of those cases;

2. Review existing statutory provisions pertaining to the care of equines and behaviors or conditions that constitute neglect or abuse under state law;

3. Review existing best management practices and standards of care for equines in the statutes and in the regulations of other states and other practices and standards developed by agencies or organizations to promote good equine husbandry; and

4. Develop approaches to reducing the incidence of equine abuse and neglect in the State. Approaches may differ to appropriately target equine owners and stable owners with varying objectives; and be it further

Sec. 3. Reporting date established. Resolved: That, no later than January 15, 2010, the Commissioner of Agriculture, Food and Rural Resources shall submit a report with findings and recommendations pursuant to the review under section 2, including any recommended legislation, to the Joint Standing Committee on Agriculture, Conservation and Forestry. The joint standing committee may submit legislation pertaining to promoting good equine husbandry practices and ensuring the enforcement of the State's animal welfare laws to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 37

S.P. 100 - L.D. 304

Resolve, To Allow for the Support, Preservation and Maintenance of Maine Monuments in Gettysburg, Pennsylvania

Sec. 1. Account established. Resolved: That the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management shall establish a nonlapsing special revenue interest-bearing account, from the effective date of this resolve until June 30, 2014, for the purpose of accepting and administering state and local funds, gifts and other contributions to be disbursed at appropriate times to the United States Department of the Interior to be used for the purpose of

repairing and maintaining Maine monuments in Gettysburg, Pennsylvania; and be it further

Sec. 2. Liaison with interested parties. Resolved: That the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management may work with stakeholders, interested parties and individuals to solicit donations and develop plans for repairing and maintaining Maine monuments in Gettysburg, Pennsylvania; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

Veterans Services 0110

Initiative: Establishes a dedicated account to receive donations for repairing and maintaining Maine monuments in Gettysburg, Pennsylvania.

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

See title page for effective date.

CHAPTER 38

S.P. 85 - L.D. 244

Resolve, To Ensure Transparency in Funding Certain Programs within the Department of Inland Fisheries and Wildlife

Sec. 1. Commissioner of Inland Fisheries and Wildlife to create a methodology to determine new unfunded requirements. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall develop a methodology to articulate how the activities of the Department of Inland Fisheries and Wildlife have benefited the general public and to determine what the general public expects from the department. The methodology must also allow the department to readily determine any new financial requirements or mandates on the department that require expenditures by the department that are not funded by the General Fund other than money subject to the Constitution of Maine, Article IX, Section 22 or by other special revenues or federal funds. The methodology must be designed to be effective on an ongoing basis; and be it further

Sec. 2. Report to the Joint Standing Committee on Inland Fisheries and Wildlife. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall report the methodology that has been developed under section 1 to the Joint Standing Committee on Inland Fisheries and Wildlife by January 5, 2010. The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation needed to implement the methodology developed pursuant to this resolve to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 39

H.P. 402 - L.D. 564

Resolve, To Establish a Working Group of Stakeholders To Review the Current and Future Needs of Blind and Visually Impaired Individuals and To Establish Long-term Solutions To Fund Those Needs

Sec. 1. Working group to review current and future needs of blind and visually impaired individuals. Resolved: That the Commissioner of Labor shall establish within existing resources a working group of stakeholders to review the current and future needs of blind and visually impaired individuals. The stakeholder group must include representatives from the Department of Labor, Catholic Charities Maine, The Iris Network, the Division for the Blind and Visually Impaired, the Department of Education, the Disability Rights Center and other interested parties. The group shall assess the current and future needs of blind and visually impaired individuals to determine the costs of those needs and to design a solution that will work to meet those needs; and be it further

Sec. 2. Reporting date established. Resolved: That the Commissioner of Labor shall report the working group's findings, including the proposed oversight of the Division for the Blind and Visually Impaired, to the Joint Standing Committee on Labor and the Joint Standing Committee on Education and Cultural Affairs by January 31, 2010.

See title page for effective date.

CHAPTER 40
H.P. 342 - L.D. 480

Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services, Division of Policy and Performance

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, a provisionally adopted major substantive rule of the Department of Health and Human Services, Office of MaineCare Services, Division of Policy and Performance that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective May 14, 2009.

CHAPTER 41
H.P. 350 - L.D. 495

Resolve, Regarding Legislative Review of Portions of Chapter 10: Definitions and Terms, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 10: Definitions and Terms, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized, but only if the definition of "sensitive area likely to be occupied" is amended to:

1. Remove explicit expansion of the definition to include areas other than the 4 areas delineated in the provisionally adopted definition; and

2. Clarify that structures other than buildings that are likely to be occupied by humans are also included in the definition.

The Board of Pesticides Control is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with this resolve.

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

Effective May 14, 2009.

CHAPTER 42

H.P. 582 - L.D. 846

Resolve, Directing the Department of Transportation To Study Ways To Reduce Energy Use and Promote Efficiency along Major Transportation Corridors

Sec. 1. Develop recommendations on existing transportation laws, rules and policies. Resolved: That the Department of Transportation shall evaluate existing transportation laws, rules and policies, including, but not limited to, those that address transportation facility planning and design, traffic movement, driveways and entrances, urban compact designation and cost sharing and transit operations, identifying their strengths and weaknesses and how they might be changed to meet the objective of saving energy, measured principally by reduction in vehicle miles traveled, by maintaining arterial functions, improving system efficiency, reinforcing land use patterns that facilitate transit development and improving connections between land use and transportation decisions.

The evaluation must be conducted in collaboration with the Executive Department, State Planning Office and the Department of Environmental Protection and other state agencies that determine land use patterns along with the Maine Municipal Association, regional planning entities, metropolitan planning organizations, regional planning commissions and interest groups affected by those transportation laws, rules and policies.

Wherever it might be shown to advance this section, the evaluation must consider:

1. Overlay zoning districts for corridors of regional economic significance for transportation;

2. Costs and benefits of purchasing land or easements, including access easements, along such corridors;

3. Transfer of development or trip rights programs to level the playing field between high-growth and low-growth arterial areas;

4. Costs and benefits of urban compact designation;

5. Feasibility of developing so-called "complete streets"; and

6. Other land use and transportation strategies designed to reduce growth in vehicle miles traveled and greenhouse gas emissions, including transportation funding options; and be it further

Sec. 2. Report. Resolved: That the Department of Transportation shall submit a comprehensive written report concerning the evaluation under section 1 by January 31, 2010 including detailed recommendations for legislation. This report must be submitted to both the Joint Standing Committee on Transportation and the Joint Standing Committee on Natural Resources. Upon receipt and review of the report, the committees may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 43

H.P. 548 - L.D. 812

Resolve, Pertaining to Vacation Leave Earned by Seasonal Employees of the Baxter State Park Authority

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

Whereas, it is necessary that this legislation be enacted for the upcoming season in order to avoid undue financial and administrative hardships for seasonal employees of the Baxter State Park Authority; 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. Vacation leave; seasonal employees; Baxter State Park Authority. Resolved: That the Department of Administrative and Financial Services, Bureau of Human Resources shall amend its rules pertaining to holidays, leaves of absence and related compensation practices to provide that a seasonal employee of the Baxter State Park Authority may, at the conclusion of seasonal work each year and at the seasonal employee's option, elect to be paid for the number of working days of unused vacation leave and overtime accumulated to the seasonal employee's credit. Election of this option by a seasonal employee of the Baxter State Park Authority may not be construed as an interruption in state service if the employee returns to classified or unclassified employment in any capacity within one year.

Rules adopted under this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 2. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

BAXTER STATE PARK AUTHORITY

Baxter State Park Authority 0253

Initiative: Provides an allocation for savings associated with paying out unused vacation to seasonal employees and foregoing hiring of the roving ranger position.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	($6,795)	($6,795)
OTHER SPECIAL REVENUE FUNDS TOTAL	($6,795)	($6,795)

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

Effective May 15, 2009.

CHAPTER 44

S.P. 486 - L.D. 1351

Resolve, To Name the Bridge in Orland the Ralston C. Gray Bridge

Sec. 1. Ralston C. Gray Bridge. Resolved: That the part of State Route 175, also known as Castine Road, that crosses the Narramissic River in the Town of Orland be named the Ralston C. Gray Bridge to honor the memory of the late Ralston C. Gray, lifelong Orland resident.

See title page for effective date.

CHAPTER 45

H.P. 856 - L.D. 1236

Resolve, Regarding Legislative Review of the Proposed Plan Dated March 19, 2009 Submitted by the Maine State Housing Authority for the Use of Federal Energy Stimulus Funds

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

Whereas, Resolve 2009, chapter 1, section 2, subsection 2 requires legislative review and action upon proposed plans for the use of energy stimulus funds that are not subject to state legislative allocation; and

Whereas, the Maine State Housing Authority has submitted to the Legislature for review its proposed plan dated March 19, 2009 for the use of those funds; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on the proposed plan; 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. Approval. Resolved: That the Legislature approves the proposed plan for the use of federal energy stimulus funds developed by the Maine State Housing Authority and presented in the attachments to the April 22, 2009 memorandum from the Maine State Housing Authority to the Joint Select Committee on Maine's Energy Future.

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

Effective May 15, 2009.

CHAPTER 46

H.P. 1029 - L.D. 1478

Resolve, Regarding Legislative Approval of the Public Utilities Commission's Plan for the Use of American Recovery and Reinvestment Act of 2009 Funds

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

Whereas, Resolve 2009, chapter 1 requires legislative review and action upon proposed plans for the use of federal American Recovery and Reinvestment Act of 2009 funds that are subject to state legislative allocation; and

Whereas, the State is eligible to apply to the Federal Government for a federal American Recovery

and Reinvestment Act of 2009 State Energy Program formula grant in the amount of $27,305,000, with an application deadline of May 12, 2009; and

Whereas, the State is eligible to apply for a federal American Recovery and Reinvestment Act of 2009 block grant under the federal Energy Efficiency and Conservation Block Grant Program in the amount of $9,593,500, of which no more than $3,837,400 may be deployed by the State Energy Program and the remainder of which must be regranted directly to municipalities in the State, with an application deadline of May 26, 2009; and

Whereas, the Public Utilities Commission submitted to the Legislature for review the commission's initial plan on March 19, 2009 and an updated plan on April 27, 2009; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on the proposed plan and to create the allotments necessary to carry out the plan; 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. Approval. Resolved: That the Legislature approves the plan for the use of the federal American Recovery and Reinvestment Act of 2009 funds submitted by the Public Utilities Commission on March 19, 2009 and updated in a memorandum to the Joint Select Committee on Maine's Energy Future, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Utilities and Energy dated April 27, 2009; and be it further

Sec. 2. Reporting. Resolved: That the state-designated administrator of the State Energy Program shall report to the Joint Standing Committee on Utilities and Energy by September 1, 2009 on the use of the federal American Recovery and Reinvestment Act of 2009 funds as set forth in the approved plan; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Conservation Administration Fund 0966

Initiative: Provides funding to support projects for energy efficiency and conservation and the reduction of fossil fuel emissions.

FEDERAL EXPENDITURES FUND ARRA	2008-09	2009-10	2010-11
All Other	$10,000	$22,289,622	$4,124,047
FEDERAL EXPENDITURES FUND ARRA TOTAL	$10,000	$22,289,622	$4,124,047

FEDERAL BLOCK GRANT FUND ARRA	2008-09	2009-10	2010-11
All Other	$0	$8,902,801	$417,604
FEDERAL BLOCK GRANT FUND ARRA TOTAL	$0	$8,902,801	$417,604

Conservation Administration Fund 0966

Initiative: Establishes one limited-period Staff Accountant position, one limited-period Senior Staff Accountant position, 2 limited-period Development Program Manager positions and 2 limited-period Public Service Coordinator III - Utility Analyst positions. These positions will provide financial and program support to the Public Utilities Commission, energy programs division for the purposes authorized in the federal American Recovery and Reinvestment Act of 2009. These positions will end on June 11, 2011.

FEDERAL EXPENDITURES FUND ARRA	2008-09	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	4.500	4.500
Personal Services	$0	$398,438	$421,302
All Other	$0	$30,440	$31,151
FEDERAL EXPENDITURES FUND ARRA TOTAL	$0	$428,878	$452,453

FEDERAL BLOCK GRANT FUND ARRA	2008-09	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	1.500	1.500
Personal Services	$0	$124,880	$132,393
All Other	$0	$8,094	$7,728
FEDERAL BLOCK GRANT FUND ARRA TOTAL	$0	$132,974	$140,121

PUBLIC UTILITIES COMMISSION			
DEPARTMENT TOTALS	2008-09	2009-10	2010-11
FEDERAL EXPENDITURES FUND ARRA	$10,000	$22,718,500	$4,576,500
FEDERAL BLOCK GRANT FUND ARRA	$0	$9,035,775	$557,725
DEPARTMENT TOTAL - ALL FUNDS	$10,000	$31,754,275	$5,134,225

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

Effective May 15, 2009.

CHAPTER 47

H.P. 482 - L.D. 699

Resolve, To Direct the Department of Inland Fisheries and Wildlife To Conduct an Evaluation of Its Sport Fishing Program

Sec. 1. Evaluation of sport fishing program. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall evaluate the Department of Inland Fisheries and Wildlife's sport fishing program to identify progress the department has made in 2009 toward the objectives set forth in this resolve. In addition, the commissioner shall identify capacity needed for and constraints to achieving the following objectives:

1. Expanding participation in fishing in the State;

2. Improving the State's recreational fishing economy;

3. Improving customer service to anglers;

4. Increasing fishing opportunities;

5. Securing appropriate access to inland waters;

6. Continuing to simplify fishing rules where possible;

7. Increasing populations of large fish with public support;

8. Protecting and enhancing native and wild fisheries; and

9. Enhancing and protecting the quality of existing fishing experiences; and be it further

Sec. 2. Report. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall report the commissioner's findings and recommendations based on the evaluation in section 1 to the Joint Standing Committee on Inland Fisheries and Wildlife by January 31, 2010. The report must include, but is not limited to:

1. Fishing license sales data for 2009;

2. A link to the Department of Inland Fisheries and Wildlife's fish stocking data on its website;

3. A list of new water access sites created in 2009; and

4. References to any other relevant department reports issued in 2009.

The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation to the Second Regular Session of the 124th Legislature based on the report.

See title page for effective date.

CHAPTER 48

H.P. 202 - L.D. 256

Resolve, To Direct the Commissioner of Inland Fisheries and Wildlife To Explore Opportunities and Issues Surrounding Wild Turkey Hunting

Sec. 1. Study opportunities and issues regarding wild turkeys. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall work with interested parties to explore the opportunities and issues surrounding the wild turkey hunt in the State and the problem of nuisance wild turkeys in farming areas, including, but not limited to, electronic tagging or registration, telephone registration and expanded hunting opportunities to reduce the agricultural damage caused by wild turkeys; and be it further

Sec. 2. Report. Resolved: That the Commissioner of Inland Fisheries and Wildlife shall report the findings and recommendations based on the study in section 1 to the Joint Standing Committee on Inland Fisheries and Wildlife by January 5, 2010. The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation to the Second Regular Session of the 124th Legislature regarding matters presented in that report.

See title page for effective date.

CHAPTER 49

S.P. 306 - L.D. 792

Resolve, Regarding On-bill Financing Programs for Energy Efficiency

Sec. 1. On-bill financing. Resolved: That the Public Utilities Commission shall examine options for and the feasibility of establishing an on-bill financing program for the purchase and installation of energy efficiency measures and energy-efficient technologies by small businesses. The commission may also consider on-bill financing options for residential electricity customers. The examination must include, but is not limited to:

1. Consultation with the Maine Small Business Development Centers;

2. A review of on-bill financing programs that have been established in other states;

3. An analysis of how on-bill financing could be integrated with the existing energy efficiency programs administered by the commission; and

4. An analysis of relevant policy and program implementation issues, including, but not limited to, participant eligibility requirements, incentives for participation, efficiency measures and technologies covered by the program, loan terms and conditions, risks for ratepayers and utilities, credit and collection issues, administrative costs and options for tying the loan to the property or electricity meter; and be it further

Sec. 2. Report; authority for legislation. Resolved: That, by January 15, 2010, the Public Utilities Commission shall submit to the Joint Standing Committee on Utilities and Energy a report of its findings and recommendations pursuant to section 1. After receipt and review of the report, the committee may submit legislation concerning the subject matter of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 50

H.P. 469 - L.D. 655

Resolve, Directing the Department of Inland Fisheries and Wildlife To Conduct a Study To Enhance Maine's Recreational Fishing Economy

Sec. 1. Study of Maine's recreational fishing economy. Resolved: That the Commissioner of Inland Fisheries and Wildlife, referred to in this resolve as "the commissioner," shall contract with outside experts to conduct a study of fishery management and marketing plans and programs in states that are major destinations for the nation's anglers and make recommendations that would expand Maine's recreational fishing economy; and be it further

Sec. 2. Procedures. Resolved: That a contract awarded pursuant to this resolve must be awarded in accordance with applicable state laws, rules and procedures relating to the purchase of services and awarding of contracts. The Department of Inland Fisheries and Wildlife shall establish a panel to assist in developing the scope of work under section 3 and evaluating and selecting a proposal. The panel must include appropriate department staff and up to 5 people representing statewide organizations with an interest in the management of fisheries and marketing of recreational fishing; and be it further

Sec. 3. Scope of work. Resolved: That the study under section 1 must include, but is not limited to, methods and programs other states used to:

1. Survey customer satisfaction;

2. Determine what anglers prefer with respect to fisheries;

3. Increase the sale of fishing licenses;

4. Establish accountability for fisheries programs and decisions;

5. Maximize the economic value of fish and fishing;

6. Expand angler opportunities and fisheries utilization; and

7. Market recreational fishing both in and out of state; and be it further

Sec. 4. Funding. Resolved: That the commissioner may accept grants and donations for the work required pursuant to this resolve and expend those funds as necessary to accomplish the purpose of this resolve. In the event that adequate funds are not secured, the commissioner may at the commissioner's discretion terminate this work; and be it further

Sec. 5. Report. Resolved: That the commissioner shall submit a report that includes any findings and recommendations to the Joint Standing Committee on Inland Fisheries and Wildlife no later than January 15, 2010. That committee may report out legislation to the Second Regular Session of the 124th Legislature on matters relating to the report.

See title page for effective date.

CHAPTER 51

S.P. 395 - L.D. 1061

Resolve, Regarding Maine's Renewable Resource Portfolio Requirements

Sec. 1. Portfolio requirements for new renewable capacity resources. Resolved: That the Public Utilities Commission, referred to in this resolve as "the commission," shall review and make recommendations for improvements to the portfolio requirements for new renewable capacity resources in Title 35-A, section 3210, subsection 3-A, referred to in this section as "new renewable portfolio requirements." In fulfilling the requirements of this section, the commission shall:

1. Examine the number, type and location of the resources used to satisfy the new renewable portfolio requirements based on the compliance reports due July 1, 2009 pursuant to commission rule;

2. Analyze the costs and benefits of:

A. Establishing a requirement that the owner or operator of a new renewable capacity resource used to satisfy the new renewable portfolio requirements supply all or a fixed percentage of the electricity from its generating facility to the New England Power Pool control area or to the area administered by the independent system administrator for northern Maine for a minimum period of time; and

B. Establishing a prohibition on economic withholding or curtailment with respect to the delivery of electricity that is imported into the State from a renewable resource generating facility located outside of the New England Power Pool control area or the area administered by the independent system administrator for northern Maine by the owner or operator of a new renewable capacity resource used to satisfy the new renewable portfolio requirements, with an exception to the prohibition for the event of a planned or forced transmission line outage preventing the import of the electricity or when the applicable interpool tie lines are operating at full transfer capacity.

The analysis of costs and benefits must consider impacts on prices of renewable energy credits; retail electricity prices; regional resource diversity and power supply; the development of new renewable capacity resources within the State and the New England Power Pool control area and related economic impacts within the State; and the extent to which renewable resource generating facilities located outside of the New England Power Pool control area or the area administered by the independent system administrator for northern Maine are used to meet the new renewable portfolio requirements;

3. Review current law and commission rules regarding the new renewable portfolio requirements and assess the potential risks and costs associated with making no change to the existing new renewable portfolio requirements; and

4. Develop recommendations regarding changes to the law, rule or other efforts that could be undertaken to strengthen incentives for the development of new renewable resources within the State, to enhance the commission's ability to address any cost concerns associated with the new renewable portfolio requirements and to ensure delivery of power from renewable resources into the State or the New England Power Pool control area during periods of high prices or peak loads; and be it further

Sec. 2. Report; authority for legislation. Resolved: That, by January 15, 2010, the commission shall submit to the Joint Standing Committee on Utilities and Energy a report of its findings and recommendations pursuant to section 1. After receipt and review of the report, the committee may submit legislation concerning the subject matter of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 52

S.P. 379 - L.D. 1015

Resolve, To Study Aging and Outdated Long-term Care Facilities

Sec. 1. Study. Resolved: That the Department of Health and Human Services shall use existing resources available for long-term care purposes to perform a study of aging and outdated long-term care facilities. The study must evaluate the adequacy of existing nursing facilities and residential care facilities, safety risks, recent changes in facility and program design, the ability of current facilities to serve residents with special needs and the financial and regulatory barriers associated with developing modern long-term care facilities. In performing the study the department shall involve a broad range of stakeholders and shall engage the services of consultants and experts as appropriate. The department shall report to the Joint Standing Committee on Health and Human Services by January 15, 2010, including in the report recommendations for legislative action. The committee may submit legislation regarding aging and outdated long-term care facilities to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 53
H.P. 782 - L.D. 1138

Resolve, To Provide Assistance to Private Sellers of Firearms

Sec. 1. Department of Public Safety to assist private sellers of firearms. Resolved: That the Department of Public Safety shall assist private sellers of firearms by providing information about how to collect appropriate information about the purchasers of firearms and how to obtain criminal history record checks on those purchasers. The Department of Public Safety shall invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to collaborate in order to educate the public and private sellers and encourage access to the United States Department of Justice's Project Safe Neighborhoods website where private sellers can obtain a gun seller's tool kit. The Department of Public Safety shall invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to assist it in contacting Maine's federally licensed firearms dealers and compiling a list of those dealers who are willing to perform criminal history record checks of buyers purchasing firearms from private sellers. Once the list is compiled, the Department of Public Safety shall ask the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to maintain the list on their publicly accessible websites, including information about the cost of the service to private sellers. The Department of Public Safety shall also publicize this information to educate the public and shall invite the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to do the same; and be it further

Sec. 2. Report. Resolved: That the Department of Public Safety shall report its progress in working with the United States Attorney for the District of Maine and the Sportsman's Alliance of Maine to implement the proposal under section 1, educate the public and recruit federally licensed firearms dealers who are willing to conduct background checks for private sellers and the number of checks that they conduct to the Joint Standing Committee on Criminal Justice and Public Safety by February 1, 2010.

See title page for effective date.

CHAPTER 54
S.P. 131 - L.D. 367

Resolve, To Convene a Work Group To Design and Implement a Statewide Disposable Checkout Bag Reduction Campaign, with Benchmarks

Whereas, the State has adopted a solid waste management hierarchy that places waste reduction and reuse above recycling as preferred management systems for solid waste; and

Whereas, the State has been an advocate of policies that reduce litter and enhance the natural beauty of the State; and

Whereas, the use of disposable checkout bags consumes valuable natural resources in their production, increases waste generation and contributes to litter; and

Whereas, state law designates recycling requirements for retail establishments that distribute plastic bags; and

Whereas, grocers and retailers in the State recognize resource limitations and they understand the leadership role they play in participating in public awareness programs and adopting programs that can generate environmental benefits; and

Whereas, grocers and retailers in the State have been promoting and encouraging the use of reusable checkout bags for the transport of products and goods from their stores; and

Whereas, this legislation establishes a process to review current law and recycling practices and to establish effective and innovative approaches to reduce the use and increase the recycling of disposable checkout bags; now, therefore, be it

Sec. 1. Convene work group. Resolved: That the Executive Department, State Planning Office shall establish a work group, through a partnership with state agencies and other appropriate entities, to work together towards a viable solution to the checkout bag issue to achieve environmental benefits, maintain financial viability for manufacturers and retailers and avoid cost impacts for consumers; and be it further

Sec. 2. Participants. Resolved: That the Executive Department, State Planning Office shall invite representatives of the following agencies, organizations and businesses to participate in the work group:

1. Department of Environmental Protection;

2. Maine Grocers Association;

3. Maine Merchants Association;

4. Maine Oil Dealers Association;

5. Maine State Chamber of Commerce;

6. Natural Resources Council of Maine;

7. American Chemistry Council;

8. A grocery chain with a large number of stores in the State;

9. A retail store chain with a large number of stores in the State; and

10. Other entities as appropriate; and be it further

Sec. 3. Duties. Resolved: That the work group shall:

1. Assess existing recycling infrastructure capacities within the State;

2. Design a regional pilot program that includes an assessment of current state law governing waste reduction, including, in particular, an assessment of technical assistance available to municipalities and businesses in those municipalities;

3. Create a memorandum of understanding with guiding principles, recycling goals and benchmarks for the overall reduction of disposable checkout bag distribution and waste;

4. Design a statewide promotional media campaign; and

5. Identify funding needs, resources and partners; and be it further

Sec. 4. Existing resources. Resolved: That the duties described in section 3 must be completed within existing resources of the Executive Department, State Planning Office; and be it further

Sec. 5. Report; authority to submit legislation. Resolved: That, by January 15, 2010, the work group shall submit a report relating to the subject matter of this resolve to the Joint Standing Committee on Natural Resources. The report must include findings, recommendations and draft legislation to implement the recommendations. The Joint Standing Committee on Natural Resources may report out legislation relating to the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 55

H.P. 809 - L.D. 1170

Resolve, Directing the Secretary of State To Report on the Accuracy of Election Results

Sec. 1. Secretary of State to examine recent election recounts. Resolved: That the Secretary of State shall examine the results of at least 20 recent election recounts and compare those results with the original vote totals announced for those elections. The Secretary of State shall include in this examination elections that were conducted using electronic vote tally machines and elections in which the ballots were hand-counted; and be it further

Sec. 2. Report. Resolved: That the Secretary of State shall issue a report to the Joint Standing Committee on Legal and Veterans Affairs no later than February 15, 2010 based on the examination under section 1 that lists the election night vote tally versus the recount vote tally for the elections examined. The report must include any reasons discovered for discrepancy, including failure to properly follow post-election procedures. The report must make recommendations and suggest legislation that would establish a formal system for comparing election night vote tallies to recount vote tallies to provide ongoing information regarding the accuracy of election results in the State. The Joint Standing Committee on Legal and Veterans Affairs is authorized to report out legislation to the Second Regular Session of the 124th Legislature based on the information received in the report.

See title page for effective date.

CHAPTER 56

S.P. 441 - L.D. 1193

Resolve, To Establish Uniform Protocols for the Use of Controlled Substances

Sec. 1. Board of Licensure in Medicine to convene stakeholders to develop common protocols for the use and administration of controlled substances. Resolved: That the Board of Licensure in Medicine shall convene a group of stakeholders, including but not limited to representatives from the State Board of Nursing, the Board of Osteopathic Licensure, the Board of Dental Examiners, the Maine Board of Pharmacy, the State Board of Veterinary Medicine and the Board of Licensure of Podiatric Medicine and the Director of the Office of Substance Abuse within the Department of Health and Human Services, to develop common protocols for the use and

administration of controlled substances, as defined in the Maine Revised Statutes, Title 22, section 7246, for use by licensed prescribers. The protocol must be developed no later than February 1, 2010. The Board of Licensure in Medicine shall notify the Joint Standing Committee on Business, Research and Economic Development of the protocol. The joint standing committee is authorized to submit legislation regarding the protocol to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 57

H.P. 698 - L.D. 1010

Resolve, To Require the Department of Environmental Protection To Review Emerging Technologies and the Laws Regarding Incinerators

Sec. 1. Task force; report; authority to submit legislation. Resolved: That the Department of Environmental Protection shall review whether facilities using emerging waste-to-energy technologies that provide environmental and energy benefits should be excluded from the statutory ban on the establishment of new commercial incinerators under the Maine Revised Statutes, Title 38, section 1310-X. The department shall establish a task force to advise the department on matters relating to the review. By January 5, 2010, the department shall submit a report, including its findings, recommendations and, if needed, legislation implementing the recommendations, to the Joint Standing Committee on Natural Resources. The committee may submit legislation relating to the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 58

H.P. 733 - L.D. 1066

Resolve, Directing the Board of Trustees of the Maine Criminal Justice Academy To Amend Its Minimum Standards for the Law Enforcement Use of Force Policy

Sec. 1. Board of Trustees of the Maine Criminal Justice Academy to amend its minimum standards for the law enforcement use of force policy. Resolved: That the Board of Trustees of the Maine Criminal Justice Academy is directed to amend its minimum standards for the use of force policy relative to the procedure for agency investigation and review of the use of deadly force to include, at a minimum, the convening of an incident review team consisting of members appointed by the chief executive officer of each law enforcement agency. Members appointed must include at least one member who is a commissioned officer of the Maine State Police and at least one member of the public who is not and has not previously served as a sworn law enforcement officer. The incident review team shall review the use of deadly force to determine the facts of an incident, whether relevant policy was clearly understandable and effective to cover the particular situation and whether changes are necessary to incorporate improved procedures or practices demonstrated to increase public safety or officer safety, whether training protocols should be reviewed or revised and whether equipment or other resources should be modified. The incident review team shall generate a written report of its findings, and that report is public as provided under the Maine Revised Statutes, Title 5, section 7070-A and Title 30-A, section 503, subsection 1-A and Title 30-A, section 2702, subsection 1-A; and be it further

Sec. 2. Reporting date established. Resolved: That the Board of Trustees of the Maine Criminal Justice Academy shall report about the implementation of the changes to the use of deadly force policy and the work of the incident review teams under section 1 to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters no later than January 15, 2011. The report must include at least the following information: an update on law enforcement agency compliance and implementation of the policy change, the number of incidents where an officer used deadly force, the number of incident review teams that were convened to review instances of the use of deadly force, the number of reports generated by incident review teams and the availability of those reports.

See title page for effective date.

