LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

TABLE OF CONTENTS

VOLUME 1

Preface V
Legislative Statistics VI
Directory of Civil Government:
Constitutional Officers VII
Executive Branch VIII
Judicial Branch IX
Legislative Branch XI
Public Laws of 2011 Passed at the First Regular Session,
Chapters 1-378 1

VOLUME 2

Public Laws of 2011 Passed at the First Regular Session,
Chapters 379-464 581
Private and Special Laws of 2011 Passed at the First Regular Session,
Chapters 1-18 1123
Resolves of 2011 Passed at the First Regular Session,
Chapters 1-113 1143
Constitutional Resolutions of 2011 Passed at the First Regular Session,
Chapter 1 1209

Initiated Bill Referred to the Voters by the 124th Legislature and Approved at Referendum, Chapter 2 1213
Joint Study Orders of 2011 Passed at the First Regular Session, None 1223
Revisor's Report 2009, Chapter 2 1225
Selected Memorials and Joint Resolutions 1249
Budget Address by Governor Paul R. LePage, February 10, 2011 1253
State of the Judiciary Address by Chief Justice Leigh Ingalls Saufley, March 24, 2011 1257
Cross-reference Tables 1263
Subject Index 1295

PREFACE

The 2011 edition of Laws of the State of Maine is the official publication of the session laws of the State of Maine enacted by the 125th Legislature and is compiled and published under the authority of the Maine Revised Statutes, Title 3, section 163-A. Laws of the State of Maine has been in continuous publication since 1820, when the acts and resolves adopted by the First Legislature were published by the Secretary of State under the authority of Resolve 1820, chapter 25.

Volumes 1 and 2 contain the public laws, private and special laws, resolves and constitutional resolution enacted at the First Regular Session of the 125th Legislature, followed by the 2009 Revisor's Report, chapter 2, Initiated Bill 2009, chapter 2 and a selection of significant addresses, joint resolutions and memorials.

Additional volumes of the 2011 Laws of the State of Maine will contain those measures adopted in the Second Regular Session and any special session of the 125th Legislature.

The following conventions are used throughout the series.

1. At the top of each page is a heading that classifies each law by session of passage, year, type and chapter number.

2. A table of contents that locates major divisions and contents by page number is located at the beginning of each volume.

3. An individual subject index of the documents contained in these volumes, arranged alphabetically by subject heading with corresponding chapter numbers, is located at the end of volume 2.

4. Session cross-reference tables are also provided at the end of volume 2 showing how unallocated public laws, laws exempted in previous revisions and titles and sections of the Maine Revised Statutes of 1964 have been affected by the laws included in this publication.

5. Words and phrases deleted from the statutes are shown struck through. When an entire section or larger segment is repealed, the text that is repealed is not shown struck through, but its repeal is indicated by express language.

6. When new words or sections are added to the statutes, they are underlined.

7. A chaptered law's Legislative Document number is printed beneath its chapter number heading, indicating the source of the chapter.

8. The effective date for Maine laws is provided for in the Constitution of Maine, Article IV, Part Third, Section 16, which specifies that, except for certain emergency legislation, an act or resolve enacted into law takes effect 90 days after the adjournment of the session in which it passed. The general effective date of nonemergency laws passed at the First Regular Session of the 125th Legislature is September 28, 2011. The effective dates of emergency legislation vary and are provided at the ends of the chapters that were enacted as emergencies.

Copies of a specific chaptered law may be obtained by contacting the Engrossing Division of this office. Laws of the State of Maine is also available online through the website of the Office of the Revisor of Statutes at http://legislature.maine.gov/ros/lom/lomdirectory.htm.

This edition of Laws of the State of Maine and its predecessors have been prepared for the convenience of the people of the State of Maine, and any comments or suggestions for improvements in subsequent editions would be appreciated.

Suzanne M. Gresser
Revisor of Statutes
September 2011

LEGISLATIVE STATISTICS

FIRST REGULAR SESSION
125th Legislature

Convened	December 1, 2010
Adjourned	June 29, 2011
Days in Session	
Senate	66
House of Representatives	65
Legislative Documents	1588
Carryover Bills and Papers	134
Public Laws	464
Private and Special Laws	18
Resolves	113
Constitutional Resolutions	1
Competing Measure Resolutions	0
Initiated Bills	0
Vetoes	12
Overridden	0
Sustained	12
Emergency Enactments	83
Effective Date	September 28, 2011 (unless otherwise indicated)

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OF THE
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FOR THE POLITICAL YEARS 2010 AND 2011

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PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE
2011

CHAPTER 1

H.P. 86 - L.D. 100

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending 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

Debt Service - Government Facilities Authority 0893

Initiative: Deappropriates funds for debt service costs in fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($150,000)	$0	$0
GENERAL FUND TOTAL	($150,000)	$0	$0

Departments and Agencies - Statewide 0016

Initiative: Provides funding to offset savings that cannot be achieved from a rate reduction for retiree health insurance previously authorized in Public Law 2009, chapter 571, Part J.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	$605,365	$0	$0
GENERAL FUND TOTAL	$605,365	$0	$0

Fund for a Healthy Maine 0921

Initiative: Provides funding to offset a deallocation made in Public Law 2009, chapter 571, Part TTT, section 2. A pro rata adjustment to the individual Fund for a Healthy Maine accounts is not required since the balance in the fund on June 30, 2010 was sufficient to cover the deallocation.

FUND FOR A HEALTHY MAINE	2010-11	2011-12	2012-13
All Other	$1,380,582	$0	$0
FUND FOR A HEALTHY MAINE TOTAL	$1,380,582	$0	$0

Revenue Services - Bureau of 0002

Initiative: Reduces funding for general operations at Maine Revenue Services. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($218,850)	$0	$0
GENERAL FUND TOTAL	($218,850)	$0	$0

Statewide Radio Network System 0112

Initiative: Reduces funding for debt service on the Statewide Radio Network System. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($626,799)	$0	$0
GENERAL FUND TOTAL	($626,799)	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($390,284)	$0	$0
FUND FOR A HEALTHY MAINE	$1,380,582	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$990,298	$0	$0

Sec. A-2. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Market and Production Development 0833

Initiative: Transfers one Planning and Research Associate II position from the Division of Market and Production Development program to the Office of the Commissioner program and reorganizes it to a Public Service Coordinator I position. Eliminates one Planning and Research Associate I position in the Maine Milk Commission.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($17,251)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($17,251)	$0	$0

Milk Commission 0188

Initiative: Transfers one Planning and Research Associate II position from the Division of Market and Production Development program to the Office of the Commissioner program and reorganizes it to a Public Service Coordinator I position. Eliminates one Planning and Research Associate I position in the Maine Milk Commission.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($18,340)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($18,340)	$0	$0

Office of the Commissioner 0401

Initiative: Transfers one Planning and Research Associate II position from the Division of Market and Production Development program to the Office of the Commissioner program and reorganizes it to a Public Service Coordinator I position. Eliminates one Planning and Research Associate I position in the Maine Milk Commission.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$34,818	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$34,818	$0	$0

Office of the Commissioner 0401

Initiative: Reduces funding by recognizing one-time savings achieved by transferring a portion of service center costs from General Fund to Other Special Revenue Funds within the same program. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($57,344)	$0	$0
GENERAL FUND TOTAL	($57,344)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$57,344	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$57,344	$0	$0

Seed Potato Board 0397

Initiative: Eliminates funding for Personal Services and All Other in the Seed Potato Board Fund for the operations of the Seed Potato Board. Position detail is on file in the Bureau of the Budget.

SEED POTATO BOARD FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(5.500)	0.000	0.000
POSITIONS - FTE COUNT	(2.614)	0.000	0.000
Personal Services	($446,653)	$0	$0
All Other	($227,330)	$0	$0
SEED POTATO BOARD FUND TOTAL	($673,983)	$0	$0

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**($57,344)**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$56,571**	**$0**	**$0**
SEED POTATO BOARD FUND	**($673,983)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($674,756)**	**$0**	**$0**

Sec. A-3. Appropriations and allocations. The following appropriations and allocations are made.

ARTS COMMISSION, MAINE

Arts - Administration 0178

Initiative: Reduces funding for arts and arts education for fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($5,000)	$0	$0
GENERAL FUND TOTAL	($5,000)	$0	$0

Arts - Administration 0178

Initiative: Reduces funding for advertising of new grant initiatives and programs. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,581)	$0	$0
GENERAL FUND TOTAL	($1,581)	$0	$0

ARTS COMMISSION, MAINE DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**($6,581)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($6,581)**	**$0**	**$0**

Sec. A-4. Appropriations and allocations. The following appropriations and allocations are made.

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General 0310

Initiative: Reduces funding from savings achieved by managing vacancies.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($7,258)	$0	$0
GENERAL FUND TOTAL	($7,258)	$0	$0

Chief Medical Examiner - Office of 0412

Initiative: Reduces funding from savings achieved by managing vacancies.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($30,000)	$0	$0

GENERAL FUND TOTAL	($30,000)	$0	$0

Civil Rights 0039

Initiative: Reduces funding for the civil rights team project by reducing costs for the civil rights training activities.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($20,000)	$0	$0
GENERAL FUND TOTAL	($20,000)	$0	$0

District Attorneys Salaries 0409

Initiative: Reduces funding from savings achieved by managing vacancies.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($80,191)	$0	$0
GENERAL FUND TOTAL	($80,191)	$0	$0

ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($137,449)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($137,449)	$0	$0

Sec. A-5. Appropriations and allocations. The following appropriations and allocations are made.

AUDIT, DEPARTMENT OF

Audit - Departmental Bureau 0067

Initiative: Reduces funding by recognizing savings in Personal Services from the management of vacant positions in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($12,717)	$0	$0
GENERAL FUND TOTAL	($12,717)	$0	$0

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

CENTERS FOR INNOVATION

Centers for Innovation 0911

Initiative: Reduces funding for grant programs to industry researchers.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,170)	$0	$0
GENERAL FUND TOTAL	($1,170)	$0	$0

Sec. A-7. Appropriations and allocations. The following appropriations and allocations are made.

COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE

Maine Community College System - Board of Trustees 0556

Initiative: Adjusts funding to bring allocations in line with available resources of racino revenue projected by the Revenue Forecasting Committee in December 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$8,763	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$8,763	$0	$0

Sec. A-8. Appropriations and allocations. The following appropriations and allocations are made.

CONSERVATION, DEPARTMENT OF

Forest Health and Monitoring 0233

Initiative: Reduces funding by recognizing one-time savings achieved by using the Federal Expenditures Fund for a portion of Central Fleet Management expenditures. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($10,000)	$0	$0

GENERAL FUND TOTAL	($10,000)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$10,000	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$10,000	$0	$0

Forest Policy and Management - Division of 0240

Initiative: Reduces funding by recognizing one-time savings achieved by using the Federal Expenditures Fund for a portion of Central Fleet Management expenditures. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($20,000)	$0	$0
GENERAL FUND TOTAL	($20,000)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$20,000	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$20,000	$0	$0

Office of the Commissioner 0222

Initiative: Reduces funding by recognizing one-time savings achieved by reducing operating expenditures. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($6,604)	$0	$0
GENERAL FUND TOTAL	($6,604)	$0	$0

Off-road Recreational Vehicles Program 0224

Initiative: Adjusts funding to bring allocations into line with projected available resources based on the reprojection of revenue by the Revenue Forecasting Committee in December 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($55,287)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($55,287)	$0	$0

Parks - General Operations 0221

Initiative: Reduces funding by recognizing one-time savings in Personal Services from the management of vacant positions in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($89,717)	$0	$0
GENERAL FUND TOTAL	($89,717)	$0	$0

Parks - General Operations 0221

Initiative: Reduces funding by recognizing one-time savings for equipment repairs by delaying some expenditures until fiscal year 2011-12.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($17,400)	$0	$0
GENERAL FUND TOTAL	($17,400)	$0	$0

CONSERVATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**($143,721)**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$30,000**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**($55,287)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($169,008)**	**$0**	**$0**

Sec. A-9. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Adult Community Corrections 0124

Initiative: Reduces funding for premium overtime in the Adult Community Corrections and Juvenile Community Corrections programs and reduces the number of Central Fleet Management vehicles, 2 at Maine State Prison and one at Mountain View Youth Development Center.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($200,000)	$0	$0
GENERAL FUND TOTAL	($200,000)	$0	$0

Correctional Center 0162

Initiative: Provides funding for the increase in wastewater treatment charges.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$96,395	$0	$0
GENERAL FUND TOTAL	$96,395	$0	$0

Correctional Medical Services Fund 0286

Initiative: Eliminates one Psychologist IV position in the Long Creek Youth Development Center program and transfers the savings to All Other in the Correctional Medical Services Fund program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$109,299	$0	$0
GENERAL FUND TOTAL	$109,299	$0	$0

Juvenile Community Corrections 0892

Initiative: Reduces funding for premium overtime in the Adult Community Corrections and Juvenile Community Corrections programs and reduces the number of Central Fleet Management vehicles, 2 at Maine State Prison and one at Mountain View Youth Development Center.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($200,000)	$0	$0
GENERAL FUND TOTAL	($200,000)	$0	$0

Long Creek Youth Development Center 0163

Initiative: Eliminates one Psychologist IV position in the Long Creek Youth Development Center program and transfers the savings to All Other in the Correctional Medical Services Fund program.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($109,299)	$0	$0
GENERAL FUND TOTAL	($109,299)	$0	$0

Mountain View Youth Development Center 0857

Initiative: Reduces funding for premium overtime in the Adult Community Corrections and Juvenile Community Corrections programs and reduces the number of Central Fleet Management vehicles, 2 at Maine State Prison and one at Mountain View Youth Development Center.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,874)	$0	$0
GENERAL FUND TOTAL	($2,874)	$0	$0

State Prison 0144

Initiative: Provides funding for the increase in wastewater treatment charges.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$184,437	$0	$0
GENERAL FUND TOTAL	$184,437	$0	$0

State Prison 0144

Initiative: Reduces funding for premium overtime in the Adult Community Corrections and Juvenile Community Corrections programs and reduces the number of Central Fleet Management vehicles, 2 at Maine State Prison and one at Mountain View Youth Development Center.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,792)	$0	$0
GENERAL FUND TOTAL	($1,792)	$0	$0

CORRECTIONS, DEPARTMENT OF			
DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($123,834)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($123,834)	$0	$0

Sec. A-10. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, STATE BOARD OF

State Board of Corrections Investment Fund Z087

Initiative: Reduces funding for the support of prisoners detained or sentenced to county jails and for establishing and maintaining community corrections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($92,023)	$0	$0
GENERAL FUND TOTAL	($92,023)	$0	$0

Sec. A-11. Appropriations and allocations. The following appropriations and allocations are made.

CULTURAL AFFAIRS COUNCIL, MAINE STATE

New Century Program Fund 0904

Initiative: Reduces funding for grants to maintain expenditures within available resources.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($411)	$0	$0
GENERAL FUND TOTAL	($411)	$0	$0

Sec. A-12. Appropriations and allocations. The following appropriations and allocations are made.

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

Administration - Maine Emergency Management Agency 0214

Initiative: Adjusts funding in the Stream Gaging Cooperative Program, General Fund, by transferring expenditures to the Administration - Maine Emergency Management Agency program, Federal Expenditures Fund. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$65,967	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$65,967	$0	$0

Disaster Assistance 0841

Initiative: Provides funding for the State's share of disaster relief costs for various declared disasters, including flooding in February and March 2010.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$934,864	$0	$0
GENERAL FUND TOTAL	$934,864	$0	$0

Military Training and Operations 0108

Initiative: Reduces funding through managing vacancies.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($9,306)	$0	$0
GENERAL FUND TOTAL	($9,306)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	($31,383)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($31,383)	$0	$0

Stream Gaging Cooperative Program 0858

Initiative: Adjusts funding in the Stream Gaging Cooperative Program, General Fund, by transferring expenditures to the Administration - Maine Emergency Management Agency program, Federal Expenditures Fund. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13

All Other	($65,967)	$0	$0
GENERAL FUND TOTAL	($65,967)	$0	$0

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$859,591**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$34,584**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$894,175**	**$0**	**$0**

Sec. A-13. Appropriations and allocations. The following appropriations and allocations are made.

DEVELOPMENT FOUNDATION, MAINE

Development Foundation 0198

Initiative: Reduces funding for the REALIZE!Maine network.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($340)	$0	$0
GENERAL FUND TOTAL	($340)	$0	$0

Sec. A-14. Appropriations and allocations. The following appropriations and allocations are made.

DISABILITY RIGHTS CENTER

Disability Rights Center 0523

Initiative: Reduces funding to the Disability Rights Center for the special education team.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,249)	$0	$0
GENERAL FUND TOTAL	($1,249)	$0	$0

Sec. A-15. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Office of Innovation 0995

Initiative: Reduces funding for the Maine Technology Institute. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($115,857)	$0	$0
GENERAL FUND TOTAL	($115,857)	$0	$0

Office of Tourism 0577

Initiative: Adjusts funding to bring allocations into line with projected available resources based on revenue changes approved by the Revenue Forecasting Committee.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$2,861,631	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,861,631	$0	$0

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**($115,857)**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$2,861,631**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$2,745,774**	**$0**	**$0**

Sec. A-16. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Adult Education 0364

Initiative: Transfers one Office Assistant II position from the Leadership Team program, General Fund to the Adult Education program, Federal Expenditures Fund and transfers All Other to Personal Services in the Federal Expenditures Fund to fund the position.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$14,991	$0	$0
All Other	($14,991)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

Child Development Services 0449

Initiative: Transfers funding from the General Purpose Aid for Local Schools program to the Child Development Services program in order to reflect expenditures in the appropriate program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$5,700,000	$0	$0
GENERAL FUND TOTAL	$5,700,000	$0	$0

Child Development Services 0449

Initiative: Provides funding for services to children from birth to 5 years of age as a result of MaineCare rule changes effective September 1, 2010.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$2,000,000	$0	$0
GENERAL FUND TOTAL	$2,000,000	$0	$0

General Purpose Aid for Local Schools 0308

Initiative: Transfers funding from the General Purpose Aid for Local Schools program to the Child Development Services program in order to reflect expenditures in the appropriate program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($5,700,000)	$0	$0
GENERAL FUND TOTAL	($5,700,000)	$0	$0

Leadership Team Z077

Initiative: Transfers one Office Assistant II position from the Leadership Team program, General Fund to the Adult Education program, Federal Expenditures Fund and transfers All Other to Personal Services in the Federal Expenditures Fund to fund the position.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($14,991)	$0	$0
GENERAL FUND TOTAL	($14,991)	$0	$0

Leadership Team Z077

Initiative: Reallocates the cost of one Education Specialist III position from 100% in the Leadership Team program to 80% in the Leadership Team program and 20% in the PK-20 Curriculum, Instruction and Assessment program to reflect costs in the appropriate program.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	($19,296)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($19,296)	$0	$0

PK-20 Curriculum, Instruction and Assessment Z081

Initiative: Eliminates funding for the Robert C. Byrd Honors Scholarship Program.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	($189,024)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($189,024)	$0	$0

PK-20 Curriculum, Instruction and Assessment Z081

Initiative: Reallocates the cost of one Education Specialist III position from 100% in the Leadership Team program to 80% in the Leadership Team program and 20% in the PK-20 Curriculum, Instruction and As-

sessment program to reflect costs in the appropriate program.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$19,296	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$19,296	$0	$0

School Breakfast Program 0898

Initiative: Provides funds for the School Breakfast Program in fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$50,000	$0	$0
GENERAL FUND TOTAL	$50,000	$0	$0

EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$2,035,009	$0	$0
FEDERAL EXPENDITURES FUND	($189,024)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$1,845,985	$0	$0

Sec. A-17. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, STATE BOARD OF

State Board of Education 0614

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,009)	$0	$0
GENERAL FUND TOTAL	($1,009)	$0	$0

Sec. A-18. Appropriations and allocations. The following appropriations and allocations are made.

EFFICIENCY MAINE TRUST

Conservation Administration Fund Z098

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	($432,774)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($432,774)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($1,200,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($1,200,000)	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	($4,576,500)	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	($4,576,500)	$0	$0

FEDERAL BLOCK GRANT FUND ARRA	2010-11	2011-12	2012-13
All Other	($557,725)	$0	$0
FEDERAL BLOCK GRANT FUND ARRA TOTAL	($557,725)	$0	$0

Conservation Program Fund Z099

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13

All Other	($14,135,334)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($14,135,334)	$0	$0

Efficiency Maine Trust Z100

Initiative: Adjusts allocations to reflect the consolidation of payments to the Efficiency Maine Trust through one program, to provide Personal Services allocation for 4 employees of the Efficiency Maine Trust electing to remain state employees that must be paid through the State's accounting system and to reflect the adjustment of funding related to the solar and wind energy rebate program fund, the assessments for which were repealed on December 31, 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$320,691	$0	$0
All Other	$14,574,748	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$14,895,439	$0	$0

Energy and Carbon Savings Trust Fund Z101

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($30,000,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($30,000,000)	$0	$0

Energy Conservation Small Business Revolving Loan Fund Z102

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($410,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($410,000)	$0	$0

Heating Fuels Efficiency and Weatherization Fund Z103

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($500)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($500)	$0	$0

Natural Gas Conservation Fund Z104

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($891,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($891,000)	$0	$0

Renewable Resource Fund Z107

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($75,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($75,000)	$0	$0

Solar Rebate Program Fund Z105

Initiative: Reduces funding to correctly reflect financial activity associated with Efficiency Maine Trust program accounts based on Public Law 2009, chapter 372.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($750,000)	$0	$0

OTHER SPECIAL REVENUE FUNDS TOTAL	($750,000)	$0	$0
FEDERAL EXPENDITURES FUND ARRA	**2010-11**	**2011-12**	**2012-13**
All Other	($500,000)	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	($500,000)	$0	$0
EFFICIENCY MAINE TRUST			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
FEDERAL EXPENDITURES FUND	**($432,774)**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**($32,566,395)**	**$0**	**$0**
FEDERAL EXPENDITURES FUND ARRA	**($5,076,500)**	**$0**	**$0**
FEDERAL BLOCK GRANT FUND ARRA	**($557,725)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($38,633,394)**	**$0**	**$0**

Sec. A-19. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality 0250

Initiative: Reduces funding by recognizing one-time savings in Personal Services from the management of vacant positions in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	($10,972)	$0	$0
GENERAL FUND TOTAL	($10,972)	$0	$0

Land and Water Quality 0248

Initiative: Reduces funding by recognizing one-time savings in Personal Services from the management of vacant positions in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	($47,862)	$0	$0
GENERAL FUND TOTAL	($47,862)	$0	$0
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**($58,834)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($58,834)**	**$0**	**$0**

Sec. A-20. 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: Reallocates the cost of one Registration and Reporting Officer position from 34% General Fund and 66% Other Special Revenue Funds to 32% General Fund and 68% Other Special Revenue Funds within the same program. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	($1,307)	$0	$0
GENERAL FUND TOTAL	($1,307)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$1,307	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,307	$0	$0

Sec. A-21. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Planning Office 0082

Initiative: Eliminates one vacant Senior Planner position effective September 20, 2010. This initiative relates to the curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($17,747)	$0	$0
GENERAL FUND TOTAL	($17,747)	$0	$0

Planning Office 0082

Initiative: Provides funding for grants to the Regional Planning Commissions and Councils of Government.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$100,000	$0	$0
GENERAL FUND TOTAL	$100,000	$0	$0

EXECUTIVE DEPARTMENT DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$82,253	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$82,253	$0	$0

Sec. A-22. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Doctors For Maine's Future Scholarship Fund Z090

Initiative: Reduces funding in the Doctors For Maine's Future Scholarship Fund program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($125,445)	$0	$0
GENERAL FUND TOTAL	($125,445)	$0	$0

Sec. A-23. Appropriations and allocations. The following appropriations and allocations are made.

FOUNDATION FOR BLOOD RESEARCH

ScienceWorks for ME 0908

Initiative: Reduces funding for the ScienceWorks for ME program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($517)	$0	$0
GENERAL FUND TOTAL	($517)	$0	$0

Sec. A-24. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)

Developmental Services - Community 0122

Initiative: Reduces funding for legal services. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($199,673)	$0	$0
GENERAL FUND TOTAL	($199,673)	$0	$0

Developmental Services Waiver - MaineCare 0987

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$2,599,105	$0	$0

GENERAL FUND TOTAL	$2,599,105	$0	$0

Developmental Services Waiver - Supports Z006

Initiative: Adjusts funding to distribute a portion of the funding provided to adjust MaineCare rates that was included in Public Law 2009, chapter 571, Part RRRR.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$290,523	$0	$0
GENERAL FUND TOTAL	$290,523	$0	$0

Developmental Services Waiver - Supports Z006

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$352,656	$0	$0
GENERAL FUND TOTAL	$352,656	$0	$0

Medicaid Services - Developmental Services 0705

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$3,483,162	$0	$0
GENERAL FUND TOTAL	$3,483,162	$0	$0

Medicaid Services - Developmental Services 0705

Initiative: Provides funding for the growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$7,320,412	$0	$0
GENERAL FUND TOTAL	$7,320,412	$0	$0

Medicaid Services - Developmental Services 0705

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($375,005)	$0	$0
GENERAL FUND TOTAL	($375,005)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$69,286	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$69,286	$0	$0

Mental Health Services - Child Medicaid 0731

Initiative: Transfers funding for interpretation and translation services from the Mental Health Services - Child Medicaid program and the Mental Health Services - Community Medicaid program to the Medical Care - Payments to Providers program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($26,575)	$0	$0
GENERAL FUND TOTAL	($26,575)	$0	$0

Mental Health Services - Child Medicaid 0731

Initiative: Adjusts funding to distribute a portion of the funding provided to adjust MaineCare rates that was included in Public Law 2009, chapter 571, Part RRRR.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$537,530	$0	$0
GENERAL FUND TOTAL	$537,530	$0	$0

Mental Health Services - Child Medicaid 0731

Initiative: Adjusts funding related to the rate reduction for outpatient services under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services included in Public Law 2009, chapter 571.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($343,401)	$0	$0
GENERAL FUND TOTAL	($343,401)	$0	$0

Mental Health Services - Child Medicaid 0731

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$1,158,033	$0	$0
GENERAL FUND TOTAL	$1,158,033	$0	$0

Mental Health Services - Child Medicaid 0731

Initiative: Provides funding for the growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$10,327,204	$0	$0
GENERAL FUND TOTAL	$10,327,204	$0	$0

Mental Health Services - Community Medicaid 0732

Initiative: Transfers funding for interpretation and translation services from the Mental Health Services - Child Medicaid program and the Mental Health Services - Community Medicaid program to the Medical Care - Payments to Providers program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($5,313)	$0	$0
GENERAL FUND TOTAL	($5,313)	$0	$0

Mental Health Services - Community Medicaid 0732

Initiative: Adjusts funding related to the rate reduction for outpatient services under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services included in Public Law 2009, chapter 571.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$451,719	$0	$0
GENERAL FUND TOTAL	$451,719	$0	$0

Mental Health Services - Community Medicaid 0732

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$2,151,951	$0	$0
GENERAL FUND TOTAL	$2,151,951	$0	$0

Mental Health Services - Community Medicaid 0732

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($166,228)	$0	$0
GENERAL FUND TOTAL	($166,228)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$166,228	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$166,228	$0	$0

Office of Substance Abuse - Medicaid Seed 0844

Initiative: Adjusts funding related to the rate reduction for outpatient services under the MaineCare Benefits Manual, Chapters II and III, Section 65, Behavioral Health Services included in Public Law 2009, chapter 571.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($108,318)	$0	$0
GENERAL FUND TOTAL	($108,318)	$0	$0

Office of Substance Abuse - Medicaid Seed 0844

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$162,163	$0	$0
GENERAL FUND TOTAL	$162,163	$0	$0

Office of Substance Abuse - Medicaid Seed 0844

Initiative: Provides funding for the growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$384,458	$0	$0
GENERAL FUND TOTAL	$384,458	$0	$0

Office of Substance Abuse - Medicaid Seed 0844

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$21,763	$0	$0
GENERAL FUND TOTAL	$21,763	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($21,763)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($21,763)	$0	$0

Residential Treatment Facilities Assessment 0978

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$305,719	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$305,719	$0	$0

Riverview Psychiatric Center 0105

Initiative: Provides funding for an Office of the Inspector General audit settlement.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$920,781	$0	$0
GENERAL FUND TOTAL	$920,781	$0	$0

Riverview Psychiatric Center 0105

Initiative: Provides funding for continued operations at Riverview Psychiatric Center.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$956,929	$0	$0
GENERAL FUND TOTAL	$956,929	$0	$0

Traumatic Brain Injury Seed Z042

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$7,147	$0	$0
GENERAL FUND TOTAL	$7,147	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS) DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$29,901,023	$0	$0
OTHER SPECIAL REVENUE FUNDS	$519,470	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$30,420,493	$0	$0

Sec. A-25. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Bureau of Child and Family Services - Central 0307

Initiative: Transfers 5 Human Services Caseworker positions, one Human Services Caseworker Supervisor position, 3 Social Services Program Specialist II positions and one Secretary Supervisor position from the State-funded Foster Care/Adoption Assistance program to other programs within the Office of Child and Family Services based upon changes in federal regulations. The additional Personal Services costs in the General Fund are offset by reductions in All Other. Position detail is on file in the Bureau of the Budget.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	3.000	0.000	0.000
Personal Services	$251,421	$0	$0
All Other	($251,421)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$90,102	$0	$0
All Other	$7,333	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$97,435	$0	$0

Bureau of Child and Family Services - Regional 0452

Initiative: Transfers 5 Human Services Caseworker positions, one Human Services Caseworker Supervisor position, 3 Social Services Program Specialist II positions and one Secretary Supervisor position from the State-funded Foster Care/Adoption Assistance program to other programs within the Office of Child and Family Services based upon changes in federal regulations. The additional Personal Services costs in the General Fund are offset by reductions in All Other. Position detail is on file in the Bureau of the Budget.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	6.000	0.000	0.000
Personal Services	$427,780	$0	$0
All Other	($427,780)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

Bureau of Medical Services 0129

Initiative: Adjusts funding based on the unbundling of rates as required by the Maine Integrated Health Management Solution (MIHMS) system.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$258,860	$0	$0
GENERAL FUND TOTAL	$258,860	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$258,860	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$258,860	$0	$0

Bureau of Medical Services 0129

Initiative: Reduces funding by reducing select contract expenditures by 5%. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($318,952)	$0	$0
GENERAL FUND TOTAL	($318,952)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	($750,791)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($750,791)	$0	$0

Bureau of Medical Services 0129

Initiative: Reduces funding for contracted services with the University of Maine System. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($40,325)	$0	$0
GENERAL FUND TOTAL	($40,325)	$0	$0

Departmentwide 0640

Initiative: Reduces funding from salary savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies to each General Fund account in

the Department of Health and Human Services and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($2,500,000)	$0	$0
GENERAL FUND TOTAL	($2,500,000)	$0	$0

Division of Licensing and Regulatory Services Z036

Initiative: Adjusts funding to bring allocations in line with existing resources.

FEDERAL BLOCK GRANT FUND	2010-11	2011-12	2012-13
Personal Services	$5,978	$0	$0
FEDERAL BLOCK GRANT FUND TOTAL	$5,978	$0	$0

Division of Purchased Services Z035

Initiative: Adjusts funding to bring allocations in line with existing resources.

FEDERAL BLOCK GRANT FUND	2010-11	2011-12	2012-13
All Other	($1,015)	$0	$0
FEDERAL BLOCK GRANT FUND TOTAL	($1,015)	$0	$0

Independent Housing with Services 0211

Initiative: Reduces funding no longer necessary as a result of funding available from the prior year. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($450,000)	$0	$0
GENERAL FUND TOTAL	($450,000)	$0	$0

IV-E Foster Care/Adoption Assistance 0137

Initiative: Reduces funding no longer required as a result of available balances from the previous fiscal year. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($4,000,000)	$0	$0
GENERAL FUND TOTAL	($4,000,000)	$0	$0

Long Term Care - Human Services 0420

Initiative: Eliminates funding for assessments for independent support services. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($86,000)	$0	$0
GENERAL FUND TOTAL	($86,000)	$0	$0

Low-cost Drugs To Maine's Elderly 0202

Initiative: Provides funding to the Medical Care - Payments to Providers program for Medicare Part B payments, which is offset by reducing funding for the Low-cost Drugs To Maine's Elderly program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($500,000)	$0	$0
GENERAL FUND TOTAL	($500,000)	$0	$0

Low-cost Drugs To Maine's Elderly 0202

Initiative: Provides funding for the growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$145,034	$0	$0
GENERAL FUND TOTAL	$145,034	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding for recruitment and outreach in the Maine Breast and Cervical Health Program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($60,000)	$0	$0

GENERAL FUND TOTAL	($60,000)	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding for lead screening tests for children who are uninsured or whose insurance will not cover the cost of the lead screening test.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($9,000)	$0	$0
GENERAL FUND TOTAL	($9,000)	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding for specialty medical foods for both children and adults with inborn errors of metabolism. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($60,000)	$0	$0
GENERAL FUND TOTAL	($60,000)	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding for screening, assessing, training and consultation for primary care providers in the injury prevention program. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($32,000)	$0	$0
GENERAL FUND TOTAL	($32,000)	$0	$0

Maternal and Child Health Block Grant Match Z008

Initiative: Reduces funding for contracted services with the University of Maine System. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($73,000)	$0	$0
GENERAL FUND TOTAL	($73,000)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$17,100,449	$0	$0
GENERAL FUND TOTAL	$17,100,449	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	($27,561,031)	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	($27,561,031)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding to the Medical Care - Payments to Providers program for Medicare Part B payments, which is offset by reducing funding for the Low-cost Drugs To Maine's Elderly program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$500,000	$0	$0
GENERAL FUND TOTAL	$500,000	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Transfers funding for interpretation and translation services from the Mental Health Services - Child Medicaid program and the Mental Health Services - Community program to the Medical Care - Payments to Providers program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$31,888	$0	$0
GENERAL FUND TOTAL	$31,888	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Adjusts funding to distribute a portion of the funding provided to adjust MaineCare rates that was included in Public Law 2009, chapter 571, Part RRRR.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($828,053)	$0	$0
GENERAL FUND TOTAL	($828,053)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Adjusts funding based on the unbundling of rates as required by the Maine Integrated Health Management Solution (MIHMS) system.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($258,860)	$0	$0
GENERAL FUND TOTAL	($258,860)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	($258,860)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($258,860)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding to offset the loss of supplemental rebates due to the federal Patient Protection and Affordable Care Act.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$3,577,130	$0	$0
GENERAL FUND TOTAL	$3,577,130	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($3,577,130)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($3,577,130)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding for hospital settlements.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$69,526,439	$0	$0
GENERAL FUND TOTAL	$69,526,439	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$158,590,876	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$158,590,876	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	$20,457,726	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	$20,457,726	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding for the growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$21,202,497	$0	$0
GENERAL FUND TOTAL	$21,202,497	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$85,378,332	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$85,378,332	$0	$0

FEDERAL BLOCK GRANT FUND	2010-11	2011-12	2012-13
All Other	$2,409,251	$0	$0
FEDERAL BLOCK GRANT FUND TOTAL	$2,409,251	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	$10,030,901	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	$10,030,901	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$379,606	$0	$0
GENERAL FUND TOTAL	$379,606	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($379,606)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($379,606)	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Reduces funding from expediting the conversion of hospital inpatient services payments from the prospective interim payment methodology to the diagnostic-related group methodology for certain acute care hospitals.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($359,148)	$0	$0
GENERAL FUND TOTAL	($359,148)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	($767,626)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($767,626)	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	($76,402)	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	($76,402)	$0	$0

Nursing Facilities 0148

Initiative: Provides funding for the change in the Federal Medical Assistance Percentage.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$5,416,713	$0	$0
GENERAL FUND TOTAL	$5,416,713	$0	$0

FEDERAL EXPENDITURES FUND ARRA	2010-11	2011-12	2012-13
All Other	($5,416,713)	$0	$0
FEDERAL EXPENDITURES FUND ARRA TOTAL	($5,416,713)	$0	$0

Nursing Facilities 0148

Initiative: Adjusts funding in the various MaineCare accounts to reflect modifications to projections of MaineCare-dedicated tax revenues, to comport with Revenue Forecasting Committee reprojections.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,240,543)	$0	$0
GENERAL FUND TOTAL	($2,240,543)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$2,240,543	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,240,543	$0	$0

Purchased Social Services 0228

Initiative: Reduces funding for transportation services. This initiative relates to curtailment of allotments or-

dered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($358,865)	$0	$0
GENERAL FUND TOTAL	($358,865)	$0	$0

State-funded Foster Care/Adoption Assistance 0139

Initiative: Transfers 5 Human Services Caseworker positions, one Human Services Caseworker Supervisor position, 3 Social Services Program Specialist II positions and one Secretary Supervisor position from the State-funded Foster Care/Adoption Assistance program to other programs within the Office of Child and Family Services based upon changes in federal regulations. The additional Personal Services costs in the General Fund are offset by reductions in All Other. Position detail is on file in the Bureau of the Budget.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(10.000)	0.000	0.000
Personal Services	($769,303)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($769,303)	$0	$0

State-funded Foster Care/Adoption Assistance 0139

Initiative: Reduces funding for contracted services with the University of Maine System. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($107,278)	$0	$0
GENERAL FUND TOTAL	($107,278)	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$105,856,592	$0	$0
FEDERAL EXPENDITURES FUND	$241,778,923	$0	$0
OTHER SPECIAL REVENUE FUNDS	($1,716,193)	$0	$0
FEDERAL BLOCK GRANT FUND	$2,414,214	$0	$0
FEDERAL EXPENDITURES FUND ARRA	($2,565,519)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$345,768,017	$0	$0

Sec. A-26. Appropriations and allocations. The following appropriations and allocations are made.

HISTORIC PRESERVATION COMMISSION, MAINE

Historic Preservation Commission 0036

Initiative: Adjusts funding by transferring operational expenditures for information technology from the General Fund to the Federal Expenditures Fund. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,737)	$0	$0
GENERAL FUND TOTAL	($2,737)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$2,737	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$2,737	$0	$0

Sec. A-27. Appropriations and allocations. The following appropriations and allocations are made.

HISTORICAL SOCIETY, MAINE

Historical Society 0037

Initiative: Reduces funding for educational and outreach programs.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($445)	$0	$0
GENERAL FUND TOTAL	($445)	$0	$0

Sec. A-28. Appropriations and allocations. The following appropriations and allocations are made.