CHAPTER 59

S.P. 402 - L.D. 1084

Resolve, To Improve Continuity of Coverage for Participants in Medicare Advantage Plans

Sec. 1. Bureau of Insurance to amend eligibility rules for Medicare. Resolved: That the Department of Professional and Financial Regulation, Bureau of Insurance shall amend Bureau of Insurance Rule Chapter 275 to extend from one year to 3 years the period during which a Medicare beneficiary who is enrolled in a Medicare Advantage plan and returns to

original Medicare has the right to enroll in a standardized Medicare supplement plan. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 60

S.P. 141 - L.D. 399

Resolve, To Establish a Working Group To Increase Child Support Collections

Sec. 1. Working group to increase child support collections. Resolved: That the Department of Health and Human Services, office of integrated access and support, division of support enforcement and recovery shall convene a working group of interested parties to establish a process to collect child support debts through a gambling payment intercept. The division shall submit a report to the Joint Standing Committee on Judiciary no later than January 15, 2010 containing the recommendations, including proposed legislation, of the working group. The report must include a discussion of the feasibility and cost-effectiveness of the proposed process, the administrative burden that may be placed on gambling licensees and gambling facilities and any other issues. The Joint Standing Committee on Judiciary may submit legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 61

H.P. 405 - L.D. 567

Resolve, To Establish a Working Group To Increase Protection for Victims of Domestic Violence

Sec. 1. Working group to increase protection for victims of domestic violence. Resolved: That the Department of Corrections shall convene a working group of interested parties to establish a process to assess dangerousness and more effectively monitor those who commit domestic violence crimes. The working group shall review other states' existing electronic monitoring and offender management programs, determine accurate costs and program management needs and identify possible pilot sites in the State. The department shall submit a report to the Joint Standing Committee on Criminal Justice and Public Safety no later than January 15, 2010 containing the recommendations, including proposed legislation, of the working group. The Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 62

S.P. 434 - L.D. 1186

Resolve, To Facilitate the Creation and Expansion of an Identified Business Sector

Sec. 1. Removal of regulatory barriers for identified business sector. Resolved: That the Department of Economic and Community Development shall identify a business sector in this State, such as wind power development or aquaculture, and convene a working group of representatives of that identified sector. The working group shall identify problems in the regulatory process that impede the development or expansion of that business sector. Following identification of the impediments, the working group shall consult with the agencies in charge of regulation of that industry and coordinate feedback from the Executive Department, State Planning Office, Maine Regulatory Fairness Board to determine solutions, including streamlining the regulatory process, to those identified impediments.

The department shall submit a report of its findings and recommendations, along with legislation necessary to overcome the identified impediments, no later than December 15, 2009 to the Joint Standing Committee on Business, Research and Economic Development. The joint standing committee may submit legislation to the Second Regular Session of the 124th Legislature based on the recommendations of the department's report.

See title page for effective date.

CHAPTER 63

S.P. 267 - L.D. 692

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Develop Best Management Practices for Poultry Production

Sec. 1. Commissioner of Agriculture, Food and Rural Resources to develop best management practices for poultry production. Resolved: That the Commissioner of Agriculture, Food

and Rural Resources shall develop best management practices for the production and maintenance of poultry at facilities with more than 10,000 birds and adopt rules to establish standards for these facilities based on the best management practices. The best management practices must be available on the Department of Agriculture, Food and Rural Resources' publicly accessible website and included in the next publication of the Manual of Best Management Practices for Maine Agriculture by the department's division of animal health and industry. Rules adopted in accordance with this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 2. Commissioner of Agriculture, Food and Rural Resources to explore use of the Maine quality trademark on poultry products. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall meet with the directors of the divisions of animal health and industry and of quality assurance and regulation and a cooperative extension specialist with expertise in the commercial production of poultry to discuss possible standards for certification and the potential use of the Maine quality trademark on poultry products in accordance with the Maine Revised Statutes, Title 7, sections 443 and 443-B; and be it further

Sec. 3. Reports. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2010 on actions taken and progress made toward meeting the directives in this resolve.

1. The report on best management practices for facilities keeping more than 10,000 birds must provide a timeline for the adoption of rules and a comparison of the proposed standards for care of the birds with the standards used by a national association of egg producers' certification program.

2. The report on the potential use of the Maine quality trademark on poultry products must summarize any meeting or meetings held as directed under section 2 of this resolve and any meetings with poultry producers, processors or other stakeholders on the promotion of Maine poultry products. The commissioner shall include a recommendation regarding the advisability of developing standards and authorization to use the Maine quality trademark for poultry products; and be it further

Sec. 4. Legislation. Resolved: That the Joint Standing Committee on Agriculture, Conservation and Forestry may report out legislation to the Second Regular Session of the 124th Legislature regarding the care of poultry and the use of the Maine quality trademark on poultry products.

See title page for effective date.

CHAPTER 64

H.P. 797 - L.D. 1158

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

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

Whereas, certain real estate authorized for conveyance by this resolve falls under the designations described in the Maine Revised Statutes, Title 12, section 598-A; and

Whereas, the Director of the Bureau of Parks and Lands within the Department of Conservation may sell or exchange lands with the approval of the Legislature in accordance with the Maine Revised Statutes, Title 5, section 6209 and Title 12, sections 1814, 1837 and 1851; now, therefore, be it

Sec. 1. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of Damariscotta, Lincoln County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for fair market value or for exchange of land or interests in land of comparable market value, and on such other terms and conditions as the director may direct, convey any portion of the 4 1/2-acre Shell Heaps Lots, so-called, in Damariscotta, recorded in the Lincoln County Registry of Deeds in Book 650, Page 362. The conveyance may come only with the written approval of the Director of the Maine Historic Preservation Commission and any required approvals by heirs of the donor of the parcel or required approvals by a court of law. The conveyance may occur only in order to advance a plan for recreational trail development on adjacent parcels of land. The conveyance may be to any party; and be it further

Sec. 2. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of Van Buren, Aroostook County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey one crossing easement across

the Bangor and Aroostook Trail, so-called, for fair market value and on such terms and conditions as the director may direct including maintenance and safety obligations and responsibilities. The easement may be granted to any party and may be to benefit any property, including but not limited to property currently controlled by Mid-Ozarks Investments, LLC, located on the Lake Road in the Town of Van Buren; and be it further

Sec. 3. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in the Town of Brownville, Piscataquis County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant convey access rights either by fee or easement over an old woods road and portions of other lands owned by the bureau, for appraised fair market value, and on such other terms and conditions as the director may direct, including maintenance and safety obligations and responsibilities. The lands owned by the bureau, a portion of which may be conveyed, consist of approximately 20 acres consisting of an old gravel pit and woods road and other lands adjacent to the Katahdin Iron Works Multiuse Trail off Front Street in the Town of Brownville, recorded in the Piscataquis County Registry of Deeds in Book 1577, Page 267. The easement may be granted to any party and may be to benefit any property, including but not limited to property currently controlled by abutter Paul Foulkes or his successors or assigns; and be it further

Sec. 4. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain minority interests in land in T12 R17 WELS, Aroostook County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for appraised fair market value, and on such other terms and conditions as the director may direct, convey any and all minority interests in common undivided interests in lands owned by the Bureau of Parks and Lands in T12 R17 WELS to any party. The minority common undivided interests owned by the Bureau of Parks and Lands are estimated to be approximately 1,006 unlocated acres; and be it further

Sec. 5. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in T5 R13 WELS, Chesuncook Township, Piscataquis County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for negotiated value, and on such other terms and conditions as the director may direct, convey or release a parcel of land to Bruce Bailey as the Successor Trustee of the Bailey Family Trust, such land described in a boundary survey performed by AMES A/E entitled, "Bailey, Surprenant, State of Maine, and Piscataquis County - Final Disposition Plan" dated September 11, 2007 and revised March 4, 2008. The parcel contains approximately 12/100 of an acre and is a portion of those premises conveyed by Ansel B. Smith, et al., to James Henderson by deed recorded on August 8, 1927 in Book 228, Page 94 in the Piscataquis County Registry of Deeds. Said parcel is also a portion of those premises conveyed by Peter Simmons a/k/a Peter E. Simmons, Trustee of the Simmons Trust, to Bruce W. Bailey, Successor Trustee of the Bailey Family Trust, by deed dated May 7, 2006 and recorded in Book 1744, Page 243 in the Piscataquis County Registry of Deeds; and be it further

Sec. 6. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain interests in land in T5 R13 WELS, Chesuncook Township, Piscataquis County. Resolved: That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant, for negotiated value, and on such other terms and conditions as the director may direct, convey or release a parcel of land to the government of Piscataquis County, such land described in a boundary survey performed by AMES A/E entitled, "Bailey, Surprenant, State of Maine, and Piscataquis County - Final Disposition - Main Street Chesuncook Village" dated September 11, 2007 and revised March 4, 2008. The parcel contains approximately 63/100 of an acre and is a portion of the property conveyed by Ansell Smith to the Inhabitants of the Plantation of Chesuncook by deed dated August 30, 1924, and recorded in Book 218, Page 310 in the Piscataquis County Registry of Deeds; and Great Northern Nekoosa Corp. to the State of Maine by deed dated November 12, 1975 and recorded in Book 434, Page 486 in the Piscataquis County Registry of Deeds. The parcel also contains portions of those premises reserved in a deed from the heirs of Ansell Smith to Great Northern Paper Company dated December 1, 1929 and recorded in Book 234, Page 358 in the Piscataquis County Registry of Deeds.

See title page for effective date.

CHAPTER 65

H.P. 949 - L.D. 1348

Resolve, To Provide Grants to Public Educational and Municipal Entities for Feasibility Studies of Renewable Energy Projects

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

Whereas, promoting renewable energy and promoting energy efficiency are significant priorities of the federal American Recovery and Reinvestment Act of 2009; and

Whereas, significant funding from the federal American Recovery and Reinvestment Act of 2009 will be disbursed to the Public Utilities Commission in the immediate future for energy initiatives, including renewable energy programs; 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. Feasibility studies for renewable energy projects. Resolved: That the Public Utilities Commission shall, to the extent allowed, apply federal funds received by the commission under the federal American Recovery and Reinvestment Act of 2009 to provide grants to public educational and municipal entities to conduct feasibility studies for the installation and operation of cost-effective renewable energy projects on public property. For purposes of this section, "public educational and municipal entities" includes the University of Maine System, the Maine Maritime Academy, the Maine Community College System, counties, municipalities, quasi-municipal corporations or districts and school administrative units, and "public property" means land, structures, facilities and other real property under the ownership or control of public educational and municipal entities.

Subject to the availability of funds and qualified applicants, the commission shall select grant recipients for feasibility studies under this section and shall determine the amount of funding distributed to each recipient. In selecting grant recipients under this section, the commission shall give priority to proposals from public educational and municipal entities that have committed to fund at least 10% of the cost of the feasibility study either in a financial commitment or an equivalent value of volunteer or in-kind contributions as determined by the commission; and be it further

Sec. 2. Rules. Resolved: That the Public Utilities Commission may adopt rules, as necessary, to implement this resolve. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 3. Reports. Resolved: That the Public Utilities Commission shall prepare and submit an interim report and a final report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding grants provided to public educational and municipal entities to conduct feasibility studies for installation and operation of renewable energy projects on public property in accordance with section 1. The interim report must be submitted no later than April 1, 2010, and the final report must be submitted no later than December 31, 2011.

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

Effective May 22, 2009.

CHAPTER 66
S.P. 273 - L.D. 724

Resolve, To Create a Working Group To Provide Transparency Concerning Operating Expenses for Hospitals

Sec. 1. Convene working group. Resolved: That the Maine Health Data Organization and the Governor's Office of Health Policy and Finance shall convene a working group to examine and make recommendations for hospital data reporting that will provide transparency concerning operating expenses, including, but not limited to, annual operating budgets and other financial information. The working group must include representatives of the Maine Hospital Association, the Maine Health Data Organization and the Governor's Office of Health Policy and Finance and any other stakeholders needed to determine the appropriate data sets, schedules and format of the data and reports. The Maine Health Data Organization and the Governor's Office of Health Policy and Finance shall provide the Joint Standing Committee on Health and Human Services and staff advance notice of the time and place of the meetings; and be it further

Sec. 2. Duties of working group. Resolved: That the working group under section 1 shall review current data being collected and identify additional data needed to provide transparency concerning operating expenses, including, but not limited to, annual operating budgets, income sources, profit-generating facilities, salary ranges by position, the value of transactions between hospitals and their affiliates and advertising. The working group shall identify all schedules, forms and methods needed for data collection as well as a deadline and a format for reporting the information to the Legislature; and be it further

Sec. 3. Report recommendations. Resolved: That, by January 1, 2010, the Maine Health Data Organization and the Governor's Office of Health Policy and Finance shall report to the Joint Standing Committee on Health and Human Services the findings and recommendations of the working

group under section 1, including any necessary implementing legislation; and be it further

Sec. 4. Legislation. Resolved: That, after receipt and review of the report and recommendations submitted pursuant to section 3, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 67

H.P. 84 - L.D. 100

Resolve, To Direct the Department of Education and the Department of Health and Human Services To Implement Strategies To Increase the Provision of Oral Health Screenings to Preschool Children and Children Entering School

Sec. 1. Pilot programs to increase oral health screening. Resolved: That the Commissioner of Health and Human Services, in consultation with the Commissioner of Education and pursuant to the Maine Revised Statutes, Title 20-A, section 6454, shall develop one or more pilot programs, providing screenings at a total of 3 sites, to evaluate the provision of oral health screenings for preschool children and children entering elementary school. Pilot programs must be implemented at a total of 3 sites. Prior to establishing a pilot program, the commissioners shall:

1. Review existing oral health programs and initiatives in the State and develop an inventory of these programs and the services provided;

2. Review mandatory health screenings in other states and research and evidence on the effectiveness of oral health screenings in schools;

3. Identify the costs of implementing an oral health screening program and potential funding sources for the program; and

4. Develop standards of practice for screenings and appropriate training for school personnel.

A pilot program must clearly provide that a student whose parents object to oral health screenings may not be screened; and be it further

Sec. 2. Report to legislative committees on oral health pilot programs. Resolved: That the Commissioner of Health and Human Services and the Commissioner of Education shall report on the development and implementation of pilot programs authorized under section 1 to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Education and Cultural Affairs no later than February 15, 2010. Using information obtained from the pilot programs, the commissioners shall include in the report the standards of practice developed for screenings, a description of the training needed to conduct the screenings and an estimate of the need for treatment for students without access to dental services. The report must also include an account of expenditures to implement the pilot programs; and be it further

Sec. 3. Authority to submit legislation. Resolved: That the Joint Standing Committee on Education and Cultural Affairs may submit legislation to the Second Regular Session of the 124th Legislature pertaining to the provision of oral health screenings for preschool and elementary school students; and be it further

Sec. 4. Authorization to use grant funds. Resolved: That, notwithstanding the Maine Revised Statutes, Title 22, section 2128, subsection 5, funds from the Maine School Oral Health Fund may be used to implement pilot programs in accordance with this resolve. No more than $10,000 from the fund may be used to implement the pilot programs, including the cost of administration, coordination and evaluation of the pilot programs.

See title page for effective date.

CHAPTER 68

H.P. 608 - L.D. 877

Resolve, To Review the Maine Registry of Certified Nursing Assistants

Sec. 1. Convene working group. Resolved: That the Department of Health and Human Services shall convene a working group to examine and make recommendations for changes to the current law prohibiting an individual from employment as a certified nursing assistant in certain settings if the individual has been convicted of a crime involving abuse, neglect or misappropriation of property in a health care setting. The working group must include representatives of the department, the long-term care ombudsman program, advocates for victims of sexual assault, law enforcement officials, direct care workers and employers. At least one member of the working group must have expertise in the Maine Criminal Code; and be it further

Sec. 2. Review. Resolved: That the working group under section 1 shall review the list of crimes that preclude an individual from employment as a cer-

tified nursing assistant in certain settings and make recommendations for changes, including, but not limited to, the addition of crimes involving sexual assault and violence. The working group shall consider issues related to the duration of the employment prohibition, the direct care workers to which it is applicable and whether the law should be retroactive; and be it further

Sec. 3. Report recommendations. Resolved: That, by January 1, 2010, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Criminal Justice and Public Safety the findings and recommendations of the working group under section 1, including any necessary implementing legislation; and be it further

Sec. 4. Legislation. Resolved: That, after receipt and review of the report and recommendations submitted pursuant to section 3, the Joint Standing Committee on Health and Human Services may submit legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 69

H.P. 670 - L.D. 968

Resolve, Regarding New Utility Line Extension Construction

Sec. 1. New utility line extension construction. Resolved: That the Public Utilities Commission shall convene a stakeholder group to study the practices of investor-owned transmission and distribution utilities with respect to new utility line extension construction, other than the actual rates and prices charged for line extensions. The study must include, but is not limited to, an evaluation of how the utilities' line extension practices affect private line extension contractors and a review of the methodologies used to apportion line extension costs. The commission shall, at a minimum, invite representatives from the following to participate in the stakeholder group: the investor-owned transmission and distribution utilities in the State, associations of builders and contractors, private line extension contractors and the Office of the Public Advocate; and be it further

Sec. 2. Report; authority for legislation. Resolved: That, no later than February 15, 2010, the Public Utilities Commission shall submit to the Joint Standing Committee on Utilities and Energy a report of the findings and recommendations of the stakeholder group under section 1. The report must include, but is not limited to, an assessment of any differences in the apportionment methodologies used by the investor-owned transmission and distribution utilities and recommendations to achieve a common standard operating procedure for line extension cost estimating. After receipt and review of the report, the committee is authorized to report out legislation to the Second Regular Session of the 124th Legislature, as necessary, to direct the Public Utilities Commission to amend its rules governing private line extensions pursuant to the Maine Revised Statutes, Title 35-A, section 314, subsection 5.

See title page for effective date.

CHAPTER 70

H.P. 756 - L.D. 1094

Resolve, To Study Safety Measures Relating to Open Trenches and Excavations

Sec. 1. Department of Transportation to establish a working group to study safety measures relating to open trenches and excavations. Resolved: That the Department of Transportation, in conjunction with the Department of Public Safety, shall establish a working group to study trench and excavation safety, referred to in this resolve as "the working group." In addition to representatives of the Department of Transportation and the Department of Public Safety, the working group must include, but is not limited to, the Department of Labor, the Public Utilities Commission, the Maine Turnpike Authority, the Maine Better Transportation Association, the Maine Municipal Association, Associated General Contractors of Maine and other representatives of the construction industry in the State to examine safety issues relating to unattended trenches and excavations on both public and private property. The working group, in its deliberations, shall study the trench safety law recently enacted in Massachusetts, which is specifically designed to prevent a member of the public from falling into an unattended trench and suffering an injury or fatality. The working group shall develop recommendations for improving the safety of unattended trenches and excavations for the general public; and be it further

Sec. 2. Report. Resolved: That the working group shall submit a report to the Joint Standing Committee on Transportation no later than the first business day in February 2010. The report must include an analysis of federal and state trench and excavation safety laws, regulations and rules with recommended legislation to strengthen laws relating to trench and excavation safety. After reviewing the report, the Joint Standing Committee on Transportation may report out a bill to the Second Regular Session of

the 124th Legislature concerning the subject matter of this resolve.

See title page for effective date.

CHAPTER 71

S.P. 426 - L.D. 1154

Resolve, To Require a Study of Economic Development Incentives in the Unorganized Territory

Sec. 1. Study. Resolved: That the Department of Economic and Community Development and the State Tax Assessor shall convene a study group to conduct a study of the role of economic development incentives, including tax increment financing, in the unorganized territory. The department and the assessor shall invite participation in the study by the fiscal administrator of the unorganized territory, property owners in the unorganized territories and representatives of counties with unorganized territories, regional economic development organizations whose territory covers unorganized territories, businesses with development interests in the unorganized territories and organizations interested in natural resources development. The study group shall:

1. Consider the process of promoting and approving economic development incentives in the unorganized territory and recommend the appropriate role of state, county and regional organizations in the decision-making process;

2. Review the legal issues surrounding tax increment financing in the unorganized territory and the legally acceptable methods of identifying special benefits from property tax incentives in that jurisdiction;

3. Consider the role of tax increment financing in shifting the property tax burden throughout the unorganized territory and evaluate the potential for alternative tax mechanisms, such as a wind power excise tax, to provide support for economic development infrastructure; and

4. Report the findings and recommendations of the study to the Joint Standing Committee on Taxation by January 15, 2010. The joint standing committee may submit legislation to the Second Regular Session of the 124th Legislature regarding the study.

See title page for effective date.

CHAPTER 72

H.P. 765 - L.D. 1110

Resolve, Directing the Bureau of Maine Veterans' Services To Report on Homeless Veterans

Sec. 1. Bureau of Maine Veterans' Services to study issue of homeless veterans. Resolved: That the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management shall work with the existing groups that work on the issue of homelessness among veterans to determine possible solutions to the issue and further assistance that can be given to homeless veterans in the State and shall develop a report on their findings. The report must include an estimate of the effect that additional veterans services officers would have on the issue of homelessness among veterans; and be it further

Sec. 2. Report. Resolved: That the Director of the Bureau of Maine Veterans' Services shall submit the report developed under section 1 no later than January 15, 2010 to the Joint Standing Committee on Legal and Veterans Affairs including any recommended legislation to address the issue of homeless veterans. The Joint Standing Committee on Legal and Veterans Affairs is authorized to report out legislation to the Second Regular Session of the 124th Legislature based on the report.

See title page for effective date.

CHAPTER 73

H.P. 859 - L.D. 1240

Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct a Sunrise Review Regarding a Proposal To License Wetland Scientists

Sec. 1. Commissioner of Professional and Financial Regulation to conduct a sunrise review regarding a proposal to license wetland scientists. Resolved: That the Commissioner of Professional and Financial Regulation shall conduct an independent assessment pursuant to the sunrise review requirements in the Maine Revised Statutes, Title 32, chapter 1-A, subchapter 2 of a proposal submitted to the commissioner to license wetland scientists; and be it further

Sec. 2. Reporting date established. Resolved: That no later than February 15, 2010 the

Commissioner of Professional and Financial Regulation shall submit a report with any necessary proposed legislation regarding the independent assessment under section 1 to the Joint Standing Committee on Business, Research and Economic Development. That committee is authorized to submit legislation on the subject matter of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 74

H.P. 860 - L.D. 1241

Resolve, Directing the Department of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Certain Mechanical Trades

Sec. 1. Department of Professional and Financial Regulation to conduct a sunrise review regarding the proposal to license certain mechanical trades. Resolved: That the Commissioner of Professional and Financial Regulation shall conduct an independent assessment pursuant to the sunrise review requirements in the Maine Revised Statutes, Title 32, chapter 1-A, subchapter 2 of the proposal to license certain mechanical trades; and be it further

Sec. 2. Reporting date established. Resolved: That no later than February 15, 2010 the Commissioner of Professional and Financial Regulation shall submit a report with any necessary legislation following the independent assessment under section 1 to the Joint Standing Committee on Business, Research and Economic Development. That committee is authorized to submit legislation on the subject matter of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 75

H.P. 626 - L.D. 908

Resolve, To Encourage Regional Energy Conservation and Renewable Energy Initiatives

Sec. 1. Regional energy conservation and renewable energy initiatives. Resolved: That, in the administration of energy conservation and renewable energy programs and funding, the Public Utilities Commission shall encourage collaboration between municipalities of the State in the development and implementation of regional energy conservation and renewable energy projects. The commission shall ensure that energy conservation and renewable energy programs and funding administered by the commission for which municipalities are eligible incorporate opportunities for regional projects proposed by multiple municipalities. The commission shall require a proposal for a regional energy conservation project or renewable energy project to include information regarding the expected impact of the project on the electric load of the transmission and distribution utility or utilities serving the participating municipalities; and be it further

Sec. 2. Report. Resolved: That the Public Utilities Commission shall, in the annual report due on December 1, 2009 under the Maine Revised Statutes, Title 35-A, section 3211-A, subsection 11, report on its efforts to encourage regional energy conservation and renewable energy projects pursuant to section 1.

See title page for effective date.

CHAPTER 76

H.P. 829 - L.D. 1204

Resolve, To Develop a Watercraft Safety Education Plan

Sec. 1. Develop a watercraft safety education plan. Resolved: That the Department of Inland Fisheries and Wildlife shall develop a watercraft safety education plan in consultation with stakeholders and interested parties to provide watercraft operators with a basic understanding about the safe operation of watercraft. For the purposes of this resolve, "watercraft" has the same meaning as in the Maine Revised Statutes, Title 12, section 13001, subsection 28; and be it further

Sec. 2. Report. Resolved: That the Department of Inland Fisheries and Wildlife shall report its watercraft safety education plan and any findings and recommendations with draft implementing legislation to the Joint Standing Committee on Inland Fisheries and Wildlife by no later than January 5, 2010. The joint standing committee may report out legislation to the Second Regular Session of the 124th Legislature regarding the report.

See title page for effective date.

CHAPTER 77

H.P. 736 - L.D. 1069

Resolve, To Direct the Maine Children's Growth Council To Study the Connections between Higher Education and Early Childhood Education

Sec. 1. Convene working group. Resolved: That the Maine Children's Growth Council, as established in the Maine Revised Statutes, Title 5, chapter 621, shall convene a working group to review and make recommendations for administrative or legislative action, or both, concerning the existing and potential connections between higher education and early childhood education, including, but not limited to, the ways in which the higher education system can support the development of the early childhood education system, the ways the early childhood education system can help strengthen the higher education system and the support needed to make this reciprocal relationship sustainable. The Department of Health and Human Services and the Department of Education shall participate in the working group as well as representatives from public universities, community colleges, child care providers, Head Start and other community stakeholders that the council may identify; and be it further

Sec. 2. Charge of working group. Resolved: That the working group shall consider ideas and make recommendations, including proposing legislation, if necessary, for creating a partnership between child care providers and state institutions of higher learning that will allow for ongoing communication about the health and needs of the State's early childhood education and higher education systems; and be it further

Sec. 3. Determine opportunities for additional child care resources. Resolved: That the working group shall:

1. Analyze the federal Higher Education Act of 1965, which identifies child care as a specific example of a special circumstance for the use of what federal law and regulations refer to as "professional judgment," to determine the extent to which the use of professional judgment provides additional opportunity to increase access to child care for students in need;

2. Consult with the Maine Association of Student Financial Aid Administrators to review the current practice of financial aid officers in administering the professional judgment provisions on a case-by-case basis when determining an applicant's eligibility for federal financial aid, including the extent to which financial aid officers exercised the professional judgment provisions in 2008 as a percentage of the total number of financial aid applications for which they provided assistance; and to review the strategies recommended to financial aid officers for implementing the nonregulatory guidance provided in the United States Department of Education letters dated April 2, 2009 and May 8, 2009 regarding the use of professional judgment; and

3. Examine the extent to which existing child care resources are available for increasing educational opportunities in this State; and be it further

Sec. 4. Report. Resolved: That the working group shall provide a report to the Joint Standing Committee on Health and Human Services with findings and recommendations, including any draft legislation necessary, no later than January 15, 2010. The joint standing committee is authorized to submit a bill related to the subject of the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 78

H.P. 689 - L.D. 1001

Resolve, To Require the Office of Employee Health and Benefits To Report on Its Demonstration Project To Provide Access to Fitness Programs for State Employees

Sec. 1. Report on demonstration project. Resolved: That the Executive Director of the Office of Employee Health and Benefits within the Department of Administrative and Financial Services shall provide a report on the demonstration project to provide access to fitness programs for state employees. In preparing the report, the executive director shall submit information on the demonstration project, including, but not limited to, the number of participating state employees, the number and location of participating fitness centers, the types of fitness services used and the number of visits to fitness centers by state employees and the financial impact on the group health plan. The executive director shall submit the report to the Joint Standing Committee on Insurance and Financial Services no later than February 1, 2010. The Joint Standing Committee on Insurance and Financial Services is authorized to submit legislation concerning the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 79
H.P. 903 - L.D. 1300

Resolve, To Create a Working Group on the Prevention, Diagnosis and Treatment of Concussive Head Injuries in Student-athletes

Sec. 1. Working group. Resolved: That the Commissioner of Education shall establish a working group on the prevention, diagnosis and treatment of concussive head injuries in student-athletes. The commissioner shall invite the participation in the working group of representatives from the Maine Principals' Association, the Maine School Superintendents Association, the Maine School Boards Association, the Maine School Management Association and the Acquired Brain Injury Advisory Council, the medical director of health services at Colby College, sports medicine practitioners, medical providers and school athletic directors and trainers and representatives of any other stakeholder group or interested party the commissioner considers appropriate; and be it further

Sec. 2. Duties. Resolved: That the working group established in section 1 shall develop recommendations on the prevention, diagnosis and treatment of concussive head injuries in student-athletes, including, but not limited to, avoiding concussive head injuries through education, baseline and post-concussion testing and diagnosis of student-athletes, return-to-play guidelines, training for school athletic directors and athletic trainers, the delivery of post-concussion management services to concussed athletes and ways in which to effectively integrate these education, training and diagnostic recommendations into school athletic programs; and be it further

Sec. 3. Report. Resolved: That the Commissioner of Education shall report the findings and recommendations of the working group established in section 1 to the Joint Standing Committee on Education and Cultural Affairs no later than March 1, 2010; and be it further

Sec. 4. Legislation. Resolved: That the Joint Standing Committee on Education and Cultural Affairs may submit a bill to the Second Regular Session of the 124th Legislature on the issue of concussive head injuries in student-athletes following receipt of the report required in section 3.

See title page for effective date.

CHAPTER 80
H.P. 395 - L.D. 557

Resolve, Directing the Study of a Potato Variety Demonstrating Resistance to the Colorado Potato Beetle

Sec. 1. Potato variety to be studied. Resolved: That the Maine Potato Breeding Program established at the University of Maine, referred to in this resolve as "the breeding program," shall determine the genetic integrity of the potato variety known as the "Shaw Potato." If the Director of the Maine Potato Breeding Program, referred to in this resolve as "the director," determines that the potato does not contain any proprietary material, the director shall work with the Maine Potato Board to develop a plan for the study of the Shaw Potato, its resistance to the Colorado potato beetle and its suitability for commercial production.

Before beginning the study, the director, in cooperation with the Maine State Grange, shall obtain the plant material to be studied and the written approval of the developer of the potato variety to proceed with the study; and be it further

Sec. 2. Funding. Resolved: That funding sources for the study include existing funds available to the breeding program from the Maine Potato Board, federal funding through the United States Department of Agriculture and grants; and be it further

Sec. 3. Report. Resolved: That the Maine Potato Board shall submit a copy of the study plan under section 1 and provide a progress report to the Joint Standing Committee on Agriculture, Conservation and Forestry and to the Maine State Grange no later than December 15, 2009.

See title page for effective date.

CHAPTER 81
H.P. 719 - L.D. 1044

Resolve, To Promote Cogeneration of Energy at Maine Sawmills

Sec. 1. Stakeholder group. Resolved: That the Executive Department, Governor's Office of Energy Independence and Security shall convene a stakeholder group to examine and make recommendations regarding the concept of cogeneration energy zones, as described in section 2, to promote cogeneration at sawmills in the State. The office shall, at a minimum, invite representatives of the Public Utilities Commission, the Office of the Public Advocate, the

forest products industry, transmission and distribution utilities and other interested parties to participate in the stakeholder group; and be it further

Sec. 2. Cogeneration energy zone. Resolved: That, for the purposes of this resolve, "cogeneration energy zone" means a designated geographic area that includes a sawmill that has an on-site cogeneration facility. The stakeholder group under section 1 shall consider the following criteria in developing the concept of cogeneration energy zones:

1. Allowing the zone to include not less than 2 and not more than 10 manufacturing facilities, including the subject sawmill;

2. Limiting the zone to a maximum radius of 10 miles;

3. Limiting the cogeneration facility to an installed capacity limit of 5 megawatts;

4. Requiring the cogeneration facility to meet fuel system efficiency standards or use a renewable resource as its fuel input;

5. Allowing the sawmill that owns the on-site cogeneration facility and other entities within the zone that share an ownership interest in the cogeneration facility to elect net energy billing. If the cogeneration facility has an installed capacity of more than 660 kilowatts and net energy billing is elected, the sawmill and any shared ownership customers that elect net energy billing would be required to pay a fee to the transmission and distribution utility to mitigate cost shifting to other ratepayers. If the cogeneration facility has an installed capacity of 660 kilowatts or less, the Public Utility Commission's rules governing net energy billing would apply. If there is no shared ownership of the cogeneration facility, the sawmill may sell its net excess generation pursuant to the small generator aggregation law under the Maine Revised Statutes, Title 35-A, section 3210-A;

6. Allowing the construction of a private transmission line to be considered, subject to the requirements of Title 35-A, section 2305-B if the transmission and distribution utility serving the location of the cogeneration facility does not have the capacity to transmit the output of the cogeneration facility to the shared ownership customers; and

7. Allowing the nonelectric energy produced by the cogeneration facility to be shared with other entities through private agreement; and be it further

Sec. 3. Report; authority for legislation. Resolved: That, no later than February 15, 2010, the Executive Department, Governor's Office of Energy Independence and Security shall submit to the Joint Standing Committee on Utilities and Energy a report of the findings and recommendations of the stakeholder group under section 1, including any suggested legislation. After receipt and review of the report, the committee is authorized to report out legislation to the Second Regular Session of the 124th Legislature regarding cogeneration energy zones.