HOSPICE COUNCIL, MAINE

Maine Hospice Council 0663

Initiative: Reduces funding for the Maine Hospice Council's operating budget.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($630)	$0	$0
GENERAL FUND TOTAL	($630)	$0	$0

Sec. A-29. Appropriations and allocations. The following appropriations and allocations are made.

HOUSING AUTHORITY, MAINE STATE

Shelter Operating Subsidy 0661

Initiative: Reduces funding available for homeless shelters.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($3,804)	$0	$0
GENERAL FUND TOTAL	($3,804)	$0	$0

Sec. A-30. Appropriations and allocations. The following appropriations and allocations are made.

HUMAN RIGHTS COMMISSION, MAINE

Human Rights Commission - Regulation 0150

Initiative: Provides funding due to increased revenues projected from the Equal Employment Opportunity Commission's Federal Expenditures Fund.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$1,945	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$1,945	$0	$0

Human Rights Commission - Regulation 0150

Initiative: Reduces funding by recognizing a one-time decrease in rents.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($211)	$0	$0
GENERAL FUND TOTAL	($211)	$0	$0

Human Rights Commission - Regulation 0150

Initiative: Provides funding due to increased revenues projected from registration fees.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$5,000	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,000	$0	$0

Human Rights Commission - Regulation 0150

Initiative: Reallocates funding for technology from the General Fund to the Federal Expenditures Fund within the same program and reduces funding for general operations and equipment in the Federal Expenditures Fund. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($4,772)	$0	$0
GENERAL FUND TOTAL	($4,772)	$0	$0

HUMAN RIGHTS COMMISSION, MAINE DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($4,983)	$0	$0
FEDERAL EXPENDITURES FUND	$1,945	$0	$0
OTHER SPECIAL REVENUE FUNDS	$5,000	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$1,962	$0	$0

Sec. A-31. Appropriations and allocations. The following appropriations and allocations are made.

HUMANITIES COUNCIL, MAINE

Humanities Council 0942

Initiative: Reduces funding for the Maine Humanities Council's share of the New Century Community Program matching grant funds in rural and urban areas across Maine used for public cultural projects in community history, cultural tourism, literature and literacy and other humanities areas.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($529)	$0	$0
GENERAL FUND TOTAL	($529)	$0	$0

Sec. A-32. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Provides funds for indigent legal services.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$201,160	$0	$0
GENERAL FUND TOTAL	$201,160	$0	$0

Sec. A-33. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Reduces funding to reflect savings from vacant positions. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($85,500)	$0	$0
GENERAL FUND TOTAL	($85,500)	$0	$0

Sec. A-34. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Administration - Labor 0030

Initiative: Transfers one Employment and Training Specialist IV position from the Administration - Labor program to the Employment Services Activity program and reallocates 50% of the cost from the Federal Expenditures Fund in the Administration - Labor program to the Federal Expenditures Fund in the Employment Services Activity program.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($44,102)	$0	$0
All Other	($2,533)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($46,635)	$0	$0

Employment Security Services 0245

Initiative: Transfers one Public Service Manager I position from 95% Federal Expenditures Fund and 5% Other Special Revenue Funds in the Employment Security Services program to 100% Federal Expenditures Fund in the Employment Services Activity program and transfers one Career Center Consultant position from the Employment Services Activity program, Federal Expenditures Fund to the Employment Security Services program, Federal Expenditures Fund.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	($31,160)	$0	$0
All Other	($374)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	($31,534)	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	($5,042)	$0	$0
All Other	($60)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($5,102)	$0	$0

Employment Services Activity 0852

Initiative: Transfers one Public Service Manager I position from 95% Federal Expenditures Fund and 5% Other Special Revenue Funds in the Employment Security Services program to 100% Federal Expenditures Fund in the Employment Services Activity program and transfers one Career Center Consultant position from the Employment Services Activity program, Federal Expenditures Fund to the Employment Security Services program, Federal Expenditures Fund.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$36,202	$0	$0
All Other	$607	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$36,809	$0	$0

Employment Services Activity 0852

Initiative: Transfers one Employment and Training Specialist IV position from the Administration - Labor program to the Employment Services Activity program and reallocates 50% of the cost from the Federal Expenditures Fund in the Administration - Labor program to the Federal Expenditures Fund in the Employment Services Activity program.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$44,102	$0	$0
All Other	$739	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$44,841	$0	$0

Employment Services Activity 0852

Initiative: Reallocates the cost of one Labor Program Specialist position from 100% General Fund to 98% General Fund and 2% Federal Expenditures Fund and reorganizes the position to a Program Manager Employment and Training position.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($64)	$0	$0
GENERAL FUND TOTAL	($64)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$1,653	$0	$0
All Other	$28	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$1,681	$0	$0

Governor's Training Initiative Program 0842

Initiative: Reduces funding on a one-time basis for training services.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($107,056)	$0	$0
GENERAL FUND TOTAL	($107,056)	$0	$0

LABOR, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**($107,120)**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$5,162**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**($5,102)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($107,060)**	**$0**	**$0**

Sec. A-35. Appropriations and allocations. The following appropriations and allocations are made.

LIBRARY, MAINE STATE

Maine State Library 0217

Initiative: Transfers one Librarian I position from 100% General Fund to 47% General Fund and 53% Federal Expenditures Fund within the same program in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursu-

ant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	0.000	0.000
Personal Services	($29,568)	$0	$0
GENERAL FUND TOTAL	($29,568)	$0	$0

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$29,568	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$29,568	$0	$0

Sec. A-36. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF

Bureau of Resource Management 0027

Initiative: Reduces funding by recognizing one-time savings by reducing mileage associated with Central Fleet Management vehicle leases in fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($17,314)	$0	$0
GENERAL FUND TOTAL	($17,314)	$0	$0

Bureau of Resource Management 0027

Initiative: Provides funding on a one-time basis for repairs and general operations at the Boothbay Harbor laboratory complex. The department has an agreement to receive a lease payment from Bigelow Laboratory that will increase General Fund undedicated revenue by $40,000 in fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$40,000	$0	$0
GENERAL FUND TOTAL	$40,000	$0	$0

Marine Patrol - Bureau of 0029

Initiative: Reduces funding by recognizing one-time savings in Personal Services from the management of vacant positions in fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($75,421)	$0	$0
GENERAL FUND TOTAL	($75,421)	$0	$0

MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($52,735)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($52,735)	$0	$0

Sec. A-37. Appropriations and allocations. The following appropriations and allocations are made.

MIXED MARTIAL ARTS AUTHORITY OF MAINE

Mixed Martial Arts Reserve Fund Z113

Initiative: Eliminates funding that is not needed to carry out the activity enacted in Public Law 2009, chapter 352, section 2.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($500)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($500)	$0	$0

Sec. A-38. Appropriations and allocations. The following appropriations and allocations are made.

MUNICIPAL BOND BANK, MAINE

Maine Municipal Bond Bank - Maine Rural Water Association 0699

Initiative: Reduces funding for assistance to Maine's water and wastewater systems.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($687)	$0	$0
GENERAL FUND TOTAL	($687)	$0	$0

Sec. A-39. Appropriations and allocations. The following appropriations and allocations are made.

MUSEUM, MAINE STATE

Maine State Museum 0180

Initiative: Adjusts hours for 2 intermittent Customer Representative Assistant I positions by increasing one from 784 hours per year to 980 hours per year and by decreasing one from 480 hours per year to 288 hours per year.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
POSITIONS - FTE COUNT	0.001	0.000	0.000
Personal Services	($212)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($212)	$0	$0

Maine State Museum 0180

Initiative: Reduces funding from savings generated by a vacant Museum Specialist I position. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($6,570)	$0	$0
GENERAL FUND TOTAL	($6,570)	$0	$0

Maine State Museum 0180

Initiative: Reduces funding for office and other supplies.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($6,724)	$0	$0
GENERAL FUND TOTAL	($6,724)	$0	$0

MUSEUM, MAINE STATE DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($13,294)	$0	$0
OTHER SPECIAL REVENUE FUNDS	($212)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($13,506)	$0	$0

Sec. A-40. Appropriations and allocations. The following appropriations and allocations are made.

PINE TREE LEGAL ASSISTANCE

Legal Assistance 0553

Initiative: Reduces funding to maintain costs within available resources.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,526)	$0	$0
GENERAL FUND TOTAL	($2,526)	$0	$0

Sec. A-41. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

Initiative: Provides funding to establish baseline allocation to receive and expend federal funds.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$10,030	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$10,030	$0	$0

Administrative Services - Professional and Financial Regulation 0094

Initiative: Establishes headcount and provides funding for the Commissioner of Professional and Financial Regulation position.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	0.000	0.000
Personal Services	$71,215	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$71,215	$0	$0

Insurance - Bureau of 0092

Initiative: Provides funding to establish a baseline allocation to receive and expend federal funds to further purposes of the Bureau of Insurance.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$1,000,000	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$1,000,000	$0	$0

Licensure in Medicine - Board of 0376

Initiative: Provides funding for an online licensing application and improvements to streamline boardroom technology.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$20,254	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$20,254	$0	$0

Licensure in Medicine - Board of 0376

Initiative: Provides funding for education about narcotic prescribing.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$48,000	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$48,000	$0	$0

Nursing - Board of 0372

Initiative: Provides funding to establish an allocation for the Board of Nursing program to receive and expend federal funds.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$148,500	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$148,500	$0	$0

Office of Securities 0943

Initiative: Provides funding to establish a baseline allocation for the Office of Securities program to receive and expend federal funds.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$10,113	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$10,113	$0	$0

Optometry - Board of 0385

Initiative: Reduces funding to more closely approximate anticipated resources.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($1,578)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($1,578)	$0	$0

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
FEDERAL EXPENDITURES FUND	$1,168,643	$0	$0
OTHER SPECIAL REVENUE FUNDS	$137,891	$0	$0

DEPARTMENT TOTAL - ALL FUNDS	**$1,306,534**	**$0**	**$0**

Sec. A-42. Appropriations and allocations. The following appropriations and allocations are made.

PROPERTY TAX REVIEW, STATE BOARD OF

Property Tax Review - State Board of 0357

Initiative: Reduces funding to achieve targeted savings.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
All Other	($803)	$0	$0
GENERAL FUND TOTAL	($803)	$0	$0

Sec. A-43. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC BROADCASTING CORPORATION, MAINE

Maine Public Broadcasting Corporation 0033

Initiative: Reduces funding for out-of-pocket spending. This will result in no impact on employment or benefits. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
All Other	($19,325)	$0	$0
GENERAL FUND TOTAL	($19,325)	$0	$0

Sec. A-44. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Background Checks - Certified Nursing Assistants 0992

Initiative: Reduces funding by holding certain Department of Public Safety positions vacant. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	($6,750)	$0	$0
GENERAL FUND TOTAL	($6,750)	$0	$0

Consolidated Emergency Communications Z021

Initiative: Provides funding for the increased cost of STA-CAP.

CONSOLIDATED EMERGENCY COMMUNICATIONS FUND	**2010-11**	**2011-12**	**2012-13**
All Other	$27,327	$0	$0
CONSOLIDATED EMERGENCY COMMUNICATIONS FUND TOTAL	$27,327	$0	$0

Consolidated Emergency Communications Z021

Initiative: Provides funding for the increased cost of building rent.

CONSOLIDATED EMERGENCY COMMUNICATIONS FUND	**2010-11**	**2011-12**	**2012-13**
All Other	$2,102	$0	$0
CONSOLIDATED EMERGENCY COMMUNICATIONS FUND TOTAL	$2,102	$0	$0

Criminal Justice Academy 0290

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
All Other	$9,598	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$9,598	$0	$0

Drug Enforcement Agency 0388

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
All Other	$799	$0	$0

OTHER SPECIAL REVENUE FUNDS TOTAL	$799	$0	$0

Fire Marshal - Office of 0327

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$16,402	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$16,402	$0	$0

Gambling Control Board Z002

Initiative: Appropriates funds for one Office Specialist I position and one Public Safety Inspector I position to review and process the application for a casino license in Oxford and perform other duties.

GENERAL FUND	2010-11	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	2.000	0.000	0.000
Personal Services	$37,624	$0	$0
GENERAL FUND TOTAL	$37,624	$0	$0

Gambling Control Board Z002

Initiative: Provides funding for the projected due diligence costs related to the application for a casino license in Oxford. These funds may not lapse and must be carried forward and expended for the original intended purpose.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$277,500	$0	$0
GENERAL FUND TOTAL	$277,500	$0	$0

Gambling Control Board Z002

Initiative: Provides funding for Attorney General fees to review the application for a casino license in Oxford.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$47,376	$0	$0
GENERAL FUND TOTAL	$47,376	$0	$0

Gambling Control Board Z002

Initiative: Deappropriates funds to recognize savings in the All Other category.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($85,000)	$0	$0
GENERAL FUND TOTAL	($85,000)	$0	$0

Highway Safety DPS 0457

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$1,960	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,960	$0	$0

Licensing and Enforcement - Public Safety 0712

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$6,341	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$6,341	$0	$0

State Police 0291

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$1,624	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$1,624	$0	$0

State Police 0291

Initiative: Reduces funding by holding certain Department of Public Safety positions vacant. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	($240,081)	$0	$0
GENERAL FUND TOTAL	($240,081)	$0	$0

State Police 0291

Initiative: Provides funding for the increased cost of building rent.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$30,461	$0	$0
GENERAL FUND TOTAL	$30,461	$0	$0

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Provides funding for the increased cost of STA-CAP.

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
All Other	$511	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$511	$0	$0

Turnpike Enforcement 0547

Initiative: Provides funding for the increased cost of STA-CAP.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$44,419	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$44,419	$0	$0

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$61,130	$0	$0
FEDERAL EXPENDITURES FUND	$511	$0	$0
OTHER SPECIAL REVENUE FUNDS	$81,143	$0	$0
CONSOLIDATED EMERGENCY COMMUNICATIONS FUND	$29,429	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$172,213	$0	$0

Sec. A-45. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Reduces funding for administrative support costs associated with the energy programs division.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($100,000)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($100,000)	$0	$0

Sec. A-46. Appropriations and allocations. The following appropriations and allocations are made.

SACO RIVER CORRIDOR COMMISSION

Saco River Corridor Commission 0322

Initiative: Provides funding to appropriately recognize the level of funding received.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$6,000	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$6,000	$0	$0

Sec. A-47. Appropriations and allocations. The following appropriations and allocations are made.

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Reduces funding in the Specialty License Plate Fund, the Maine Motor Vehicle Franchise Fund and the Municipal Excise Tax Reimbursement Fund to match the anticipated revenues.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($27,769)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($27,769)	$0	$0

Municipal Excise Tax Reimbursement Fund 0871

Initiative: Reduces funding to reflect baseline expenditures projections for fiscal year 2010-11.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($414,230)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($414,230)	$0	$0

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	**($441,999)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($441,999)**	**$0**	**$0**

Sec. A-48. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Railroad Assistance Program 0350

Initiative: Reduces funding to correct Public Law 2009, chapter 645. Part H, section 5 authorized a transfer of up to $7,000,000 at the close of fiscal year 2009-10 to the Railroad Assistance Program, General Fund account. Part H, section 7 also provided $7,000,000 for this purpose.

GENERAL FUND	2010-11	2011-12	2012-13
Capital Expenditures	($7,000,000)	$0	$0
GENERAL FUND TOTAL	($7,000,000)	$0	$0

Sec. A-49. Appropriations and allocations. The following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Administration - Treasury 0022

Initiative: Reduces funding for general operating expenditures for fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,196)	$0	$0
GENERAL FUND TOTAL	($2,196)	$0	$0

Debt Service - Treasury 0021

Initiative: Reduces funding for one-time savings in debt service for fiscal year 2010-11. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($1,386,701)	$0	$0
GENERAL FUND TOTAL	($1,386,701)	$0	$0

Debt Service - Treasury 0021

Initiative: Reduces funding for debt service costs associated with note interest resulting from a change in the assumption for the issuance of tax anticipation notes for fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($4,036,250)	$0	$0
GENERAL FUND TOTAL	($4,036,250)	$0	$0

Disproportionate Tax Burden Fund 0472

Initiative: Provides funding to bring allocations into line with projected available resources based on the reprojection of revenue by the Revenue Forecasting Committee in December 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$730,596	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$730,596	$0	$0

Disproportionate Tax Burden Fund 0472

Initiative: Reduces funding to reflect the transfer of additional revenue-sharing funds to the General Fund in fiscal year 2010-11.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($460,011)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($460,011)	$0	$0

State - Municipal Revenue Sharing 0020

Initiative: Provides funding to bring allocations into line with projected available resources based on the reprojection of revenue by the Revenue Forecasting Committee in December 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$3,835,633	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$3,835,633	$0	$0

State - Municipal Revenue Sharing 0020

Initiative: Reduces funding to reflect the transfer of additional revenue-sharing funds to the General Fund in fiscal year 2010-11.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	($2,415,058)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	($2,415,058)	$0	$0

TREASURER OF STATE, OFFICE OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($5,425,147)	$0	$0
OTHER SPECIAL REVENUE FUNDS	$1,691,160	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($3,733,987)	$0	$0

Sec. A-50. Appropriations and allocations. The following appropriations and allocations are made.

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

University of Maine Scholarship Fund Z011

Initiative: Provides funding to bring allocations in line with available resources of racino revenue projected by the Revenue Forecasting Committee in December 2010.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
All Other	$17,525	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$17,525	$0	$0

Sec. A-51. Appropriations and allocations. The following appropriations and allocations are made.

WORKERS' COMPENSATION BOARD

Administration - Workers' Compensation Board 0183

Initiative: Provides funding for the reorganization of one Office Assistant II position to one Office Associate II position.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$141	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$141	$0	$0

PART B

Sec. B-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Financial and Personnel Services - Division of 0713

Initiative: RECLASSIFICATIONS

FINANCIAL AND PERSONNEL SERVICES FUND	2010-11	2011-12	2012-13
Personal Services	$7,625	$0	$0
FINANCIAL AND PERSONNEL SERVICES FUND TOTAL	$7,625	$0	$0

Information Services 0155

Initiative: RECLASSIFICATIONS

OFFICE OF INFORMATION SERVICES FUND	2010-11	2011-12	2012-13
Personal Services	$186,449	$0	$0
All Other	($186,449)	$0	$0
OFFICE OF INFORMATION SERVICES FUND TOTAL	$0	$0	$0

Revenue Services - Bureau of 0002

Initiative: RECLASSIFICATIONS

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	$5,669	$0	$0
All Other	($5,669)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**$0**	**$0**	**$0**
FINANCIAL AND PERSONNEL SERVICES FUND	**$7,625**	**$0**	**$0**
OFFICE OF INFORMATION SERVICES FUND	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$7,625**	**$0**	**$0**

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Pesticides Control - Board of 0287

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$9,927	$0	$0
All Other	($9,927)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

CONSERVATION, DEPARTMENT OF

Mining Operations 0230

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$6,261	$0	$0
All Other	($6,261)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

CONSERVATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13

OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

EDUCATION, DEPARTMENT OF

Adult Education 0364

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$27,074	$0	$0
All Other	($27,074)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

Federal and State Program Services Z079

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$21,457	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$21,457	$0	$0

General Purpose Aid for Local Schools 0308

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$13,365	$0	$0
All Other	($13,365)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

Leadership Team Z077

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$1,192	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$1,192	$0	$0

PK-20 Curriculum, Instruction and Assessment Z081

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$1,193	$0	$0
All Other	($1,193)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

Special Services Team Z080

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$3,104	$0	$0
All Other	($3,104)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

EDUCATION, DEPARTMENT OF

DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$22,649**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$22,649**	**$0**	**$0**

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management 0247

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$4,246	$0	$0
All Other	$126	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$4,372	$0	$0

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$14,684	$0	$0
All Other	($11,716)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,968	$0	$0

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
FEDERAL EXPENDITURES FUND	**$4,372**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$2,968**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$7,340**	**$0**	**$0**

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices - Commission on 0414

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$37,404	$0	$0
All Other	($37,404)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

EXECUTIVE DEPARTMENT

Planning Office 0082

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$5,408	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$5,408	$0	$0

Public Advocate 0410

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12	2012-13
Personal Services	$4,532	$0	$0
All Other	($4,532)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

EXECUTIVE DEPARTMENT

DEPARTMENT TOTALS	2010-11	2011-12	2012-13
FEDERAL EXPENDITURES FUND	**$5,408**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**

DEPARTMENT TOTAL - ALL FUNDS	**$5,408**	**$0**	**$0**

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Bureau of Child and Family Services - Central 0307

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$4,905	$0	$0
All Other	$172	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$5,077	$0	$0

Bureau of Child and Family Services - Regional 0452

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$23,459	$0	$0
All Other	($23,459)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

Bureau of Medical Services 0129

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$1,012	$0	$0
All Other	$27	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$1,039	$0	$0

Division of Data, Research and Vital Statistics Z037

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$19,194	$0	$0
All Other	($19,194)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
Personal Services	$6,377	$0	$0
All Other	$170	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$6,547	$0	$0

Division of Purchased Services Z035

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$2,806	$0	$0
All Other	($2,806)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

Health - Bureau of 0143

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$6,942	$0	$0
All Other	$186	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$7,128	$0	$0

Maternal and Child Health 0191

Initiative: RECLASSIFICATIONS

FEDERAL BLOCK GRANT FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$81,140	$0	$0
All Other	$2,168	$0	$0
FEDERAL BLOCK GRANT FUND TOTAL	$83,308	$0	$0

Office of Elder Services Central Office 0140

Initiative: RECLASSIFICATIONS

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	$3,483	$0	$0
All Other	($3,483)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

OMB Division of Regional Business Operations 0196

Initiative: RECLASSIFICATIONS

GENERAL FUND	2010-11	2011-12	2012-13
Personal Services	$2,451	$0	$0
All Other	($2,451)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$13,244**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$6,547**	**$0**	**$0**
FEDERAL BLOCK GRANT FUND	**$83,308**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$103,099**	**$0**	**$0**

HUMAN RIGHTS COMMISSION, MAINE

Human Rights Commission - Regulation 0150

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$12,830	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$12,830	$0	$0

HUMAN RIGHTS COMMISSION, MAINE			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
FEDERAL EXPENDITURES FUND	**$12,830**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$12,830**	**$0**	**$0**

LABOR, DEPARTMENT OF

Employment Security Services 0245

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$14,441	$0	$0
All Other	$157	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$14,598	$0	$0

Employment Services Activity 0852

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2010-11	2011-12	2012-13
Personal Services	$8,823	$0	$0
All Other	$148	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$8,971	$0	$0

LABOR, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
FEDERAL EXPENDITURES FUND	**$23,569**	**$0**	**$0**

DEPARTMENT TOTAL - ALL FUNDS	**$23,569**	**$0**	**$0**

LIBRARY, MAINE STATE

Maine State Library 0217

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$3,282	$0	$0
All Other	($3,282)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

LIBRARY, MAINE STATE			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

MARINE RESOURCES, DEPARTMENT OF

Division of Community Resource Development 0043

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$14,944	$0	$0
All Other	($14,944)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

Sea Run Fisheries and Habitat Z049

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$13,658	$0	$0
All Other	($13,658)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$3,601	$0	$0
All Other	($3,601)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

MARINE RESOURCES, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

PUBLIC SAFETY, DEPARTMENT OF

State Police 0291

Initiative: RECLASSIFICATIONS

GENERAL FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$20,298	$0	$0
All Other	($20,298)	$0	$0
GENERAL FUND TOTAL	$0	$0	$0

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
Personal Services	$6,153	$0	$0
All Other	($6,153)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

Turnpike Enforcement 0547

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
Personal Services	$5,803	$0	$0

All Other	($5,803)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

PUBLIC SAFETY, DEPARTMENT OF

DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

SECTION TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$82,072**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$9,515**	**$0**	**$0**
FEDERAL BLOCK GRANT FUND	**$83,308**	**$0**	**$0**
FINANCIAL AND PERSONNEL SERVICES FUND	**$7,625**	**$0**	**$0**
OFFICE OF INFORMATION SERVICES FUND	**$0**	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$182,520**	**$0**	**$0**

PART C

Sec. C-1. 20-A MRSA §15671, sub-§7, ¶B, as repealed and replaced by PL 2009, c. 571, Pt. E, §18, is amended to read:

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

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

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

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

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

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

(6) For fiscal year 2010-11, the target is ~~46%~~ 45.84%.

(7) For fiscal year 2011-12 and succeeding years, the target is 55%.

Sec. C-2. 20-A MRSA §15671-A, sub-§2, ¶B, as amended by PL 2009, c. 571, Pt. E, §19, is further amended to read:

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

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

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

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 45.56% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 45.99% statewide total local share in fiscal year 2008-09.

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

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount

necessary to result in a ~~54.0%~~ 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45.0% statewide total local share in fiscal year 2011-12 and after.

Sec. C-3. PL 2009, c. 571, Pt. E, §32 is amended to read:

Sec. E-32. Total cost of funding public education from kindergarten to grade 12. The total cost of funding public education from kindergarten to grade 12 for fiscal year 2010-11 is as follows:

	2010-11 TOTAL
Total Operating Allocation	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	$1,377,907,552
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	$1,336,568,385
Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	$399,182,922
Total Operating Allocation	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	$1,735,751,307
Total Debt Service Allocation	
Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	$99,049,370
Total Adjustments and Miscellaneous Costs	
Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	~~$74,663,270~~ $68,963,270
Total Cost of Funding Public Education from Kindergarten to Grade 12	
Total cost of funding public education from kindergarten to grade 12 for fiscal year 2010-11 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	~~$1,909,463,947~~ $1,903,763,947

Sec. C-4. PL 2009, c. 571, Pt. E, §33 is amended to read:

Sec. E-33. Local and state contributions to total cost of funding public education from kindergarten to grade 12. The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2010 and ending June 30, 2011 is calculated as follows:

	2010-11 LOCAL	2010-11 STATE
Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12		
Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	$1,031,138,925	~~$878,325,022~~ $872,625,022

PART D

Sec. D-1. PL 2009, c. 213, Pt. EEE, §1 is amended to read:

Sec. EEE-1. Interim process for reorganized school administrative units. For school ~~year~~ years 2009-2010, 2010-2011 and 2011-2012, for the purposes of applied technology education at vocational centers and career and technical education regions specified in the Maine Revised Statutes, Title 20-A, chapter 313, the following must be implemented.

1. For those school administrative units that have reorganized pursuant to Public Law 2007, chapter 240, Part XXXX as amended by Public Law 2007, chapter 668, all ~~vocational and technical~~ students shall attend the vocational center or career and technical education region that they would have attended as a resident student of the original school administrative unit.

2. For those school administrative units that have reorganized pursuant to Public Law 2007, chapter 240, Part XXXX as amended by Public Law 2007, chapter 668, the successor unit acts in place of the school administrative unit identified in Title 20-A, chapter 313 for the purposes of the duties and obligations specified in Title 20-A, chapter 313, subchapters 3 and 4.

Sec. D-2. Rename PK-20 Curriculum, Instruction and Assessment program. Notwithstanding any other provision of law, the PK-20 Curriculum, Instruction and Assessment program within the Department of Education is renamed the PK-20, Adult Education and Federal Programs Team program.

PART E

Sec. E-1. 20-A MRSA §15905, sub-§1, as amended by PL 2007, c. 539, Pt. C, §16, is further amended to read:

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

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

Table 1

Fiscal year	Major Capital Maximum Debt Service Limit	Integrated, Consolidated Secondary and Postsecondary Project Maximum Debt Service Limit
1990	$ 48,000,000	
1991	$ 57,000,000	
1992	$ 65,000,000	
1993	$ 67,000,000	
1994	$ 67,000,000	
1995	$ 67,000,000	
1996	$ 67,000,000	
1997	$ 67,000,000	
1998	$ 67,000,000	
1999	$ 69,000,000	
2000	$ 72,000,000	
2001	$ 74,000,000	
2002	$ 74,000,000	
2003	$ 80,000,000	
2004	$ 80,000,000	
2005	$ 84,000,000	
2006	$ 90,000,000	
2007	$ 96,000,000	
2008	$100,000,000	
2009	$104,000,000	
2010	$108,000,000	
2011	$126,000,000	
2012	~~$126,000,000~~ $116,000,000	
2013	~~$126,000,000~~ $116,000,000	
2014	$116,000,000	$10,000,000
2015	$116,000,000	$10,000,000

A-1. Beginning with the second regular session of the Legislature in fiscal year 1990 and every other year thereafter, on or before March 1st, the commissioner shall recommend to the Legislature and the Legislature shall establish maximum debt service limits for the next 2 biennia for which debt service limits have not been set for major capital and integrated, consolidated secondary and postsecondary projects.

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

PART F

Sec. F-1. 5 MRSA §933, sub-§1, ¶O, as enacted by PL 2009, c. 552, §5, is amended to read:

O. Director, Division of ~~Agriculture~~ Agricultural Resource Development; and

Sec. F-2. Rename Division of Market and Production Development program. Notwithstanding any other provision of law, the Division of Market and Production Development program within the Department of Agriculture, Food and Rural Resources is renamed the Division of Agricultural Resource Development program.

PART G

Sec. G-1. Cash advance from Other Special Revenue Funds to the Fund for a Healthy Maine. Notwithstanding any other provision of law, the State Controller may transfer up to $3,500,000 in fiscal year 2010-11 from cash balances in Other Special Revenue Funds accounts to the account in the Department of Administrative and Financial Services receiving funding for the Fund for a Healthy Maine to

help meet obligations of the Fund for a Healthy Maine through June 30, 2011.

Sec. G-2. Repayment from the Fund for a Healthy Maine to Other Special Revenue Funds. Notwithstanding any other provision of law, on July 1, 2011, as the first priority of the Fund for a Healthy Maine for fiscal year 2011-12, the State Controller shall transfer an amount equal to the amount transferred under section 1 of this Part from the account in the Department of Administrative and Financial Services receiving funding for the Fund for a Healthy Maine with interest to Other Special Revenue Funds as repayment. This transfer is considered a cash advance repaid with interest compounded annually at the earnings rate within the Treasurer of State's cash pool on the date of the advance.

Sec. G-3. Report. The Commissioner of Administrative and Financial Services shall report on the amount advanced and Fund for a Healthy Maine programs affected by this Part to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services by June 30, 2011.

PART H

Sec. H-1. Transfer; unexpended funds; Division of Forest Protection account. Notwithstanding any other provision of law, the State Controller shall transfer $80,000 by the close of fiscal year 2010-11 from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the unappropriated surplus of the General Fund.

PART I

Sec. I-1. Department of Environmental Protection; unexpended funds. Notwithstanding any other provision of law, the State Controller shall transfer $11,185 of unexpended funds from the Land and Water Quality program, General Fund carrying account, All Other line category, to the unappropriated surplus of the General Fund no later than June 30, 2011.

PART J

Sec. J-1. PL 2009, c. 571, Part I, §1 is amended to read:

Sec. I-1. Transfer; unexpended funds; Maine Solid Waste Management Fund account. Notwithstanding any other provision of law, the State Controller shall transfer ~~$987,605~~ $100,000 in unexpended funds from the Maine Solid Waste Management Fund, Other Special Revenue Funds account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2010-11.

Sec. J-2. Transfer; unexpended funds; Ground Water Oil Clean-up Fund account. Notwithstanding any other provision of law, the State Controller shall transfer $988,367 in unexpended funds from the Ground Water Oil Clean-up Fund, Other Special Revenue Funds account in the Department of Environmental Protection to General Fund unappropriated surplus at the close of fiscal year 2010-11.

PART K

Sec. K-1. Department of Education, Child Development Services System. The Commissioner of Education shall conduct a comprehensive review of the Child Development Services System, including an analysis of all revenue sources and a complete assessment of the impact of MaineCare rule changes on the Child Development Services System's eligibility for reimbursements under Medicaid. By March 31, 2011, the Commissioner of Education shall submit to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Education and Cultural Affairs a report on the results of the comprehensive review and a plan, including any necessary implementing legislation, that identifies savings in the Child Development Services System equal to at least 5% of the total fiscal year 2010-11 program budget and establishes limits on administration and transportation costs that do not affect services to children.

PART L

Sec. L-1. Transfer; unexpended funds; Fund for the Efficient Delivery of Local and Regional Services. Notwithstanding any other provision of law, the State Controller shall transfer $22,209 in unexpended funds from the Fund for the Efficient Delivery of Local and Regional Services - Administration, Other Special Revenue Funds account in the Department of Administrative and Financial Services to General Fund unappropriated surplus at the close of fiscal year 2010-11.

Sec. L-2. Transfer of Personal Services appropriations. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, available balances of General Fund appropriations for Personal Services in fiscal year 2010-11 may be transferred by financial order between programs and departments within the General Fund upon the recommendation of the State Budget Officer and approval of the Governor to be used for separation and other personnel-related costs associated with the transition following the election of the Governor.

PART M

Sec. M-1. PL 2009, c. 213, Pt. MMM, §2, as amended by PL 2009, c. 645, Pt. H, §2, is further amended to read:

Sec. MMM-2. Transfer; Maine Budget Stabilization Fund. Notwithstanding the Maine Revised Statutes, Title 5, section 1536 or any other provision of law, $5,597,244 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 30, 2010 after all budgeted financial commitments and adjustments considered necessary by the State Controller have been made and ~~$2,488,702~~ $3,188,702 of the balance in General Fund unappropriated surplus on June 30, 2011 must be transferred to the Maine Budget Stabilization Fund no later than June 30, 2011 after all budgeted financial commitments and adjustments considered necessary by the State Controller have been made.

Sec. M-2. Retroactivity. That section of this Part that amends Public Law 2009, chapter 213, Part MMM, section 2 applies retroactively to June 30, 2010.

PART N

Sec. N-1. 30-A MRSA §5681, sub-§5-C, as amended by PL 2009, c. 571, Pt. JJ, §1, is further amended to read:

5-C. Transfers to General Fund. For the months beginning on or after July 1, 2009, $25,383,491 in fiscal year 2009-10 and ~~$35,270,254~~ $38,145,323 in fiscal year 2010-11 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. The amounts transferred to General Fund undedicated revenue each fiscal year pursuant to this subsection must be deducted from the distributions required by subsections 4-A and 4-B based on the percentage share of the transfers to the Local Government Fund pursuant to subsection 5. The reductions in this subsection must be allocated to each month proportionately based on the budgeted monthly transfers to the Local Government Fund as determined at the beginning of the fiscal year.

Sec. N-2. Transfers to General Fund for fiscal year 2010-11. Notwithstanding the requirement in the Maine Revised Statutes, Title 30-A, section 5681, subsection 5-C that amounts must be transferred to General Fund undedicated revenue on a proportionate basis based on budgeted monthly transfers to the Local Government Fund as determined at the beginning of fiscal year 2010-11, for fiscal year 2010-11, $2,875,069 must be transferred on a proportional basis based on the number of months remaining in fiscal year 2010-11 following the effective date of this Part.

PART O

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

A. Any balance remaining in the accounts of the Department of Health and Human Services, Bureau of Elder and Adult Services appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year~~.~~; and

Sec. O-2. 5 MRSA §1591, sub-§2, ¶B is enacted to read:

B. Any balance remaining in the Traumatic Brain Injury Seed program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year.

PART P

Sec. P-1. 36 MRSA §111, sub-§1-A, as amended by PL 2009, c. 596, §1 and affected by §2, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of ~~March 2~~ December 31, 2010.

Sec. P-2. Application. This Part applies to tax years beginning on or after January 1, 2010 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2010.

PART Q

Sec. Q-1. Personal Services savings; transfer to General Fund undedicated revenue. Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller is authorized to transfer the first $3,500,000 of unexpended Personal Services appropriations that would otherwise lapse to the Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2010-11.

Sec. Q-2. General Fund Salary Plan; transfer to General Fund undedicated revenue. Notwithstanding any other provision of law, the State Controller is authorized to transfer up to $3,500,000 from the Salary Fund program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2010-11 in the event that the total savings in section 1 of this Part are not achieved.

PART R

Sec. R-1. Vacancy report. The Department of Administrative and Financial Services, Bureau of the Budget shall review vacant positions regardless of funding source. The department shall submit a report on its findings to the Joint Standing Committee on Appropriations and Financial Affairs by March 31, 2011 with any recommendations for eliminating vacant positions. The report must also be delivered to

the Joint Standing Committee on Transportation if the report includes any positions that are partially or wholly funded by the Highway Fund or by internal service funds, enterprise funds or Other Special Revenue Funds accounts of the Department of Transportation, the Department of Public Safety or the Department of the Secretary of State.

PART S

Sec. S-1. 5 MRSA §1582, sub-§4, as amended by PL 2009, c. 571, Pt. GGGG, §1, is further amended to read:

4. Use of savings; personal services funds. Savings accrued from unused funding of employee benefits may not be used to increase services provided by employees. Accrued salary savings generated within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs only within the account where the savings exist. Accrued savings generated from vacant positions within a General Fund account's appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies, and accrued savings generated within a Highway Fund account's allocations for Personal Services may be used to offset Personal Services shortfalls in other Highway Fund accounts that occur as a direct result of Personal Services allocation reductions for projected vacancies; except that the transfer of such accrued savings is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Costs related to acting capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department or agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account. At the close of each fiscal year, except for the Division of Forest Protection account within the Department of Conservation, the Disproportionate Share - Riverview Psychiatric Center and the Disproportionate Share - Dorothea Dix Psychiatric Center accounts within the Department of Health and Human Services and the Education in the Unorganized Territory account within the Department of Education, any unexpended General Fund Personal Services appropriations to executive branch agencies including accounts that are authorized to carry unexpended balances forward must lapse to the Salary Plan program, General Fund account in the Department of Administrative and Financial Services.

Sec. S-2. 34-B MRSA §1409, sub-§15, as amended by PL 2009, c. 571, Pt. SSS, §1, is further amended to read:

15. General Fund accounts; disproportionate share hospital match. The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes. ~~Notwithstanding Title 5, section 1582, subsection 4 or any other provision of law, available~~ Available unencumbered balances at the end of each fiscal year in the Personal Services line category of the accounts may be transferred to the All Other line category by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

PART T

Sec. T-1. Fees to cover the projected costs of considering a casino operator license application. An applicant who intends to submit an application for a license to operate a casino in Oxford County to the Department of Public Safety, Gambling Control Board on or before December 1, 2011 shall submit the fees to cover the projected costs of considering the application as required by the Maine Revised Statutes, Title 8, section 1018, subsection 1 to the board no later than May 1, 2011. Notwithstanding Title 8, section 1018, the fees collected by the board on or before May 1, 2011 to cover the projected costs of considering the application may not exceed $277,500. Nothing in this section precludes the board from collecting additional fees in accordance with Title 8, section 1018, subsection 1 after May 1, 2011 to cover projected costs as authorized by Title 8, section 1018, subsection 1.