See title page for effective date.

CHAPTER 82

H.P. 662 - L.D. 960

Resolve, Requiring Rulemaking by the Maine Health Data Organization in Consultation with the Maine Quality Forum Regarding Clostridium Difficile and Methicillin-resistant Staphylococcus Aureus

Sec. 1. Rules. Resolved: That, by January 1, 2010, the Maine Health Data Organization in consultation with the Maine Quality Forum shall adopt rules regarding public reporting by hospitals on issues regarding methicillin-resistant Staphylococcus aureus and Clostridium difficile to include:

1. Reporting on the hospital's adoption of a multiple drug-resistant organism prevention program as part of the hospital's broader health-care-associated infection prevention strategies, including hand hygiene, contact precautions that include barriers as appropriate, isolation policies, design of a response to increases in infection rates and environmental precautions; and

2. Reporting on the hospital's quarterly submission to the Maine Health Data Organization of the number of patients at high risk for methicillin-resistant Staphylococcus aureus and the number of these patients surveilled in the hospital's targeted surveillance of high-risk populations.

The rules must include a definition of "high risk" and the components of a targeted surveillance program that follow the federal Centers for Disease Control and Prevention guidelines and are determined by the Maine Quality Forum in consultation with the Maine Infection Prevention Collaborative by October 1, 2009.

The Maine Quality Forum, in conjunction with members of a statewide collaborative group of infection prevention specialists, a representative of a statewide organization representing nurses and a person representing consumers, shall design metrics for assessment of reporting functions and establish performance measures, which must be posted on the Maine Quality Forum's publicly accessible website, and include the performance measure data in the annual Maine Quality Forum report to the Legislature re-

quired by the Maine Revised Statutes, Title 24-A, section 6951, subsection 10.

Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 83

H.P. 777 - L.D. 1122

Resolve, Regarding Legislative Review of Portions of Chapter 101: Establishment of the Capital Investment Fund, a Major Substantive Rule of the Governor's Office of Health Policy and Finance

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 101: Establishment of the Capital Investment Fund, a provisionally adopted major substantive rule of the Governor's Office of Health Policy and Finance that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 2, 2009.

CHAPTER 84

H.P. 987 - L.D. 1411

Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 120: Release of Data to the Public, a provisionally adopted major substantive rule of the Maine Health Data Organization that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 2, 2009.

CHAPTER 85
H.P. 988 - L.D. 1412

Resolve, Regarding Legislative Review of Portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Home and Community Benefits for Members with Mental Retardation or Autistic Disorder, a provisionally adopted major substantive rule of the Department of Health and Human Services, Office of MaineCare Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 2, 2009.

CHAPTER 86
S.P. 265 - L.D. 690

Resolve, To Establish a Working Group Concerning Domestic Violence and Firearms

Sec. 1. Working group concerning domestic violence and firearms. Resolved: That the Commissioner of Public Safety shall convene a working group of interested parties to review and propose amendments to state law regarding the possession of firearms by prohibited persons in order to bring the State into conformity with federal law. The group shall look at incorporating into state law the prohibition of possession of firearms by a person convicted of a misdemeanor crime of domestic violence. Each of the following must be invited to send a representative to participate in the working group: the Office of the Attorney General, the Maine Prosecutors Association, the Maine Coalition to End Domestic Violence, the Maine Association of Criminal Defense Lawyers, Maine Citizens Against Handgun Violence, the Sportsman's Alliance of Maine, the Maine Chiefs of Police Association, the Maine Sheriffs' Association and up to 3 other entities that the Commissioner of Public Safety determines appropriate. The Commissioner of Public Safety shall report the working group's recommendations, including proposed legislation, to the Joint Standing Committee on Criminal Justice and Public Safety no later than January 15, 2010. The Joint Standing Committee on Criminal Justice and Public Safety may submit legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 87
H.P. 68 - L.D. 78

Resolve, Regarding Legislative Review of Portions of Chapter 182: Formula for Distribution of Funds to Child Development Services Regional Sites, a Major Substantive Rule of the Department of Education

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 182: Formula for Distribution of Funds to Child Development Services Regional Sites, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective June 4, 2009.

CHAPTER 88

S.P. 361 - L.D. 978

Resolve, Directing the Commission on Governmental Ethics and Election Practices To Develop Recommendations for Ethical Standards for the Executive Branch

Sec. 1. Commission to develop recommendations on ethical standards for the executive branch. Resolved: That the Commission on Governmental Ethics and Election Practices shall examine existing ethical standards that govern members of the executive branch and develop advisory recommendations regarding the establishment of statutory ethical standards for the executive branch and submit a report, including suggested legislation, to the Joint Standing Committee on Legal and Veterans Affairs no later than December 3, 2009. The commission shall seek input from members of the executive branch in developing these standards. The Joint Standing Committee on Legal and Veterans Affairs is authorized to report out legislation based on this report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 89

H.P. 916 - L.D. 1313

Resolve, Directing the State Planning Office To Prepare a Reorganization Plan

Sec. 1. State Planning Office to prepare plan. Resolved: That the Executive Department, State Planning Office shall prepare a reorganization plan for the State Planning Office in which the office is nonregulatory in nature, performs planning services for agencies and is the agency responsible for the state-owned landfill; and be it further

Sec. 2. State Planning Office to conduct review. Resolved: That the Executive Department, State Planning Office shall review the powers and duties of the State Planning Office and the statutory provisions relating to the State Planning Office and prepare proposed legislation to transfer certain powers and duties of the State Planning Office to other agencies in anticipation of the reorganization of the State Planning Office in section 1 of this resolve; and be it further

Sec. 3. Report. Resolved: That the Executive Department, State Planning Office shall submit its plan under section 1 and report under section 2 to the Joint Standing Committee on State and Local Government by February 1, 2010. The joint standing committee may submit legislation related to this plan and report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 90

H.P. 1013 - L.D. 1461

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Matching Funds and Property and Equipment, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 3: Maine Clean Election Act and Related Provisions - matching funds and property and equipment, a provisionally adopted major substantive rule of the Commission on Governmental Ethics and Election Practices that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized if the rule regarding the minimum amount that must be received from the resale of property and equipment purchased using Maine Clean Election Act funds is reduced from 75% to 40%.

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

Effective June 4, 2009.

CHAPTER 91

H.P. 1033 - L.D. 1480

Resolve, Regarding the Maine State Cultural Building in Augusta

Sec. 1. Resolve 2007, c. 151, §4, amended. Resolved: That Resolve 2007, c. 151, §4 is amended to read:

Sec. 4. Authority to report out legislation. Resolved: That the joint standing committee of the Legislature having jurisdiction over state and local government matters is authorized to submit legislation concerning the Maine State Cultural Building to the First and Second Regular ~~Session~~ Sessions of the 124th Legislature.

See title page for effective date.

CHAPTER 92

S.P. 396 - L.D. 1062

Resolve, To Assist Artists, Art Galleries and Art Dealers

Sec. 1. Department of the Attorney General to develop a voluntary model contract to assist artists, art galleries and art dealers. Resolved: That the Department of the Attorney General shall develop a voluntary model standard art consignment contract to assist artists, art galleries and art dealers that must include, but is not limited to, the following basic contractual components: the exclusivity of the relationship, inventory of the artwork, the commission structure, insurance, promotion of the artwork, terms of payment, reproduction terms, warranties and transportation responsibilities. The Department of the Attorney General may consult with the Maine Arts Commission as well as review other state art consignment laws in the development of the voluntary model standard art consignment contract, which must be posted on the department's publicly accessible website by January 15, 2010. The Department of the Attorney General shall report to the Joint Standing Committee on Business, Research and Economic Development on the development of the model contract by February 1, 2010.

See title page for effective date.

CHAPTER 93

H.P. 848 - L.D. 1228

Resolve, To Direct Action on Health Disparities of the Passamaquoddy Tribe and Washington County

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

Whereas, this legislation directs the development of an action plan to address the health disparities found in Washington County and the Passamaquoddy Tribe; and

Whereas, work on the plan must begin before the 90-day period expires in order for it to be completed in a timely fashion; 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. Action plan on health disparities. Resolved: That the Department of Health and Human Services, Maine Center for Disease Control and Prevention, offices of minority health and data, research and vital statistics and a Washington County health organization shall work with the Passamaquoddy health directors to help reduce health disparities between the Passamaquoddy Tribe and the State and the United States and Washington County and the State and the United States and shall:

1. Develop an action plan to address the health disparities;

2. Develop recommendations for data collection methods to address the disparities and for finding all data that has been processed; and

3. Report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15, 2011 on:

A. The status of the health conditions and disparities;

B. The status of the recommendations for data collection and for finding all data that has been processed;

C. The status of the action plan, which will address the health needs of the Passamaquoddy Tribe and Washington County; and

D. Any recommended language necessary to implement this resolve and discussion of what is necessary to fully implement the action plan.

After receiving the report, the joint standing committee of the Legislature having jurisdiction over health and human services matters may submit legislation related to the report to the First Regular Session of the 125th Legislature.

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

Effective June 8, 2009.

CHAPTER 94

H.P. 129 - L.D. 150

Resolve, Directing the Secretary of State To Conduct a Pilot Program for Ongoing Absentee Voter Status

Sec. 1. Secretary of State to conduct a pilot program for ongoing absentee voter status. Resolved: That the Secretary of State shall conduct a pilot program for ongoing absentee voter status, to include the 3 statewide elections of November 2009, June 2010 and November 2010. The Secretary of State shall select one or more municipalities that are willing and able to participate in the pilot program. In designing the pilot program, the Secretary of State may consult with other states that have a program for ongoing absentee voter status or a similar program. The Secretary of State shall design or approve the forms and procedures necessary to conduct the pilot program, including the procedures for voters to request ongoing absentee voter status, as well as any conditions that would cause a person's ongoing absentee voter status to be terminated prior to the end of the pilot program; and be it further

Sec. 2. Reporting date established. Resolved: That the Secretary of State shall submit a report concerning the pilot program and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs by February 15, 2011. The committee is authorized to submit legislation related to this report to the First Regular Session of the 125th Legislature after consideration of this report.

See title page for effective date.

CHAPTER 95

H.P. 845 - L.D. 1225

Resolve, To Review the Adjustments in the School Funding Formula Related to School Administrative Units That Are Eligible for the Minimum State Share of Their Total Allocation

Sec. 1. Targeted research projects for fiscal year 2009-10 work plan of the Education Research Institute; technical assistance. Resolved: That the Education Research Institute established in the Maine Revised Statutes, Title 20-A, section 10 shall provide technical assistance to the Legislature by including a targeted research project in the fiscal year 2009-10 work plan as specified in this section. The project agreement with the Education Research Institute must include a project to address the impact of the adjustments in the school funding formula related to school administrative units that are eligible for the minimum state share of their total allocation; and be it further

Sec. 2. Report. Resolved: That the Education Research Institute shall submit a report on the targeted research project described in section 1 to the Joint Standing Committee on Education and Cultural Affairs during the Second Regular Session of the 124th Legislature no later than January 15, 2010. The report must include specific findings and any recommendations from the principal investigators related to

the targeted research project. Following receipt and review of the report, the Joint Standing Committee on Education and Cultural Affairs may report out legislation to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 96

S.P. 496 - L.D. 1361

Resolve, Directing the Department of Labor and the Department of Health and Human Services To Establish a Work Group To Clarify the Working Status of Respite Care and Shared Living Residential Service Providers for Individuals with Developmental Disabilities

Sec. 1. Work group established. Resolved: That the Commissioner of Labor and the Commissioner of Health and Human Services, within existing resources, shall establish a work group, referred to in this resolve as "the work group," to review the status of certain direct support providers with respect to certain laws, such as those governing unemployment compensation, workers' compensation and minimum wage. The commissioners shall invite the participation of representatives from each department and representatives from affected organizations including the Workers' Compensation Board, the Maine State Employees Association and the Maine Association of Community Service Providers and its members; and be it further

Sec. 2. Examine working status of providers. Resolved: That the work group shall examine the services and tasks performed by respite care and shared living residential service providers for adults and children with developmental disabilities to determine if there are ways to clearly identify the working status of those providers. The work group shall also examine whether statutory or regulatory actions are needed to provide clarification of the providers' status; and be it further

Sec. 3. Reporting date established. Resolved: That the Commissioner of Labor and the Commissioner of Health and Human Services shall report the work group's findings and any recommendations to the Joint Standing Committee on Labor by December 15, 2009, along with any statutory changes required to clarify the status of respite care and shared living residential service providers; and be it further

Sec. 4. Authority to introduce legislation. Resolved: That the Joint Standing Committee on Labor may submit legislation to the Second Regular Session of the 124th Legislature to implement the recommendations of the work group.

See title page for effective date.

CHAPTER 97

H.P. 884 - L.D. 1265

Resolve, Regarding Low-profit Limited Liability Companies

Sec. 1. Bureau of Corporations, Elections and Commissions. Resolved: That the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions shall examine the concept of low-profit limited liability companies, review the legislation enacted and pending in other states concerning such entities and consult with attorneys who practice law concerning the types of entity to form as a business or nonprofit organization. The bureau shall report to the Joint Standing Committee on Judiciary no later than January 15, 2010 with recommendations concerning low-profit limited liability companies. The report may include recommended legislation. The Joint Standing Committee on Judiciary may report out legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 98

S.P. 412 - L.D. 1101

Resolve, To Understand and Assist in Efforts To Promote Science, Technology, Engineering and Math Education

Sec. 1. Collect information. Resolved: That the Department of Education and the University of Maine System shall collect science, technology, engineering and math information and data by November 1, 2009 on science, technology, engineering and math initiatives in consultation with the State Board of Education, public and private partnerships, including pilot projects and nonprofit and other organizations and businesses that work on promoting science, technology, engineering and math initiatives through mentoring and other programs and any science, technology, engineering and math initiatives collaborative efforts; and be it further

Sec. 2. Report. Resolved: That with the data and information collected on science, technology, en-

gineering and math initiatives under section 1, the Department of Education shall produce a report with its findings and recommendations for review by the Joint Standing Committee on Education and Cultural Affairs no later than December 15, 2009. The report must focus on the following:

1. Informing the Joint Standing Committee on Education and Cultural Affairs about the initiatives that work to inspire students in the science, technology, engineering and math areas of education;

2. The benefits of promoting science, technology, engineering and math education, including, but not limited to, job possibilities, job availability, wages and how promoting science, technology, engineering and math is tied to economic development of the State;

3. Suggestions for expanding science, technology, engineering and math initiatives throughout the State, including ideas for professional development;

4. Ideas of how to integrate and promote science, technology, engineering and math education in prekindergarten to grade 12 to inspire students to continue education in those subjects when pursuing undergraduate and graduate degrees;

5. Possible funding sources to further promote science, technology, engineering and math education; and

6. Helpful data or information to assist the Joint Standing Committee on Education and Cultural Affairs.

The Joint Standing Committee on Education and Cultural Affairs may submit legislation based on the findings and recommendations of the report submitted by the Department of Education to the Second Regular Session of the 124th Legislature by February 1, 2010.

See title page for effective date.

CHAPTER 99

H.P. 760 - L.D. 1105

Resolve, To Facilitate Training and Education on Dating Violence Prevention

Sec. 1. Review of policies and rules. Resolved: That the Department of Education shall review its policies and rules regarding faculty training and student education on dating violence prevention for students in grades 7 to 12 to determine the extent to which those policies and rules provide sufficient guidance to school administrative units on teaching and training basic principles and definitions of dating violence prevention, how to recognize dating violence warning signs, outlining actions and responses to dating violence, including communications with parents or legal guardians, and defining the characteristics of healthy, age-appropriate dating relationships. The review must also assess the extent to which school administrative unit policies address the issue of dating violence prevention, including the elements and consistency of those policies; and be it further

Sec. 2. Report. Resolved: That the Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs by March 1, 2010 on the findings of its review under section 1.

See title page for effective date.

CHAPTER 100

S.P. 461 - L.D. 1280

Resolve, To Provide a Program Model for Children with Autism Spectrum Disorder

Sec. 1. Department of Education to study program models for children with autism spectrum disorders. Resolved: That the Department of Education shall conduct a study of educational services for children with autism and other pervasive developmental disorders. The department shall convene a work group with broad stakeholder representation, including parents, involved in meeting the educational needs of children and youth with autism and other pervasive developmental disorders. The purpose of the work group is to analyze current educational services and to make recommendations that will assist the department to ensure that children and youth with autism and other pervasive developmental disorders have access to appropriate and effective services to meet their educational needs. The work group shall address the following issues:

1. The barriers to full inclusion for a student with autism or another pervasive developmental disorder and how the barriers are addressed;

2. Ensuring that appropriate individualized educational services by schools, in the least restrictive environment, are available to students diagnosed with autism and other pervasive developmental disorders and ensuring that parents are included in the process of determining those services;

3. Ensuring a successful transition by schools from one grade to the next grade for a student diagnosed with autism or another pervasive developmental disorder;

4. The resources about autism and other pervasive developmental disorders that are available to education professionals and paraprofessionals;

5. The current gaps in information about autism and other pervasive developmental disorders for education professionals and paraprofessionals and how these gaps can be addressed; and

6. The training requirements for education professionals and paraprofessionals who work with students diagnosed with autism and other pervasive developmental disorders; and be it further

Sec. 2. Report. Resolved: That the Department of Education shall submit a report, including the findings and recommendations from the work group under section 1, to the Joint Standing Committee on Education and Cultural Affairs by January 29, 2010. The Joint Standing Committee on Education and Cultural Affairs may submit legislation related to this report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 101
H.P. 653 - L.D. 950

Resolve, Related to the Maine Estate Tax

Sec. 1. Procedures for discharge of liability of personal representative. Resolved: That the Department of Administrative and Financial Services, Bureau of Revenue Services shall make available a form for a personal representative to request a certificate of discharge of personal liability under the Maine Revised Statutes, Title 36, section 4066 and shall make the form and an explanation of the discharge process available on a publicly accessible website and through other available means; and be it further

Sec. 2. Review federal requirements for discharge of liability. Resolved: That the Department of Administrative and Financial Services, Bureau of Revenue Services shall review procedures under the United States Internal Revenue Code for the discharge of personal liability of a personal representative under the federal estate tax and report to the Joint Standing Committee on Taxation by January 15, 2010 identifying those requirements and procedures and the ways in which they differ from requirements and procedures in this State; and be it further

Sec. 3. Legislation. Resolved: That the Joint Standing Committee on Taxation may submit legislation to the Second Regular Session of the 124th Legislature related to the report provided under section 2 or to address changes to the estate tax determined to be necessary as the result of any changes to the federal estate tax.

See title page for effective date.

CHAPTER 102
H.P. 623 - L.D. 905

Resolve, Regarding the Sale of Certain Real Property in the City of Hallowell

Sec. 1. Conditions of sale or transfer. Resolved: That the Department of Administrative and Financial Services shall, prior to the sale or transfer of any portions of the property authorized for sale by Resolve 2003, chapter 92, incorporate the following provisions into the conditions of sale or transfer. The sale or transfer must:

1. Reserve for the use or transfer to the City of Hallowell a portion of the parcel agreed to by the State and the City of Hallowell for municipal uses. This right for reservation or transfer may be surrendered by the City of Hallowell;

2. Reserve for the use or transfer to the City of Hallowell or any school administrative unit that includes the City of Hallowell whatever portion of the parcel as agreed to by the State, the City of Hallowell and the school administrative unit for purposes of education, educational administration or educational services to be provided by the school administrative unit. This right for reservation or transfer may be surrendered by the City of Hallowell and the school administrative unit. The State shall by September 30, 2009 enter into a lease to extend the current terms of School Administrative District 16 or any successor school administrative unit that includes the City of Hallowell as a tenant at the site through September 13, 2011, subject to existing laws and with the additional provision that such lease must survive any transfer of ownership prior to that date until the expiration of the lease;

3. Reserve a portion of the parcel for public open space or public recreation either by the developer retaining ownership but reserving the parcel or by transfer to any qualified governmental or qualified nonprofit entity; and

4. Condition sale or transfer on the preservation and rehabilitation of the 5 buildings and surrounding grounds known as the Industrial School for Girls Historic District consistent with the "Secretary of the Interior's Standards for the Treatment of Historic Properties" as interpreted or otherwise determined appropriate by the Maine Historic Preservation Commission.

The Commissioner of Administrative and Financial Services, prior to issuance of any request for qualifica-

tions associated with the transfer of the site, shall establish and convene a stakeholder group to guide reuse, assist in crafting a request for qualifications to be issued by the Department of Administrative and Financial Services and review qualifications of developers. The stakeholder group must have representation from interested parties, unless they decline to participate, including City of Hallowell officials, any school administrative unit that includes the City of Hallowell, the members of the Legislature whose districts include the parcel, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services and others as determined by the commissioner. A subgroup of the stakeholders may participate in whole or in part in interviews of qualified developers scheduled as part of the request for qualifications process and review parameters for development, recognizing that the selection decision is under the authority of the commissioner; and be it further

Sec. 2. Specific transactions. Resolved: That nothing in this resolve may be construed to prohibit or require parcelization or multiple real estate transactions within the spirit and intent of and conditions described in section 1; and be it further

Sec. 3. Report. Resolved: That the Commissioner of Administrative and Financial Services shall provide a written report on the status of all efforts toward sale or transfer by February 1, 2010 to the Joint Standing Committee on State and Local Government.

See title page for effective date.

CHAPTER 103
H.P. 1014 - L.D. 1462

Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions - Increase of Seed Money to $150,000, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 3: Maine Clean Election Act and Related Provisions - increase of seed money to $150,000, a provisionally adopted major substantive rule of the Commission on Governmental Ethics and Election Practices that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective June 8, 2009.

CHAPTER 104
S.P. 493 - L.D. 1358

Resolve, To Study Implementation of Shared Decision Making To Improve Quality of Care and Reduce Unnecessary Use of Medical Services

Sec. 1. Implementation of shared decision making. Resolved: That the Maine Quality Forum shall convene an advisory group of stakeholders, including, but not limited to, representatives of MaineCare, the Maine Health Data Organization, the state employee health insurance program, health insurance carriers, hospitals, physicians, health care providers and consumers, to develop a plan to implement a program for shared decision making as a strategy to improve the quality of health care in the State and control the unnecessary use of preference-sensitive health care services. The advisory group shall consider the following issues:

1. The appropriate preference-sensitive health care services for use in a shared decision-making program and an accepted protocol for shared decision making;

2. The availability of approved patient decision aids relating to each health care service and the effectiveness of patient decision aids;

3. The payment method to be used by health insurance carriers and public programs to reimburse for services provided by a shared decision-making program;

4. The appropriate incentives to encourage use of a shared decision-making program by providers and patients;

5. Evidence-based studies that evaluate shared decision making; and

6. Any barriers to implementation of a shared decision-making program; and be it further

Sec. 2. Report. Resolved: That the Maine Quality Forum shall submit a preliminary report on the findings and recommendations of the advisory group on or before February 1, 2010 to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Insurance and Financial Services. Before February 1, 2011, the Maine Quality Forum shall submit a final report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters. The joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may each report out a bill to the First Regular Session of the 125th Legislature based on the final report.

See title page for effective date.

CHAPTER 105
H.P. 702 - L.D. 1027

Resolve, To Examine Concepts and Competencies from Family and Consumer Science for Achieving Educational Goals

Sec. 1. Integration of family and consumer science. Resolved: That prior to or during the course of the next review cycle of content standards and performance indicators required under the Maine Revised Statutes, Title 20-A, section 6209, subsection 4, the Commissioner of Education shall invite one or more persons certified to teach family and consumer science to participate in a working group. The commissioner shall invite others to participate in the working group based on their interest in or expertise or familiarity with Maine's system of learning results. The purpose of the working group is to:

1. Examine concepts and competencies included in the National Standards for Family and Consumer Sciences Education developed by the National Association of State Administrators of Family and Consumer Sciences;

2. Determine the suitability of one or more of the national standards or variations on these standards for inclusion as performance indicators within one or more of the content areas comprising the system of learning results; and

3. Develop recommendations for the integration of family consumer science descriptors into the parameters for essential instruction.

Participation in the working group does not entitle a person to receive monetary compensation or reimbursement for expenses from the Department of Education; and be it further

Sec. 2. Advise Commissioner of Education; report to Joint Standing Committee of Education and Cultural Affairs. Resolved: That the working group shall advise to the commissioner of its recommendations. The commissioner shall report to the Joint Standing Committee of Education and Cultural Affairs by letter or in person no later than April 1, 2010 to provide the names of people invited to participate in the working group and a brief work plan and timeline for the group.

See title page for effective date.

CHAPTER 106
H.P. 784 - L.D. 1140

Resolve, Directing the Department of Education and the Department of Agriculture, Food and Rural Resources To Convene a Work Group To Strengthen Farm-to-school Efforts in the State

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

Whereas, farm-to-school initiatives are effective and innovative approaches to help youth eat healthier and more nutritious foods, improve academic performance, introduce learning opportunities with regard to food production and preparation and provide hands-on experiential education; and

Whereas, farm-to-school initiatives help preserve working farmland, invigorate local economies, rebuild and revitalize communities, promote environmental stewardship and realize the goals of the State's food policy; and

Whereas, the State's public schools are tax-supported and the purchase by schools of local products strengthens the local tax base; and

Whereas, this legislation establishes a process to review and strengthen farm-to-school initiatives throughout the State; and

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

Sec. 1. Convene work group. Resolved: That the Department of Education, the Department of Health and Human Services and the Department of Agriculture, Food and Rural Resources, referred to in this resolve as "the departments," shall convene a work group to study farm-to-school initiatives and programs in the State and develop recommendations for strengthening farm-to-school efforts in the State; and be it further

Sec. 2. Participants. Resolved: That, in conducting the review and developing recommendations, the departments shall invite the participation of the following agencies, groups and organizations:

1. The University of Maine Cooperative Extension;

2. The Maine School Food Service Association;

3. The Maine Organic Farmers and Gardeners Association;

4. The Maine Center for Public Health;

5. The Maine Nutrition Network;

6. The Maine Agriculture in the Classroom Program Association;

7. The Healthy Maine Partnerships;

8. Healthy Oxford Hills;

9. Focus on Agriculture in Rural Maine Schools;

10. Maine Harvest Lunch Program;

11. Western Mountains Alliance;

12. Maine agricultural commodity groups; and

13. Other statewide organizations involved in supporting Maine agriculture, public health, the environment and the Maine economy; and be it further

Sec. 3. Duties. Resolved: That the departments, with input from and in consultation with the participants set forth in section 2, shall:

1. Assess the status of regional and statewide farm-to-school efforts throughout the State, including policies, practices and curricula;

2. Review the existing capacities of and barriers to facilitating the purchase and use of local products;

3. Review the status of networking channels that connect farm-to-school efforts throughout the State;

4. Review best practices and evaluate methods from other farm-to-school programs outside the State; and

5. Prepare recommendations for strengthening farm-to-school initiatives and programs within the State; and be it further

Sec. 4. Report. Resolved: That the departments shall submit a report on the study conducted pursuant to section 1 to the Joint Standing Committee on Education and Cultural Affairs, the Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Health and Human Services by February 1, 2010.

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

Effective June 9, 2009.

CHAPTER 107

S.P. 75 - L.D. 225

Resolve, To Provide for the Long-term Funding of Programs of the Department of Inland Fisheries and Wildlife

Sec. 1. Identify funding solutions. Resolved: That the Department of Inland Fisheries and Wildlife shall consult with hunting and fishing groups, environmental and conservation groups and other interested parties to identify long-term funding sources other than the license, permit and registration revenues currently realized by the department and to develop language and a strategy for amending the Constitution of Maine to protect funding for those programs administered by the department that are not related to hunting, fishing or trapping; and be it further

Sec. 2. Report. Resolved: That the Department of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Inland Fisheries and Wildlife on the findings and recommendations developed pursuant to section 1, including any implementing legislation, by January 5, 2010. The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation to the Second Regular Session of the 124th Legislature regarding matters contained in the report.

See title page for effective date.

CHAPTER 108

H.P. 700 - L.D. 1012

Resolve, Directing the ConnectME Authority To Create the Broadband Strategy Council

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

Whereas, the Congress of the United States has made certain resources available to states, municipalities and quasi-governmental organizations through the American Recovery and Reinvestment Act of 2009 to support broadband infrastructure for community institutions as well as increasing the availability of broadband access in rural areas; and

Whereas, the State recognizes that broadband technology is a key driver of economic growth; and

Whereas, the deadlines set forth in the American Recovery and Reinvestment Act of 2009 for organizations to present plans and apply for funding for broadband infrastructure projects will occur in the coming days and weeks; and

Whereas, this legislation needs to take effect before the 90-day period expires so that decisions regarding the State's broadband infrastructure needs can be made before the application periods for American Recovery and Reinvestment Act of 2009 funding have expired; 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. Council established. Resolved: That the ConnectME Authority, established in the Maine Revised Statutes, Title 35-A, section 9203, subsection 1, shall establish the Broadband Strategy Council, referred to in this resolve as "the council," to advise the ConnectME Authority on all matters pertaining to broadband opportunities available under the American Recovery and Reinvestment Act of 2009, as well as advise the University of Maine System with respect to matters pertaining to the lease or sale of excess broadband capacity as a result of the conversion of the education broadband spectrum; and be it further

Sec. 2. Council membership. Resolved: That the council consists of 11 members appointed as follows:

1. Two members of the Senate, one belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the 2nd largest number of seats in the Senate, appointed by the President of the Senate;

2. Three members of the House of Representatives, 2 belonging to the political party holding the largest number of seats in the House and one belonging to the political party holding the 2nd largest number of seats in the House, appointed by the Speaker of the House;

3. A representative of the Department of Administrative and Financial Services, Office of Information Technology;

4. The Commissioner of Economic and Community Development or the commissioner's designee;

5. The chair of the Public Utilities Commission or the chair's designee;

6. The Executive Director of the ConnectME Authority;

7. A representative from the University of Maine System; and

8. A representative from the Maine School and Library Network; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the council and the first-named House of Representatives member is the House chair of the council; and be it further

Sec. 4. Appointments; convening of council. 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 and the Executive Director of the ConnectME Authority once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the council; and be it further

Sec. 5. Council duties. Resolved: That the council shall:

1. Identify and examine the broadband opportunities contained in the American Recovery and Reinvestment Act of 2009;

2. Encourage a statewide strategic approach to broadband deployment that is efficient, coordinated and consistent with other long-term goals and with the Public Utilities Commission's prior determinations regarding broadband deployment;

3. Make recommendations to the ConnectME Authority for a strategic broadband infrastructure plan;

4. Make recommendations to the University of Maine System regarding the lease or sale of excess broadband capacity in the education broadband spectrum;

5. Foster public-private cooperation and co-investment in broadband deployment;

6. Promote fair and open competition in the delivery of broadband service; and

7. Invite and consult with public and private sector stakeholders to identify needs and opportunities for expanding broadband access; and be it further

Sec. 6. Role of ConnectME Authority. Resolved: That, taking into account the advice and recommendations of the council, the ConnectME Authority shall coordinate efforts of state agencies and other instrumentalities of the State in taking advantage of broadband opportunities for public institutions under the American Recovery and Reinvestment Act of 2009 and is authorized to act on behalf of the State in any application for administrative or programmatic funds under the American Recovery and Reinvestment Act of 2009; and be it further

Sec. 7. Staff assistance. Resolved: That the ConnectME Authority shall provide necessary staffing services to the council with assistance from the Department of Administrative and Financial Services, Office of Information Technology, the Department of Economic and Community Development and the Public Utilities Commission; and be it further

Sec. 8. Compensation; meetings. Resolved: That the legislative members of the council are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the council. Meetings of the council held when the Legislature is in session may be held only on days when the Legislature is already meeting in session and not on any other day; and be it further

Sec. 9. Termination. Resolved: That the council terminates December 1, 2010; and be it further

Sec. 10. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds to be paid for the per diem and expenses of the legislative members of the Broadband Strategy Council to be paid to the Legislature by the ConnectME Authority.