PART U

Sec. U-1. Transfers from Other Special Revenue Funds accounts; Department of Health and Human Services. The State Controller shall transfer to General Fund unappropriated surplus the following amounts from Other Special Revenue Funds accounts within the Department of Health and Human Services:

1. From the Bone Marrow Screening Fund program, $25,150 no later than June 30, 2011;

2. From the Clinical Drug Trials - Public Law 2005, c. 392 account within the Bureau of Medical Services program, $550,000 no later than June 30, 2011;

3. From the Prescription Drug Privacy Program account within the Bureau of Medical Services program, $150,000 no later than June 30, 2011;

4. From the Audit Recovery account within the Office of Management and Budget program, $50,000 no later than June 30, 2011;

5. From the Lead Poisoning Prevention Fund account within the Health - Bureau of program, $350,000 no later than June 30, 2011;

6. From the Service Center - DHS - MHMR program, $16,115 no later than June 30, 2011;

7. From the DLRS Hospital Assessments within the Division of Licensing and Regulatory Services program, $100,000 no later than June 30, 2011; and

8. From the State Sanction within the Division of Licensing and Regulatory Services program, $88,265 no later than June 30, 2011.

PART V

Sec. V-1. Department of Health and Human Services; unexpended funds. Notwithstanding any other provision of law, $2,000,000 of unexpended funds from the State-Funded Foster Care/Adoption Assistance program, General Fund account, All Other line category lapses to the unappropriated surplus of the General Fund no later than June 30, 2011.

Sec. V-2. Department of Health and Human Services; unexpended funds. Notwithstanding any other provision of law, $100,000 of unexpended funds from the Independent Housing with Services program, General Fund account, All Other line category lapses to the unappropriated surplus of the General Fund no later than June 30, 2011.

Sec. V-3. Department of Health and Human Services; unexpended funds. Notwithstanding any other provision of law, $73,315 of unexpended funds from the Maternal and Child Health Block Grant Match program, General Fund account, Personal Services line category and $100,000 of unexpended funds from the Maternal and Child Health Block Grant Match program, General Fund account, All Other line category lapses to the unappropriated surplus of the General Fund no later than June 30, 2011.

PART W

Sec. W-1. PL 2009, c. 571, Pt. AA, §3 is amended to read:

Sec. AA-3. Transfer; Division of Forest Protection account. ~~Notwithstanding~~ If on June 1, 2011 the unobligated balance in the Division of Forest Protection, General Fund account in the Department of Conservation is at least equal to $500,000, the State Controller shall transfer $400,000 from this account to the General Fund unappropriated surplus at the close of fiscal year 2010-11. If on June 1, 2011 the unobligated balance in the Division of Forest Protection, General Fund account in the Department of Conservation is less than $500,000, then, notwithstanding the Maine Revised Statutes, Title 12, section 8003, subsection 3, paragraph M-1 or any other provision of law, the Department of Conservation is authorized to sell a Jet Ranger helicopter ~~between April 1, 2011 and June 30, 2011~~. The State Controller shall transfer $400,000 from the ~~anticipated~~ proceeds of the sale of the Jet Ranger helicopter from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the General Fund unappropriated surplus at the close of fiscal year 2010-11. The State Controller may transfer unexpended funds from the Division of Forest Protection, Other Special Revenue Funds account in the Department of Conservation to the General Fund unappropriated surplus if the proceeds from the sale of the helicopter by state surplus is less than $400,000.

PART X

Sec. X-1. Doctors for Maine's Future Scholarship Fund program; additional General Fund appropriation. No later than June 30, 2013, a General Fund appropriation of $125,445 must be provided to the Finance Authority of Maine for the Doctors for Maine's Future Scholarship Fund program.

PART Y

Sec. Y-1. Department of Labor; lapsed balances. Notwithstanding any other provision of law, $392,944 of unencumbered balance forward from the Department of Labor, Governor's Training Initiative Program, General Fund account, All Other line category lapses to the General Fund no later than June 30, 2011.

PART Z

Sec. Z-1. Department of Education, Management Information Systems; unexpended funds. Notwithstanding any other provision of law, $1,125,384 of unexpended funds from the Department of Education, Management Information Systems program, General Fund account, All Other line category shall lapse to the unappropriated surplus of the General Fund no later than June 30, 2011.

PART AA

Sec. AA-1. 10 MRSA §8002, first ¶, as amended by PL 2007, c. 539, Pt. T, §1, is further amended to read:

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. ~~In making the appointment under this paragraph, the Governor shall appoint one of the following officials as commis-~~

~~sioner, who shall also continue to act as a superintendent or director, as the case may be: the Superintendent of Financial Institutions, the Superintendent of Consumer Credit Protection, the Superintendent of Insurance or the Director of the Office of Licensing and Registration.~~ The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to:

Sec. AA-2. 32 MRSA §2153-A, sub-§13, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

13. Other employees. May employ other individuals as may be necessary to carry out the work of the board; ~~and~~

Sec. AA-3. 32 MRSA §2153-A, sub-§14, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

14. Funds. May set aside and budget funds for, make contracts for, and procure goods or services the board determines necessary to accomplish its duties under this chapter~~.~~; and

Sec. AA-4. 32 MRSA §2153-A, sub-§15 is enacted to read:

15. Accept federal funds. Notwithstanding section 2156, may accept for the State any federal funds appropriated under any federal law relating to the authorized programs of the board. The board may undertake the necessary duties and tasks to implement federal law with respect to the authorized programs of the board.

PART BB

Sec. BB-1. 36 MRSA §141, sub-§2, ¶C, as amended by PL 2001, c. 396, §4, is further amended to read:

C. An assessment may be made at any time with respect to a ~~time~~ period for which a return has become due but has not been filed. If ~~any~~ a person ~~failing~~ who has failed to file a return ~~fails to produce~~ does not provide to the assessor, within ~~30~~ 60 days ~~after~~ of receipt of notice, information that the ~~State Tax Assessor believes~~ assessor considers necessary to determine the person's tax liability for ~~the~~ that period ~~involved~~, the ~~State Tax Assessor~~ assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for ~~the~~ that period ~~involved~~, that estimate ~~constitutes~~ is prima facie evidence of the tax liability. The ~~30-day~~ 60-day period provided by this paragraph ~~is~~ must be extended for ~~up to 90~~ an additional 60 days if the taxpayer requests an extension in writing prior to the expiration of the ~~30-day~~ original 60-day period.

Sec. BB-2. 36 MRSA §5276-A, sub-§2, as amended by PL 1993, c. 395, §23, is further amended to read:

2. Notice and hearing. At the time a setoff is made, the ~~State Tax Assessor~~ assessor shall provide notice to the ~~individual or corporate~~ taxpayer of the setoff ~~or setoffs~~ and of the taxpayer's right to request, within ~~30~~ 60 days of the taxpayer's receipt of ~~the~~ notice of the setoff, a hearing before the creditor agency ~~or agencies~~. The hearing ~~or hearings are~~ must be held ~~pursuant to~~ in accordance with the provisions of the Maine Administrative Procedure Act, ~~Title 5, chapter 375,~~ but ~~are~~ is limited to the issues of whether the debt ~~or debts~~ became liquidated and whether any postliquidation ~~events have~~ event has affected the liability.

Sec. BB-3. Application. This Part takes effect July 1, 2011.

PART CC

Sec. CC-1. 36 MRSA §2558, sub-§2, as enacted by PL 2003, c. 673, Pt. V, §25 and affected by §29, is amended to read:

2. Amended return filed. The amended return must be filed within ~~90~~ 180 days of an audit finding ~~affecting~~ that affects a person's liability under this chapter or within ~~90~~ 180 days of the ~~time~~ date that a person learns of ~~any other~~ a change or correction ~~affecting its~~ that affects that person's liability under this chapter.

Sec. CC-2. 36 MRSA §4075, as amended by PL 2007, c. 693, §30, is further amended to read:

§4075. Amount of tax determined

The State Tax Assessor shall determine the amount of tax due and payable upon any estate or part of that estate. If, after determination and certification of the full amount of the tax upon an estate or any interest in or part of an estate, the estate receives or becomes entitled to property in addition to that shown in the estate tax return filed with the assessor or the United States Internal Revenue Service changes any item increasing the estate's liability shown in the Maine estate tax return filed with the assessor, the personal representative shall within ~~90~~ 180 days of any receipt, entitlement or change file an amended Maine estate tax return. The assessor shall determine the amount of additional tax and shall certify the amount due, including interest and penalties, to the person by whom the tax is payable.

Sec. CC-3. 36 MRSA §5227-A, sub-§2, as enacted by PL 2003, c. 588, §19, is amended to read:

2. Amended return filed. The amended Maine return must be filed within ~~90~~ 180 days from the date of the final determination of the change or correction or the filing of the federal amended return. For purposes of this subsection, "date of the final determination" means the date on which the earliest of the following events occurs with respect to a federal taxable year:

A. The taxpayer has made payment of an additional income tax liability resulting from a federal audit, the taxpayer has not filed a petition for redetermination or claim for refund for the portions of the audit for which payment was made and the time for filing a petition for redetermination or refund claim has expired;

B. The taxpayer receives a refund from the United States Treasury that resulted from a federal audit;

C. The taxpayer signs Form 870-AD or another Internal Revenue Service form consenting to a deficiency or accepting an overassessment;

D. The taxpayer's time for filing a petition for redetermination with the United States Tax Court expires;

E. The taxpayer and the Internal Revenue Service enter into a closing agreement; and

F. A decision from the United States Tax Court, a District Court, a federal court of appeals, the United States Court of Federal Claims or the United States Supreme Court becomes final.

Sec. CC-4. 36 MRSA §5245, as enacted by PL 2007, c. 693, §34, is amended to read:

§5245. Amended returns

1. Amended return required. Every partnership or S corporation that is required by section 5241 to file a return shall file an amended Maine return whenever the partnership or S corporation files an amended federal return affecting its net income under this Part or the amount of the distributive share of any partner or shareholder under this Part, whenever the United States Internal Revenue Service changes or corrects any item affecting the taxpayer's net income under this Part or the amount of the distributive share of any partner or shareholder under this Part or whenever for any reason there is a change or correction affecting the taxpayer's net income under this Part or the amount of the distributive share of any partner or shareholder under this Part. The amended Maine return must be filed within ~~90~~ 180 days from the date of the final determination of the change or correction or the date of the filing of the federal amended return. For purposes of this subsection, "date of the final determination" has the same meaning as provided in section 5227-A, subsection 2.

2. Contents of amended return. The amended Maine return must indicate the change or correction and the reason for that change or correction. The amended return constitutes an admission as to the correctness of the change unless the taxpayer includes with the return a written explanation of the reason the change or correction is erroneous. If the taxpayer files an amended federal return, a copy of the amended federal return must be attached to the amended Maine return. The State Tax Assessor may require additional information to be filed with the amended Maine return. The assessor may prescribe exceptions to the requirements of this section.

3. Notice of change or correction. A claim for credit or refund arising from an amended return filed pursuant to this section may not be made by a partner or shareholder of the partnership or S corporation unless the amended return is filed by the partnership or S corporation within 3 years from the ~~time~~ date the original return was filed. For purposes of this subsection, ~~any~~ a return filed before the last day prescribed for the filing of a return is ~~considered as~~ deemed to be filed on that last day.

Sec. CC-5. Effective date. This Part takes effect July 1, 2011.

PART DD

Sec. DD-1. 36 MRSA §144, sub-§1, as amended by PL 2001, c. 396, §5, is further amended to read:

1. Generally. A taxpayer may request a credit or refund of any tax that is imposed by this Title or administered by the State Tax Assessor within 3 years from the ~~time~~ date the return was filed or ~~2~~ 3 years from the ~~time~~ date the tax was paid, whichever period expires later. Every claim for refund must be submitted to the ~~State Tax Assessor~~ assessor in writing and must state the specific grounds upon which ~~it~~ the claim is founded and the tax period for which the refund is claimed. ~~The~~ If the taxpayer ~~may~~ requests in writing ~~request~~ an informal conference regarding the claim for refund, ~~in which case~~ the claim for refund is ~~considered~~ deemed to be a request for reconsideration of an assessment under section 151.

Sec. DD-2. 36 MRSA §4075-A, sub-§1, as amended by PL 2005, c. 622, §24, is further amended to read:

1. Refund. A personal representative or responsible party otherwise liable for the tax imposed by this chapter may request a refund of any tax imposed by this chapter within 3 years from the ~~time~~ date the return was filed or ~~2~~ 3 years from the ~~time~~ date the tax was paid, whichever period expires later. Every claim for refund must be submitted to the State Tax Assessor in writing and must state the specific grounds upon which ~~it~~ the claim is founded. The claimant may in writing request an informal conference regarding the

claim for refund pursuant to ~~the provisions of~~ section 151.

Sec. DD-3. 36 MRSA §5278, as amended by PL 2009, c. 496, §26, is further amended to read:

§5278. Limitations on credit or refund

1. General. A claim for credit or refund of an overpayment of any tax imposed by this Part must be filed by the taxpayer within 3 years from the ~~time~~ date the return was filed, whether or not the return was timely filed, or 3 years from the ~~time~~ date the tax was paid, whichever ~~of such periods~~ period expires ~~the~~ later. A credit or refund ~~is not allowed or~~ may not be ~~made~~ allowed after the expiration of the period ~~of limitation~~ prescribed in this subsection ~~for the filing of a claim for credit or refund,~~ unless a claim for credit or refund is filed by the taxpayer within ~~such a~~ that period. For purposes of this subsection, ~~any~~ a return filed before the last day prescribed for the filing of a return is ~~considered as~~ deemed to be filed on that last day.

2. Limit on amount of claim or refund. If the claim is filed by the taxpayer during the ~~3 year~~ period prescribed in subsection 1, the amount of the credit or refund may not exceed the portion of the tax that was paid within the 3 years immediately preceding the filing of the claim plus the period of any extension of time for filing the return. If ~~no~~ a claim is not filed, any credit or refund allowed upon an audit of the taxpayer may not exceed the amount that would be allowable under this subsection~~,~~ if a claim had been filed by the taxpayer on the date the credit or refund is allowed.

3. Extension of time by agreement. If an agreement for an extension of the period for assessment of income taxes is made within the period prescribed in subsection 1 ~~for the filing of a claim for credit or refund~~, the period for filing a claim for credit or refund or for ~~making~~ allowing a credit or refund if ~~no~~ a claim is not filed~~, shall~~ may not expire ~~prior to~~ earlier than 6 months after the expiration of the period ~~within~~ during which an assessment may be made pursuant to the agreement or any extension ~~thereof~~ of the agreement. The amount of ~~such~~ the credit or refund ~~shall~~ may not exceed the sum of the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund~~, as the case may be, plus~~ and the portion of the tax paid within the period ~~which~~ that would be applicable under subsection 1 if a claim had been filed on the date the agreement was executed.

4. Notice of change or correction. If a taxpayer is required by section 5227-A to file an amended Maine return, a claim for credit or refund of any resulting overpayment of the tax must be filed by the taxpayer within ~~2~~ 3 years from the ~~time~~ date the filing of the amended return was required. The claim for credit or refund is limited to issues included in the federal amendment or adjustment and the amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal amendment or adjustment. This subsection does not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

5. Special rules. The following rules ~~shall~~ apply to claims for credit or refund pursuant to this section:

A. If the claim for credit or refund relates to an overpayment of tax on account of the deductibility by the taxpayer of a debt as a debt ~~which~~ that became worthless or a loss from worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the application to the taxpayer of a carry-over, the claim may be made~~, under regulations prescribed by the assessor,~~ within 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made~~.~~ ; and

B. If the claim for credit or refund relates to an overpayment attributable to a net operating loss carry-back arising from a tax year beginning before January 1, 2002 or a credit carry-back, the claim may be made, under rules adopted by the assessor, within the period that ends with the 15th day of the 40th month following the end of the taxable year of the net operating loss or the unused credit that resulted in the carry-back or the period prescribed in subsection 3 in respect of that taxable year, whichever expires later. With respect to any portion of a credit carry-back from a taxable year that is attributable to a net operating loss carry-back or a capital loss carry-back from a subsequent taxable year, the period within which the claim may be made ends with the 15th day of the 40th month following the end of the subsequent taxable year or the period prescribed in subsection 3 in respect of that taxable year, whichever expires later.

Sec. DD-4. Effective date. This Part takes effect July 1, 2011.

PART EE

Sec. EE-1. 36 MRSA §4074, as amended by PL 1991, c. 846, §35, is further amended to read:

§4074. Authority of State Tax Assessor

The State Tax Assessor shall collect all taxes, interest and penalties provided by chapter 7 and by this chapter and may institute proceedings of any nature necessary or desirable for that purpose, including ~~such~~ proceedings ~~as may be necessary or desirable~~ for the removal of personal representatives and trustees who have failed to pay the taxes due from estates in their hands.

The ~~State Tax Assessor~~ assessor may enforce the collection of ~~any~~ taxes secured by bond in a civil action brought on the bond regardless of the fact that ~~some other~~ another official may be named as obligee in the bond.

~~If any overpayment of tax imposed by this chapter is refunded within 3 months after the date last prescribed, or permitted by extension of time, for filing the return of that tax or within 3 months after the return is filed or within 3 months after a return requesting a refund of the overpayment is filed, whichever is later, no interest may be paid by the State Tax Assessor.~~

Sec. EE-2. 36 MRSA §4075-A, sub-§2, as enacted by PL 1995, c. 281, §23, is amended to read:

2. Limitation on payment of interest. ~~Notwithstanding subsection 1, if any~~ Interest may not be paid by the assessor on an overpayment of the tax imposed by this chapter that is refunded within ~~3 months~~ 60 days after the date prescribed or permitted by extension of time for filing the return of that tax or within ~~3 months~~ 60 days after the return is filed or within ~~3 months~~ 60 days after a return requesting a refund of the overpayment is filed, whichever is later~~, no interest may be paid by the assessor~~.

Sec. EE-3. 36 MRSA §5279, as amended by PL 1991, c. 546, §37, is further amended to read:

§5279. Interest on overpayment

1. General. Interest~~,~~ at the rate determined pursuant to section 186~~, shall~~ must be paid ~~upon~~ on any refund of an overpayment ~~in respect~~ of the tax imposed by this Part from the date the return requesting a refund of the overpayment was filed or the date the payment was made, whichever is later. ~~No interest shall be allowed or paid if the amount thereof is less than $1.~~

2. Date of return or payment. For purposes of this section:

A. ~~Any~~ A return that is filed before the last day prescribed for the filing ~~thereof shall be considered as~~ of a return is deemed to be filed on ~~such~~ that last day, determined without regard to any extension of time granted the taxpayer; and

B. ~~Any~~ A tax that is paid by the taxpayer before the last day prescribed for its payment, ~~any income tax~~ withheld from the taxpayer during ~~any calendar~~ a taxable year ~~and any amount~~ or paid by the taxpayer as estimated income tax for a taxable year ~~shall be~~ is deemed to have been paid ~~by him~~ on the last day prescribed for ~~the paying thereof~~ its payment.

~~**3. Return and payment of withholding tax.** For purposes of this section with respect to any withholding tax:~~

~~A. If a return for any period ending with or within a calendar year is filed before April 15th of the succeeding calendar year, such return shall be considered filed on April 15th of such succeeding calendar year; and~~

~~B. If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April 15th of the succeeding calendar year, such tax shall be considered paid on April 15th of such succeeding calendar year.~~

4. Exceptions. ~~If any~~ Notwithstanding subsection 1, interest may not be paid by the assessor on an overpayment of the tax imposed by this Part that is refunded within ~~3 months~~ 60 days after the last date prescribed, or permitted by extension of time, for filing the return of that tax or within ~~3 months~~ 60 days after the date the return ~~listing~~ requesting a refund of the overpayment was filed, whichever is later~~, no interest is allowed under this section~~. In addition, ~~no~~ interest ~~is allowed~~ may not be paid with respect to ~~the~~ a period during which a refund is delayed pending resolution of a proposed setoff under section 5276-A.

Sec. EE-4. Effective date. This Part takes effect July 1, 2011.

PART FF

Sec. FF-1. 5 MRSA §285, sub-§7-A, ¶C, as amended by PL 2009, c. 571, Pt. JJJ, §1, is further amended to read:

C. For employees whose base annual rate of pay is projected to be $80,000 or greater on July 1st of the state fiscal year for which the premium contribution is being determined, the health credit premium program must provide the individual employee meeting the specified benchmarks with the opportunity to have the state share of the individual premium paid at ~~92.5%~~ 90% or 85%. The state share is determined by the specific benchmarks met by the employee.

PART GG

Sec. GG-1. PL 2009, c. 213, Pt. TTT, §2, as amended by PL 2009, c. 467, §8, is further amended to read:

Sec. TTT-2. Cap on transfers for the dairy stabilization program in fiscal years 2009-10 and 2010-11. Notwithstanding the Maine Revised Statutes, Title 7, section 3153-D, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not certify any amount to be transferred from the General Fund for distributions under Title 7, section 3153-B that would bring the total amount transferred in fiscal years 2009-10 and 2010-11 above ~~$17,361,291~~ $17,961,291.

Notwithstanding Title 7, section 3153-B, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not distribute payments for dairy stabilization support that in the aggregate exceed ~~$17,361,291~~ $17,961,291.

Sec. GG-2. Payments under the dairy stabilization program in March through June of 2011. Beginning March 1, 2011 and continuing through June 30, 2011, the administrator of the Maine Milk Pool shall calculate and make monthly payments to producers for milk produced in the previous month in accordance with the Maine Revised Statutes, Title 7, section 3153-B and Public Law 2009, chapter 467, section 9 unless or until the cap of $17,961,291 established in section 1 of this Part is reached.

PART HH

Sec. HH-1. Transfer; unexpended funds; Board of Pesticides Control account. Notwithstanding any other provision of law, the State Controller shall transfer $225,000 by the close of fiscal year 2010-11 from the Board of Pesticides Control, Other Special Revenue Funds account in the Department of Agriculture, Food and Rural Resources to the unappropriated surplus of the General Fund.

PART II

Sec. II-1. Payment. Notwithstanding any other provision of law, the Finance Authority of Maine shall pay $425,000 from interest earned in the Agricultural Marketing Loan Fund to the State as undedicated General Fund revenue no later than June 30, 2011.

PART JJ

Sec. JJ-1. 22 MRSA §3022, sub-§2, as amended by PL 1997, c. 643, Pt. G, §1, is further amended to read:

2. Appointment and qualifications of the Deputy Chief Medical Examiner. The Chief Medical Examiner may select one or more of the medical examiners to serve as deputy chief medical examiners. The Deputy Chief Medical Examiner serves at the pleasure of the Chief Medical Examiner and, if salaried, is unclassified. The salary of the Deputy Chief Medical Examiner must be set in salary range ~~56~~ 59 of the Standard Salary Schedule for Medical Personnel as published by the Bureau of Human Resources. In the event of the Deputy Chief Medical Examiner's temporary absence, the Chief Medical Examiner or, if the Chief Medical Examiner is unavailable, the Attorney General may designate one of the deputy chief medical examiners to serve as acting Chief Medical Examiner. The acting Chief Medical Examiner has all of the powers and responsibilities of the Chief Medical Examiner.

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

Effective February 8, 2011, unless otherwise indicated.

CHAPTER 2

S.P. 75 - L.D. 224

An Act To Provide Temporary Changes to the Extended Benefit Triggers in Accordance with the Federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010

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 a federal option that permits the State to use a temporary 3-year look-back period instead of the required 2-year look-back period so the State's long-term unemployed workers can continue to receive extended benefits; and

Whereas, effective December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312 made changes to the laws governing extended benefits in the unemployment compensation program, under which this option exists, such that in most cases 100% of the benefits paid out under this program would continue to be paid by the federal government for weeks of unemployment beginning after February 17, 2009 and before January 4, 2012 if the trigger thresholds continue to be met; and

Whereas, it is likely that as many as 7,100 unemployed workers of the State would benefit from temporary changes to the triggers for extended benefits in the unemployment compensation program if adopted by 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. Insured unemployment rate trigger. In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195, there is a state "on" indicator for a week in the period begin-

ning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting a state "on" indicator, whichever is later, if the Commissioner of Labor determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks the rate of insured unemployment not seasonally adjusted equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 3 calendar years and equaled or exceeded 5%.

There is a state "off" indicator for this State for a week if the Commissioner of Labor determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks the rate of insured unemployment not seasonally adjusted was less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 3 calendar years or was less than 5%.

Sec. 2. Alternative trigger. In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195 and Public Law 2009, chapter 33, there is a state "on" indicator for a week in the period beginning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting this provision, whichever is later, if:

1. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 6.5%; and

2. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in subsection 1 equals or exceeds 110% of the average rate for any or all of the corresponding 3-month periods ending in the 3 preceding calendar years.

There is a state "off" indicator for a week based on the rate of total unemployment only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

Sec. 3. High unemployment period. In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195 and Public Law 2009, chapter 33, there is a state "on" indicator for a week in the period beginning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting this provision, whichever is later, if:

1. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 8%; and

2. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in subsection 1 equals or exceeds 110% of the average rate for any or all of the corresponding 3-month periods ending in the 3 preceding calendar years.

There is a state "off" indicator for a week based on the rate of total unemployment only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

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

Effective February 18, 2011.

CHAPTER 3

H.P. 32 - L.D. 39

An Act Related to Family Law Magistrates

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

Sec. 1. 4 MRSA §183, sub-§1, ¶G, as enacted by PL 2005, c. 384, §1, is amended to read:

G. The Chief Judge of the District Court may allow family law magistrates to wear robes ~~of any color other than black~~ when presiding over any proceeding.

See title page for effective date.

CHAPTER 4

S.P. 25 - L.D. 10

An Act To Clarify the Method of Creating or Severing Joint Tenancy

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

Sec. 1. 33 MRSA §159, as amended by PL 1973, c. 788, §164, is further amended to read:

§159. Conveyances to 2 or more persons

Conveyances not in mortgage and devises of land to 2 or more persons create estates in common, unless otherwise expressed. Deeds in which 2 or more grantees anywhere in the conveyances are named as joint tenants ~~shall~~ or named as having the right of survivorship or that otherwise indicate anywhere in the conveyances by appropriate language the intent to create a joint tenancy between such grantees must be construed as vesting an estate in fee simple in such grantees with right of survivorship. Deeds in which the grantor is named as a grantee or as a grantee with another or others must be construed as vesting an estate in fee simple in such grantee or grantees including the grantor, unless otherwise expressed.

A conveyance of real property by the owner ~~thereof~~ of the real property to ~~himself~~ the owner and another or others, or by the owners ~~thereof~~ of the real property to ~~themselves~~ the owners or to ~~themselves~~ the owners and another or others, as joint tenants or with the right of survivorship, or ~~which~~ that otherwise indicates anywhere in the conveyance by appropriate language the intent to create a joint tenancy between such owner or owners and such other or others or between ~~themselves~~ the owners by ~~such~~ the conveyance, ~~shall create~~ including language such as "as joint tenants," "in joint tenancy," "as joint tenants with rights of survivorship," "with rights of survivorship," "to them and to the survivor of them," "to them and their assigns and to the survivor and the heirs and assigns of the survivor forever" or "as tenants by the entirety," creates an estate in joint tenancy in the property so conveyed between all of the grantees, including the grantor. Estates in joint tenancy so created ~~shall~~ have and possess all of the attributes and incidents of estates in joint tenancy created or existing at common law and the rights and liabilities of the tenants in estates in joint tenancy so created ~~shall be~~ are the same as in estates in joint tenancy created or existing at common law.

A conveyance of real property by an owner or owners of the real property holding in joint tenancy to the owner or to the owner and another or others, or to the owners or to the owners and another or others, as tenants in common, or that otherwise indicates anywhere in the conveyance by appropriate language the intent to create a tenancy in common or the intent to sever the joint tenancy between the owner or owners and such other or others or between the owners by the conveyance, or without expression of the tenancy created or without other expression of joint tenancy or right of survivorship, creates an estate in common in the property so conveyed between all of the grantees, including the grantor, or between the sole grantee and the other owner or owners.

See title page for effective date.

CHAPTER 5

S.P. 40 - L.D. 85

An Act To Repeal the Sunset on the Law Relating to the Landing of Dragged Crabs

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

Sec. 1. 12 MRSA §6421, sub-§4, as repealed and replaced by PL 2009, c. 78, §1, is amended to read:

4. Exception. A license is not required for a person:

A. To take or catch crabs with bare hands or hook and line; or

B. Who is issued a commercial fishing license under section 6501 to take, possess and sell crabs that have been taken as bycatch while using an otter trawl within the exclusive economic zone as shown on the most recently published Federal Government nautical chart. Crabs taken by otter trawl within the territorial waters must be liberated alive immediately.

~~This subsection is repealed June 30, 2012.~~

See title page for effective date.

CHAPTER 6

H.P. 39 - L.D. 46

An Act To Allow Marriage and Family Therapists To Serve as Mental Health Professionals in the Civil Service System

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

Sec. 1. 5 MRSA §7061, sub-§2-A is enacted to read:

2-A. Mental health professionals. Job classifications adopted by the director under subsection 2 must allow a person licensed as a marriage and family therapist under Title 32, chapter 119 to qualify for mental health therapist positions within the civil service system.

See title page for effective date.

CHAPTER 7

H.P. 34 - L.D. 41

An Act To Amend the Laws Governing the Maine Potato Board

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 this legislation take effect immediately because the increase in the potato tax proposed in this legislation is scheduled to take effect September 1, 2011; and

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

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

Sec. 1. 36 MRSA §4603, sub-§5, as amended by PL 2005, c. 176, §2, is further amended to read:

5. Meetings of executive councils and assemblies. Executive councils shall annually elect officers, including a chair, vice-chair and secretary. Each executive council shall hold meetings from time to time, no less than ~~2 times~~ once a year, upon call of the executive council chair, a majority of the executive council or ~~upon call of~~ the board. Each assembly shall hold meetings from time to time, no less than once a year, upon call of a majority of its executive council or upon call of the board, ~~provided~~ except that district assemblies of growers may hold these meetings jointly in statewide sessions or in concert with other assemblies or groups of assemblies. All meetings of assemblies and executive councils must be open to the public and otherwise in compliance with Title 1, chapter 13.

Sec. 2. 36 MRSA §4603, sub-§6, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

6. Composition of the board. The ~~board's members shall be selected from~~ board consists of the ~~executive councils as follows.~~ following members:

A. Two members ~~shall be~~ elected by the executive council of the tablestock growers' assemblies, ~~provided~~ except that no dealer may serve in this capacity~~.~~;

B. Two members ~~shall be~~ elected by the executive council of the seed growers' assemblies, ~~provided~~ except that no dealer may serve in this capacity~~.~~;

C. Two members ~~shall be~~ elected by the executive council of the processing growers' assemblies, ~~provided~~ except that no dealer may serve in this capacity~~.~~;

D. ~~Three members shall be~~ One member elected by the executive council of the dealers' assembly~~, provided that at least one dealer member must also be a potato grower.~~;

E. Two members ~~shall be~~ elected by the executive council of the processors' assembly~~.~~;

F. The immediate past president of the board; and

G. One grower member elected at large from all growers.

In the event of the permanent disqualification or resignation of a board member, the executive council responsible for electing that member shall elect a replacement for the balance of the term remaining.

Sec. 3. 36 MRSA §4603, sub-§8, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

8. Board meetings. A regular annual meeting of the board ~~shall~~ must be held on a date determined by the board. Other meetings, of which ~~shall~~ there must be at least ~~monthly~~ 6 per year, ~~with the exception of the months of May and September, shall be~~ may be held upon call of the ~~chairman~~ chair or of a majority of the board or by vote of the board. A majority of the board's members ~~shall constitute~~ constitutes a quorum at any board meeting. The vote of a majority of board members present ~~shall constitute~~ constitutes the act of the board at a meeting where a quorum is present. All board meetings ~~shall~~ must be open to the public and ~~shall~~ must be in compliance with Title 1, chapter 13, except as otherwise provided in this chapter.

Sec. 4. 36 MRSA §4605, sub-§1, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

1. Rate. A tax is levied and imposed at the rate of ~~$.05~~ $.06 per hundredweight, effective September 1, 2011, on all potatoes grown in this State, ~~provided~~ except that no tax may be imposed on any potatoes ~~which~~ that are retained by the grower to be used by ~~him~~ the grower for seed purposes or for home consumption and ~~provided further that~~ no tax may be imposed on any potatoes received by a processor ~~which~~ that are certified as unmerchantable by a federal state inspector.

Sec. 5. 36 MRSA §4605, sub-§6, as amended by PL 1991, c. 376, §58, is further amended to read:

6. Records and reports. Every shipper shall, on or before the last day of each month, report to the State Tax Assessor the quantity of potatoes received, sold or shipped by the shipper during the preceding calendar month and any additional information that the State Tax Assessor determines pertinent, on forms furnished by the State Tax Assessor. At the time of filing the

report, each shipper shall pay to the State Tax Assessor a tax at the rate of ~~$.05~~ $.06 per hundredweight upon all potatoes reported as purchased, sold or shipped, subject to subsection 1.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved except that those sections of this Act that amend the Maine Revised Statutes, Title 36, section 4605, subsections 1 and 6 take effect September 1, 2011.

Effective March 25, 2011, unless otherwise indicated.

CHAPTER 8

H.P. 188 - L.D. 235

An Act To Include Antique Motorcycles on the List of Vehicles That Are Exempt from Inspection

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

Whereas, antique motorcycles are driven in parades; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to be in effect for the parade 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. 29-A MRSA §1752, sub-§10, as amended by PL 2003, c. 397, §7, is further amended to read:

10. Experimental motor vehicle. A vehicle registered as an experimental motor vehicle pursuant to section 470. An experimental motor vehicle must meet minimum equipment standards pursuant to section 470, subsection 2; ~~and~~

Sec. 2. 29-A MRSA §1752, sub-§11, as enacted by PL 2003, c. 397, §8, is amended to read:

11. Low-speed vehicle. A low-speed vehicle registered pursuant to section 501, subsection 11. A low-speed vehicle must be equipped in accordance with section 1925~~.~~; and

Sec. 3. 29-A MRSA §1752, sub-§12 is enacted to read:

12. Antique motorcycle. An antique motorcycle registered under section 457.

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

Effective March 25, 2011.

CHAPTER 9

H.P. 295 - L.D. 369

An Act To Authorize the Sale of Surplus Property to Nonprofit Animal Shelters

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

Sec. 1. 5 MRSA §1828, sub-§1, ¶B, as enacted by PL 2005, c. 386, Pt. H, §10, is amended to read:

B. "Qualifying nonprofit organization" means:

(1) A public or private nonprofit entity that owns or operates a project or facility for the homeless;

(2) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that provides services to persons with physical or mental handicaps as defined in section 4553, subsection 7-A; ~~or~~

(3) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that contracts with the Department of Health and Human Services to provide vehicles to low-income families to assist them in participating in work, education or training~~.~~; or

(4) A nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501(c) and that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

Sec. 2. 5 MRSA §1828, sub-§2, as enacted by PL 2005, c. 386, Pt. H, §10, is amended to read:

2. Surplus property. Pursuant to this chapter and rules adopted under section 1813, the Department of Administrative and Financial Services through the

Bureau of General Services shall allow private sales of surplus property to:

A. Nonprofit organizations that contract with the Department of Health and Human Services to provide affordable vehicles to low-income families to assist them in participating in work, education or training;

B. Homeless shelter sponsors; ~~and~~

C. Educational institutions~~.~~; and

D. Nonprofit organizations that house animals and operate for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

See title page for effective date.

CHAPTER 10

S.P. 34 - L.D. 61

An Act Implementing a Fisheries Permit Banking Program

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

Sec. 1. 12 MRSA §6022, sub-§17 is enacted to read:

17. Permit banking program. The commissioner may administer a permit banking program in which the department holds federal limited access fishing permits and distributes the rights associated with those permits to eligible residents of the State with the goal of restoring and preserving access to federally managed fisheries. The commissioner may lease fisheries allocations, as required, to fund the costs associated with the permit banking program.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF

Bureau of Resource Management 0027

Initiative: Allocates funds for one Resource Management Coordinator position and related All Other to administer a permit banking program for the groundfish industry.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	$13,053	$78,319
All Other	$2,772	$10,926
OTHER SPECIAL REVENUE FUNDS TOTAL	$15,825	$89,245

See title page for effective date.

CHAPTER 11

S.P. 167 - L.D. 575

An Act To Extend a Deadline under the Regional Economic Development Revolving Loan 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 Regional Economic Development Revolving Loan Program was established in 1993 to provide financial assistance to Maine businesses in order to create and retain jobs and is essential to the future economic growth and prosperity of Maine; and

Whereas, the date until which entities eligible for loan insurance may be eligible for financial assistance under the Finance Authority of Maine's Regional Economic Development Revolving Loan Program has passed; and

Whereas, it is imperative to extend that date to continue to meet the financial needs of Maine businesses; 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 §1026-M, sub-§7, ¶A, as amended by PL 2009, c. 131, §6, is further amended to read:

A. The business for which funds are requested has 50 or fewer employees or annual sales of $5,000,000 or less, and it consists of or involves at least one of the following:

(1) Manufacturing technologies, such as value-added wood products, specialty fabricated metal and electronic products, precision manufacturing and use of composites or advanced materials;

(2) Technologies, such as advanced information systems, advanced telecommunications, energy and environmental products and services;

(3) Biological and natural resource technologies, such as aquaculture, marine technology, agriculture, forestry products and biotechnology;

(4) A business converting from defense dependency;

(5) A business significantly engaged in export of goods or services to locations outside the State;

(6) A business that dedicates significant resources to research and development activities;

(7) Other businesses with 10 or fewer employees; and

(8) A child care project that includes any business that, for compensation, provides a regular service of care and protection for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children.

Notwithstanding the requirements of this paragraph, until June 30, ~~2010~~ 2012, a project or a borrower that is eligible for loan insurance under section 1026-A is eligible for financial assistance under the program.

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

Effective March 31, 2011.

CHAPTER 12

H.P. 42 - L.D. 49

An Act To Allow Storage of Lobster Traps on Docks

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

Sec. 1. 38 MRSA §480-Q, sub-§28, as enacted by PL 2009, c. 75, §4, is amended to read:

28. Release of water from dam after petition by owner for release from dam ownership or water level maintenance. Activity associated with the release of water from a dam pursuant to an order issued by the department pursuant to section 905; ~~and~~

Sec. 2. 38 MRSA §480-Q, sub-§29, as enacted by PL 2009, c. 75, §5, is amended to read:

29. Dam safety order. Activity associated with the breach or removal of a dam pursuant to an order issued by the Commissioner of Defense, Veterans and Emergency Management under Title 37-B, chapter 24~~.~~; and

Sec. 3. 38 MRSA §480-Q, sub-§30 is enacted to read:

30. Lobster trap storage. The storage of lobster traps and related trap lines, buoys and bait bags on docks in, on, over or adjacent to a coastal wetland. For purposes of this subsection, "dock" means a dock, wharf, pier, quay or similar structure built in part on the shore and projected into a harbor and used as a landing, docking, loading or unloading area for watercraft.