OTHER SPECIAL REVENUE FUNDS	2008-09	2009-10	2010-11
Personal Services	$0	$1,925	$825
All Other	$210	$2,395	$940
OTHER SPECIAL REVENUE FUNDS TOTAL	$210	$4,320	$1,765

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

Effective June 9, 2009.

CHAPTER 109

S.P. 458 - L.D. 1277

Resolve, To Encourage Alternative Compensation Models for Teachers and School Administrators

Sec. 1. Department of Education; evaluation of alternative compensation models for educators. Resolved: That the Department of Education shall review alternative compensation models established in other states and governmental or educational entities that allow for performance-based compensation, including bonuses for teachers and school administrators and the bases upon which the alternative compensation is determined; and be it further

Sec. 2. Department of Education; application for federal funds. Resolved: That the Department of Education shall review the requirements of the federal Teacher Incentive Fund program and any other federal grant program under which funds may be used for establishing alternative compensation models for educators. The department shall prepare and submit an application for federal grant funds from the federal Teacher Incentive Fund and any other applicable federal program to develop a state-based alternative compensation grant program for school administrative units; and be it further

Sec. 3. Department of Education; alternative compensation grant program. Resolved: That the Department of Education shall establish an application process whereby school administrative units may apply to participate in the alternative compensation grant program under section 2, referred to in this section as "the grant program." Interested school administrative units must agree to abide by the requirements of the federal grant programs in order to be considered for the grant program. The department shall develop requirements for use of grant program funds, including reasonable timelines for the development and implementation of alternative compensation models and for school administrative units to report

progress. To the extent that federal funding requirements allow, the grant program funds may include funding for the department to administer the grant program, to provide technical assistance to school administrative units and to pay for an independent evaluation of the alternative compensation models that are developed. School administrative units must be encouraged to experiment with any number of alternative compensation models. Any alternative compensation plans developed by a school administrative unit must be approved by the participating local bargaining units consistent with the Maine Revised Statutes, Title 26, chapter 9-A and related rules pertaining to collective bargaining for teachers employed by school administrative units; and be it further

Sec. 4. Grant program evaluation. Resolved: That the Department of Education shall submit annual reports to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by January 15, 2011 and January 15, 2012 describing the progress of the school administrative units participating in the alternative compensation grant program under section 2 and report the results of any independent analysis conducted on the effects of alternative compensation systems, including but not limited to student outcomes, teacher recruitment and retention. The department shall seek outside funding and technical support for use in the development, implementation and evaluation of any alternative compensation models developed through the alternative compensation grant program.

See title page for effective date.

CHAPTER 110

H.P. 989 - L.D. 1413

Resolve, To Implement Select Recommendations of the Joint Select Committee on Future Maine Prosperity

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 Joint Select Committee on Future Maine Prosperity issued its final report in January 2008; and

Whereas, the committee's report recommended a wide variety of strategies and actions designed to improve the State's economy and support greater prosperity for all citizens of the State; and

Whereas, the committee's report specifically called for an improved business climate in the State; and

Whereas, the committee's report acknowledged that it was critical that state agencies work to improve relationships with the business community and eliminate adversarial relationships; and

Whereas, the committee's report specifically recommended that the Governor direct all state agencies to reinvent themselves and how they interact with businesses in the State in order to provide a consistent, efficient and effective regulatory environment; and

Whereas, the committee's report called for regulatory reform that achieves goals in a manner that minimizes unnecessary and unproductive conflicts and redundancies for the regulated community; and

Whereas, this resolve needs to take effect before the expiration of the 90-day period in order for the report required in this legislation to be completed in a timely fashion; 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. Maine Regulatory Fairness Board to identify regulatory burdens and find efficiencies. Resolved: That the Maine Regulatory Fairness Board, established in the Maine Revised Statutes, Title 5, section 57, in consultation with private and public stakeholders, including but not limited to the Department of Professional and Financial Regulation, the Department of Economic and Community Development and the Department of Health and Human Services, shall review and identify ways to advance the State's business climate as identified by the 2009 Measures of Growth In Focus report from the Maine Economic Growth Council, the final report of the Joint Select Committee on Future Maine Prosperity, the report entitled "Charting Maine's Future, An Action Plan for Promoting Sustainable Prosperity and Quality Places" by the Brookings Institution and any other reports identified by the board; to improve the efficiency, effectiveness and consistency of the State's regulatory systems; and to improve the relationships between regulators and the regulated community. The Maine Regulatory Fairness Board shall use the process for accepting public input through public meetings across the State currently required pursuant to Title 5, section 57 to assist in the identification of regulatory burdens; and be it further

Sec. 2. Report. Resolved: That, no later than February 15, 2010, the Maine Regulatory Fairness Board shall provide a briefing regarding the work performed to date pursuant to section 1 to the Joint Standing Committee on Business, Research and Economic Development and that same committee is authorized to introduce a bill related to the subject matter of section

1 to the Second Regular Session of the 124th Legislature. No later than January 15, 2011, the board shall also provide a written report that includes its findings and recommendations pursuant to section 1, including any suggested legislation, to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters.

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

Effective June 9, 2009.

CHAPTER 111

S.P. 515 - L.D. 1431

Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets

Sec. 1. Design of unified pension and benefit plan for all state employees and teachers who are first employed with the State after December 31, 2010. Resolved: That the task force established in subsection 2 shall design a unified pension and benefit plan, referred to in this resolve as "the plan," to apply to all state employees and teachers who are first hired after December 31, 2010 with no prior creditable service. The task force must be staffed within existing resources of the Maine Public Employees Retirement System and the State Employee Health Commission.

1. Definitions. For purposes of this resolve, the following terms have the following meanings.

A. "Member" means teachers and state employees first hired after December 31, 2010 with no prior creditable service.

B. "State employee" means:

(1) Employees as defined in the Maine Revised Statutes, Title 5, section 17001, subsection 40;

(2) Judges entitled to retirement benefits under Title 4, chapter 27 or 29;

(3) Members of the State Police; and

(4) Legislators entitled to retirement benefits under Title 3, chapter 29.

C. "Teacher" has the same meaning as in Title 5, section 17001, subsection 42.

2. Task force established. A task force to reform public retirement benefits and eliminate social security offsets is established. The task force is composed of:

A. The Chair of the Board of Trustees of the Maine Public Employees Retirement System, who serves as the task force chair;

B. The Commissioner of Administrative and Financial Services, or a designee of the commissioner;

C. The Executive Director of the State Employee Health Commission;

D. The State Controller;

E. An employee member of the Board of Trustees of the Maine Public Employees Retirement System, appointed by the board;

F. An employee member of the State Employee Health Commission, appointed by the State Employee Health Commission;

G. A member appointed by the Maine Education Association; and

H. A member appointed by the Maine School Management Association.

3. Health plan. The task force shall design the health plan component of the plan in accordance with this subsection and may propose additional variations on the plan.

A. All active members of the plan and their dependents must be entitled to membership in the health plan. Assessments for coverage under the health plan must be imposed and budgeted in accordance with Title 5, section 286-A and Title 20-A, section 13451. The proportion of the assessment paid on behalf of members by their employers must be in accordance with the law existing on the effective date of this resolve or in accordance with applicable collective bargaining agreements.

B. Every active member of the plan and the spouse and dependents of each such member may continue coverage under the health plan in retirement if criteria for eligibility are met as prescribed in Title 5, section 285, subsection 1-A and Title 20-A, section 13451. The task force may recommend changes in eligibility criteria.

C. The health plan premium for any eligible retired member and any covered spouse or dependent of the member must be paid from the Bureau of Human Resources' State Employee Health Dedicated Revenue Account established in Title 5, section 286-A. Each retired member must be entitled to 3% of the premium for each year of creditable service up to a maximum of 100% of the total premium. For a covered spouse or dependent, the subsidy is 1.5% of the premium for each year of the member's creditable service up to a maximum of 50% of the premium.

D. The present actuarial cost of the future benefit subsidy for retired state employees and teachers must be paid 1/2 by the employee and 1/2 by the employer. Payments as calculated and assessed by the Commissioner of Administrative and Financial Services must be remitted on a regular and periodic basis to the Bureau of Human Resources' State Employee Health Dedicated Revenue Account established in Title 5, section 286-A.

4. Pension plan. The task force shall design the pension plan component of the plan in accordance with this subsection and may propose additional variations on the plan.

A. Every member of the plan must contribute to both Social Security and Medicare, and the employer of each member must contribute the employer's share of Social Security and Medicare.

B. Each active member of the plan must be entitled to a supplemental defined benefit pension calculated as a percentage of base compensation for each year of service. Base compensation equals the income received in the 5th highest calendar year of service. Benefits are vested after 6 years.

C. Normal pension benefits commence after 30 years of service or at 62 years of age, whichever occurs first.

D. A member who separates from service before normal retirement may:

(1) If the member has at least 6 years of service in the plan, leave the member's contributions and interest on account in the plan until the member retires at 62 years of age, with those benefits adjusted each year by an amount equal to the Consumer Price Index, up to an annual maximum of 3.5%;

(2) Withdraw 1.5 times the amount of the member's own contributions, plus 6% interest, with the option to roll the amount withdrawn into a tax-sheltered account;

(3) Purchase one or more irrevocable annuities, or, with a spouse, joint life annuities, to commence at any future time and to end either at death or at the annuitant's normal retirement age for Social Security. The annuity values must equal 1.8 times the member's own contributions plus 6% interest. The Maine Public Employees Retirement System may serve as the annuity underwriter; or

(4) Use a combination of the options under subparagraphs (2) and (3).

5. Disability plan. The task force shall design a disability component of the plan whose structure and benefits are integrated with Social Security but are otherwise modeled on disability benefits currently available to employees hired on or before December 31, 2010.

6. Cost of the plans. The combined actuarial cost of the retiree health insurance, the supplemental defined pension benefits and the disability provisions of the plan must be divided equally between the member and the member's employer and calculated as a percent of payroll for each member; and be it further

Sec. 2. Report. Resolved: That the task force shall submit a report on its design of the plan, together with any necessary implementing legislation, to the Joint Standing Committee on Labor by March 1, 2010. After receipt and review of the report, the joint standing committee may report out a bill to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 112

H.P. 597 - L.D. 866

Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries

Sec. 1. Review data. Resolved: That the Department of Education shall review the 2004 study of members of MaineCare under 18 years of age who were identified with a diagnosis of brain injury and compare it to the 2007 Office of Special Services data that indicated only 81 children statewide identified as having a brain injury; and be it further

Sec. 2. Evaluation. Resolved: That the Department of Education shall, in consultation with the Department of Health and Human Services, educators and pediatricians, evaluate the steps needed to better identify, educate and coordinate services consistent with best evidence-based practices for students with brain injuries in order to maximize each child's recovery and education. The department shall also investigate available tests for educators in order to develop a plan for annual health screening of children and youth in schools that includes a set of questions designed specifically to identify possible brain injury; and be it further

Sec. 3. Report. Resolved: That the Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs by February 15, 2010 with its findings, recommendations and suggested legislation. The Joint Standing Committee on Education and Cultural Affairs is authorized to submit legislation on screening and educating children

with brain injuries to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 113

S.P. 188 - L.D. 489

Resolve, Regarding Continuity of Care in the Child Development Services System

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

Whereas, 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, immediate resolution of eligibility and other issues is necessary for children with disabilities affected by this resolve; and

Whereas, the Department of Education must engage in emergency major substantive rulemaking to resolve these issues for children with disabilities; and

Whereas, there is an immediate need to ensure that emergency implementation of rules be undertaken to minimize any harm that might come to children as a result of application of current practices; and

Whereas, immediate enactment of this resolve is necessary to direct the Department of Education to engage in emergency major substantive rulemaking to resolve these issues; and

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

Sec. 1. Department of Education to amend rules. Resolved: That, in order to ensure continuity of care, the Department of Education shall amend its rules governing special education to provide that:

1. The Individualized Educational Program Team make a determination about extended school year services at every Individualized Educational Program Team meeting;

2. The Individualized Educational Program Team may make a determination about extended school year services based on available data, including information about a child's disability, even if an interruption in service has not occurred;

3. In accordance with the federal Individuals with Disabilities Education Improvement Act of 2004, 20 United States Code, Sections 1400 to 1485 (2008), a regional site may not unilaterally limit the duration of extended school year services; and

4. Initial evaluations for special education must include procedures to determine whether a child is a child with a disability, as defined in 20 United States Code, Section 1401 (2008), within 60 calendar days of receiving parental consent for children in the Child Development Services System and within 45 school days of receiving parental consent for children in public schools and that the department may, as part of the rule-making process and in a manner consistent with major substantive rulemaking, further amend its rules to adjust timelines in the Child Development Services System to be consistent with this section; and be it further

Sec. 2. Emergency major substantive rules. Resolved: That the Department of Education shall adopt emergency major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A as soon as practicable but not later than June 30, 2009 to implement the provisions of section 1.

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

Effective June 9, 2009.

CHAPTER 114

H.P. 349 - L.D. 494

Resolve, Regarding Legislative Review of Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order To Minimize Off-target Deposition, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-target Deposition, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized but only if the following revisions are made:

1. The provision that a detectable pesticide residue in a sensitive area likely to be occupied is considered prima facie evidence that pesticides were not applied in a manner to minimize pesticide drift is removed and replaced with a provision that pesticide residues in a sensitive area likely to be occupied that are 1% or greater of the intended residue in the target area is prima facie evidence that the applicator did not apply the pesticides in a manner to minimize pesticide drift to the maximum extent practicable;

2. The language regarding prima facie evidence is rewritten to clarify that detection of residue is not prima facie evidence of a violation but rather evidence that the application was not conducted in a manner to minimize drift to the maximum extent practicable. The board must review the site-specific application checklist completed by the applicator and other relevant information to determine if a violation has occurred;

3. Specific distances for buffer zones must be removed from the rule, allowing site-specific buffer zones to be used; and

4. That section of the rule that establishes documentation of human illness as a standard of harm must be revised to state that for this standard to be met the board must receive verification from 2 physicians that an individual has experienced a negative health effect from exposure to an applied pesticide and that the effect is consistent with epidemiological documentation of human sensitivity to the applied pesticide.

The Board of Pesticides Control is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with this resolve.

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

Effective June 9, 2009.

CHAPTER 115

H.P. 674 - L.D. 972

Resolve, Regarding Legislative Review of Portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, a Major Substantive Rule of the Board of Pesticides Control

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective June 9, 2009.

CHAPTER 116

S.P. 509 - L.D. 1390

Resolve, Directing the State Tax Assessor To Adjust the State Valuation for the Town of Topsham

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 2009 state valuation for the Town of Topsham was calculated using incorrect information; and

Whereas, the correct valuation results in an increase in the 2009 state valuation for Topsham; and

Whereas, without this correction, Topsham would be paying less than its equitable portion of the Sagadahoc County tax for 2009-2010 and the School Administrative District 75 school budget for 2010-2011, which would require surrounding municipalities in Sagadahoc County and School Administrative District 75 to pay more than their equitable share; and

Whereas, this correction needs to be done before Sagadahoc County determines the 2009-2010 town assessments; 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. Adjustment of state valuation for Town of Topsham. Resolved: That the State Tax Assessor shall adjust the 2009 state valuation for the Town of Topsham to be $884,150,000.

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

Effective June 9, 2009.

CHAPTER 117

H.P. 817 - L.D. 1178

Resolve, Regarding Legislative Review of Portions of Chapter 131: The Maine Federal, State, and Local Accountability Standards, a Major Substantive Rule of the Department of Education

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 131: The Maine Federal, State, and Local Accountability Standards, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 9, 2009.

CHAPTER 118

H.P. 1012 - L.D. 1460

Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 41: Special Restrictions on Pesticide Use, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective June 9, 2009.

CHAPTER 119

S.P. 137 - L.D. 395

Resolve, To Further Regulate the Use of Tanning Booths by Minors

Sec. 1. Amend the rules for the use of tanning equipment. Resolved: That the Department of Health and Human Services shall amend the rules for the use of tanning facilities by minors in Rule Chapter 223, Part T as provided in this section. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The rules must:

1. For minors under 14 years of age, prohibit the use of tanning devices;

2. For minors 14 years of age and older:

A. Require the tanning facility operator to confirm the identification of the minor and the minor's parent or legal guardian;

B. Require the tanning facility to obtain the written consent of the minor's parent or legal guardian and written acknowledgement by the minor and the parent or legal guardian that they have read and understood the information required to be disclosed by Rule Chapter 223, Part T, section 12, paragraph A, subparagraphs (1) and (3). Both written consent and written acknowledgement must be executed in the presence of the operator of the tanning facility;

C. Limit the effect of the parent's or legal guardian's written consent to one year and allow revocation of consent by the parent or legal guardian at any time; and

D. Require the presence of the minor's parent or legal guardian for minors 14 and 15 years of age.

The department shall amend the rules to provide an increase in the licensing fees for tanning facilities to assist in covering the cost of regulation of the facilities; and be it further

Sec. 2. Work group; report. Resolved: That the Department of Health and Human Services shall convene a work group of representatives of operators of tanning facilities and representatives of a statewide consortium active in the prevention and treatment of skin cancer and other interested parties to examine existing rules, training requirements and compliance issues and funding methods and shall report to the Joint Standing Committee on Health and Human Services by January 15, 2010. The department shall provide notification of the dates, times and locations of the meetings of the work group to members of the joint standing committee. The joint standing committee is authorized to submit legislation on the report to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 120

H.P. 787 - L.D. 1143

Resolve, Directing a Study of Domestic Violence and Parental Rights and Responsibilities

Sec. 1. Study. Resolved: That the Maine Commission on Domestic and Sexual Abuse shall study domestic abuse, parental rights and responsibilities and the protection from abuse process, including the laws and practices governing parental rights when domestic abuse is alleged or suspected. The study must include:

1. A review of how the best interests of the child are determined;

2. An examination of the issues concerning the presentation of evidence that accurately portrays domestic violence and its effects in the family relationship;

3. How other states have addressed domestic violence when establishing parental rights and responsi-

bilities, including the adoption of rebuttable presumptions, and how those procedures are working in those states;

4. Whether misuse of the protection from abuse process is happening and, if so, why and to what extent the misuse is occurring and whether there are problems with the process itself that lead participants to the conclusion that the process is biased, unfair or inconsistently applied; and

5. A review of the training provided to the judiciary and guardians ad litem concerning domestic abuse and parental rights and responsibilities; and be it further

Sec. 2. Participation. Resolved: That the commission shall invite interested parties to participate in the study, including but not limited to: the Family Law Advisory Commission; the Maine Coalition to End Domestic Violence; the Maine Guardian Ad Litem Institute; the Family Law Section of the Maine State Bar Association; the judicial branch; the Maine Association of Criminal Defense Lawyers; and any others the commission determines helpful to the study; and be it further

Sec. 3. Report; legislation. Resolved: That the commission shall submit a report to the Joint Standing Committee on Judiciary no later than February 1, 2010. The report must summarize the activities of the commission, identify the participants in the study under section 1 and include recommendations for action by the legal profession, the judicial branch, advocates for victims of domestic violence, law enforcement and prosecutors. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The report may include recommended legislation. The Joint Standing Committee on Judiciary may report out legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 121

S.P. 351 - L.D. 929

Resolve, Regarding the Classification of Wildlife Management District 2

Sec. 1. District classification. Resolved: That under rules adopted by the Commissioner of Inland Fisheries and Wildlife the classification of Wildlife Management District 2 must be the same as that of Wildlife Management District 3 for purposes of moose hunting. Rules adopted under this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 122

H.P. 864 - L.D. 1245

Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care

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

Whereas, citizens of the State who are elderly and who develop behavioral issues due to dementia or other reasons are receiving inappropriate treatment, often at significant emotional costs to themselves and at significant financial cost to the State; and

Whereas, the long-term care facilities that provide care to these individuals lack the resources to serve the persons they are caring for; and

Whereas, there exist policies and best practices that could improve the treatment of these individuals and that can be made reasonably available within existing resources; 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. Implementation of recommendations. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall continue its efforts to implement the recommendations contained in its report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2010 on the department's progress. In implementing these recommendations, the department shall:

1. Redirect its services to adult MaineCare members to focus on earlier intervention so as to treat challenging behaviors at an earlier stage;

2. Identify individuals for earliest possible intervention and provide support and training to nursing facility staff in regard to managing the challenging behaviors of these individuals;

3. Provide support and training to in-state long-term care facilities that accept individuals who have been placed outside the State and who are returning to the State;

4. Convene an integrated team to develop a means to prevent placement outside the State and to assist in developing appropriate placements for individuals in in-state facilities;

5. Review each out-of-state placement annually to assess the individual's functional and behavioral status to determine if the individual may be returned safely to an in-state facility;

6. Educate long-term care facility staff regarding the obligations of the facilities under licensing rules governing transfer and discharge requirements; and

7. Review current contracts and practices regarding geropsychiatric units to determine if the geropsychiatric units are being properly used; and be it further

Sec. 2. Reimbursement. Resolved: That the department shall work with interested parties to undertake a review of the current reimbursement system used to establish payment for individuals in long-term care facilities to determine if current reimbursement is adequate and reasonable for the provision of high-quality care for individuals with behavioral issues. The department shall report its findings to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 3. Standardized transfer protocol; improved discharge planning. Resolved: That the department shall work with representatives of the long-term care ombudsman program established pursuant to the Maine Revised Statutes, Title 22, section 5106, subsection 11-C, hospitals, nursing facilities and residential care facilities to improve the transparency and coordination of services between hospital discharge planning and long-term care facility admission to provide patients and their families with a more coordinated, efficient and patient-friendly process that meets the specific needs of individual patients, including behavioral health needs. The department shall develop and implement a standardized transfer protocol, including improving the support offered to a long-term care facility when a hospital has determined that an individual is ready to be discharged back to the long-term care facility, and consider the following:

1. The hospital discharge planning process and methods to provide at the outset all patients with a summary of patients' rights during the discharge process, including the right to await transition out of hospital care until satisfactory placement can be found at a nursing facility, residential care facility or other long-term care facility or with a home health care provider, based on the patient's medical needs;

2. Methods for providing patients in the hospital discharge planning process with a comprehensive list of patient resources and contact information for guidance and support during the discharge process, including contact information for the long-term care ombudsman program and the Department of Health and Human Services, Bureau of Elder and Adult Services, as well as a copy of the most recent report from the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services on the federal ranking system for nursing facilities providing care for Medicare and Medicaid recipients in those areas where the patient resides or wishes to reside; and

3. A hospital discharge planning process in cases where the patient has behavioral health issues that ensures the involvement or consultation with representatives from the Department of Health and Human Services, Bureau of Elder and Adult Services, and Office of Adult Mental Health Services to improve the coordination, planning and efficiency of the discharge process for the patient.

The department shall report on implementation of the protocol, as well as provide proposed recommendations for changes that would improve the hospital discharge planning process, to the Joint Standing Committee on Health and Human Services by February 1, 2010. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4. Alternative funding sources. Resolved: That the department shall undertake a review of existing and potential payment sources for assessments and treatments that are currently unavailable to individuals with behavioral issues because the individuals do not have a diagnosis of severe and persistent mental illness. The department shall submit a report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 5. Levels of care. Resolved: That the department shall work with interested parties to explore the need for a supplementary level of care to accommodate the needs of individuals with behavioral issues who, because of the severity of their behaviors, are not appropriate candidates for return to an existing long-term care facility but who no longer require an acute hospital setting. The department shall submit its report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 6. Coordination. Resolved: That the department shall conduct the work required by this resolve within existing resources and to the extent possible shall coordinate it with similar work address-

ing similar issues for any other population group. The department shall facilitate the exchange of information and communication among workgroups with the goal of maximizing department workload and fiscal efficiencies as well as the impact and effectiveness of approaches or solutions proposed or developed within the work process. A description of coordination efforts must be included in any report required by this resolve.

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

Effective June 10, 2009.

CHAPTER 123

H.P. 468 - L.D. 654

Resolve, To Review Statutes, Rules and Policies Regarding Mental Retardation, Pervasive Developmental Disorders and Other Cognitive and Developmental Disorders

Sec. 1. Review and report. Resolved: That the Department of Health and Human Services shall complete its work conducted pursuant to Resolves 2007, chapter 78 regarding the review of laws, rules and policies regarding services, definitions, limitations, eligibility and levels of care for adults with mental retardation, pervasive developmental disorders and other cognitive and developmental disorders. The department shall complete its evaluation of the need for changes in law, rule or policy to ensure fairness and equity in the provision of services and evaluate the need for additional resources to meet previously unidentified needs. By January 15, 2010, the department shall report to the Joint Standing Committee on Health and Human Services on its progress in the review and any recommended changes in law. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to recommendations of the working group to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 124

S.P. 552 - L.D. 1477

Resolve, Authorizing the Finance Authority of Maine To Oversee an Obligation Owed to the State by Lincoln Paper and Tissue, LLC

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 Finance Authority of Maine has the necessary expertise and commercial lending experience to effectively manage and administer a promissory note relating to an indebtedness from Lincoln Paper and Tissue, LLC; and

Whereas, it is necessary to act swiftly to allow the Finance Authority of Maine to oversee this obligation to ensure that the operations of the mill properties are properly overseen; 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. Assignment of rights, title, interest in promissory note. Resolved: That the Commissioner of Environmental Protection is authorized to assign to the Finance Authority of Maine all of the rights, title and interest in and to a promissory note with a maturity date of May 26, 2009 and all related documents relating to an indebtedness from Lincoln Paper and Tissue, LLC in the original amount of $860,000 and all interest accrued thereon. Upon such assignment, the promissory note is an obligation owed to the Finance Authority of Maine, which may be administered, collected or compromised as determined by the Finance Authority of Maine.

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

Effective June 10, 2009.

CHAPTER 125

H.P. 1041 - L.D. 1486

Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10

Sec. 1. Transition adjustment for fiscal year 2009-10. Resolved: That, notwithstanding any provision of law to the contrary, the Commissioner of Education shall establish a transition adjustment to minimize the adverse fiscal impact that may be experienced by some municipalities as a result of unique changes in "property fiscal capacity" as defined in the Maine Revised Statutes, Title 20-A, section 15672, subsection 23. A municipality is eligible for this adjustment if the municipality experiences:

1. An increase of 14% or more in property fiscal capacity from the 2007 certified state valuation to the 2008 certified state valuation; and

2. A decrease of 6% or more in property fiscal capacity from the 2008 certified state valuation to the 2009 certified state valuation.

A municipality eligible under this section is entitled to receive a transition adjustment that provides that the property fiscal capacity of that municipality is the 2009 certified state valuation for fiscal year 2009-10 funding calculations.

See title page for effective date.

CHAPTER 126
S.P. 479 - L.D. 1321

Resolve, To Facilitate Disclosure of Information to Taxpayer Representatives

Sec. 1. Disclosure form. Resolved: That the State Tax Assessor shall develop and make available on the publicly accessible website of the Department of Administrative and Financial Services, Bureau of Revenue Services a simplified limited power of attorney form that may be used by a taxpayer to authorize employees of the bureau to discuss taxpayer information with a designated representative of the taxpayer. The form and applicable instructions must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level. The State Tax Assessor shall submit a copy of the form and instructions to the Joint Standing Committee on Taxation by January 15, 2010.

See title page for effective date.

CHAPTER 127
H.P. 775 - L.D. 1120

Resolve, Relating To Review of Certain Changes in the Application of the Sales and Use Tax Law

Sec. 1. Consultation. Resolved: That before the Department of Administrative and Financial Services, Bureau of Revenue Services implements a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, it shall consult with the Office of the Attorney General prior to implementing that change to determine if the change represents a policy shift that ought to be reviewed by the appropriate legislative committee of oversight. The Office of the Attorney General shall provide information periodically to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the consultation process and, consistent with attorney-client privilege and any other legal privilege and legal confidentiality requirements, provide a brief summary of the issues for which a consultation was sought and the results of the consultation; and be it further

Sec. 2. Repeal. Resolved: That this resolve is repealed 5 years following the effective date of this resolve.

See title page for effective date.

CHAPTER 128
S.P. 345 - L.D. 923

Resolve, To Reduce Funding to Maine Clean Election Act Candidates

Sec. 1. Funding reduced for Maine Clean Election Act candidates. Resolved: That, notwithstanding the Maine Revised Statutes, Title 21-A, chapter 14 and Public Law 2009, chapter 213, Part NNNN, the amount distributed to certified candidates for the Legislature by the Commission on Governmental Ethics and Election Practices pursuant to the Maine Clean Election Act during the 2010 election cycle must be equal to the amount distributed to certified candidates for the Legislature by the commission during the 2008 election cycle; and be it further

Sec. 2. Distributions to certified candidates; rules. Resolved: That, notwithstanding Public Law 2009, chapter 213, Part NNNN, sections 1 to 3, the Commission on Governmental Ethics and Election Practices shall distribute Maine Clean Election Act funds to certified legislative candidates in accordance with section 1 and to gubernatorial candidates in accordance with the Maine Revised Statutes, Title 21-A, section 1125. The commission shall also establish rules to implement Title 21-A, section 1125, subsection 13. The rules must set forth procedures for certified Maine Clean Election Act candidates to accept and spend contributions if the commission determines that revenues in the Maine Clean Election Fund are insufficient to make distributions to certified candidates. Rules adopted in accordance with this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commission shall publish the adopted rules on its publicly accessible website and in a guidebook distributed to certified candidates. The commission shall report back to the Joint Standing Committee on Legal and Veterans Affairs by February 15, 2010 on how the distributions provided by Title 21-A, chapter 14 are to be made; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: Reduces funding for Maine Clean Election Act candidates.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	($353,000)	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($353,000)	$0

See title page for effective date.

CHAPTER 129

H.P. 1023 - L.D. 1470

Resolve, To Recognize Women Veterans in the State House Hall of Flags

Sec. 1. Bureau of Maine Veterans' Services to establish working group. Resolved: That the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management shall establish a working group to arrange for a plaque to be displayed in the Hall of Flags in the State House to honor women veterans of the State. The working group shall consult with the State House and Capitol Park Commission and the Legislative Council to develop a design and choose a site for the plaque to be displayed in the State House Hall of Flags; and be it further

Sec. 2. Funding. Resolved: That the Director of the Bureau of Maine Veterans' Services in coordination with the working group established under section 1 may accept outside sources of funding to contract for the design and construction of the plaque. The director shall provide prompt notice of solicitation and acceptance of funds to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of the funds. The Executive Director of the Legislative Council shall administer any funds received; and be it further

Sec. 3. Report; final authorization. Resolved: That the working group established under section 1 shall submit a report regarding the proposed location and design of the plaque to the Joint Standing Committee on Legal and Veterans Affairs and the Legislative Council through the Office of the Executive Director no later than January 15, 2010. The final authorization for the placement of the plaque in the State House Hall of Flags must be made by the Legislative Council; and be it further

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

State House and Capitol Park Commission 0615

Initiative: Provides a base allocation to authorize expenditures of any funds received by the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management to contract for the design and construction of a plaque to honor women veterans of the State.

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

See title page for effective date.

CHAPTER 130

S.P. 270 - L.D. 733

Resolve, To Examine Environmental Effects of the Resource Recovery System

Sec. 1. Work group to oversee study of environmental effects of laws and programs regarding recycling. Resolved: That a 5-member work group consisting of the Director of the State Planning Office within the Executive Department or the director's designee, the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee, the Commissioner of Environmental Protection or the commissioner's designee, the Commissioner of Economic and Community Development or the commissioner's designee and a representative of the Maine Municipal Association shall oversee a 2-year study to be performed by an independent private entity to review the focus on the environmental effects that laws and programs regarding recycling have generated. The representatives of the State Planning Office and the Department of Agriculture, Food

and Rural Resources shall serve as cochairs of the work group. The work group shall engage the assistance of a qualified consultant in the relevant fields and tasks to be reviewed. The study must include an assessment of:

1. Current recycling rates;

2. The carbon footprints created by the beverage container recycling laws and municipal recycling programs;

3. Comprehensive recycling programs in the State;

4. Barriers to comprehensive recycling;

5. Alternative models of sustainability;

6. Energy and economic efficiencies;

7. The effect of educational programs on recycling rates;

8. The potential roles of and opportunities for redemption center businesses as the technology advances in recycling programs; and

9. Litter prevention and waste reduction efforts; and be it further

Sec. 2. Funding sources. Resolved: That the expert consultant and study described in section 1 must be funded through private funds received by the State from outside sources and dedicated to this project. The work group described in section 1 shall determine and administer any private funds received with respect to the tasks identified in section 1. The work group has sole discretion to determine how any private funds received to conduct this study are spent and, depending upon the amount of private funds received, the order in which the 9 items set forth in section 1 should be assessed. The work group may rely upon existing data, other studies and any other information it considers pertinent in order to complete the assessment described in section 1. When private funds are received, the Executive Department, State Planning Office and the Department of Agriculture, Food and Rural Resources shall notify the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters; and be it further

Sec. 3. Reporting date. Resolved: That the study described in section 1 must be completed no later than January 15, 2012, unless a one-year extension is necessary to complete the study. The work group shall provide an update to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters on January 15, 2010 and again on January 15, 2011 as to the progress of and any initial findings from the study; and be it further

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Planning Office 0082

Initiative: Allocates funds to allow private outside sources of funds to be used to hire a consultant for a study on beverage container recycling programs.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$0	$250,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$250,000

See title page for effective date.

CHAPTER 131
H.P. 581 - L.D. 845

Resolve, To Expand Access to Renewable Energy Programs

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

Whereas, promoting renewable energy and energy efficiency are significant priorities of the American Recovery and Reinvestment Act of 2009; and

Whereas, significant funding from the American Recovery and Reinvestment Act of 2009 will be disbursed to the Public Utilities Commission in the immediate future for energy initiatives, including renewable energy programs; 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. Renewable energy outreach programs. Resolved: That the Public Utilities Commission, in cooperation with the University of Maine Cooperative Extension Service, shall conduct a 2-year outreach and education program to provide information to residents statewide regarding renewable energy technology and systems for residential use and the renewable energy programs and incentives available through federal, state and local agencies. The program must include at least one informational presentation in each of the 16 counties of the State; and be it further

Sec. 2. Reports. Resolved: That the Public Utilities Commission, in cooperation with the University of Maine Cooperative Extension Service, shall prepare and submit an interim report and a final report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the outreach and education program required by section 1. The interim report must address the status and progress of the program and must be submitted no later than April 1, 2010. The final report on the program and results achieved must be submitted no later than December 31, 2011; and be it further

Sec. 3. Rules. Resolved: That the Public Utilities Commission may adopt rules as necessary to implement this resolve. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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

Effective June 15, 2009.

CHAPTER 132

H.P. 913 - L.D. 1310

Resolve, Relating to a Review of International Trade Agreements and the Management of Groundwater Resources

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

Whereas, obligations under international trade agreements may compromise the ability of the State to manage its groundwater resources; and

Whereas, an examination of the potential legal impacts of international trade agreements on the State's ability to manage its groundwater resources will enable the Legislature to make informed and timely decisions; and

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

Sec. 1. Review established. Resolved: That the Water Resources Planning Committee, of the Land and Water Resources Council, established pursuant to the Maine Revised Statutes, Title 5, section 3331, subsection 8, in coordination with the Office of the Attorney General and the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A, shall conduct an examination of the potential legal impacts of international trade agreements on the State's ability to manage its groundwater resources, including, but not limited to, the potential consequences of permitting foreign companies to extract groundwater. The examination may include a review and assessment of the following subjects as they relate to or impact international trade agreement issues and the State's regulation of its groundwater:

1. Property rights related to the ownership of groundwater;

2. The various common law doctrines relating to the use of groundwater, including the absolute dominion rule and the reasonable use rule; and

3. Natural resources other than groundwater; and be it further

Sec. 2. Experts. Resolved: That outside funding accepted by the Citizen Trade Policy Commission pursuant to the Maine Revised Statutes, Title 10, section 11, subsection 10 may be used to contract with experts in the field of international trade agreements; and be it further

Sec. 3. Report. Resolved: That, by January 1, 2010, the Water Resources Planning Committee, in coordination with the Office of the Attorney General and the Citizen Trade Policy Commission, shall submit a report related to the review to the Joint Standing Committee on Natural Resources. The report must include findings, recommendations and any legislation necessary to implement the recommendations. The Joint Standing Committee on Natural Resources is authorized to report out legislation to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Legislature 0081

Initiative: Provides a base allocation in the event that the Citizen Trade Policy Commission receives outside funding to contract with experts in the field of international trade agreements.

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

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

Effective June 15, 2009.

CHAPTER 133

H.P. 1036 - L.D. 1483

Resolve, To Stimulate the Maine Economy by Allowing the Federal First-time Home Buyer Tax Credit To Be Used at Closing of a Real Estate Transaction

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 Federal Government has provided a federal housing tax credit for first-time home buyers; and

Whereas, the best and most efficient use of the federal housing tax credit for first-time home buyers is for the funds to be available to home buyers at or near the time of closing; and

Whereas, the use of the federal housing tax credit for first-time home buyers will assist families with home ownership and stimulate the State's economy; and

Whereas, the federal housing tax credit for first-time home buyers must be used prior to December 1, 2009; and

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

Sec. 1. Adoption of rules to allow use of tax credit funds. Resolved: That if the United States Internal Revenue Service permits the first-time home buyer tax credit available under the federal American Recovery and Reinvestment Act of 2009 to be paid directly to 3rd parties, the administrator of the Maine Consumer Credit Code, as defined in the Maine Revised Statutes, Title 9-A, section 1-301, subsection 2, may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to facilitate the use of the tax credit funds for the financing of all or part of the down payment, closing costs, prepaid expenses and home energy improvement costs of first-time home buyers by supervised lenders and supervised financial organizations as defined in Title 9-A, section 1-301.

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

Effective June 15, 2009.

CHAPTER 134

S.P. 357 - L.D. 935

Resolve, Regarding Building Energy Efficiency and Carbon Performance Ratings

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

Whereas, promoting renewable energy and energy efficiency are significant priorities of the federal American Recovery and Reinvestment Act of 2009; and

Whereas, significant funding from the federal American Recovery and Reinvestment Act of 2009 will be disbursed to the Public Utilities Commission as administrator of the United States Department of Energy State Energy Program in the immediate future for energy initiatives, including energy efficiency programs; 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. Building energy efficiency and carbon performance rating system. Resolved: That the Public Utilities Commission, as administrator of the United States Department of Energy State Energy Program, in consultation with the stakeholder group convened pursuant to section 2, shall:

1. Develop or select a standardized rating system and reporting form for building energy efficiency and carbon performance;

2. Include the standardized rating system and reporting form in professional education and training programs sponsored by the Public Utilities Commission;

3. Encourage real estate professionals and other stakeholders to promote voluntary use of the standardized rating system and reporting form by residential and commercial property owners, including, but not

limited to, voluntary disclosure of building ratings in the context of real estate transactions;

4. Encourage voluntary use of the standardized rating system and reporting form by large-scale property owners and managers, including the State, municipalities and other public and private entities; and

5. Develop a voluntary library or repository of ratings based on the standardized rating system and reporting form; and be it further

Sec. 2. Stakeholder group. Resolved: That the Public Utilities Commission, as administrator of the United States Department of Energy State Energy Program, shall convene a stakeholder group to assist in the implementation of section 1. The commission, at a minimum, shall invite the Department of Administrative and Financial Services, Bureau of General Services; the Department of Public Safety, Bureau of Building Codes and Standards; representatives of the energy audit and energy performance and management sectors; representatives of the residential and commercial real estate industry; and other interested parties to participate in the stakeholder group; and be it further

Sec. 3. Report. Resolved: That, no later than February 1, 2010, the Public Utilities Commission, as administrator of the United States Department of Energy State Energy Program, shall prepare and submit a report to the Joint Standing Committee on Utilities and Energy regarding the actions taken pursuant to section 1. The report must include, but is not limited to, recommendations for steps to be taken to promote the use of the standardized rating system and reporting form, with particular attention to promoting their use for state-owned facilities; and be it further

Sec. 4. Funding. Resolved: That the Public Utilities Commission, as administrator of the United States Department of Energy State Energy Program, may use for the purposes of this resolve up to $50,000 of the funding received under the federal American Recovery and Reinvestment Act of 2009 designated for the commercial construction efficient design program in the Proposed Plan for Energy Stimulus Funds submitted by the Public Utilities Commission pursuant to Resolve 2009, chapter 1.

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

Effective June 16, 2009.

CHAPTER 135
H.P. 690 - L.D. 1002

Resolve, To Conduct an Updated Study of the Feasibility of Establishing a Single-payor Health Care System in the State and the Impact of Any Federal Health Care Reform

Sec. 1. Update to feasibility study. Resolved: That the Legislative Council shall contract with a qualified consultant to update the estimated costs and impact of a single-payor health care system as described in the December 2002 document titled "Feasibility Study of a Single-payer Health Plan Model for the State of Maine" produced by Mathematica Policy Research, Inc. In the event that federal legislation related to universal health care is enacted, the updated study must include a preliminary analysis of the impact of federal action on state legislation to establish a single-payor health care system or other mechanism for universal health care and the availability of federal funding and guidance for implementation in this State. The Legislative Council shall seek outside grant funding to fully fund all costs of the updated study, which may not exceed $60,000. If sufficient outside funding has not been received by the Legislative Council by October 1, 2009 to fully fund all costs of the updated study, no expenses of any kind related to the study may be incurred. The updated study must be submitted no later than January 15, 2010 to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Insurance and Financial Services may submit legislation based on the updated feasibility study to the Second Regular Session of the 124th Legislature; and be it further

Sec. 2. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Legislature 0081

Initiative: Allocates funds to the Legislature to contract for an update to the 2002 study of the feasibility of establishing a single-payor health care plan for the State.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$60,000	$0

OTHER SPECIAL REVENUE FUNDS TOTAL	$60,000	$0

See title page for effective date.

CHAPTER 136

H.P. 770 - L.D. 1115

Resolve, To Establish the Task Force on Kinship Families

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

Whereas, the Task Force on Kinship Families is created in this resolve in order to study issues facing kinship families; and

Whereas, the task force must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

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

Sec. 1. Task force established. Resolved: That the Task Force on Kinship Families, referred to in this resolve as "the task force," is established; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of 13 members appointed as follows:

1. Four members appointed by the President of the Senate as follows:

A. Two Senators; and

B. One member representing a private nonprofit agency that provides services to kinship families and one member who is a state-licensed pediatrician;

2. Seven members appointed by the Speaker of the House as follows:

A. Five Representatives; and

B. One member who is currently providing primary care for a relative's child and one member representing the Probate Court; and

3. The Commissioner of Health and Human Services or the commissioner's designee; and

4. The Commissioner of Education or the commissioner's designee; and be it further

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 task force; and be it further

Sec. 4. Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the task force, which must be no later than August 1, 2009; and be it further

Sec. 5. Duties. Resolved: That the task force shall examine the issues facing kinship families, defined here as family members who care for a relative's child, and how state policies and practices can be crafted to meet the special needs of kinship families. In examining this issue, the task force shall identify existing resources within the State for kinship families, determine the needs of kinship families and gaps in services, review legal and custody issues and concerns for kinship families and create strategies for sustaining and maintaining resources for kinship families; and be it further

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the task force; and be it further

Sec. 7. Report. Resolved: That, no later than December 2, 2009, the task force shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Second Regular Session of the 124th Legislature. The Joint Standing Committee on Health and Human Services is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session upon receipt of the report; and be it further

Sec. 8. Funding. Resolved: That the operations of the task force are contingent upon receipt of outside funding to fund all costs of the task force. Private financial or in-kind contributions to support the work of the task force may not be accepted from any party having a pecuniary or other vested interest in the outcome of the study. Any person, other than a state agency, authorized and desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. All such contributions are subject to the approval of the Legislative Council. All accepted contributions must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of contributions, the date the contributions

were received, from whom the contributions were received and the purpose of and any limitation on the use of those contributions. The Executive Director of the Legislative Council shall administer the contributions and shall notify the chairs of the task force when those contributions have been received. If funding has not been received within 30 days after the effective date of this resolve, then no meetings of the task force are authorized and no study-related expenses of any kind may be incurred or reimbursed; and be it further

Sec. 9. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

LEGISLATURE

Study Commissions - Funding 0444

Initiative: Allocates funds for the costs to the Legislature of the Task Force on Kinship Families in the event that outside funding is received.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	$1,540	$0
All Other	$2,950	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$4,490	$0

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

Effective June 17, 2009.

CHAPTER 137
H.P. 747 - L.D. 1080

Resolve, To Create a Working Group To Study Landlord and Tenant Issues

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

Whereas, a working group to study issues related to landlords and tenants is created in this resolve and must issue its findings and report by December 2, 2009; 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. Working group established. Resolved: That the Director of the Maine State Housing Authority or the director's designee shall convene a working group to study issues related to landlords and tenants. The Director of the Maine State Housing Authority or the director's designee shall convene the first meeting of the working group no later than August 1, 2009, and the working group shall elect a chair from among its members; and be it further

Sec. 2. Working group members. Resolved: That the working group under section 1 consists of the following 9 members:

1. The Director of the Maine State Housing Authority or the director's designee;

2. Four members representing the following organizations:

A. The State's designated protection and advocacy agency pursuant to the Maine Revised Statutes, Title 5, section 19502;

B. A statewide nonprofit legal services organization that provides free legal services to the elderly;

C. A statewide nonprofit legal services organization that provides free legal services to low-income persons; and

D. A statewide nonprofit legal services organization that provides free legal services, including administrative and legislative advocacy, to low-income persons; and

3. Four members representing organizations of landlords and housing managers in the State.

The chair of the working group shall invite the participation of one member representing the District Court selected by the Chief Justice of the Maine Supreme Judicial Court; and be it further

Sec. 3. Selection of members. Resolved: That, no later than 30 days following the effective date of this resolve, the organizations described in section 2 shall notify the Director of the Maine State Housing Authority or the director's designee of the members selected for participation in the working group under section 1; and be it further

Sec. 4. Duties. Resolved: That the working group under section 1 shall:

1. Study the feasibility of providing heating fuel assistance and weatherization assistance for landlords who serve low-income tenants in certain economically distressed areas;

2. Study the issue of keeping housing units in proper repair, including examining the laws regarding warranty of habitability to see if there is a way to have the law work more simply to resolve both minor and major problems;

3. Study the issue of keeping tenants in their apartments in the event of a foreclosure;

4. Examine the current laws regarding evictions both in lease and tenancies at will to determine if consolidating those laws into one statutory scheme is feasible and to determine if some minimal standards should apply to lease tenancies;

5. Recommend changes to clarify and simplify the current law; and

6. Consider any other issues pertaining to landlord and tenant issues that it determines to be relevant; and be it further

Sec. 5. Notice to Legislature. Resolved: That the chair of the working group shall provide written notice of working group under section 1 meetings and copies of any minutes of meetings to members of the Joint Standing Committee on Legal and Veterans Affairs and the Office of Policy and Legal Analysis; and be it further

Sec. 6. Report. Resolved: That, no later than January 15, 2010, the working group under section 1 shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on Legal and Veterans Affairs. The Joint Standing Committee on Legal and Veterans Affairs is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature upon receipt of the report.

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

Effective June 18, 2009.

CHAPTER 138

H.P. 367 - L.D. 522

Resolve, To Establish the Study Commission Regarding Teachers' Compensation

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

Whereas, this resolve establishes the Study Commission Regarding Teachers' Compensation to study the issues confronting citizens of this State who depend on the retention of a stable, experienced corps of professional teachers in this State's public schools to ensure that the State's public school students will acquire the knowledge and skills essential for college, career and citizenship in the 21st century; 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 Study Commission Regarding Teachers' Compensation, referred to in this resolve as "the commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of 8 members appointed as follows:

1. Two Senators, one from each of the 2 political parties having the largest number of members in the Senate, appointed by the President of the Senate;

2. Three members of the House of Representatives, at least one from each of the 2 political parties having the largest number of members in the House, appointed by the Speaker of the House. In appointing members, the Speaker of the House shall consider geographic distribution;

3. One teacher recommended by the President of the Maine Education Association and appointed by the President of the Senate;

4. One superintendent or member of a school board of a school administrative unit, recommended by the President of the Maine School Boards Association and the President of the Maine School Superintendents Association and appointed by the President of the Senate; and

5. One public member holding a professional position outside of public education in human resources management and specializing in compensation, recommended by the Maine State Council of the Society for Human Resource Management and appointed by the Governor; and be it further

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; and be it further

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. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission, which must be no later than July 1, 2009; and be it further

Sec. 5. Duties. Resolved: That the commission shall study all issues surrounding teachers' compensation, including salaries and benefits. In conducting its review, the commission shall undertake to examine:

1. The effects on teachers' salaries and benefits of the essential programs and services funding system for public education, including the elements of labor market adjustments, student-teacher ratios and a teachers' salary matrix, and alternatives thereto, including the feasibility of salary differentiations based upon differences in cost of living by region;

2. The effects on teachers' salaries of the minimum teachers' salary law and the existing system of state subsidies for substandard salaries;

3. The relationship between and among teachers' salaries and benefits in school administrative units, the amount and distribution of general purpose aid for local schools and amounts raised locally for the support of public schools;

4. The relationship between teachers' salaries and benefits in this State and in other states;

5. The relationship between teachers' salaries and benefits and salaries and benefits paid to practitioners in other comparable professions;

6. The effects of inflation on the real value of teachers' salaries and the minimum salary amount required by law;

7. Practices in other states that mandate payment of minimum salaries based on experience and education to all teachers and the costs and consequences;

8. Factors relating to the age, experience, recruitment, retention and mobility of the State's corps of professional teachers;

9. Alternatives to salary systems based on college credits or degrees earned and experience, including salary systems based on professional learning, teachers' performance or other factors;

10. Collective bargaining alternatives in determination of salaries and benefits at the local school administrative unit level; and

11. Any other factors that the commission considers relevant to teachers' compensation; and be it further

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission; and be it further

Sec. 7. Information. Resolved: That in the performance of its duties, the commission:

1. May request statistical data and other information from the Department of Education, the Department of Labor, the State Planning Office or other state agencies, which must provide such information in their possession; and

2. Must provide an opportunity for interested persons, organizations and members of the public to address and submit information to the commission; and be it further

Sec. 8. Report. Resolved: That, no later than December 1, 2009, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Education and Cultural Affairs. The Joint Standing Committee on Education and Cultural Affairs is authorized to introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature upon receipt of the report.

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

Effective June 18, 2009.

CHAPTER 139

S.P. 283 - L.D. 736

Resolve, Directing the Department of Transportation To Secure Funding To Complete the Aroostook North-South Highway Project

Preamble. Whereas, the Caribou and Presque Isle segments of the Aroostook North-South Highway have available and ready for use in construction over $40,000,000 in federal funding through the provision of high priority project funding by the United States Congress since 2001; and

Whereas, the Governor executed an order in March 2009 directing the Department of Transportation to make the completion of these segments a priority, with construction of the Caribou segment to begin in 2010 and the Presque Isle segment to begin as soon as the approval of the Army Corps of Engineers is given; and

Whereas, the cities of Caribou and Presque Isle have unanimously resolved through their respective city councils to proceed with the construction of these segments; and

Whereas, through An Act To Secure Maine's Transportation Future, Public Law 2007, chapter 470,

which took effect June 30, 2008, the Legislature listed the Aroostook North-South Highway as an extraordinary corridor, which now has a scope, priority and schedule for community consensus within the meaning of that Act; and

Whereas, the current available funding to complete the construction of both of these segments is insufficient; now, therefore, be it

Sec. 1. Full project funding request. Resolved: That the Department of Transportation shall secure funding to complete the Aroostook North-South Highway project beginning with segments in Caribou and Presque Isle through available funding options, including federal funding through the American Recovery and Reinvestment Act of 2009 or any other similar legislation, the reauthorization of federal surface transportation legislation, bonds, Highway Fund allocations and public-private partnerships; and be it further

Sec. 2. Department to secure funding for listed projects. The Department of Transportation shall secure funding for all projects listed in Public Law 2007, chapter 470, Part B, section 2 as significant new capacity projects of all modes and extraordinary bridge replacement, removal or rehabilitation projects.

See title page for effective date.

CHAPTER 140

H.P. 900 - L.D. 1297

Resolve, To Review Changing the Duties of the State Board of Education

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

Whereas, the State Board of Education was established in 1949 as an advisory board to the Commissioner of Education; and

Whereas, the roles and responsibilities of the State Board of Education have since been expanded in numerous ways that have expanded its mission beyond its original advisory role to the point where the mission of the current State Board of Education includes developing education policy and advocating for education policies; and

Whereas, it is essential to review the operations of the State Board of Education in order to ensure that the policymaking roles and responsibilities of the executive and legislative branches of State Government are properly aligned and balanced; and

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

Sec. 1. Review of duties of State Board of Education. Resolved: That the Commissioner of Education shall convene a stakeholder group to review the duties currently assigned to the State Board of Education, referred to as "the state board" in this resolve, and develop recommendations to change, as necessary, the role of the state board in order to align its responsibilities as an advisory board with current statutes and rules. The stakeholder group review must consider provisions in the Maine Revised Statutes, Title 20-A, chapter 5 and any other provisions in Title 20-A and other statutes and rules where the state board is referenced; and be it further

Sec. 2. Stakeholder group. Resolved: That the members of the stakeholder group are appointed as follows:

1. Appointments by the Speaker of the House. The Speaker of the House of Representatives shall appoint the following 6 members:

A. Two members of the House of Representatives serving on the Joint Standing Committee on Education and Cultural Affairs, one from each of the 2 political parties having the greatest numbers of members in the House;

B. One person representing the Maine School Superintendents Association or its successor organization;

C. One person representing the Maine School Boards Association or its successor organization;

D. One person representing the Maine Education Association, or its successor organization; and

E. One person representing the Maine Principals' Association or its successor organization; and

2. Appointments by the President of the Senate. The President of the Senate shall appoint the following 5 members:

A. Two members of the Senate serving on the Joint Standing Committee on Education and Cultural Affairs, one from each of the 2 political parties having the greatest number of members in the Senate;

B. One person representing the Maine Administrators of Services for Children with Disabilities or its successor organization;

C. The Commissioner of Education or the commissioner's designee; and

D. The chair of the state board or the chair's designee.

Legislative members are entitled to legislative per diem and reimbursement of expenses for their attendance at authorized meetings of the stakeholder group; and be it further

Sec. 3. Chairs. Resolved: That the first appointed member of the Senate is the Senate chair and the first appointed member of the House is the House chair; and be it further

Sec. 4. Report. Resolved: That the stakeholder group shall prepare and submit a report, including its findings and recommendations developed pursuant to section 1, to the Joint Standing Committee on Education and Cultural Affairs by December 1, 2009. The Joint Standing Committee on Education and Cultural Affairs may introduce legislation, as appropriate, to the Second Regular Session of the 124th Legislature.

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

Effective June 19, 2009.

CHAPTER 141

H.P. 378 - L.D. 533

Resolve, Authorizing the Joint Standing Committee on Legal and Veterans Affairs To Report Out Legislation Regarding the Expansion of Slot Machine and Casino-style Gambling

Sec. 1. Committee to examine expansion of slot machine and casino-style gambling; legislation. Resolved: That the Joint Standing Committee on Legal and Veterans Affairs shall gather information to develop a comprehensive policy regarding slot machine and casino-style gambling in the State, including, but not limited to, state-operated gambling facilities, additional slot machine facilities at commercial tracks and a competitive bidding process allowing private entities to contract with the State to conduct gambling. The committee is authorized to report out legislation to the Second Regular Session of the 124th Legislature based on the consideration of the policies listed in this section.

See title page for effective date.

CHAPTER 142

H.P. 69 - L.D. 79

Resolve, Regarding Legislative Review of Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized, but only if the rule is amended as follows:

1. In Section 1, subsection 34, the definition of "One Campus" is amended by striking out the reference to a physical or virtual presence and specifying that the term "One Campus" refers to a campus that contains the elements of an integrated, consolidated 9-16 educational facility promoting the development of a design where all facilities are located on one site and provide a streamlined and integrated learning experience for students of all ages.

2. Section 15, subsection 1 is amended to clearly specify that:

A. The regional high school, the career and technical education center, the higher education center and the industry training center, the 4 components of the one campus, must each have a physical

presence on the campus and use facilities on that campus to deliver courses;

B. Each of the 4 components must offer teacher and student interaction that is not separated in space or space and time as characterizes distance learning. The Internet, videoconferencing and other technology employed in distance learning may be used to complement or expand offerings; and

C. Courses may be provided using the Internet, videoconferencing and other technology employed in distance learning to complement real-time, shared-space learning.

3. Section 15, subsection 2, paragraph C, subparagraph 4 is amended by removing the following: "Where will these courses be offered? On same campus? Virtually? At another site?"

4. Section 15, subsection 2, paragraph C, subparagraph 4 is also amended to remove language that indicates ratings must be based, in part, on a listing of courses and programs to be offered by a higher education unit and instead include language that indicates that ratings must be based, in part, on a list of strategies and approaches to be used to ensure that the higher education courses and programs are offered in facilities located on one site, providing a streamlined and integrated learning experience for students of all ages.

The State Board of Education is not required to hold further hearings or conduct other formal proceedings prior to final adoption of the rule as amended in accordance with this resolve; and be it further

Sec. 2. Emergency rule invalid. Resolved: That the emergency rule adopted by the State Board of Education on September 15, 2008 for the purpose of expediently selecting a qualified applicant to implement the innovative model does not reflect the intent of Resolve 2007, chapter 223 and does not have legal effect.

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

Effective June 22, 2009.

CHAPTER 1

H.P. 789 - L.D. 1145

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Time Frame for Towns To Certify Citizen Initiative Signatures

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

Constitution, Art. IV, Pt. Third, §18, sub-§1, as amended by CR 2005, c. 2, is further amended to read:

1. Petition procedure. The electors may propose to the Legislature for its consideration any bill, resolve or resolution, including bills to amend or repeal emergency legislation but not an amendment of the State Constitution, by written petition addressed to the Legislature or to either branch thereof and filed in the office of the Secretary of State by the hour of 5:00 p.m., on or before the ~~50th~~ 60th day after the date of convening of the Legislature in first regular session or on or before the ~~25th~~ 35th day after the date of convening of the Legislature in second regular session, except that the written petition may not be filed in the office of the Secretary of State later than 18 months after the date the petition form was furnished or approved by the Secretary of State. If the applicable deadline falls on a Saturday, Sunday, or legal holiday, the period runs until the hour of 5:00 p.m., of the next day which is not a Saturday, Sunday, or legal holiday.

Constitution, Art. IV, Pt. Third, §20, as amended by CR 2005, c. 2, is further amended to read:

Section 20. Meaning of words "electors," "people," "recess of Legislature," "statewide election," "measure," "circulator," "written petition" and "day" or "days"; written petitions for people's veto; written petitions for direct initiative. As used in any of the 3 preceding sections or in this section the words "electors" and "people" mean the electors of the State qualified to vote for Governor; "recess of the Legislature" means the adjournment without day of a session of the Legislature; "statewide election" means any election held throughout the State on a particular day; "measure" means an Act, bill, resolve or resolution proposed by the people, or 2 or more such, or part or parts of such, as the case may be; "circulator" means a person who solicits signatures for written petitions, and who must be a resident of this State and whose name must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of the circulator that all of the signatures to the petition were made in the presence of the circulator and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the official authorized by law to maintain the voting list or to certify signatures on petitions for voters on the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of the city, town or plantation of the official as qualified to vote for Governor. As used in this section the words "day" or "days" means any day that is not a Saturday, Sunday or legal holiday. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths. Written petitions for a people's veto pursuant to Article IV, Part Third, Section 17 must be submitted to the appropriate officials of cities, towns or plantations, or state election officials as authorized by law, for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the ~~5th~~ 3rd day before the petition must be filed in the office of the Secretary of State~~, or, if such 5th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday~~. Written petitions for a direct initiative pursuant to Article IV, Part Third, Section 18 must be submitted to the appropriate officials of cities, towns or plantations, or state election officials as authorized by law, for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the ~~10th~~ 12th day before the petition must be filed in the office of the Secretary of State~~, or, if such 10th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday~~. Such officials must complete the certification of only those petitions submitted by these deadlines and must return them to the circulators or their agents within 2 days for a petition for a people's veto and within ~~5~~ 10 days for a petition for a direct initiative~~, Saturdays, Sundays and legal holidays excepted,~~ of the date on which such

petitions were submitted to them. Signatures on petitions not submitted to the appropriate local or state officials by these deadlines may not be certified. The petition shall set forth the full text of the measure requested or proposed. Petition forms shall be furnished or approved by the Secretary of State upon written application signed and notarized and submitted to the office of the Secretary of State by a resident of this State whose name must appear on the voting list of the city, town or plantation of that resident as qualified to vote for Governor. The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

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 increase the amount of time that local officials have to certify the signatures on direct initiative petitions?"