See title page for effective date.

CHAPTER 13

H.P. 43 - L.D. 50

An Act To Allow Provisional Drivers To Transport Persons under Guardianship and Children of Active Military Personnel

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

Sec. 1. 29-A MRSA §1311, sub-§1, ¶A, as amended by PL 2009, c. 10, §1, is further amended to read:

A. Carry passengers other than immediate family members unless accompanied by a licensed operator who meets the requirements of section 1304, subsection 1, paragraph E. For the purpose of this paragraph, "immediate family member" includes ~~a foreign exchange student that is~~ the following when living with the immediate family~~;~~:

(1) A foreign exchange student;

(2) A person who is under court-appointed guardianship of an immediate family member; and

(3) A child whose parent is deployed for military service and is under guardianship of an immediate family member as provided on a United States Department of Defense Armed Forces Family Care Plan, DA Form 5305 or its successor form.

For the purpose of this paragraph, "deployed for military service" means assigned to active military duty with the state military forces, as defined in

Title 37-B, section 102, or the United States Armed Forces, including the National Guard and Reserves, whether pursuant to orders of the Governor or the President of the United States, when the duty assignment is in a combat theater, in an area where armed conflict is taking place or in an area away from a person's normal duty station;

See title page for effective date.

CHAPTER 14

H.P. 293 - L.D. 367

An Act To Amend the Laws Regarding Noncommercial Foreign Vessels

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

Sec. 1. 38 MRSA §87-A, sub-§1, ¶D, as amended by PL 1999, c. 355, §7, is further amended to read:

D. The vessel on regularly scheduled ferry operations between Bar Harbor, Maine and Yarmouth, Nova Scotia, provided that the master of such vessel has completed an appropriate number of trips, as established by commission rules and has met any appropriate federal requirements.;

Sec. 2. 38 MRSA §87-A, sub-§1, ¶E, as amended by PL 1999, c. 355, §7, is further amended to read:

E. All military ships navigating the Kennebec River to and from the Bath Iron Works Corporation for the purpose of accomplishing overhaul, repair, post shakedown availability and sea trials.; and

Sec. 3. 38 MRSA §87-A, sub-§1, ¶F is enacted to read:

F. Noncommercial foreign vessels with overall length of under 200 feet.

See title page for effective date.

CHAPTER 15

H.P. 151 - L.D. 174

An Act To Amend the Law Governing Employment, Discipline and Dismissal of Chief Deputy Sheriffs

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

Sec. 1. 30-A MRSA §383, sub-§5 is enacted to read:

5. Minimum qualifications. The chief deputy must meet the minimum qualifications for sheriffs pursuant to section 371-B, subsection 3.

Sec. 2. 30-A MRSA §501, sub-§5 is enacted to read:

5. Application to chief deputy. Subsections 1, 2 and 3 do not apply to the appointment, dismissal, suspension or discipline of a chief deputy by a sheriff.

See title page for effective date.

CHAPTER 16

H.P. 55 - L.D. 67

An Act Relating to Standardbred Horse Breeding

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 the future of the Maine Standardbred horse breed that the best breeding stallions be available; and

Whereas, it is necessary for this legislation to take effect sooner than 90 days after adjournment of the First Regular Session in order to make available the best breeding opportunities; 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. 8 MRSA §281-B is enacted to read:

§281-B. Registration of stallions

For the 2011 and 2012 breeding seasons as defined in rule by the commission adopted under section 281, a person may register a stallion with the commission between January 1st and July 15th to stand at stud in the State and the offspring of that stallion conceived during that breeding season may be registered as a Maine Standardbred under section 281 as long as all other requirements for registration established in rule adopted under section 281 are met. A person who registers a stallion under this section must pay a late fee as established by rule adopted under section 281 in addition to the registration fee established in rule.

This section is repealed December 31, 2012.

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

Effective March 31, 2011.

CHAPTER 17

S.P. 65 - L.D. 214

An Act To Establish Governor William King Day

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

Sec. 1. 1 MRSA §150-F is enacted to read:

§150-F. Governor William King Day

The Governor shall annually issue a proclamation indicating March 16th of each year as Governor William King Day in honor of the first Governor of Maine, a proponent of statehood for Maine.

See title page for effective date.

CHAPTER 18

H.P. 75 - L.D. 89

An Act Regarding Repeated Animal Trespass

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 current animal trespass law is not adequate to address repeated instances of animal trespass; and

Whereas, it is necessary to address the animal trespass law as soon as possible to prevent damage to property and 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. 7 MRSA §4041, as amended by PL 2009, c. 548, §§4 and 5, is further amended to read:

§4041. Animal trespass

1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

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

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

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

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

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing.; or

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period.

4. Fine. A fine of not less than $50 nor more than $500 must be adjudged for a civil violation under subsection 3. In addition, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section.

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

6. Definitions. ~~For purposes of~~ As used in this section, ~~the term "animal" does not include cats~~ unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" does not include cats.

B. "Authorized employee of the department" means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section.

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

Effective April 1, 2011.

CHAPTER 19

H.P. 38 - L.D. 45

An Act To Allow Marriage and Family Therapists To Provide Related Services in Public Schools

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

Sec. 1. 20-A MRSA §7007 is enacted to read:

§7007. Related services

Related services must be provided by qualified individuals employed or contracted by the school administrative unit in accordance with rules adopted by the department pursuant to section 7005.

Sec. 2. 20-A MRSA §7251-A, as enacted by PL 1987, c. 395, Pt. A, §74, is amended to read:

§7251-A. Local special education services; related services

A school administrative unit may offer or contract for special education services. A school administrative unit may also offer or contract for related services in accordance with rules adopted by the department pursuant to section 7005.

Sec. 3. Rules amended; marriage and family therapists. The Commissioner of Education shall amend its rules in Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty to clarify that a person licensed as a marriage and family therapist under the Maine Revised Statutes, Title 32, chapter 119 is qualified to:

1. Serve as a qualified evaluator for children 3 to 20 years of age as described in Section IV, subsection 2, paragraph G of the rule;

2. Provide related services to children with disabilities as described in Section XI of the rule; and

3. Serve as a qualified licensed contractor pursuant to a contract for the provision of related services to children with disabilities as described in Section XVIII, subsection 1, paragraph C, subparagraph (3), division (a) of the rule.

See title page for effective date.

CHAPTER 20

S.P. 168 - L.D. 576

An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending 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

Bureau of General Services - Capital Construction and Improvement Reserve Fund 0883

Initiative: Provides funding necessary to meet the required debt service payment due in fiscal year 2010-11.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$6,497	$0	$0
HIGHWAY FUND TOTAL	$6,497	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
HIGHWAY FUND	**$6,497**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$6,497**	**$0**	**$0**

PUBLIC SAFETY, DEPARTMENT OF

Highway Safety DPS 0457

Initiative: Provides funding for the increased cost of STA-CAP.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$8,790	$0	$0
HIGHWAY FUND TOTAL	$8,790	$0	$0

Highway Safety DPS 0457

Initiative: Provides funding for the increased cost of building rent.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$6,920	$0	$0
HIGHWAY FUND TOTAL	$6,920	$0	$0

State Police 0291

Initiative: Reduces funding by holding certain Department of Public Safety positions vacant. This initiative relates to curtailment of allotments ordered by the Governor pursuant to the Maine Revised Statutes, Title 5, section 1668.

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	($230,667)	$0	$0
HIGHWAY FUND TOTAL	($230,667)	$0	$0

State Police 0291

Initiative: Provides funding for the increased cost of building rent.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$29,266	$0	$0
HIGHWAY FUND TOTAL	$29,266	$0	$0

Traffic Safety 0546

Initiative: Provides funding for the increased cost of STA-CAP.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$6,015	$0	$0
HIGHWAY FUND TOTAL	$6,015	$0	$0

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: Provides funding for the increased cost of STA-CAP.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	$13,130	$0	$0
HIGHWAY FUND TOTAL	$13,130	$0	$0

PUBLIC SAFETY, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
HIGHWAY FUND	**($166,546)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($166,546)**	**$0**	**$0**

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Reorganizes 14 Motor Vehicle Branch Office Manager positions from range 18 to range 20 and

transfers All Other to Personal Services to fund the reorganization.

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$5,838	$0	$0
All Other	($5,838)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

TRANSPORTATION, DEPARTMENT OF

Administration 0339

Initiative: Recognizes Personal Services savings within the Administration program and uses those savings to fund capital projects within the Highway and Bridge Capital program.

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	($500,000)	$0	$0
HIGHWAY FUND TOTAL	($500,000)	$0	$0

Bond Retirement - Highway 0359

Initiative: Recognizes savings within the Bond Retirement - Highway program and uses those savings to fund capital projects within the Highway and Bridge Capital program.

HIGHWAY FUND	2010-11	2011-12	2012-13
All Other	($895,000)	$0	$0
HIGHWAY FUND TOTAL	($895,000)	$0	$0

Highway and Bridge Capital 0406

Initiative: Recognizes Personal Services savings within the Administration program and uses those savings to fund capital projects within the Highway and Bridge Capital program.

HIGHWAY FUND	2010-11	2011-12	2012-13
Capital Expenditures	$500,000	$0	$0
HIGHWAY FUND TOTAL	$500,000	$0	$0

Highway and Bridge Capital 0406

Initiative: Recognizes savings within the Bond Retirement - Highway program and uses those savings to fund capital projects within the Highway and Bridge Capital program.

HIGHWAY FUND	2010-11	2011-12	2012-13
Capital Expenditures	$895,000	$0	$0
HIGHWAY FUND TOTAL	$895,000	$0	$0

Maintenance and Operations 0330

Initiative: Recognizes Personal Services savings within the Maintenance and Operations program and transfers those savings to the All Other line category within the same program.

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	($4,500,000)	$0	$0
All Other	$4,500,000	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

SECTION TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	**($160,049)**	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**($160,049)**	**$0**	**$0**

PART B

Sec. B-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$2,726	$0	$0
All Other	($2,726)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	$0	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$0	$0	$0

PUBLIC SAFETY, DEPARTMENT OF

State Police 0291

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$19,485	$0	$0
All Other	($19,485)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

Traffic Safety - Commercial Vehicle Enforcement 0715

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$11,003	$0	$0
All Other	($11,003)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	$0	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$0	$0	$0

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$588	$0	$0
All Other	($588)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
HIGHWAY FUND	$0	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$0	$0	$0

TRANSPORTATION, DEPARTMENT OF

Administration 0339

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$1,240	$0	$0
All Other	($1,240)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

Highway and Bridge Capital 0406

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2010-11	2011-12	2012-13
Personal Services	$7,242	$0	$0

All Other	($7,242)	$0	$0
HIGHWAY FUND TOTAL	$0	$0	$0

FEDERAL EXPENDITURES FUND	**2010-11**	**2011-12**	**2012-13**
Personal Services	$9,963	$0	$0
All Other	($9,963)	$0	$0
FEDERAL EXPENDITURES FUND TOTAL	$0	$0	$0

OTHER SPECIAL REVENUE FUNDS	**2010-11**	**2011-12**	**2012-13**
Personal Services	$905	$0	$0
All Other	($905)	$0	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$0	$0

TRANSPORTATION, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
HIGHWAY FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$0**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

SECTION TOTALS	**2010-11**	**2011-12**	**2012-13**
HIGHWAY FUND	**$0**	**$0**	**$0**
FEDERAL EXPENDITURES FUND	**$0**	**$0**	**$0**
OTHER SPECIAL REVENUE FUNDS	**$0**	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$0**	**$0**	**$0**

PART C

Sec. C-1. PL 2009, c. 600, Pt. H, §1 is amended to read:

Sec. H-1. Carrying provision; Department of Secretary of State, Administration - Motor Vehicles program. Notwithstanding any other provision of law, the State Controller shall carry forward any unexpended balance in the All Other line category on June 30, 2010 ~~and on,~~ June 30, 2011 and June 30, 2012 in the Department of Secretary of State, Administration - Motor Vehicles program. The amount carried forward may not exceed a total of ~~$1,000,000~~ $1,800,000 for the biennium ending June 30, ~~2011 and may carry forward into fiscal year 2011-12~~ 2013. The amount carried forward must be used for the acquisition of a document management system to improve the efficiency and effectiveness of the department's operations.

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

Effective April 1, 2011.

CHAPTER 21

S.P. 46 - L.D. 104

An Act Regarding Audits of State Agency Expenditures To Recover Overpayments and Lost Discounts

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 provides for the identification and recovery of payments made in error by the State; and

Whereas, the current economic situation demands that the State take measures such as those required by this legislation as soon as possible; and

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

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

Sec. 1. 5 MRSA §1622 is enacted to read:

§1622. Recovery of certain state agency overpayments

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

A. "Overpayment" means a payment made to a vendor:

(1) In duplicate for a single invoice;

(2) In the amount of a discount available from the vendor that was not applied;

(3) For a late payment penalty that was improperly applied by the vendor;

(4) For shipping costs that were computed incorrectly or incorrectly included in an invoice;

(5) For any commodities billed at an amount higher than negotiated in a contract or master agreement;

(6) For a state tax imposed pursuant to Title 36; or

(7) For a good or service the vendor did not provide.

B. "State agency" means a department, commission, board, office or other entity that is in the executive branch of State Government.

2. Recovery audits for certain overpayments. In addition to the audit authorized pursuant to section 1621, at least once every 10 years the State Controller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations. A state agency shall provide the recovery audit consultant all information necessary for the audit.

A. A contract under this subsection:

(1) May provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services; and

(2) To allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made.

B. Notwithstanding any law to the contrary, the State Controller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this subsection with any confidential information in the custody of the State Controller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the State Controller and state agency are not prohibited from sharing the information under an agreement with another state or the Federal Government. A person acting under a contract authorized by this subsection, and each employee or agent of that person, is subject to all prohibitions against the disclosure of confidential information obtained from the State in connection with the contract that apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency. A person acting under a contract authorized by this subsection or an employee or agent of the person who discloses confidential information in violation of a prohibition under this subsection is subject to the same sanctions and penalties that would apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency for that disclosure.

3. Funds recovered and payments to consultants. The State Controller shall deposit all recovered money in a nonlapsing Other Special Revenue Funds audit recovery account within the Department of Administrative and Financial Services. From the audit recovery account, the State Controller shall make payment to a consultant that conducts a recovery audit under subsection 2 according to the negotiated contract and refund amounts in accordance with state or federal regulations. Any amounts not refunded or paid to the consultant must be identified in the report pursuant to subsection 4.

4. Reports. The State Controller shall provide the following reports.

A. Within 7 days of receipt, the State Controller shall provide copies of any reports, including those in electronic form, received from a consultant contracted with pursuant to subsection 2 to:

(1) The Governor;

(2) The State Auditor; and

(3) The Legislative Council.

B. Not later than December 1st of each odd-numbered year, the State Controller shall issue a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters summarizing the contents of all reports received from a consultant contracted pursuant to subsection 2 during

the state fiscal biennium ending June 30th of that year.

5. Rules. The State Controller may adopt rules to implement the provisions of this section. Rules adopted under this subsection are major substantive rules pursuant to chapter 375, subchapter 2-A.

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

Effective April 11, 2011.

CHAPTER 22

S.P. 203 - L.D. 622

An Act To Permit the Display of the National Emergency Service Medal on Registration Plates of Recipients

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 2009, c. 437, §1, 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 ~~Z~~ AA 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;

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~~.~~; and

AA. National Emergency Service Medal.

Sec. 2. 29-A MRSA §523, sub-§7, as enacted by PL 2009, c. 437, §2, is amended 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~~ AA or subsection 6, paragraphs A to E for use with special veterans registration plates.

See title page for effective date.

CHAPTER 23

H.P. 126 - L.D. 143

An Act Relating to Disability License Plates and Placards for People with Permanent Disabilities

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

Sec. 1. 29-A MRSA §521, sub-§5, as amended by PL 2009, c. 143, §1, is further amended to read:

5. Application; issuance. An application for a disability plate or placard must be accompanied by the certificate of a physician, physician assistant, nurse practitioner or registered nurse attesting to that person's physical disability as defined in subsection 1. The Secretary of State shall issue to an eligible applicant disability plates and windshield placards upon request. Proof of a disability must be submitted every 4 years on a form prescribed by the Secretary of State except when the physician, physician assistant, nurse practitioner or registered nurse certifies the disability as permanent or except when an eligible applicant requests that the disability plate or placard expire upon the expiration date of that person's driver's license or nondriver identification card issued by this State, whichever is applicable. When the Secretary of State determines the disability to be permanent from the application, the ~~time may be extended~~ disability plate or placard expires upon the expiration date of that person's driver's license or nondriver identification card issued by this State. The applicant is not required to continue to provide proof of disability upon renewal of the applicant's disability plate or placard. When the applicant's need for the disability plate or placard terminates or the applicant dies, the plate or placard must be immediately returned to the Secretary of State. Notwithstanding subsection 2, paragraphs B and C, the provisions of this subsection, as regards the issuance of a disability plate or placard for a person with a permanent disability, apply only to that person.

See title page for effective date.

CHAPTER 24

H.P. 116 - L.D. 134

An Act To Protect Native Landlocked Salmon Fisheries from Invasive Fish Species

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

Sec. 1. 12 MRSA §12760, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Commissioner's authority. In order to conserve, develop or restore anadromous or migratory fish resources, the commissioner may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within inland waters frequented by alewives, shad, salmon, sturgeon or other anadromous or migratory fish species.

The commissioner may not require or authorize a fishway or fish bypass structure at a dam on the outlet of Sebec Lake in the Town of Sebec or at a dam on the Sebec River in the Town of Milo that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penobscot River drainage. For the purposes of this section, "invasive fish species" means those invasive fish species identified in the action plan for managing invasive aquatic species developed pursuant to Title 38, section 1872.

Sec. 2. 12 MRSA §12760, sub-§9 is enacted to read:

9. Sebec Lake and Sebec River dams; fishways prohibited. Notwithstanding any other provision of law to the contrary, the owners, lessors or other persons in control of a dam on the outlet of Sebec Lake in the Town of Sebec or a dam on the Sebec River in the Town of Milo may not construct or authorize the construction of a fishway or fish bypass structure that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penobscot River drainage.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $500 or more than $1,000 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.

See title page for effective date.

CHAPTER 25

H.P. 96 - L.D. 114

An Act To Allow Vietnam War Era Veterans To Receive High School Diplomas

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

Sec. 1. 20-A MRSA §4722, sub-§6, ¶C, as enacted by PL 2001, c. 85, §1, is amended to read:

C. The person must have left secondary school either:

(1) Before or during World War II to serve in the Armed Forces during World War II; ~~or~~

(2) Before or during the Korean Conflict to serve in the Armed Forces in the Korean Conflict~~.~~; or

(3) Before or during the Vietnam War to serve in the Armed Forces during the Vietnam War era. For purposes of this subparagraph, "Vietnam War era" means the period

beginning February 28, 1961 and ending May 7, 1975.

See title page for effective date.

CHAPTER 26

H.P. 72 - L.D. 84

An Act To Improve the Sewer District Rate Collection Procedures

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 sewer districts have an immediate need to deal with delinquent accounts; and

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

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

Sec. 1. 38 MRSA §1258 is enacted to read:

§1258. Qualified sewer districts; collection of unpaid rates

The provisions of this section apply only to qualified sewer districts.