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; and be it further

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.

Effective pending referendum.

JOINT STUDY ORDERS

(There were none)

CHAPTER 2

Sec. 1. 6 MRSA §172, sub-§7, as enacted by PL 2007, c. 563, §1, is corrected to read:

7. Founding entity. "Founding entity" means any municipality or county that has on its own or together with one or more other municipalities or counties developed an airport authority proposal for approval under this chapter.

EXPLANATION

This section corrects a clerical error.

Sec. 2. 12 MRSA §1890-B, as reallocated by PL 2007, c. 695, Pt. A, §13, is corrected to read:

§1890-B. Allagash Wilderness Waterway Permanent Endowment Fund

The Treasurer of State shall establish a dedicated, nonlapsing account called the Allagash Wilderness Waterway Permanent Endowment Fund and shall manage the account as a state-held trust. Subject to the approval of the Governor, the commissioner may accept funds from any source and may accept gifts in trust to be credited to the Allagash Wilderness Waterway Permanent Endowment Fund, except that a gift may not be accepted with any encumbrances or stipulations as to the use of the gift. Interest earned on investments in the fund must be credited to the fund. With the advice of the Allagash Wilderness Waterway Advisory Council under section ~~1891~~ 1890-A, the director may expend money from the fund for purposes consistent with section 1871 and an approved waterway management plan.

EXPLANATION

This section corrects a cross-reference.

Sec. 3. 12 MRSA §6038, as enacted by PL 2007, c. 615, §5, is reallocated to 12 MRSA §6040.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 606 and 615, which enacted 2 substantively different provisions with the same section number.

Sec. 4. 12 MRSA §6073-B, as enacted by PL 2007, c. 607, Pt. A, §1, is reallocated to 12 MRSA §6073-C.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 522 and 607, which enacted 2 substantively different provisions with the same section number.

Sec. 5. 17 MRSA §2859, sub-§1, as enacted by PL 1981, c. 43, is corrected to read:

1. Commencement of action. A municipality, acting through its building ~~inspector~~ official, code enforcement officer, fire chief or municipal officers, shall file a verified complaint setting forth such facts as would justify a conclusion that a building or structure is "dangerous," as that term is defined in section 2851; and shall state ~~therein~~ in the complaint that the public health, safety or welfare requires the immediate removal of that building or structure.

EXPLANATION

This section replaces the word "inspector" with the word "official" pursuant to Public Law 2007, chapter 699, section 24. This section also makes a technical change.

Sec. 6. 20-A MRSA §15689-A, sub-§16, as enacted by PL 2007, c. 539, Pt. W, §2, is reallocated to 20-A MRSA §15689-A, sub-§18.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapter 539, Pt. C, §12 and Pt. W, §2, which enacted 2 substantively different provisions with the same subsection number.

Sec. 7. 22 MRSA §674, sub-§5, as amended by PL 2007, c. 539, Pt. KK, §9, is corrected to read:

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

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

B. Review, prior to adoption, the proposed rules of all agencies of the State relating to use of con-

trol of radiation, to assure that these rules are consistent with Title 5, chapter 375, and rules of other agencies of the State. The review must be completed within 15 days.

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

EXPLANATION

This section corrects a clerical error and a grammatical error.

Sec. 8. 22 MRSA §1714-A, sub-§7, ¶E, as enacted by PL 2003, c. 673, Pt. YYY, §1, is corrected to read:

E. The business entity has admitted that ~~is~~ it has insufficient assets to satisfy the debt;

EXPLANATION

This section corrects a clerical error.

Sec. 9. 22 MRSA §1721, as enacted by PL 2007, c. 629, Pt. C, §1, is reallocated to 22 MRSA §1722.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 605 and 629, which enacted 2 substantively different provisions with the same section number.

Sec. 10. 24 MRSA §2317-B, sub-§12-D, as enacted by PL 2007, c. 695, Pt. C, §13, is corrected to read:

12-D. Title 24-A, sections ~~2763~~ 2764, 2847-P and 4256. Coverage for medically necessary infant formula, Title 24-A, sections ~~2763~~ 2764, 2847-P and 4256;

EXPLANATION

This section corrects a cross-reference to the Maine Revised Statutes, Title 24-A, section 2763, which is reallocated to Title 24-A, section 2764 in another section of this report.

Sec. 11. 24-A MRSA §2763, as enacted by PL 2007, c. 595, §2 and affected by §5, is reallocated to 24-A MRSA §2764.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 516 and 595, which enacted 2 substantively different provisions with the same section number.

Sec. 12. 25 MRSA §2465, sub-§3, as amended by PL 2005, c. 571, §1, is corrected to read:

3. Enforcement. Subject to Title 32, chapter 33, the Commissioner of Public Safety or the commissioner's designees, state oil and solid fuel compliance officers, duly appointed fire chiefs or their designees and municipal building ~~inspectors~~ officials and code enforcement officers may enforce the requirements of this section, the rules adopted pursuant to this section and Title 32, section 2313-A.

EXPLANATION

This section replaces the word "inspectors" with the word "officials" pursuant to Public Law 2007, chapter 699, section 24.

Sec. 13. 30-A MRSA §4103, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is corrected to read:

2. Licensing authority. The building ~~inspector~~ official is the licensing authority unless otherwise provided by the municipality.

Sec. 14. 30-A MRSA §4103, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is corrected to read:

4. Powers and duties of enforcement officers. Ordinances defining the duties of the building ~~inspector~~ official and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted under a municipality's home rule authority. All enforcement officers designated by ordinance ~~shall~~ must be given free access at reasonable hours to all parts of buildings regulated by ordinance.

Sec. 15. 30-A MRSA §4103, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106

and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is corrected to read:

5. Appeal to municipal officers or board of appeals. An appeal may be taken from any order issued by the building ~~inspector~~ official, or from the licensing authority's refusal to grant a permit, to the municipal officers or to a board of appeals established under section 2691. If a municipality has by ordinance required that all such appeals be taken to a board of appeals, the procedure ~~shall~~ must be the same as in appeals directed to the municipal officers, unless the municipality has provided otherwise.

A. On an appeal in writing to the municipal officers, they shall at their next meeting affirm, modify or set aside the decision of the building ~~inspector~~ official or licensing authority according to the terms of the pertinent ordinance.

(1) The municipal officers may permit a variance from the terms of an ordinance when necessary to avoid undue hardship, provided there is no substantial departure from the intent of the ordinance.

(2) The municipal officers may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the municipality.

B. The failure of the municipal officers to issue a written notice of their decision, directed to the appellant, within 30 days after the appeal is filed, constitutes a denial of the appeal.

EXPLANATION

These sections replace the word "inspector" with the word "official" pursuant to Public Law 2007, chapter 699, section 24 and correct grammatical errors.

Sec. 16. 30-A MRSA §4452, sub-§5, ¶T, as amended by PL 2007, c. 661, Pt. A, §2 and c. 699, §18, is corrected to read:

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; ~~and~~

Sec. 17. 30-A MRSA §4452, sub-§5, ¶U, as enacted by PL 2007, c. 661, Pt. A, §3, is corrected to read:

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards~~.~~ ; and

Sec. 18. 30-A MRSA §4452, sub-§5, ¶U, as enacted by PL 2007, c. 699, §18, is reallocated to 30-A MRSA §4452, sub-§5, ¶V.

EXPLANATION

These sections correct a lettering problem created by Public Law 2007, chapters 661 and 699, which enacted 2 substantively different provisions with the same paragraph letter, and make technical changes.

Sec. 19. 32 MRSA §1078, sub-§3, ¶B, as enacted by PL 2007, c. 620, Pt. A, §1, is corrected to read:

B. Perform an initial review of all applications for licensure as a denturist pursuant to section 1100-D and all submissions relating to continuing education of denturists pursuant to section 1100-E-1. Upon completion of its review of an application or submission, the secretary of the subcommittee shall ~~repost~~ report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a denturist license. Notwithstanding the provisions of section 1100-E, the board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition.

EXPLANATION

This section corrects a spelling error.

Sec. 20. 35-A MRSA §3210, sub-§3-A, ¶A, as enacted by PL 2007, c. 403, §4, is corrected to read:

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

(1) One percent for the period from January 1, 2008 to December 31, 2008;

(2) Two percent for the period from January 1, 2009 to December 31, 2009;

(3) Three percent for the period from January 1, 2010 to December 31, 2010;

(4) Four percent for the period from January 1, 2011 to December 31, 2011;

(5) Five percent for the period from January 1, 2012 to December 31, 2012;

(6) Six percent for the period from January 1, 2013 to December 31, 2013;

(7) Seven percent for the period from January 1, 2014 to December 31, 2014;

(8) Eight percent for the period from January 1, 2015 to December 31, 2015;

(9) Nine percent for the period from January 1, 2016 to December 31, 2016; and

(10) Ten percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of ~~section 3210,~~ subsection 3.

EXPLANATION

This section corrects a cross-reference.

Sec. 21. 36 MRSA §2903, sub-§5, as amended by PL 2007, c. 538, Pt. L, §1, is reallocated to 36 MRSA §2903, sub-§6.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 438 and 470, which enacted 2 substantively different provisions with the same subsection number. This section reallocates the chapter 470 version as amended by chapter 538.

Sec. 22. 36 MRSA §5122, sub-§2, ¶Z, as amended by PL 2007, c. 539, Pt. CCC, §7 and c. 689, §2 and affected by c. 689, §4, is corrected to read:

Z. For income tax years beginning on or after January 1, 2006, to the extent included in federal adjusted gross income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA; ~~and~~

Sec. 23. 36 MRSA §5122, sub-§2, ¶AA, as enacted by PL 2007, c. 539, Pt. CCC, §8, is corrected to read:

AA. For taxable years beginning on or after January 1, 2009, an amount equal to the net decrease in the depreciation deductions allowable under sections 167 and 168 of the Code that would have been applicable to that property had the 50% bonus depreciation deduction under Section 103 of the Economic Stimulus Act of 2008, Public Law 110-185 not been claimed with respect to such property for which an addition was required under subsection 1, paragraph AA in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph AA and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA for the same property~~.~~; and

Sec. 24. 36 MRSA §5122, sub-§2, ¶AA, as enacted by PL 2007, c. 689, §3 and affected by §4, is reallocated to 36 MRSA §5122, sub-§2, ¶BB.

EXPLANATION

These sections correct a numbering problem created by Public Law 2007, chapters 539 and 689, which enacted 2 substantively different provisions with the same paragraph letter, and make technical changes.

Sec. 25. 38 MRSA §441, sub-§1, as amended by PL 1987, c. 737, Pt. C, §§87 and 106 and PL 1989, c. 6; c. 9, §2; c. 104, Pt. C, §§8 and 10; and c. 403, §10, is corrected to read:

1. Appointment. In every municipality, the municipal officers shall annually by July 1st appoint or reappoint a code enforcement officer, whose job may include being a local plumbing inspector or a building ~~inspector~~ official and who may or may not be a resident of the municipality for which ~~he~~ that person is appointed. The municipal officers may appoint the planning board to act as the code enforcement officer. The municipal officers may remove a code enforcement officer for cause, after notice and hearing. This removal provision ~~shall~~ only ~~apply~~ applies to code enforcement officers who have completed a reasonable period of probation as established by the municipality pursuant to Title 30-A, section 2601. If not reappointed by a municipality, a code enforcement officer may continue to serve until a successor has been appointed and sworn.

EXPLANATION

This section replaces the word "inspector" with the word "official" pursuant to Public Law 2007, chapter 699, section 24. The section also makes grammatical changes.

Sec. 26. 38 MRSA §585-K, as enacted by PL 2007, c. 582, §1, is reallocated to 38 MRSA §585-L.

EXPLANATION

This section corrects a numbering problem created by Public Law 2007, chapters 582 and 584, which enacted 2 substantively different provisions with the same section number.

Sec. 27. PL 2007, c. 539, Pt. KK, §9 is corrected to read:

Sec. KK-9. 22 MRSA §674, sub-§5, as repealed and replaced by PL 1987, c. 769, Pt. A, §70 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

EXPLANATION

This section corrects an amending clause.

Sec. 28. PL 2007, c. 558, §3 is corrected to read:

Sec. 3. 38 MRSA §353-B, sub-§2, as amended by PL 2005, c. 602, §1, is further amended to read:

2. Maximum fee amounts and rates. Waste discharge license fees are as set out in this section.

A. The base, annualized license renewal service and maximum fees that may be assessed to categories of discharge activities are as follows.

Discharge Group		Base fee not to exceed	Maximum fee for individual in group	Annualized license renewal service fee
~~Publicly owned treatment facilities, greater than 6,000 gallons per day but less than 5 million gallons per day and no significant industrial waste~~	~~annual fee~~	~~$175~~	~~none~~	
Publicly owned treatment facilities, ~~6,000~~ 10,000 gallons per day or less	annual fee	~~$60~~ $67	~~$180~~ none	$150
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	$219	none	$150
Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day	annual fee	$219	none	$225
Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day	annual fee	$219	none	$450
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	$770	none	$650

Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	$1,850	none	$650
Other industrial facility, process wastewater	annual fee	$630	none	$300
Food handling or packaging wastewater	annual fee	$315	$2,100	$150
Fish rearing facility over 0.1 million gallons per day	annual fee	~~$230~~ $288	~~$1,400~~ $1,753	$300
Fish rearing facility 0.1 million gallons per day or less	annual fee	$288	$400	none
Marine aquaculture facility	annual fee*	$288	---	none
Noncontact cooling water	annual fee	$90	$7,000	$60
Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater	annual fee	$115	$2,100	$150
Municipal combined sewer overflow	annual fee	$115	$1,400	$150
Sanitary wastewater, excluding overboard discharge	annual fee	$60	$1,200	$300
Sanitary overboard discharge, commercial sources	annual fee	$210	$1,200	
Sanitary overboard discharge, residential sources 600 gallons per day and less	annual fee	$175	---	
Sanitary overboard discharge, residential sources more than 600 gallons per day	annual fee	$200	$600	
Sanitary overboard discharge, public sources	annual fee	$210	$500	
Aquatic pesticide application	annual fee*	$200	---	$370
Snow dumps	annual fee*	$125	---	$150
Salt and sand storage pile	annual fee*	$150	---	$225

Log storage permit	annual fee*	$200	---	$150
General permit coverage for industrial storm water discharges (except construction)	annual fee*	$300	---	
General permit coverage for marine aquaculture facility	annual fee*	$125	---	none
General permit coverage (other)	annual fee*	$100	---	$30
Experimental discharge license	license fee*	$500	---	$225
~~Mixing~~ New or amended mixing zone, in addition to other applicable fees	flat fee*	$4,000	---	
Formation of sanitary district	flat fee*	$300	---	
Transfer of license for residential or commercial sanitary wastewater	flat fee*	$100	---	

*Discharge or license quantity fees do not apply to these categories.

When a license authorizes multiple discharge points in different categories in the same license, the total maximum fee for the license may not exceed the maximum fee for the most significant category plus 1/2 of the maximum fee for each of the other applicable categories.

B. The annual rate per unit for various pollutants and groups of discharges used in computing discharge and license quantity fees may not exceed the limits set out in this paragraph. When a license authorizes the discharge of pollutants fitting more than one category, the appropriate fee is due for each group and type of pollutant.

License group or type of pollutant	Rate
Conventional pollutants, license rate	$1.25 per pound
Conventional pollutants, discharge rate	$2.40 per pound
Conventional pollutants, primary treatment only	$0.55 per pound
Conventional pollutants, food handling or packing facilities	$0.05 per pound
Nonconventional or toxic pollutants	Variable*
Heat (as licensed flow x temperature x 8.34)	$0.045 per million BTU
Flow: fish rearing facilities	$45 per million gallons
Flow: combined sewer overflows (based on treatment facility design)	$55 per million gallons
Flow: nonprocess from industrial or commercial sources	$175 per million gallons
Flow: publicly owned treatment facilities, greater than ~~6,000~~ 10,000 gallons per day	$630 per million gallons
Flow: process from industrial or commercial sources	$630 per million gallons

Flow: treated storm water	$17.50 per million gallons
Flow: sanitary, from commercial sources excluding overboard discharge	$0.02 per gallon
Flow: from publicly owned facilities, ~~6,000~~ 10,000 gallons per day or less	$0.02 per gallon
Flow: sanitary from overboard discharge	$0.05 per gallon

*The license rate per pound is $10.50 divided by the licensed effluent concentration in ~~miligrams~~ milligrams per liter. The discharge rate per pound is $21 divided by the licensed effluent concentration in ~~miligrams~~ milligrams per liter.

For the purposes of this section, the term "conventional pollutant" means oxygen-demanding compounds, suspended or dissolved solids, oil and grease. The term "nonconventional pollutants" means other chemical constituents subject to fees. Excluded from fees are the following: pH, residual chlorine, settleable solids, bacteria, whole effluent toxicity tests, color, any compound without numeric license limitations and effluent concentrations reported as being below acceptable detection limits.

Annual discharge or license quantity fees may be calculated using either pounds of pollutants or allowable flow, as is most appropriate for the circumstances of a particular discharge category, situation or location. License limits may be supplemented by applications and related supporting materials when necessary to calculate effluent quantities or concentrations.

EXPLANATION

This section corrects a clerical error.

Sec. 29. PL 2007, c. 559, §4, amending clause is corrected to read:

Sec. 4. 38 MRSA §585-E, sub-§6, as ~~amended~~ enacted by PL 2001, c. 233, §§~~1 and~~ 2, is ~~further~~ amended to read:

EXPLANATION

This section corrects an amending clause.

Sec. 30. PL 2007, c. 693, §14 is corrected to read:

Sec. 14. 36 MRSA §1752, sub-§11, as amended by PL 2007, c. 410, §1 and affected by §6 and amended by c. 437, §10, is further amended to read:

11. Retail sale. "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business ~~for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property~~. ~~"Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale.~~

A. "Retail sale" includes:

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

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

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

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

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

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

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

B. "Retail sale" does not include:

(1) Any casual sale;

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

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;

(4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;

(6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105; ~~or~~

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953~~. For purposes of this subparagraph, "loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 1171, subsection 6.~~;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

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

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

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

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

EXPLANATION

This section corrects a punctuation error and a formatting error.

Sec. 31. PL 2007, c. 695, Pt. I, §5 is corrected to read:

Sec. I-5. 12 MRSA §6721-A, sub-§6, as ~~amended~~ enacted by PL 2007, c. 557, §4, is repealed.

EXPLANATION

This section corrects an amending clause.

Sec. 32. PL 2007, c. 695, Pt. L, §1 is corrected to read:

Sec. L-1. 24-A MRSA §6915, as amended by PL 2007, c. 629, Pt. D, §3 and affected by §7, is further amended to read:

EXPLANATION

This section corrects an amending clause.

Sec. 33. Resolve 2007, c. 226, §1, sub-§5 is corrected to read:

5. Expiration. Any pilot project developed ~~pursuant~~ pursuant to this section must expire no later than June 30, 2010; and be it further

EXPLANATION

This section corrects a spelling error.

JOINT RESOLUTION DENOUNCING RACISM AND VIOLENCE

S.P. 9

WHEREAS, We, the Members of the 124th Legislature, representing the people of the State of Maine, unite to say as strongly and clearly as possible that we do not condone and, in fact, we denounce any statement promoting the assassination of any public officials, including the President or the President-elect of the United States; and

WHEREAS, We, the Members of the 124th Legislature, representing the people of the State of Maine, totally reject any and all efforts that suggest, whether by a tasteless joke or with a violent purpose, the promotion of violence to any person, including the President or the President-elect of the United States; and

WHEREAS, the attitudes and images associated with the public display of signs encouraging violent acts to human beings are not reflective of the character and moral fiber of the people of the State of Maine; and

WHEREAS, the people of the State of Maine reject and wholeheartedly oppose the intent, the purpose and the existence of messages and signs of hate and violence; and

WHEREAS, the people of the State of Maine appreciate, support and honor First Amendment constitutional protections barring governmental regulation or abridgment of speech based on its message, its ideas, its subject matter or its content; and

WHEREAS, the people of the State of Maine understand that government suppression of free speech can threaten the healthy exchange of ideas indispensable to an open and vibrant society, and we also know that the most powerful way to counteract hateful, offensive speech is through more speech and discussion; and

WHEREAS, the people of the State of Maine do not and will not stand by quietly in light of such deplorable acts, and we take this opportunity to say unequivocally that words of hate, support of violence and jokes about assassination are unacceptable in this State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature, now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity with a unified and determined effort to reject all acts and suggested acts of hate and violence against any person of any race, whether that person be in a public or private position.

Read and adopted by the Senate December 3, 2008 and the House of Representatives December 3, 2008.

JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE

H.P. 923

WHEREAS, recent statistics show that Maine has about 8,000 farms, the bulk of which are small, family-owned operations, that provide full-time and part-time employment to more than 90,000 workers, approximately 13 percent of the State's workforce; and

WHEREAS, Maine's agricultural enterprises provide more than $684 million through the sale of farm products and contribute more than $2 billion annually to the State's economy, and an overwhelming majority of Maine people believe that buying local Maine agricultural products helps the State; and

WHEREAS, Maine farmers are the stewards of 1.36 million acres of land, a vital resource in maintaining the food security of Maine people; and

WHEREAS, Maine is first in New England in the production of food, first in New England in the value of aquaculture sales, first in the world in the production of wild blueberries, the world leader in the production of brown eggs, third in the Nation in the production of maple syrup, eighth in the Nation in the production of fall potatoes, second in New England in milk and livestock production and the only state anywhere involved in the commercial production of fiddleheads; and

WHEREAS, agriculture shaped Maine's past, maintains much of Maine's scenic open space, provides recreational opportunities, makes a significant contribution to the nature and character of Maine's many rural communities and provides for a strong future; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the First Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State, to pledge our support and encouragement and to urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agriculture industry; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources as a token of the esteem in which those in this vital field are held.

Read and adopted by the House of Representatives March 31, 2009 and the Senate March 31, 2009.

JOINT RESOLUTION TO HONOR THE DAYS OF REMEMBRANCE

H.P. 841

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945, by means of concentration camps, extermination camps, ghettos, firing squads and starvation and using every arm of the Nazi bureaucracy; and

WHEREAS, although Jews were the primary victims, with 6,000,000 murdered, millions more people, including Romani people and Poles, as well as people with handicaps who did not measure up to Aryan perfection, were also targeted for destruction or decimation for racial, ethnic or national reasons; and

WHEREAS, many specific groups, including homosexuals, Jehovah's Witnesses, Soviet prisoners of war and political dissidents, also suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies and governments whether at peace or at war; and

WHEREAS, the people of the State should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution and tyranny so that such horrors are never repeated; and

WHEREAS, the people of the State should actively rededicate ourselves to the principles of individual freedom in a just society; and

WHEREAS, the Days of Remembrance have been set aside for the people of the State to remember the victims of the Holocaust as well as to reflect on the need for respect of all peoples; and

WHEREAS, pursuant to an Act of Congress, the United States Holocaust Memorial Council is responsible to designate the Days of Remembrance of the victims of the Holocaust, and this year's commemoration is April 19, 2009 to April 26, 2009, including the Day of Remembrance, known as Yom Hashoah, on April 21, 2009; and

WHEREAS, it is appropriate for the people of the State to join in this international commemoration; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-fourth Legislature now assembled in the First Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Holocaust and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Holocaust and Human Rights Center of Maine and the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State.

Read and adopted by the House of Representatives March 26, 2009 and the Senate March 26, 2009.

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO SUPPORT THE RECOMMENDATIONS OF THE COMMISSION TO PROTECT THE LIVES AND HEALTH OF MEMBERS OF THE MAINE NATIONAL GUARD

S.P. 484

WE, your Memorialists, the Members of the One Hundred and Twenty-fourth 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:

WHEREAS, the Commission to Protect the Lives and Health of Members of the Maine National Guard, hereafter referred to as "the commission," was established by the 123rd Maine Legislature to develop and recommend measures, changes in protocols and other procedures to prevent future noncombat deaths and disabilities and to save the lives and improve the health of members of the Maine National Guard on both active and inactive duty; and

WHEREAS, the commission has met, held public hearings and developed a number of recommendations, many of which have been adopted in Maine and which would help the United States Armed Forces as a whole; and

WHEREAS, a number of recommendations require federal approval and we forward the recommendations to you as follows:

That increased efforts to diagnose and treat illnesses, such as those found in veterans of the 1990-1991 Gulf War and the global war on terror, be undertaken immediately;

That all anthrax vaccine safety data be made available for expert analysis, especially to decision makers and independent scientists;

That research using the Defense Medical Surveillance System databases specifically investigate the relationship between anthrax vaccine and chronic fatigue syndrome, fibromyalgia and other pain disorders, undiagnosed illnesses and Gulf War syndrome;

That Congress request the Institute of Medicine to perform a review of the military smallpox program in an identical manner to its review of the civilian smallpox program, and ask the Secretary of Defense to follow the recommendations of the institute with respect to future smallpox vaccinations;

That electronic medical records be established that are seamlessly and rapidly transferable between the Department of Defense and the Department of Veterans Affairs;

That existing regulations to improve the medical disability process for service members be enforced and that current standards be improved;

That Congress ensure the Department of Defense's Disability Evaluation System be expanded as quickly as possible, and

That service members be granted the benefit of a doubt when they file a valid disability claim for service-connected injuries or illnesses and be provided health care benefits and compensation as soon as possible; and

WHEREAS, these recommendations of the commission, if adopted for members of the United States Armed Forces, could save the lives and protect the health of all United States military personnel; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States and the United States Congress review and adopt these recommendations to protect the lives and health of members of the Maine National Guard and the United States Armed Forces; and be it further

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

Read and adopted by the Senate April 2, 2009 and the House of Representatives April 7, 2009.

STATE OF THE STATE ADDRESS
OF
GOVERNOR JOHN ELIAS BALDACCI
MARCH 10, 2009

Madam President, Madam Speaker, Madam Chief Justice, members of the Legislature, members of the Cabinet, distinguished guests and my fellow citizens:

Thank you for joining me tonight as we come together to take measure of our State.

We face economic perils that will test our courage, our creativity and our resolve.

We will all be called upon to make uncomfortable decisions, to do without and to do things differently.

The headlines are filled with the terrible realities of the global recession.

Yesterday, I visited Baileyville in Washington County.

The community received rough news just last week. The Domtar pulp mill will be indefinitely shutting down in May. More than 300 people could lose their jobs.

The announcement came one day after RR Donnelley in Wells announced it would close its doors in June. More than 370 jobs will be lost. Unemployment is rising. Confidence has been shaken.

As I talk with the good men and women of Maine, I hear a similar question, punctuated with fear and uncertainty.

People ask: Governor, is the sun rising or is the sun setting? Has our time passed, will our children struggle in the years to come?

I do not know how long this recession will last, or how deep it will go.

But the sun will rise on Maine, and Maine will raise herself for the United States of America.

On Thursday when the news of the Domtar closure was released, I met with Legislators from Washington County, and we called County Commissioner Chris Gardner, who is also the director of the Port of Eastport.

It was a tough day all around.

But as we talked, Chris said something we all should take to heart. He said: "This is bad news, and we have a lot of things we must do in the coming days to prepare our community. But we also have to get started reinventing ourselves. We have opportunities."

That is the spirit of Maine.

We are all aware of the challenges we face. But we can adapt. We can make the necessary changes.

In 1933, a newly elected Governor of Maine, Louis J. Brann, addressed the hardships of the Great Depression.

He said: "Giant forces are changing the entire social, political and governmental set-up of the world."

"What was clear and accepted becomes complex and bewildering."

"We find ourselves squarely up against conditions, new in government, calling for clear thinking and wise action …

"We may be forced to part with some things that we have grown to like," Governor Brann continued.

"Like one going on a long journey, we must pack only the essentials. We will have to 'travel light.' Today, my friends of this Legislature, the State of Maine marches along the high road of stern necessity."

Now, 76 years later, our predicament demands that same clear thinking and wise action as we work to ward off a global recession. And like 1933, we must make the right choices if we are to once again prosper.

In just a few short weeks, this Legislature worked with my administration to close a $140 million dollar budget gap for the current year.

State revenues dropped because the economy is dropping. To balance the books, Democrats and Republicans worked together with little regard for partisanship.

The steps we took to close the budget gap were tough, but the Appropriations Committee built a unanimous plan that won broad, bipartisan support.

We packed a light bag for the rest of this year.

Now we must move on to the budget for the next two years, and we can only afford to pack the essentials for that trip.

The Legislature has just finished public hearings on the budget I submitted in January.

My $6.1 billion dollar plan reduces State spending by about $200 million dollars. It's the first time since at least 1974 that the State budget will actually be smaller than its predecessor.

This budget is prudent, and the reductions are necessary.

My plan protects our safety net, while calling on everyone in the State to adopt a sense of shared sacrifice.

We all must do our part to get through this difficult time.

The symptoms of today's economic crisis are not unique to Maine, although we can surely feel them.

Our country – the entire world – is struggling under the weight of the same burdens.

But our strengths are undeniable, and we will not be deterred.

It may be dark right now, but we are not lost in the night.

We are not afraid of shadows or the empty noises that haunt children's dreams.

The dawn of a new economic day in Maine is not here yet. But it is coming. We know the direction to look.

Because the sun rises first in Maine.

We have a plan.

There is a path to take. We know what we must do.

Just three short weeks ago the President signed an unprecedented economic recovery plan into law.

This much needed federal support will send about $900 million new dollars to Maine, to build roads, repair bridges, to help people stay well and to create jobs.

We have already started putting that money to work, and combined with our existing highway plan for this spring, summer and fall, we will put 11,000 people on the job in our State just in the area of transportation.

Thousands more jobs will be preserved at our schools, in our hospitals and as we advance toward new innovations and energy independence.

Without the hard work of Rep. Mike Michaud and Rep. Chellie Pingree, and the courage of Sen. Olympia Snowe and Sen. Susan Collins, this great opportunity for reinvestment would have been lost.

I spoke with Sen. Snowe and Sen. Collins during the most difficult hours of negotiations. They put aside empty partisanship and stood up for Maine and the nation.

With a new federal wind at our back, we have an unmatched opportunity to transform our State.

Last week, I proposed a three-year, $306 million dollar investment that will create jobs and strengthen our economy.

My plan makes critical investments in energy independence, highways and bridges.

It further develops passenger and freight rail, and invests in clean water and healthy communities.

And it will build our intellectual capacity by supporting higher education and innovation.

In addition, the plan will leverage more than $380 million dollars from other sources, putting nearly $700 million new dollars to work in Maine.

I understand that folks are nervous and that some might question the wisdom of borrowing right now, even for worthy projects.

Our State has always been conservative with bonds. We don't borrow more than we can afford, and we don't extend ourselves beyond good sense. We pay our bonds back in just 10 years, while most take 20 years or longer.

That makes now the time to invest.

There is no excuse for inaction.

We need to put people to work and help them gain the skills to be successful.

Maine has been a leader in putting technology to work in the classroom. We are going to revamp our laptop program and turn it into a powerful tool for the entire family.

The Department of Education and the Department of Labor will work to make sure every one of those computers has software preloaded to connect Maine families with the services available at our State's CareerCenters.

Every night when students in seventh through 12th-grade bring those computers home, they'll connect the whole family to new opportunities and new resources.

Just as the path forward requires us to make smart investments, it also requires that we break the bad habits of the past.

We cannot afford to back-track on important reforms that have driven government at all levels to be more efficient.

Change is always difficult, and it's easy to understand why some find comfort in the status quo.

But business as usual doesn't work anymore.

We must continue forward with the reform of K-12 administration. We can not allow Maine to be dragged backwards by a referendum that seeks a return to the expensive past.

The way forward – the way to protect local schools and resources for the classroom – is to stop wasting money on unnecessary bureaucracies and administrations.

We must continue to push for more effective and efficient government here in Augusta, in our counties, and at town and city halls across the State.

An excellent example is our new Board of Corrections, which is for the first time coordinating the work of 15 county jails and the state prisons.

It's been hard work, with a few bumps along the way, but we see progress every day. I am confident the Board will make our corrections system more affordable, while providing better results for communities and our people.

And we know there are more savings to be had by keeping our eyes on efficiency.

This summer, I asked the internationally respected business consulting group, McKinsey and Company, for a data-driven evaluation of our State.

We learned that Maine can save at least $180 million more dollars over three years by improving the way we do business.

How do we do it?

We must be willing to reform now.

Whether it's by combining State agencies, eliminating unnecessary regulations, or holding the line on taxes, we must maintain our fiscal vigilance and question the way every tax dollar is spent.

Today, Maine's government is smaller and more effective than at any time in recent memory. Since 2002, the number of State workers has been cut by more than 700 as we have learned to do more with less. That is a stern necessity we face.

But smaller government doesn't mean we settle for less effective government.

Let me give you an example. In Child Welfare, we have worked with families, schools and communities to reduce the number of children in foster care by one-third and to double the percentage of children placed with relatives and families.

Government gets smaller, and children are healthier and happier. Creative partnerships also give us the opportunity to stretch limited resources.

This year, Fairpoint Communications joined Maine's business community.

Gene Johnson, the company's president, brought with him to Maine a commitment to our State, to expand broadband statewide and to help us grow our economy. So far, the company has added more than 440 workers to its payroll in Maine.

Now the company will join with the State to form a new partnership that will help to refocus our economic development activities.

Simply put, we too often react to the crisis of the day instead of preparing and executing a comprehensive development strategy.

Our approach will help regions identify their best assets and develop plans to build upon them.

It's economic development from the ground up, instead of the top down.

And we will combine economic development with Quality of Place. Quality of Place is shorthand for those things that we all treasure, that make Maine special, that keep us all coming home and draw visitors from around the world.

It's our coastline, still dotted with working waterfronts. Our clean, deep lakes and fresh air. It's our vast and healthy forests. We have artificially separated economic development from the characteristics of our State that make it so attractive in the first place.

Occasionally, we've allowed an unnecessary competition to grow between economic development and Quality of Place.

But they don't compete; they must be tied together to be successful. That's why I propose that we will continue to invest money to preserve Maine's unique heritage by continuing the Land for Maine's Future and Working Waterfront programs.

This will help to preserve open access to some of our most scenic areas, help farmers and fishermen stay on the job, and safeguard our forests and protect our forest products industry with a sustainable fiber supply.

Maine is a special place, and we need to protect it.

Even before health care money from the Recovery Act began to come to Maine, I worked with the Legislature to set out clear rules for how the money could be used.

First and foremost, we must balance our budget and take care of the people who need our help the most.

Second, we will meet our obligations to Maine hospitals. In 2006, I signed a commitment to the hospitals that Maine would pay down its debt. With State and Federal matching dollars, we will provide more than $370 million new dollars to Maine's hospitals this year.

This money will save jobs and make sure that important health programs, especially in rural communities, continue.

There are 39 hospitals in Maine, employing more than 22,000 people from Fort Kent to Kittery and everywhere in between. They do a great job, and this will make them stronger.

Maine has been a national leader in providing health care coverage for our people. We have been committed to making health care more affordable and expanding access.

We have had success, and our rate of uninsured ranks among the best five states in the country.

Yet, a terrible side effect of rising unemployment is that more and more people are losing their health insurance because it was provided by their employer.

Just when folks need health care security the most, they see it slip away.

As part of his Recovery Act, the President has included provisions that make insurance more affordable for people who lose coverage when they lose their job.

Unfortunately, for too many people even the new expanded option falls short.

In the coming days, I will submit a proposal using Recovery funds that will create a voucher system for newly unemployed workers who need additional help keeping their health insurance.

The vouchers will help the newly unemployed buy private health insurance or help them enroll in a temporary, affordable health plan.

The program will be limited and last only as long as the federal program it's meant to complement.

It's a one-time program, using one-time money.

As Washington works on national health care reform, we will continue to blaze a trail here in Maine.

Good health takes more than an insurance card. It requires all of us to be as healthy as we can be – preventing diseases that drive up our health care costs.

Health care premiums are growing four times faster than wages. The costs are straining family and business budgets.

Chronic illness, like diabetes, asthma, heart and lung diseases, account for about 30 percent of premium costs or about $350 million dollars a year in Maine.

That's spending on poor health that in most cases is preventable. Tonight, I am announcing Maine's Universal Wellness program. It will help every Mainer know, understand and take action to reduce health risks and prevent disease. And it does it within existing resources.

Beginning in July, our statewide system of Healthy Maine Partnerships will offer free, confidential risk reviews and link people to local resources that can help them improve their health and prevent disease.

This is a long-term strategy that arms Mainers with the information they need to be healthier.

We also know that good health requires having enough high quality doctors and health care providers available when you need them. Doctors and nurses are the lifeblood of good health, and Maine doesn't have enough of them.

I propose using $3.5 million dollars in one-time Recovery funds to help launch two innovative medical schools that will train the doctors we need in Maine.

Tufts University will partner with Maine Medical Center; And the University of Vermont will partner with Eastern Maine Medical Center and the University of Maine to create medical schools in our State, so doctors can finish their training right here.

We aren't building new buildings.

Instead, we will provide needed scholarships for Maine residents to support their medical education at

Maine Medical Center, Eastern Maine Medical Center or the University of New England.

Research shows that doctors tend to settle near the hospitals where they complete their training. And I know that given the chance young doctors will stay in Maine.

Finally, we will work with Maine's medical community to change the way we provide primary health care.

Today, patients and doctors are overbooked into crazy schedules where they might get as little as 10 minutes together during an office visit. Our current system pays for sickness, not for keeping people well.

It doesn't make any sense.

That's why I propose using $500,000 dollars of Recovery funds for a pilot project designed to change the way we deliver primary care.

We will test a system with 15 medical practices that allows teams of doctors, nurses and other health care professionals to concentrate on keeping you well – not just waiting for you to get sick.

They'll work to keep you at home and out of the hospital.

We have an opportunity to transform health care in Maine, and make it more affordable and more patient-centered.

That's a goal we all share.

For nearly 30 years, I have been involved in public service, for the last six years as Governor. During that time, I have had the privilege to work with many dedicated people.

But I have never known a stronger advocate for Maine's children than the First Lady.

Karen has elevated the efforts of Maine Reads, created the Festival of the Book, and has been instrumental in bringing the first-in-New-England Educare Center to Waterville, which will break ground in June and help establish best practices for early childhood teaching.

She is tireless, and an inspiration, who keeps us all grounded in what's most important.

Karen is here tonight with our son, Jack.

Could you both stand and receive the greetings of the Chamber?

This summer, we received an unwelcome reminder of how dependent our State is on costly, imported oil.

In a short time, prices more than doubled for gasoline, diesel and heating oil.

We were on the verge of a crisis.

Truckers, fishermen and just about everyone else felt the weight of high energy costs.

We immediately began planning for an emergency. We knew then, and we know now, that if heating oil prices are $4 dollars and 50 cents a gallon, many people would struggle just to make it through Maine's long winter.

There are many factors that have contributed to the current recession.

Poor decisions on Wall Street and in Washington; an economy dependent on easy credit; and a lack of government oversight all played a part.

But the high cost of energy is one of the biggest factors.

I'm concerned that we might forget the role high oil prices played in our current economic troubles and underestimate how quickly prices can rise again.

We've been through energy crunches before.

But time and time again, as prices stabilized we returned to our old habits.

Not this time.

Not again.

No more.

For too long our economy has been held hostage by imported, foreign oil.

It's jeopardized our national security, and has left us at the mercy of markets and foreign powers over which we have little control.

In July, we took immediate action to begin fighting our oil addiction, with a new emphasis on making homes more energy efficient.

We increased funding for weatherization, cutting the energy bill for families.

We put technology to work, streaming live video to classrooms across the State, so we could expand training for homeowners and professionals so they can get the information they need to reduce energy consumption.

We put all of our energy resources within reach of a single telephone call. One call to 2-1-1 will put you in touch with a person who can help.

We distributed more than 300,000 do-it-yourself brochures that include easy-to-do tips to reduce energy consumption.

And you raised more than $1 million dollars through the Keep Maine Warm Fund to help folks make it through the heating season.

Thank you to those who gave.

Much has been accomplished, but we must do more. Prices will go back up, and we can't sit and wait for it to happen.

We must transform our State.

We will become more energy efficient;

We will invest in clean, renewable sources of power;

We will build a better electric grid that is more reliable and capable of connecting Maine and all of the Northeast to new sources of electricity;

We will empower workers to do the high-tech green jobs that our new economy will demand.

And we will invest in a smarter transportation system that can move goods and people more cheaply and efficiently.

Our efforts start with energy conservation and weatherization, where we've already made a good start.

We will leverage funding from the President's Recovery Act, and we'll expand the reach of our efforts.

I will introduce the Maine Energy Independence Act, which will re-invent the way we manage our State energy programs, and put all of our efforts under one roof so they are more closely coordinated and integrated.

We will set aggressive goals to weatherize every home in Maine and half of all of our businesses in the next 20 years.

We know that we need to make energy upgrades as easy as possible.

With this plan, there will be one place that individuals, families and businesses can go to get help with all of their energy efficiency needs.

My approach will build upon the strengths of our current programs, but will also energize new partnerships to accomplish our goals.

Tonight I am announcing a new collaboration between the State and Maine banks and credit unions that will simplify the way people accomplish home energy improvements.

The program uses State loan guarantees to access up to $100 million dollars of private capital.

It will help thaw our frozen credit market and make it possible for homeowners to invest in energy upgrades.

In one simple process, you'll be able to save money on your mortgage by refinancing, improve your home's value, and cut utility bills.

And we'll provide direct support, through our State Energy Plan, for subsidized energy audits and other incentives to help businesses make improvements.

The Recovery Act includes $32 million dollars to weatherize homes for low-income families, and we're adding access to another $100 million for middle-class families.

We'll multiply our current weatherization efforts by 20 times.

I'm talking about a massive infusion of new resources to fix people's homes and improve their lives.

The dividends for Maine are huge. We'll send fewer energy dollars out of State, we'll reduce greenhouse gas emissions, and we'll create thousands of jobs for Maine workers.

In addition to creating new jobs, we must ensure that Maine workers are prepared to fill them.

We will combine the efforts of the Department of Labor, Maine State Housing, the Public Utilities Commission and our universities and community colleges to create a green-collar workforce that is second to none.

This summer Maine will have its own Weatherization Corps of young workers, who will learn important life and job skills right on the job.

A joint program between the Department of Labor, Jobs for Maine Graduates, local CAP agencies and Maine Housing will train about 100 students to work on energy related projects.

These young people will have the opportunity to learn about energy efficiency and home weatherization while working to make their State a better place to live. And they'll do it while earning a paycheck.

It's a good program that will help young workers and help us meet our energy goals.

My energy plan also invests in the growth of Maine-based renewable energy resources.

When Maine was at the peak of its economic strength, our industries were able to harness the power of our rivers and the resources in our forests to produce cheap electricity.

Those resources drove Maine's industrial revolution. And those same renewable resources can power a new revolution for our State.

Already, we have reduced the regulatory barriers for the development of onshore wind power, and we have an Ocean Energy Task Force working right now to do the same thing for resources that exist off our coast.

The group is developing legislation that will greatly advance renewable energy projects off the coast of Maine.

And I propose $7.5 million dollars for a Maine Marine Wind Energy Fund that will support the development of the premier offshore testing site for wind energy for the country.

This is a tremendous opportunity to become one of only three test sites in the country.

Success will make Maine a hub for the manufacturing and research industries that will drive energy production for the next generation.

We don't have oil or natural gas reserves in Maine, but we are rich in the resources that can take their place. We have two of the largest operating wind farms in New England, and billions of dollars in proposed projects on the way.

Turbines placed off Maine's coast have the potential to produce more than 133 gigawatts of electricity from wind alone. That's as much electricity as 40 nuclear power plants can produce.

There's also impressive work happening in the development of tidal power, which captures the movement of the ocean to generate electricity. Ocean Renewable Power Company is field testing tidal power turbines right now near Eastport.

And that's just the beginning. As my Wood-to-Energy Task Force demonstrated, Maine has great energy reserves in our forests.

Whether it's through wood pellets in homes and businesses or biomass electric generation, we have great options for diversifying our energy consumption.

SAD 58 Superintendent Quentin Clark has put this type of innovative thinking to work in his school system. Instead of relying on oil from 8,000 miles away, he is heating one school with pellets made in Franklin County, just eight miles away. He's looking to expand the program to all the schools in his district.

And a facility in Strong will provide the pellets.

Quentin is creating opportunities by being smart about energy.

Solar, hydroelectric and the potential for pumped storage round out our impressive energy mix.

Maine sits at the center of a growing energy hub, not only for us but for all of New England.

To the north in Canada, there are vast sources of clean, cheap and renewable energy. To the south, millions of people hungry for renewable, clean, reliable energy supplies.

As anyone in real estate can tell you, the three most important assets you can have are location, location and location.

Our location puts us in a position to become a renewable energy engine for our country. We can help deliver on the promise of a new energy future – one that reduces the impact on our climate, and stabilizes and reduces the cost of electricity for Maine.

But if we want to capitalize on our advantages, we must be aggressive.

As we transition our economy from oil and utilize more electricity for our energy needs, we must strengthen and improve our electrical grid.

That means more reliable transmission and greater capacity to handle the new energy resources that are being developed.

Consider the Maine Power Reliability Project, proposed by Central Maine Power. This upgrade of our existing grid has the potential to pump $1.5 billion dollars into our State's economy and create more than 2,000 jobs over four years.

That translates into more than $240 million dollars in new wages and salaries.

In addition, we need to connect Aroostook County's electric grid to the rest of Maine and New England. We can't continue with part of our State isolated from the rest.

And while we need to be able to move quickly to review new projects when they are proposed, that doesn't mean relaxing our standards.

Every project must be judged on its details and must be right for Maine.

But we must move forward.

We also must rethink the assets we have, and put them to the most efficient use.

Right now in Maine, we have transportation corridors that run the length of our State.

We need to transform them into much more.

Today I signed a Memorandum of Understanding with Bangor Hydro to explore the potential use of the right-of-way that exists along our interstates and roads for new, underground transmission lines.

Instead of a transmission company negotiating with hundreds of individual landowners and communities, they can utilize right-of-ways that already exist. There's less impact on the environment and less impact on people.

Transportation corridors will become commerce corridors.

The idea also has the potential to speed an exciting proposal currently under consideration.

Bangor Hydro's Northeast Energy Link, which would run from Orrington to Boston, has the potential to inject $2 billion dollars into Maine for the construction of a new transmission line that would move eleven hundred megawatts of clean, renewable electricity.

The line would support the growth of vast wind resources and help to drive down the prices for electricity in Maine and throughout the region.

We are also investigating the potential for second energy corridor that would run between Maine and New Brunswick.

Our shared objective with New Brunswick is to increase the long-term supply of secure, reliable and clean energy to our region. The work will also include the accelerated development of renewable power and an improved grid in Maine.

These commerce corridors would house appropriate projects, generating tens of millions of dollars each year in new revenue for the State.

Those resources would be used to meet our weatherization and energy efficiency goals, to invest in top quality energy research and other State priorities, including tax relief.

And the corridors would make it quicker and easier for major projects to get started, putting people to work faster.

A third possible transmission line is being discussed as part of the plans for pump storage in Wiscasset.

Riverbank Power wants to spend about $1 billion dollars to construct an underground hydro generation facility in Wiscasset.

The facility would then be connected to Boston by a proposed $1 billion dollar underwater transmission line.

With just a small handful of projects, Maine has the potential to benefit from more than $5 billion dollars of direct, private-sector investment.

And if we meet our stated goal of developing 3,000 megawatts of wind power, Maine will see an additional $7.5 billion dollars of energy investment.

The massive size of the proposed investments – at least $12 billion dollars and growing – demonstrates Maine's central position in the growth of renewable energy, and our great potential for energy self-sufficiency and to lower energy prices for Maine people and businesses.

At stake are thousands of jobs, new economic development, and millions of dollars of potential revenues for the State that can support our priorities.

When it comes to energy, Maine and New Brunswick have a close and necessary relationship. We have to work together, and that means making compromises for our better energy future on both sides of the border.

As we move forward with new and exciting energy partnerships, it is critical that the Canadian government support our efforts to bring new, liquefied natural gas terminals to Washington County.

LNG has an important role to play as Maine transitions from oil to renewables, and the proposed terminals in Washington County give economic hope to a region that needs new industry.

All of these projects will create thousands of good-paying, private-sector jobs in Maine just when we need them the most.

To capitalize on these new jobs and to build the industries of the 21st Century, Maine must invest in education, innovation, and research and development.

A generation ago, a high school diploma opened the door to a good job that could last a lifetime. That's not true anymore. Success today depends on a college education.

That's why I propose significant investments in Maine's institutions of higher learning so they can serve more students and make energy efficient improvements that will save money that can be put toward the classroom.

That's why I propose an advanced technology and engineering campus as part of our redevelopment plans for Brunswick Naval Air Station.

The center will bring together the University of Maine and Southern Maine Community College in a joint venture that will support the economic development of the Midcoast while also training students for the good jobs of the future.

This collaboration between the university and community college should be a model for greater cooperation between our institutions of higher learning.

We need to break down the walls that separate the systems and instead build bridges for greater efficiencies.

There's great potential for working together and saving money. And that means more resources for students and teachers.

Tonight as we examine the State of our State, I want to take a few moments to thank the men and women of the Maine National Guard, who every day make us proud, whether it's serving in Iraq or Afghanistan or responding to an emergency right here at home.

Right now, we have 15 members of the Guard serving in Iraq and Afghanistan, and hundreds more preparing for deployment later this month and early next year.

All of these brave men and women are close to our hearts even when they are many miles from home.

We pray for their safety, and offer our sincere gratitude for their service.

In closing, I would like to return to Governor Brann, who served our State during the worst of economic times.

He said: "Maine women and Maine men have never faltered in the crisis. The ruggedness and stern grandeur of our land are reflected in the character of our people. The future of Maine has always been safe in the hands of its sons and daughters, and never more so than today."

Now in 2009, we have within reach the power to shape our own future, to write the next chapter in this Great State's story.

When our grandchildren and their children look back, I want them to see in us a generation that answered the call, that transformed Maine.

Our way forward is not just about energy. Or a cleaner environment, or even the jobs we'll create today, although all those things are important.

What I'm talking about is a new economy, one that's built to succeed in a rapidly changing world. But it's an economy that will rely upon those same Maine traits that have served us so well: Honesty, Integrity, Quality, Pride and Workmanship. Maine Built is Best Built.

There's a new era of opportunity and prosperity on the horizon. We will get there together.

Thank you.

Good night.

STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE LEIGH INGALLS SAUFLEY
MARCH 17, 2009

Providing Justice in Challenging Times

Thank you, President Mitchell, and good morning, Governor Baldacci, Speaker Pingree, Members of the 124th Maine Legislature, Members of the Court, friends, and my always supportive family, it is an honor to present this report on the State of Maine's Judiciary.

I am also pleased to be joined here today by representatives of other courts: Judge Kermit Lipez of the U.S. First Circuit Court of Appeals; Probate Judge Donna Bailey; Penobscot Tribal Judge Eric Mehnert; and Steven Brimley with the Houlton Band of Maliseets.

Before I begin the actual report on the State of Maine's Judiciary, I want to recognize the historic significance of this occasion.

This is the first time that any Chief Justice in Maine has been invited to address the Joint Convention of the State Legislature by a female Senate President, and a female Speaker of the House, at a time when we can look into the gallery to the Attorney General, who is also a woman. This is an historic occasion for the State of Maine, and it is such an honor for me to be a part of this day. I want to ask Senate President Libby Mitchell, Speaker of the House Hannah Pingree, and Attorney General Janet Mills to stand so that we can celebrate this wonderful occasion.

On a decidedly lighter note, today is St. Patrick's Day. You will see that I am wearing the green. Now, to be sure, my ancestry is almost entirely Scottish and English. I was told, however, that on St. Patrick's Day everyone is Irish. I was told this, you must understand, by the Irish Trial Chiefs—Chief Justice Humphrey and Chief Judge Murray. Even Deputy Chief Judge LaVerdiere is Irish. So in the spirit of the day, let me present to you my other colleagues: Justice Robert O'Clifford, Justice Jon O'Levy, and Justice Ellen O'Gorman. To all of our Irish friends, to all of our non-Irish friends, here's a salute to St. Patrick, who, the Governor informs us, was Italian.

Now to the serious matters confronting us.

Recently, I was honored when the Governor nominated me to serve a second term as Chief Justice, and I am forever grateful for your confidence in confirming me. But I confess that I feel the responsibility of our work more acutely as we watch the good people of this State struggle with the most serious economic downturn we have experienced in decades. And I know, from spending just a little time in the halls of this building, that you, too, are feeling the extraordinary responsibility of government to the people who are hurting. Our friends and neighbors are losing their jobs, their homes, their businesses.

Last week, Judge John Romei called me from the Calais courthouse. He had just learned that the Woodland Mill in Baileyville would be closing. Judge Romei, like so many other judges in Maine, has spent years working with people in the Adult Drug Treatment Court, helping them to maintain sobriety, find jobs, and regain their families. As we talked, he asked me a simple question: what are they going to do? Across the State, those quiet conversations are being repeated. That question in government always evolves into another: what are we going to do to help?

Last Tuesday, Governor Baldacci gave us reasons to be hopeful about the future of Maine's economy. I am here today to tell you why, working together, with vigilance and creativity, we can be equally hopeful about the delivery of justice in the future, and why our vision of a justice system that is responsive to the needs of Maine people is both critical and achievable, even though the next two years will be very difficult.

ACCESS TO JUSTICE IS CRITICAL

Justice is not simply an important part of government; it is critical to democracy. If justice fails, democracy fails. The very first words of the Constitution of the State of Maine recognize this fact: "We the people of Maine, in order to establish justice …."

This concept is foundational to all three branches of government. Each branch, Executive, Legislative, and Judicial must be strong, independent, and capable of carrying out its responsibilities in order for democracy to survive. Make no mistake: democracy is a fragile thing. Coretta Scott King reminded us: "Democracy is never a final achievement. It is a call to an untiring effort."

That untiring effort occurs every day in these halls. As legislators, you work to assure that Maine laws reflect

your vision of justice. When you are done with your work, the Executive Branch must be ready to effectuate the laws, and the Judicial Branch must be able to enforce them.

The economic development you and the Governor are working so hard to generate will require prompt resolution of the zoning, regulatory, and contractual disputes that inevitably arise during the process. Your efforts to protect children, defeat domestic violence, and reduce crime require a court system with the resources to carry out your vision of justice. We must, therefore, work together to assure that the Maine courts are there when our citizens need them.

PROVIDING ACCESS TO JUSTICE IN HARD ECONOMIC TIMES

How then, in economically devastating times, do we assure the continued viability of justice in Maine? We must look ahead to better times, and we must have the roadmap toward prosperity in mind. We must be clear-eyed, however, about the current challenges. There are three principles that will guide us through these very challenging times:

- Priority cases involving children and families, violence or sexual assault, and victims of crimes will continue to be scheduled first.
- Second, we must make every effort to maintain our basic infrastructure, so that, as the economy recovers, and the sun rises on Maine again, we can rebuild a strong justice system quickly.
- Third, we must take this opportunity to think creatively about the delivery of justice. Innovations that improve efficiencies, and position the courts for effective streamlined delivery of justice in the future, will be crucial.

THE STATE OF THE JUDICIARY

Keeping these principles in mind, I turn to the current state of Maine's Judiciary. I would describe it in one word: **PRECARIOUS**.

Much improvement has occurred in the last decade, and further improvements are in the works, but we are at a crossroads, and we must be vigilant if we are to emerge from the next two very challenging years with an intact system of justice.

Just a year ago, the State's system of justice was rebounding from years of under funding. Many efficiencies had already been undertaken: our centralized administration eliminated duplication of personnel and administrative costs; 22 of our 41 clerks' offices had been consolidated into 11 streamlined offices; library costs were substantially reduced through electronic research capacity and local publishing; out-of-state travel has been restricted, and in-state travel has been reduced; video conferencing capacity was expanded throughout the state to save time and travel costs.

Accompanying those efficiencies, and with your help, we had made progress in several areas. Security had been substantially improved, the equipment was in place and you had authorized, but not yet funded, new positions to screen guns from the courthouses. A new consolidated courthouse was authorized to replace the outmoded and dangerous courts in Bangor. That environmentally responsible new courthouse will meet Maine Benchmark standards and will open on time and on budget. The Drug Treatment Courts had expanded into child protection cases, with an emphasis on reunifying families. The Business and Consumer Docket had been launched with very positive results.

Then the economy began its downward slide. Two problems combined to create the precarious circumstances now facing Maine citizens in need of justice. First, the State was unable to find new funds for the increased demand for constitutionally required services in criminal prosecution and child protection cases, and the money had to be taken from court operations. Second, across-the-board cuts further reduced the Judicial Branch budget. Last year, that combination resulted in the loss of approximately $3 million from Judicial Branch operations and, given our previous efficiency efforts, left us with very few options.

The Judicial Branch does not have programs. We were, therefore, left with three stark options to manage that deficit: losing staff, closing courthouses, or violating the basic constitutional responsibility of the State in prosecutions.

Because, as jurists, we could not allow the Constitution to be violated, the end result had to be fewer courthouses or fewer staff.

Only the Legislature can close courthouses. We, therefore, reconvened the Courthouse Advisory Committee, with representatives from all three branches of government, to consider whether courthouses should be closed to save money. After multiple meetings, that Committee unanimously recommended that we should not further reduce the public's access to courthouses, especially in these very tough times.

The need for rural courthouses becomes clear when we consider the substantial recent increase in homicides in Maine. The Attorney General's Office estimates that

more than 60% of those recent deaths were related to domestic violence. It is already difficult for many people to reach a courthouse to obtain protection from abuse. If we close our few rural courthouses, we may leave victims of violence with no options. Although the future may bring many better options for distance justice through technology, until those systems are in place, closing rural courthouses will rarely be a wise choice.

You can see where this leads. If constitutionally required payments for the representation of poor people charged with crimes cannot be reduced, and if we are committed to providing access to justice in rural Maine, the only area left to cut is the number of people who are providing justice.

And that is what we have done. In the last year, we eliminated 9.5 positions, and we have had to maintain more than 40 vacancies, including the equivalent of two judges, and many marshals and clerks. These reductions have had a serious effect on our citizens.

- Public court hours have been reduced in six courthouses (the District Courts in York, Springvale, Portland, Biddeford, Belfast, and Bridgton, and the Superior Courts for Cumberland, Waldo, and York Counties);
- Both staff time and judge time in the Business and Consumer Docket have been cut in half;
- People seeking compensation for injuries or those trying to clear up zoning, contract, or land disputes, are waiting longer and longer for their day in court;
- Homeowners with nonpaying tenants cannot get their cases reached and may face foreclosure;
- Small businesses cannot get prompt resolution of their small claims cases; and
- Most distressing, courthouse safety has suffered. Last year, we were on our way to providing entry screening on 25% of the court days in Maine. This year, we have been able to staff that security need on only 5% of our court days.

The budget proposed for the next biennium results in approximately the same staffing shortages. We recognize and appreciate the Governor's efforts to spare Maine people an even greater loss of justice. But this current situation is—precarious. Only 462 people, including all of our judges, clerks, and marshals, are left to run an entire statewide court system that receives approximately 280,000 new cases each year.

And behind every court case is a disrupted life, from families in turmoil, or neighbors disputing boundaries or land use, to people injured in car accidents; from the relatively benign distress of receiving a speeding ticket, to the violent victimization by professed loved ones; from small business owners struggling to obtain payment for their work, to victims of elder abuse or exploitation.

We hope that the shortage of people to provide justice is short-lived. But it is taking its toll already. Justice cannot be outsourced. People make the system work. Our staff is working harder every day under increasingly stressful conditions. We must look toward the day when we can re-staff the courts.

HOW TO DELIVER JUSTICE

How then do we find a way to deliver justice when resources are so limited? We have been fortunate to have a great deal of collaboration with the Legislative and Executive Branches. Many of you have come to our courthouses and served on various committees to help us find creative solutions. The Judiciary Committee worked with us to review in detail the fiscal status of the courts and to make recommendations for improvements and innovation.

The public has also benefited from the generosity and assistance of Maine lawyers. Lawyers who work in Maine give of their time and their money for poor Mainers in need of assistance at unprecedented rates.

And despite the now-chronic staffing shortages, the men and women of the Maine courts have pulled together to keep the ship afloat. I cannot express fully my gratitude for the work that our judges, justices, and magistrates accomplish every day. And they could not accomplish what they do without the heart and soul of the system, the clerks, marshals, and administrators who keep the courts running.

It is because of the work of these fine people that we have continued to move forward in this last year, despite overwhelming demands.

- Through the efforts of Chief Justice Humphrey and Justice Nivison, we have been able to keep the Business and Consumer Docket alive;
- The consolidation of courthouses in Houlton and Bangor is almost complete. There will be two buildings where we once had to staff and secure four;
- Through the leadership of Justice Gorman, the creativity of talented trial judges, and the support of District Attorney Stephanie Anderson and the defense lawyers, we have launched the first of its kind Unified Criminal Docket to streamline the

processing of criminal cases. Criminal charges are being addressed much more quickly, and we already have indications that the streamlined process will save substantial amounts of money;

- With the input and assistance of the Media and the Courts Committee, under the leadership of Justice Joe Jabar, we expanded camera access to Maine courtrooms, providing the public a greater opportunity to observe justice at work;
- To assure that the public can continue to place its trust and confidence in the legal professionals of this state, with the support of Maine lawyers, we have enacted a brand new lawyer code of conduct;
- Our staff held brainstorming sessions across the State to provide us with new ideas for efficiencies and cost savings, and many of their ideas are already in place;
- With everyone in the Judicial Branch pitching in, revenues from this Branch have not fallen, even in the face of the vacancies. The FY'08 revenue collection was 29% higher than 5 years ago, and the 2009 revenues are expected to reach almost $50 million;
- Responding to Maine's growing diversity, we have improved our language interpreter services for the public, and we have created new responses to the growing ethnic and religious diversity in Maine's Courts. Rachel Talbot Ross, Director of the Portland Division of the NAACP, saw a problem in the way our criminal justice system was responding to issues of respect for religious attire. With Rachel's help, and assisted by Sheriff Mark Dion and Zack Heiden of the MCLU, the Courts and the Jails are changing their policies. These improvements are being accomplished without rancor or litigation, in contrast to the experiences in other states. It has been a terrific example of the way Maine works;
- This year, the Co-Occurring Disorders Court, which addresses the tragedies caused by the confluence of mental illness and substance abuse will, against all odds, expand into another county very shortly, using no new general fund dollars; and
- Overall, the Drug Treatment Courts have continued their extraordinary work, restoring lives, supporting sobriety, and, in the last year, helping seven more babies come into this world drug-free.

UPCOMING INITIATIVES

As you can see, much has been accomplished in this very challenging time, and there is much more on the horizon.

1. Judicial Branch Initiatives & Collaboratives

(a) Foreclosure Diversion

For example, within the month, through the tireless work of Justice Jon Levy, the Judicial Branch will establish a Task Force to create a Foreclosure Diversion program aimed at helping Maine people who are facing the loss of their homes. I am pleased to say that the Justice Action Group and Maine banks are working with us in this effort, giving us reason to hope for effective solutions.

(b) Juvenile Justice Task Force

Shortly, we will be convening a Juvenile Justice Task Force. This Task Force will represent a first-of-its-kind collaboration of the Judicial Branch, the Children's Cabinet, and the University of Maine School of Law. Working in a very short timeframe, we will launch a new era of coordination, and increased effectiveness and efficiency of early community response to children and families in crisis.

To be sure, Maine has made great strides in improving its youth-focused efforts. Great progress has been made with the state's juvenile correctional facilities. From a time when our Youth Center was frankly abysmal, to the recent national accreditation and recognition that Long Creek and Mountain View are among the best in the nation, we have come a long way. And the response to child abuse in Maine has also substantially improved. The number of Maine children in state custody has steadily dropped for the first time in decades, and the number of Maine children who are placed with family members has increased substantially.

But, despite all of these very important improvements, we still find too many of our youth are dropping out of high school, are disconnected from positive peers and communities, and are not coming out of adolescence with the skills necessary to become productive adults.

The Juvenile Justice Task Force will help us develop a coordinated process to identify youth and families in the beginning stages of distress. It should not matter whether the first identification of problems is by a school, the Department of Health and Human Services, the police, the courts, or other community entities; the response should be consistent, swift, and effective. We must use the growing body of evidence about "what works," and find a way to coordinate available services, provide direction before our youth become disaffected, and keep them in, or return them to, school. One of the strongest predictors for joblessness, criminal behavior, and illness, is the disconnection from school and peers. It is estimated nationally

that 68% of the prison population never finished high school. We do not want to be building new prisons and jail cells in the future, and we must turn our attention to this enormous challenge for Maine youth. The potential for real, lasting, and effective change through this effort is very exciting.

Once again, several of you have committed to helping us with these Task Forces, and we are grateful for your assistance.

2. Initiatives Requiring Legislative Approval

In addition, there are three upcoming initiatives that will require your attention and have the potential for great improvements.

(a) Facilities

First, thanks to Senate President Mitchell, there is a bill before you, L.D. 882, that will create a single, modernized, LEEDS certified courthouse for Augusta, which is long overdue. The court facilities in Augusta are cramped, disrespectful of our citizens, and often dangerous. President Mitchell's bill would consolidate three different facilities under one roof, streamline the provision of security and technology, and provide a community justice center in the state's capital. Two other similar, though much smaller, projects will be proposed in Washington and Piscataquis Counties. These projects, which bring needed jobs, and create future efficiencies, could make a world of difference in each of their communities.

(b) Indigent Legal Services Commission

Next, does this sound familiar? "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford one, an attorney will be appointed to represent you at the State's expense." Hopefully, it sounds familiar only because you have watched too many episodes of Law and Order. But the quotes are not just drama. They are drawn directly from constitutional law established by the United States Supreme Court. The State *must* pay for attorneys to represent impoverished Mainers who are charged with crimes or are the subject of child abuse petitions.

The Indigent Legal Services Commission, Chaired by Justice Robert Clifford, will create an independent system for constitutionally required legal services connected to the prosecution of criminal and child protection cases. As you have heard, the budget for those services in Maine is oddly placed in the Judicial Branch. Having judges responsible for the payment of one party's attorney, and in no way involved in payment or decision-making regarding the other parties, creates the appearance of a conflict of interest that has become intolerable.

You would never think of putting the prosecutors, the District Attorneys and Attorneys General, within the Judicial Branch budget, and the defending attorneys do not belong there either. I cannot urge you strongly enough to support this proposal, which will not require any new funding. We must eliminate this intolerable appearance of conflict.

(c) Technology

Third, we cannot move the court system forward without real technological solutions. For several years, I have been talking to you about the need for improved accessibility through technology. The current information management in the courts is expensive; cumbersome; costly for staffing, mailing, and storage; and frankly outmoded.

There is an opportunity this year, through grant funding, to completely update the court's technology. We are collaborating with Commissioner Ann Jordan in the Department of Public Safety and several other Executive Branch Departments to seek the necessary grant and stimulus funds for technological improvements. In addition to creating good, high tech, short-term jobs, this initiative will substantially upgrade the technological infrastructure of the court system and our criminal justice system, and it will improve efficiencies going forward.

Perhaps more important than any of the efficiencies or dollars saved in the long run would be the improvement in both the public's access to court-related matters, and the improvement in community safety that would be provided through enhanced criminal justice information systems.

What Can You Do to Assure that Justice is Meaningful for Your Constituents?

Finally, I come to the question that so many of you have asked this year. Given the current General Fund deficit, and the prospect of further reductions, how *can* you help us make sure that, when your constituents need help from the courts, there is a courthouse near them; there is a clerk who will answer the phone; there is a judge who can hear their case, and a marshal to keep them safe.

There are several concrete things you can do right now:

1. Support the Judicial Branch budget, as recommended by the Judiciary Committee, which worked hard to find solutions without requiring new general fund dollars. That budget is based on the recommendations of Governor Baldacci, and provides important management tools to help us to make the most of those dollars. Do not cut further into funding for justice.
2. Support President Mitchell's bill, L.D. 882, which will provide much-needed courthouse improvements, and which, like the other infrastructure projects you are reviewing, will generate local jobs and create efficiencies for the future.
3. Support the recommendations of Justice Clifford's Indigent Legal Services Commission. It will be sufficiently funded from current resources, will not require a single new dollar, and will restore confidence in our criminal justice system.
4. Support the grant funding proposals for the technology that will make the courts more accessible and efficient, and will improve community safety.
5. Keep an eye out for the pot of gold that could be waiting at the end of a rainbow. If there is any opportunity, help us return safety and staff to our courthouses.

Finally, I pledge to keep working with you and your communities. It was a wonderful experience for the Court to sit in Eastport, Winthrop, Bangor, Augusta, and Sanford last fall. Consider inviting us to bring Oral Arguments to a school near you. We have the schools lined up for this fall, and we are looking for suggestions for the fall of 2010.

In honor of the day, I leave you with this brief Irish Blessing that seems just perfect for those of us in Government.

May you have the Hindsight to know where you've been
The Foresight to know where you're going
And the Insight to know when you're going too far.

Happy St. Patrick's Day.

CROSS REFERENCE TABLES

TABLE I

Sections of the Maine Revised Statutes affected by the laws of the First Regular Session of the 124th Legislature and the Revisor's Report 2007, Chapter 2 of the 123rd Legislature.

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
1	150-C			NEW	PL 51		1
1	150-D			NEW	PL 210		1
1	353			AMD	PL 341		1
1	402	2	E	AMD	PL 334		1
1	402	2	F	AMD	PL 334		2
1	402	2	G	NEW	PL 334		3
1	402	3	N	AMD	PL 176		1
1	402	3	N	AMD	PL 339		1
1	402	3	O	AMD	PL 176		2
1	402	3	O	AMD	PL 339		2
1	402	3	P	NEW	PL 176		3
1	402	3	P	NEW	PL 339		3
1	402	4		NEW	PL 334		4
1	403			AMD	PL 240		1
1	405			AMD	PL 240		2
1	407	2		AMD	PL 240		3
1	408	6	B	AMD	PL 240		4
1	409	1		AMD	PL 240		5
1	409	3		AMD	PL 240		6
1	409	4		NEW	PL 423		1
1	1009			AMD	PL 208		1
1	1012	2-A		NEW	PL 208		2
1	1012	4		AMD	PL 258		1
1	1012	6		AMD	PL 208		3
1	1012	8		AMD	PL 208		4
1	1014	2		RP	PL 258		2
1	1014	2-A		NEW	PL 258		3
1	1015	3	B	AMD	PL 286		1
1	1101	1		AMD	PL 284		1
2	6	12		NEW	PL 419		1
2	6-A	3	B	AMD	PL 122		1
2	6-A	3	D	AMD	PL 122		2
2	9	2-A		NEW	PL 372	H	1
2	9	3		AMD	PL 372	H	2
2	102	3		AMD	PL 194		1
2	103	3	F	AMD	PL 355		1
2	103	3	G	AMD	PL 355		2
2	103	3	H	NEW	PL 355		3
2	104	1-A		AMD	PL 179		1
3	2		1	AMD	PL 213	LL	1
3	2		8	AMD	PL 431		1
3	312-A	7-B		NEW	PL 282		1
3	312-A	10		AMD	PL 234		1
3	312-A	11-A		AMD	PL 282		2
3	312-A	14-A		NEW	PL 282		3
3	317	1	E-1	NEW	PL 282		4
3	317	1	J	AMD	PL 282		5
3	327			NEW	PL 137		1
3	753			AMD	PL 415	A	1
3	959	1	P	AMD	PL 122		3
4	1			AMD	PL 213	QQ	1
4	18-B	12		NEW	PL 402		1
4	28			NEW	PL 213	QQ	2
4	104			AMD	PL 136		1
4	104			AMD	PL 402		2
4	115			AMD	PL 1	J	1
4	152	9		AMD	PL 112	B	1
4	152	10		RP	PL 112	B	2
4	155	2		AMD	PL 245		1
4	155	3-A		NEW	PL 245		2
4	157-B			AMD	PL 136		2
4	157-B			AMD	PL 402		3
4	162			AMD	PL 415	B	1
4	163	3		RP	PL 415	B	2
4	501			AMD	PL 166		1
4	951-A			NEW	PL 74		1
4	1057	3-A		AFF	PL 213	GGG	7
4	1057	3-A		AMD	PL 213	GGG	1
4	1059			NEW	PL 417		1
4	1201	9		AFF	PL 254		4
4	1201	9		AMD	PL 254		1
4	1301		1	AMD	PL 415	A	2
4	1302	3		AMD	PL 267		1
4	1357	3		RPR	PL 415	A	3
4	1358	1	A	AMD	PL 433		1
4	1358	1	A-1	NEW	PL 433		2
4	1606	2		AMD	PL 213	WWW	1
4	1801			NEW	PL 419		2
4	1802			NEW	PL 419		2
4	1803			NEW	PL 419		2
4	1804			NEW	PL 419		2
4	1805			NEW	PL 419		2
5	5			AMD	PL 74		2
5	11			AMD	PL 213	BBB	1
5	48-A			AMD	PL 174		1
5	82	3-A		NEW	PL 74		3
5	82	8		RP	PL 74		4
5	82-B	1		AMD	PL 74		5
5	82-B	3	B	RP	PL 74		6
5	82-B	7		AMD	PL 74		7

CROSS REFERENCE TABLE I

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
5	102	16	A	AMD	PL 56		1
5	108	2		AMD	PL 56		2
5	200-H	1		AMD	PL 149		1
5	200-I	6		RP	PL 240		7
5	246	3		AMD	PL 303		1
5	282	7		AMD	PL 372	F	1
5	282	8		AMD	PL 372	F	2
5	282	9		NEW	PL 372	F	3
5	285	1	F-7	NEW	PL 233		1
5	285	7		RPR	PL 213	GG	1
5	285	7-A		NEW	PL 213	GG	2
5	285	7-B		NEW	PL 213	GG	3
5	285	14		NEW	PL 456		1
5	285-A	2		AMD	PL 64		1
5	286-B	2		AMD	PL 213	N	1
5	948	1		AMD	PL 317	A	1
5	949	1	B	AMD	PL 122		4
5	949	1	D	AMD	PL 122		5
5	949	1	D	AFF	PL 372	A	10
5	949	1	D	AMD	PL 372	A	1
5	949	1	D-1	AFF	PL 372	A	10
5	949	1	D-1	RP	PL 372	A	2
5	959			NEW	PL 419		3
5	1507		1	AMD	PL 213	OOO	1
5	1507		3	AMD	PL 213	OOO	3
5	1507	5-C		NEW	PL 213	OOO	2
5	1582	4		AMD	PL 213	BB	1
5	1585	1		AMD	PL 291		1
5	1591	3		NEW	PL 213	QQ	3
5	1591	3		AFF	PL 213	HHH	3
5	1591	3		NEW	PL 213	HHH	1
5	1677			RP	PL 213	WW	1
5	1710-F	2		AMD	PL 461		1
5	1742	25		AMD	PL 1	CC	1
5	1742	26	C	AMD	PL 1	CC	2
5	1742	26	E	NEW	PL 1	CC	3
5	1742	27		RP	PL 1	CC	4
5	1766-A			AMD	PL 329	A	1
5	1816-A	4		NEW	PL 221		1
5	1985			NEW	PL 165		1
5	2031			RP	PL 369	A	1
5	3305	1	M	AMD	PL 213	M	1
5	3327			AFF	PL 372	A	10
5	3327			RP	PL 372	A	3
5	3358			RP	PL 213	Q	1
5	3358			RP	PL 369	A	2
5	3360	2-A		NEW	PL 79		1
5	3360	3	E	AMD	PL 447		1
5	3360	3	G	AMD	PL 336		1
5	3360	3	H	AMD	PL 336		2
5	3360	3	I	RP	PL 336		3
5	3360	4		AMD	PL 79		2
5	3360-B	3		AMD	PL 79		3
5	3360-M	2		AMD	PL 79		4
5	4611			AMD	PL 235		1
5	4612	1	B	AMD	PL 235		2
5	4613	2	C	AMD	PL 235		3
5	4622	1	C	AMD	PL 235		4
5	4654	5		AMD	PL 94		1
5	4655	1-A		NEW	PL 263		1
5	4655	6		AMD	PL 94		2
5	6203	3	B	AMD	PL 178		1
5	6203	3	C	AMD	PL 178		2
5	7029			NEW	PL 191		1
5	7030			NEW	PL 191		1
5	7030-A			NEW	PL 191		1
5	7030-B			NEW	PL 191		1
5	7030-C			NEW	PL 191		1
5	7030-D			NEW	PL 191		1
5	7030-E			NEW	PL 191		1
5	7030-F			NEW	PL 191		1
5	7051	6		AMD	PL 415	A	4
5	8053	3		AMD	PL 256		1
5	8053	5		AMD	PL 256		2
5	8053	6		AMD	PL 256		3
5	8053	7		NEW	PL 256		4
5	10051	3		AMD	PL 112	B	3
5	12004-A	6		RP	PL 369	A	3
5	12004-A	27		AFF	PL 344	E	2
5	12004-A	27		RP	PL 344	A	1
5	12004-A	33-A		AFF	PL 344	E	2
5	12004-A	33-A		RP	PL 344	A	2
5	12004-A	49		AFF	PL 344	E	2
5	12004-A	49		NEW	PL 344	A	3
5	12004-G	4		RP	PL 369	A	4
5	12004-G	4-D		NEW	PL 352		1
5	12004-G	10-C		NEW	PL 372	B	1
5	12004-G	13-F		AFF	PL 372	A	10
5	12004-G	13-F		RP	PL 372	A	4
5	12004-G	14-E		RP	PL 369	A	5
5	12004-G	14-G		NEW	PL 355		4
5	12004-G	25-A		NEW	PL 419		4
5	12004-G	33-E		RP	PL 90		1
5	12004-I	18-E		RP	PL 369	A	6
5	12004-I	20-B		AFF	PL 372	A	10
5	12004-I	20-B		RP	PL 372	A	5
5	12004-I	24		AMD	PL 211	B	1
5	12004-I	24		RP	PL 369	A	7
5	12004-I	32		AMD	PL 415	B	3
5	12004-I	33		AMD	PL 415	B	4
5	12004-I	34		AMD	PL 415	B	5
5	12004-I	47-F		RP	PL 369	A	8
5	12004-I	54-B		RP	PL 174		2
5	12004-I	57-D		RP	PL 369	A	9
5	12004-I	73-B		NEW	PL 262		1
5	12004-I	74-F		NEW	PL 353		1
5	12004-I	75-C		RP	PL 30		1
5	12004-I	88-A		NEW	PL 191		2
5	12004-J	10		RP	PL 213	Q	2
5	12004-J	10		RP	PL 369	A	10
5	12004-J	17		NEW	PL 174		3
5	12006	2		AMD	PL 369	A	11
5	12006	3	C	AMD	PL 369	A	12
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37-B	741	3	G	AMD	PL 252		1

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
37-B	745	2		AMD	PL 252		2
37-B	745	3		AMD	PL 252		3
37-B	745	4		AMD	PL 252		4
37-B	784-B			NEW	PL 175		1
37-B	797			AMD	PL 252		5
37-B	799			AMD	PL 252		6
37-B	805			AMD	PL 252		7
37-B	806	4	A	AMD	PL 252		8
37-B	901			RP	PL 252		9
37-B	902			RP	PL 252		9
37-B	903			RP	PL 252		9
37-B	904			RP	PL 252		9
37-B	905			RP	PL 252		9
37-B	906			RP	PL 252		9
37-B	907			RP	PL 252		9
37-B	908			RP	PL 252		9
37-B	909			RP	PL 252		9
37-B	910			RP	PL 252		9
37-B	911			RP	PL 252		9
37-B	912			RP	PL 252		9
37-B	913			RP	PL 252		9
37-B	914			RP	PL 252		9
37-B	915			RP	PL 252		9
38	341-D	4		AMD	PL 121		1
38	343-D	2		AMD	PL 121		2
38	343-H	3	B	RP	PL 121		3
38	343-H	4		AMD	PL 121		4
38	344	10		NEW	PL 121		5
38	344-A		1	AMD	PL 270	A	1
38	349-B	1	B	NEW	PL 360		1
38	349-B	1	C	NEW	PL 360		2
38	349-B	2		AMD	PL 360		3
38	352	3		AMD	PL 160		1
38	352	5-A		AMD	PL 374		1
38	353	3-B		NEW	PL 374		2
38	353-B	2	A	AMD	PL 213	FFFF	2
38	353-B	7		NEW	PL 213	FFFF	3
38	361-A	1-J		AMD	PL 121		6
38	361-A	1-K		AMD	PL 121		7
38	410-I	3		NEW	PL 213	FFFF	4
38	411-C			NEW	PL 377		3
38	424-B			NEW	PL 213	FFFF	5
38	441	1		COR	RR 2		25
38	467	1	C	AMD	PL 163		1
38	467	1	D	AMD	PL 163		2
38	467	4	A	AMD	PL 163		3
38	467	4	I	AMD	PL 163		4
38	467	7	E	AMD	PL 163		5
38	467	7	F	AMD	PL 163		6
38	467	9	B	AMD	PL 163		7
38	467	12	B	AMD	PL 163		8
38	467	13	A	AMD	PL 163		9
38	467	15	C	AMD	PL 163		10
38	467	15	F	AMD	PL 163		11
38	467	16	B	AMD	PL 163		12
38	468	1	A-1	NEW	PL 163		13
38	468	1	B	AMD	PL 163		14
38	468	1	C	AMD	PL 163		15
38	468	1	D	AMD	PL 163		16
38	468	1	J	NEW	PL 163		17
38	468	4	D	NEW	PL 163		18
38	468	7	D	NEW	PL 163		19
38	468	7	E	NEW	PL 163		20
38	468	7	F	NEW	PL 163		21
38	469	5	B	AMD	PL 163		22
38	470-F			AMD	PL 369	A	35
38	480-B	9-A		AMD	PL 295		1
38	480-HH			NEW	PL 270	A	2
38	480-Q	2	B	AMD	PL 460		1
38	480-Q	2-A		AMD	PL 460		2
38	480-Q	25		AMD	PL 75		1
38	480-Q	26		AMD	PL 75		2
38	480-Q	27		NEW	PL 75		3
38	480-Q	28		NEW	PL 75		4
38	480-Q	29		NEW	PL 75		5
38	484	1		AMD	PL 293		1
38	485-A	1-C		AMD	PL 293		2
38	486-B			NEW	PL 293		3
38	489-A	2		AMD	PL 293		4
38	490-D	1		AMD	PL 293		5
38	490-Z	1		AMD	PL 293		6
38	552	2		AMD	PL 121		8
38	561			AMD	PL 121		9
38	562-A	1-A		AMD	PL 319		1
38	562-A	15-A		NEW	PL 319		2
38	562-A	15-B		NEW	PL 319		3
38	562-A	21		AMD	PL 319		4
38	563	4		AMD	PL 121		10
38	564	2-A	J	AMD	PL 319		5
38	564	2-A	K	AMD	PL 319		6
38	564	2-A	L	NEW	PL 319		7
38	566-A	4		AMD	PL 121		11
38	568	1		AMD	PL 121		12
38	568	3		AMD	PL 319		8
38	568	4	A	AMD	PL 121		13
38	568-A	1	F	AMD	PL 319		9
38	568-A	1	F-1	NEW	PL 319		10
38	568-A	1	L	NEW	PL 319		11
38	568-A	7		AMD	PL 319		12
38	568-B	3		AMD	PL 319		13
38	569-A	2		AMD	PL 121		14
38	569-A	13		AMD	PL 319		14
38	569-B	8		AMD	PL 319		15
38	570		1	AFF	PL 319		22
38	570		1	AFF	PL 319		23
38	570		1	RPR	PL 319		16
38	570		2	NEW	PL 319		17
38	570-A		2	AMD	PL 319		18
38	570-B		2	AMD	PL 319		19
38	570-I		2	AMD	PL 319		20
38	570-J		2	AMD	PL 319		21
38	580-A	1-A		NEW	PL 200		3
38	580-A	4		AMD	PL 200		4
38	580-A	6-A		NEW	PL 200		5
38	580-A	18-A		NEW	PL 200		6

CROSS REFERENCE TABLE I

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
38	580-B	7		AMD	PL 200		7
38	580-B	7		AMD	PL 372	B	4
38	580-B	7-A		AMD	PL 372	B	5
38	580-B	10		AMD	PL 372	B	6
38	580-B	10	E	AMD	PL 200		8
38	580-B	10	F	AMD	PL 200		9
38	580-B	10	G	NEW	PL 200		10
38	580-B	11		NEW	PL 200		11
38	582	8-C	A	AMD	PL 209		1
38	582	8-C	B	AMD	PL 209		2
38	582	8-C	C	AMD	PL 209		3
38	584-A	1		RPR	PL 121		15
38	585-B	5		AMD	PL 338		1
38	585-B	6		AMD	PL 338		2
38	585-K			RAL	RR 2		26
38	585-K	1	A	AMD	PL 306		1
38	585-L			RAL	RR 2		26
38	610-B	2-A		NEW	PL 209		4
38	610-C	3		AMD	PL 209		5
38	634-A			NEW	PL 270	D	5
38	635-B			AMD	PL 270	D	6
38	636	5		AMD	PL 270	D	7
38	636-A			NEW	PL 270	D	8
38	1272	2		AMD	PL 374		3
38	1273	2		AMD	PL 374		4
38	1278	1		RP	PL 374		5
38	1278	1-A		NEW	PL 374		6
38	1278	2		AMD	PL 374		7
38	1281			AFF	PL 344	E	2
38	1281			AMD	PL 344	D	13
38	1310-AA	4		AFF	PL 348		3
38	1310-AA	4		AMD	PL 348		1
38	1310-AA	6		AFF	PL 348		3
38	1310-AA	6		NEW	PL 348		2
38	1310-B	2		AMD	PL 397		1
38	1310-N	5-A	B	AMD	PL 412	A	1
38	1310-Q			AFF	PL 380		2
38	1310-Q			AMD	PL 380		1
38	1367		1	AMD	PL 121		16
38	1395	3		AFF	PL 344	E	2
38	1395	3		AMD	PL 344	D	14
38	1606-A			NEW	PL 125		1
38	1609	5		AMD	PL 121		17
38	1609	11		AMD	PL 121		18
38	1610	2	A	AMD	PL 397		2
38	1610	2	C	AMD	PL 397		3
38	1610	2	C-1	NEW	PL 397		4
38	1610	2	D-1	AFF	PL 231		7
38	1610	2	D-1	NEW	PL 231		1
38	1610	2	G	AFF	PL 231		7
38	1610	2	G	AMD	PL 231		2
38	1610	2	G	AMD	PL 397		5
38	1610	2	L	NEW	PL 397		6
38	1610	5		AFF	PL 231		7
38	1610	5		AMD	PL 231		3
38	1610	5		AMD	PL 397		7
38	1610	6		AFF	PL 397		14
38	1610	6		RP	PL 397		8
38	1610	6	A	AFF	PL 231		7
38	1610	6	A	AMD	PL 231		4
38	1610	6-A		AFF	PL 397		14
38	1610	6-A		NEW	PL 397		9
38	1610	7		AFF	PL 231		7
38	1610	7		AMD	PL 231		5
38	1610	7		AMD	PL 397		10
38	1610	10		NEW	PL 397		11
38	1610	11		NEW	PL 397		12
38	1661	4		AMD	PL 277		1
38	1661-C	5		RP	PL 277		2
38	1661-C	9		RPR	PL 86		1
38	1665-A	5		AMD	PL 277		3
38	1665-B	1		RPR	PL 277		4
38	1665-B	1-A		NEW	PL 277		5
38	1665-B	2	A	AMD	PL 277		6
38	1665-B	2	F	AMD	PL 277		7
38	1665-B	2	G	AMD	PL 277		8
38	1665-B	2	H	NEW	PL 277		9
38	1665-B	2-A		NEW	PL 277		10
38	1665-B	2-B		NEW	PL 277		11
38	1665-B	3		RP	PL 277		12
38	1672			NEW	PL 272		1
38	2165	6	D	AMD	PL 86		2
39-A	102	11	A	AMD	PL 452		3
39-A	102	11	E	AMD	PL 142		17
39-A	102	13		AMD	PL 452		4
39-A	105-A			NEW	PL 452		5
39-A	154	6	A	AFF	PL 109		2
39-A	154	6	A	AMD	PL 109		1
39-A	203	1	C	AMD	PL 142		18
39-A	203	1	D	AMD	PL 142		19
39-A	203	1	E	NEW	PL 142		20
39-A	205	3		AFF	PL 129		13
39-A	205	3		AMD	PL 129		5
39-A	205	4		AFF	PL 129		13
39-A	205	4		AMD	PL 129		6
39-A	205	9	B	AFF	PL 280		2
39-A	205	9	B	AMD	PL 280		1
39-A	313	4		AFF	PL 129		13
39-A	313	4		AMD	PL 129		7
39-A	313	5		AFF	PL 129		13
39-A	313	5		AMD	PL 129		8
39-A	324	1		AFF	PL 129		13
39-A	324	1		AMD	PL 129		9
39-A	324	2		AFF	PL 129		13
39-A	324	2		AMD	PL 129		10
39-A	328-B			NEW	PL 408		1
39-A	354	3		AFF	PL 301		2
39-A	354	3		AMD	PL 301		1
39-A	359	1		AFF	PL 129		13
39-A	359	1		AMD	PL 129		11
39-A	360	6		AFF	PL 129		13
39-A	360	6		NEW	PL 129		12
39-A	403	4-A		AMD	PL 232		2

TABLE II

Public Laws not allocated to the Maine Revised Statutes of 1964 affected by the laws of the First Regular Session of the 124th Legislature and the Revisor's Report 2007, Chapter 2 of the 123rd Legislature.

YEAR	CHAP	SEC	AFFECTED BY (TYPE)		YEAR	CHAP	SEC
1991	817	28	RP	PL	2009	319	22
1991	817	30	RP	PL	2009	319	23
2005	457	GG2	AMD	PL	2009	157	1
2005	457	GG3	NEW	PL	2009	157	2
2007	240	GG3	RP	PL	2009	213	EE1
2007	240	GG3	AFF	PL	2009	213	EE2
2007	240	Q1	AMD	PL	2009	213	XXXX1
2007	240	X2	AMD	PL	2009	213	SSSS1
2007	240	X5	AMD	PL	2009	213	SSSS2
2007	240	X6	AMD	PL	2009	213	SSSS3
2007	240	XXXX36	AMD	PL	2009	213	KKKK1
2007	240	XXXX36	NEW	PL	2009	213	KKKK2
2007	317	24/3	RP	PL	2009	200	12
2007	399	13	AMD	PL	2009	295	2
2007	399	14	AMD	PL	2009	295	3
2007	399	15	AMD	PL	2009	295	4
2007	464	10	RP	PL	2009	213	KKK4
2007	539	C17	AMD	PL	2009	1	C3
2007	539	C19	AMD	PL	2009	1	C4
2007	539	KK9	COR	RR	2007	2	27
2007	539	L1	AMD	PL	2009	213	F1
2007	539	PPPP7	AMD	PL	2009	213	HH1
2007	539	PPPP7	AFF	PL	2009	213	HH2
2007	558	3	COR	RR	2007	2	28
2007	559	4	COR	RR	2007	2	29
2007	583	10	AMD	PL	2009	412	B1
2007	629	G3	RP	PL	2009	213	DD1
2007	647	5	AMD	PL	2009	413	Q2
2007	661	C6/2	AMD	PL	2009	415	D1
2007	661	C6/4	AMD	PL	2009	415	D2
2007	683	B3	RP	PL	2009	22	1
2007	693	14	COR	RR	2007	2	30
2007	695	I 5	COR	RR	2007	2	31
2007	695	L1	COR	RR	2007	2	32
2007	695	L1	RP	PL	2009	415	A26
2007	699	21/3	AMD	PL	2009	261	A16
2007	699	27	AMD	PL	2009	261	A17
2009	1	E2	AMD	PL	2009	213	FF1
2009	1	E3	AMD	PL	2009	213	FF2
2009	1	E4	AMD	PL	2009	213	FF3
2009	1	V	RP	PL	2009	213	CC7
2009	54	7	AMD	PL	2009	415	C2
2009	54	7	AFF	PL	2009	415	C3
2009	213	A13	AMD	PL	2009	415	B10
2009	213	A24	AMD	PL	2009	415	B11
2009	213	MMM1	AMD	PL	2009	371	B1
2009	213	MMM2	NEW	PL	2009	371	B2
2009	372	F5/2	AMD	PL	2009	415	E1
2009	372	K5	NEW	PL	2009	415	E2

TABLE III

Public Laws exempted in revisions prior to 1964 affected by the laws of the First Regular Session of the 124th Legislature and the Revisor's Report 2007, Chapter 2 of the 123rd Legislature.

(THERE WERE NONE)

SUBJECT INDEX

TO THE LAWS OF THE FIRST REGULAR SESSION OF THE 124TH LEGISLATURE