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

A. "Eligible sewer district" means a sewer district whose charter does not establish, or authorize the district to establish, a lien on real estate served by the district.

B. "Qualified sewer district" means an eligible sewer district that has satisfied the requirements of subsection 5.

C. "Rates" means any rate, toll, rent or other charge established by a sewer district pursuant to its charter.

D. "Real estate" means an identified parcel of land and its improvements, if any, including, but not limited to, a mobile home.

2. Lien. There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section takes precedence over all other claims on such real estate, except claims for taxes.

3. Collection. The treasurer of the qualified sewer district may collect rates, and all rates must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the qualified sewer district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by law for the collection of rates and without waiver of the right to sue for the collection of rates, the lien created under subsection 2 may be enforced in the following manner.

A. When rates have been committed to the treasurer of the qualified sewer district for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the rates became due and payable, give to the owner of the real estate served, leave at the owner's last and usual place of abode or send by certified mail, return receipt requested, to the owner's last known address a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of the rates due, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 30 days after service or mailing, with $1 added to the demanded rate for the treasurer and an additional fee to cover mailing the notice by certified mail, return receipt requested. The notice must contain a statement that the qualified sewer district is willing to arrange installment payments of the outstanding debt.

B. After the expiration of 30 days and within one year after giving notice pursuant to paragraph A, the treasurer of the qualified sewer district shall record in the registry of deeds of the county in which the property of the person is located a certificate signed by the treasurer setting forth the amount of the rates due, describing the real estate on which the lien is claimed and stating that a lien is claimed on the real estate to secure payment of the rates and that a notice and demand for payment has been given or made in accordance with this section and stating further that the rates remain unpaid. At the time of the recording of the certificate in the registry of deeds, the treasurer shall file in the office of the qualified sewer district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode.

C. The filing of the certificate in the registry of deeds creates a mortgage held by the qualified

sewer district on the real estate described in the certificate that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the qualified sewer district all the rights usually possessed by mortgagees, except that the qualified sewer district as mortgagee does not have any right to possession of that real estate until the right of redemption has expired.

D. If the mortgage created under paragraph C, together with interest and costs, has not been paid within 18 months after the date of filing the certificate in the registry of deeds in accordance with paragraph B, the mortgage is foreclosed and the right of redemption expires. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. In the event that the rate, with interest and costs, is paid within the period of redemption, the treasurer of the qualified sewer district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

E. The owner of the real estate shall pay the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, plus $13, plus all certified mail, return receipt requested, fees.

F. Not more than 45 days or less than 30 days before the foreclosing date of the mortgage created under paragraph C, the treasurer of the qualified sewer district shall notify the party named on the mortgage and each record holder of a mortgage on the real estate in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the qualified sewer district is entitled to receive $3 plus all certified mail, return receipt requested, fees, which must be added to and become a part of the amount due under paragraph E. If notice is not given in the time period specified in this paragraph, the person not receiving timely notice has up to 30 days after the treasurer provides notice as specified in this paragraph in which to redeem the mortgage. The notice of impending automatic foreclosure must be substantially in the following form:

STATE OF MAINE

..... SEWER DISTRICT

NOTICE OF IMPENDING AUTOMATIC FORECLOSURE

SEWER LIEN

M.R.S.A., Title 38, section 1258

IMPORTANT: DO NOT DISREGARD THIS NOTICE

YOU WILL LOSE YOUR PROPERTY UNLESS YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE

..... SEWER DISTRICT.

TO: .....

IF THE LIEN FORECLOSES, THE ..... SEWER DISTRICT WILL OWN YOUR PROPERTY, SUBJECT ONLY TO MUNICIPAL TAX LIENS.

.....

District Treasurer

G. The qualified sewer district shall pay the treasurer $1 for the notice, $1 for filing the lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the lien certificate must be paid by the qualified sewer district to the register of deeds.

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the qualified sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

4. Waiver of qualified sewer district lien foreclosure. The treasurer of a qualified sewer district, when authorized by the trustees of the qualified sewer district, may waive the foreclosure of a mortgage created under subsection 3 by recording in the registry of deeds a waiver of foreclosure before the right of redemption from the mortgage has expired. The mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rates are not affected by the filing of a waiver under this section.

The waiver of foreclosure must be substantially in the following form:

STATE OF MAINE ..... SEWER DISTRICT

WAIVER OF AUTOMATIC FORECLOSURE OF SEWER LIEN

M.R.S.A., Title 38, section 1258

The foreclosure of the sewer lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF SEWER DISTRICT) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the qualified sewer district and notarized. A copy of the form must be provided to the party named on the mortgage and each record holder of a mortgage on the real estate.

5. Adoption; referendum. An eligible sewer district may become a qualified sewer district in accordance with this subsection. The trustees of the eligible sewer district shall submit a proposal to become a qualified sewer district for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the eligible sewer district if the usual voting place for persons located within the district is located outside the territory of the district. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The question presented must conform to the following form:

> "Do you favor authorizing the (insert name of sewer district) to become a qualified sewer district, allowing the district to exercise the lien authority established in the Maine Revised Statutes, Title 38, section 1258 with respect to unpaid rates?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the trustees and entered upon the sewer district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

The eligible sewer district becomes a qualified sewer district under this section only upon acceptance of the question by a majority of the legal voters within the district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the sewer district.

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

Effective April 11, 2011.

CHAPTER 27

H.P. 174 - L.D. 197

An Act To Improve Response to Gas Safety Emergencies

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

Sec. 1. 25 MRSA §2394, as amended by PL 1973, c. 632, §4, is further amended to read:

§2394. Investigation of fire origin; Attorney General may direct

When property is destroyed or damaged by fire, the municipal fire inspector shall investigate the cause, circumstances and origin of the fire, and especially examine whether it was the result of carelessness or of design. The Attorney General may supervise and direct such investigation whenever ~~he deems it~~ the Attorney General determines it to be expedient or necessary. If arson is suspected, ~~such~~ the municipal fire inspector shall immediately notify the State Fire Marshal or an inspector of ~~his office~~ the Office of the State Fire Marshal, who shall cause a full investigation thereof to be conducted. The State Fire Marshal and ~~his~~ agents or employees ~~shall have the authority to~~ of the Office of the State Fire Marshal may investigate or cause to be investigated any fire or explosion within the State.

1. Certain explosions or fires; investigation and securing of evidence. In accordance with the protocol adopted by the State Fire Marshal pursuant to this subsection, the State Fire Marshal shall investigate and secure evidence of a gas explosion event. For purposes of this subsection, "gas explosion event" means an explosion or fire caused or suspected to be caused by or that involves natural gas or liquefied petroleum gas and that causes injury or substantial property damage, as determined according to the protocol adopted under this subsection. The State Fire Marshal shall develop a protocol for investigating and securing evidence under this section that:

A. Establishes reasonable standards for determining whether an explosion or fire may have been caused by or involved natural gas or liquefied petroleum gas and whether the explosion or fire caused injury or substantial property damage; and

B. Establishes procedures for informing local fire officials of the requirements of this subsection and for coordinating the investigation, as appropriate, with local fire officials, the Public Utilities Commission, the utility or other entity that controlled, transported or delivered the natural gas or liquefied petroleum gas and other relevant entities.

Sec. 2. 35-A MRSA §117, sub-§3, as corrected by RR 2009, c. 2, §98, is amended to read:

3. Administrative penalties. Except as provided in this subsection, all administrative penalties collected by the commission must be deposited into the Public Utilities Commission Reimbursement Fund.

A. The commission may use amounts collected as administrative penalties and deposited in the Public Utilities Commission Reimbursement Fund to reimburse the commission for additional expenses associated with the enforcement activities that resulted in the collection of the penalty. If the Department of Public Safety, Office of the State Fire Marshal undertakes an investigation of a gas explosion event pursuant to Title 25, section 2394, subsection 1 involving a gas utility or a natural gas pipeline utility subject to the jurisdiction of the commission, the commission, at the request of the State Fire Marshal, may reimburse the Office of the State Fire Marshal for its additional expenses associated with that investigation.

B. After deducting any amount used pursuant to paragraph A, the commission may, to the extent practicable and in as equitable and fair a manner as possible, apply administrative penalties, along with any accrued interest, in accordance with this paragraph. The commission shall seek to apply the amount in a manner that benefits those customers affected or potentially affected by the violation, if they can reasonably be identified or, if the commission determines this application of the amount to be impractical or unreasonable, in a manner that benefits the class or group of customers affected or potentially affected by the violation. In order to achieve the purposes of this paragraph, the commission may apply the funds:

(1) In the form of a direct payment or credit to the customers or group or class of customers affected or potentially affected by the violation resulting in the administrative penalty;

(2) To supplement a low-income assistance or outreach program that the commission determines would benefit customers affected or potentially affected by the violation resulting in the administrative penalty;

(3) To supplement the conservation program fund established pursuant to section 10110, subsection 7;

(4) To supplement the telecommunications education access fund established pursuant to section 7104-B; or

(5) To supplement any other program or fund that the commission determines would benefit customers affected or potentially affected by the violation.

Amounts applied pursuant to this paragraph to supplement an existing program or fund may not result in a reduction in other funding provided for the program or fund unless the reduction is outside the commission's control and the commission finds that application of the penalty amount to the fund or program is the most appropriate use of the penalty and the net effect will be an increase in total funding available to the program or fund.

In any final order issued by the commission approving or denying the application of administrative penalties to benefit any person affected or potentially affected by the violation, the commission shall make specific findings of fact supporting the commission's decision, including findings supporting any amount the commission approves as well as findings supporting the commission's denial of amounts requested by any person.

Sec. 3. 35-A MRSA §4712 is enacted to read:

§4712. Gas emergency response

1. Definitions. As used in this section, unless the context otherwise indicates, "gas explosion event" means an explosion or fire that causes property damage or personal injury and that involves natural gas or liquefied petroleum gas controlled, transported or delivered by a gas utility or a natural gas pipeline utility subject to the jurisdiction of the commission.

2. Response. Following a gas explosion event, the commission shall immediately contact the State Fire Marshal:

A. To confirm that the State Fire Marshal is investigating the event and securing evidence in accordance with Title 25, section 2394, subsection 1 and to coordinate the commission's activities with the State Fire Marshal's investigation; or

B. To confirm that the event does not warrant investigation by the State Fire Marshal pursuant to the protocol established in accordance with Title 25, section 2394, subsection 1.

3. Proceedings. In any commission proceeding concerning a gas explosion event, the commission shall afford a person injured by the event or who suffered property damage in the event an opportunity to address the commission regarding the event.

4. Compensation. In determining pursuant to section 117 whether to apply any administrative penalties relating to the gas explosion event to benefit customers affected or potentially affected by the violation, and in determining the amount to apply, the commission shall consider documented property damages suffered by a person as a result of the event and may apply an amount to equitably compensate that person for losses not otherwise fully compensated.

See title page for effective date.

CHAPTER 28

H.P. 1011 - L.D. 1372

An Act To Make Additional Supplemental Appropriations and Allocations for the Fiscal Year Ending 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

Mandate BETE - Reimburse Municipalities Z065

Initiative: Reduces funding for a one-time savings in the program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($27,500)	$0	$0
GENERAL FUND TOTAL	($27,500)	$0	$0

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	($27,500)	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	($27,500)	$0	$0

EDUCATION, DEPARTMENT OF

Child Development Services 0449

Initiative: Provides funding for services to children from birth to 5 years of age as a result of MaineCare rule changes effective September 1, 2010.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$1,272,319	$0	$0
GENERAL FUND TOTAL	$1,272,319	$0	$0

EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	$1,272,319	$0	$0
DEPARTMENT TOTAL - ALL FUNDS	$1,272,319	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Medical Care - Payments to Providers 0147

Initiative: Provides funding to restore a deappropriation included in Public Law 2009, chapter 571 related to the disallowance of federal financial participation for targeted case management claims in fiscal years 2001-02 and 2002-03.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$29,736,437	$0	$0
GENERAL FUND TOTAL	$29,736,437	$0	$0

Medical Care - Payments to Providers 0147

Initiative: Provides funding for growth in the MaineCare program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$6,943,905	$0	$0
GENERAL FUND TOTAL	$6,943,905	$0	$0

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$36,680,342**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$36,680,342**	**$0**	**$0**

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Provides funding for representation to indigent persons who are entitled to counsel.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	$550,000	$0	$0
GENERAL FUND TOTAL	$550,000	$0	$0

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**$550,000**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$550,000**	**$0**	**$0**

LABOR, DEPARTMENT OF

Governor's Training Initiative Program 0842

Initiative: Reduces funding for grants used for training services in the Governor's Training Initiative Program.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($224,895)	$0	$0
GENERAL FUND TOTAL	($224,895)	$0	$0

LABOR, DEPARTMENT OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**($224,895)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($224,895)**	**$0**	**$0**

TREASURER OF STATE, OFFICE OF

Debt Service - Treasury 0021

Initiative: Reduces funding for debt service costs associated with note interest resulting from a change in the assumption for the issuance of tax anticipation notes for fiscal year 2010-11.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($43,750)	$0	$0
GENERAL FUND TOTAL	($43,750)	$0	$0

TREASURER OF STATE, OFFICE OF			
DEPARTMENT TOTALS	**2010-11**	**2011-12**	**2012-13**
GENERAL FUND	**($43,750)**	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**($43,750)**	**$0**	**$0**

SECTION TOTALS	2010-11	2011-12	2012-13
GENERAL FUND	**$38,206,516**	**$0**	**$0**
SECTION TOTAL - ALL FUNDS	**$38,206,516**	**$0**	**$0**

PART B

Sec. B-1. Transfer from Federal Expenditures Fund; Department of Health and Human Services; Medical Care Services program. Notwithstanding any other provision of law, the State Controller shall transfer $29,736,437 by June 30, 2011 from the Medical Care Services Federal Expenditures Fund program within the Department of Health and Human Services to the unappropriated surplus of the General Fund.

PART C

Sec. C-1. Carrying balance; Bureau of Medical Services; General Fund account. Notwithstanding any other provision of law, any All Other line category balance in the Department of Health and Human Services, Bureau of Medical Services, General Fund account remaining on June 30, 2011 may not lapse but must be carried forward to June 30, 2012 to be used for the same purposes.

PART D

Sec. D-1. Department of Labor; Governor's Training Initiative Program account; lapsed balances. Notwithstanding any other provision of law, $490,995 of unencumbered balance forward from the Department of Labor, Governor's Training Initiative Program, General Fund carrying account, All Other line category lapses to the General Fund no later than June 30, 2011.

PART E

Sec. E-1. Transfer; unexpended funds; Department of Administrative and Financial Services; Bangor Campus Office Space account. Notwithstanding any other provision of law, the State Controller shall transfer $50,000 by June 30, 2011 from the Other Special Revenue Funds, Bangor Campus Office Space account in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund.

PART F

Sec. F-1. Department of Education; Learning Through Technology account; lapsed balances. Notwithstanding any other provision of law, $1,272,319 of unencumbered balance forward from the Department of Education, Learning Through Technology program, General Fund carrying account, All Other line category lapses to the General Fund no later than June 30, 2011.

PART G

Sec. G-1. Transfer to General Fund; Accident, Sickness and Health Insurance Internal Service Fund. Notwithstanding any other provision of law, the State Controller shall transfer $2,500,488 representing the General Fund and Other Special Revenue Funds shares from the Accident, Sickness and Health Insurance Internal Service Fund in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund no later than June 30, 2011. The State Controller also shall transfer the equitable excess reserves as required by state or federal regulations by June 30, 2011.

PART H

Sec. H-1. Calculation and transfer; General Fund; central services savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part A of this Act in the Statewide Central Services account in the Department of Administrative and Financial Services that applies against each General Fund account for departments and agencies statewide as a result of a review of contracting processes. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2010-11.

Sec. H-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 for savings as a result of a review of contracting processes.

GENERAL FUND	2010-11	2011-12	2012-13
All Other	($2,000,000)	$0	$0
GENERAL FUND TOTAL	($2,000,000)	$0	$0

PART I

Sec. I-1. Transfer from unappropriated surplus at close of fiscal year 2010-11; Maine Budget Stabilization Fund. Notwithstanding any other provision of law, at the close of fiscal year 2010-11, the State Controller shall transfer up to $25,000,000 from the unappropriated surplus of the General Fund to the Maine Budget Stabilization Fund after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the first priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507 and 1511 and before the transfers required pursuant to Title 5, section 1536.

Sec. I-2. Transfer from unappropriated surplus at close of fiscal year 2010-11; Bureau of Medical Services account. Notwithstanding any other provision of law, at the close of fiscal year 2010-11, the State Controller shall transfer up to $5,000,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Bureau of Medical Services account for the operational contract costs of the Maine Integrated Health Management Solution system after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the

second priority after the transfers made in section 1 of this Part.

Sec. I-3. Transfer from unappropriated surplus at close of fiscal year 2010-11; Accident, Sickness and Health Insurance Internal Services Fund. Notwithstanding any other provision of law, at the close of fiscal year 2010-11, the State Controller shall transfer up to $2,500,488 from the unappropriated surplus of the General Fund to the Department of Administrative and Financial Services, Accident, Sickness and Health Insurance Internal Services Fund after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the third priority after the transfers made in sections 1 and 2 of this Part.

Sec. I-4. Transfer considered adjustments to appropriations. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, amounts transferred pursuant to section 2 of this Part are considered adjustments to appropriations in fiscal year 2011-12 only. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor.

PART J

Sec. J-1. PL 2009, c. 213, Pt. RRR, §1, sub-§3 is amended to read:

3. From the Department of Audit, Statewide Single Audit - Set Aside, Other Special Revenue Funds account, $77,723 no later than June 30, 2010 ~~and $79,928 no later than June 30, 2011~~;

Sec. J-2. Transfer from unappropriated surplus at close of fiscal year 2010-11; Department of Audit, Statewide Single Audit - Set Aside account. Notwithstanding any other provision of law, the State Controller shall transfer $77,723 by June 30, 2011 from the unappropriated surplus of the General Fund to the Department of Audit, Statewide Single Audit - Set Aside, Other Special Revenue Funds account.

PART K

Sec. K-1. PL 2011, c. 1, Pt. Q, §1 is amended to read:

Sec. Q-1. Personal Services savings; transfer to General Fund undedicated revenue. Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller is authorized to transfer the first ~~$3,500,000~~ $5,646,084 of unexpended Personal Services appropriations that would otherwise lapse to the Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2010-11.

Sec. K-2. PL 2011, c. 1, Pt. Q, §2 is amended to read:

Sec. Q-2. General Fund Salary Plan; transfer to General Fund undedicated revenue. Notwithstanding any other provision of law, the State Controller is authorized to transfer up to ~~$3,500,000~~ $5,646,084 from the Salary ~~Fund~~ Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2010-11 in the event that the total savings in section 1 of this Part are not achieved.

Sec. K-3. General Fund Salary Plan; lapse to General Fund unappropriated surplus. Notwithstanding any other provision of law, the State Controller shall lapse $908,738 from the General Fund Salary Plan program to the General Fund unappropriated surplus no later than June 30, 2011.

PART L

Sec. L-1. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for fiscal year 2010-11 only, the Commissioner of Education is authorized to identify savings within the existing General Fund programs of the Department of Education and to transfer up to $3,000,000 in available balances by financial order upon the recommendation of the State Budget Officer and approval of the Governor from the existing General Fund program accounts to the Child Development Services General Fund program account in order to maintain services to students and provide timely payments to therapeutic service providers.

Sec. L-2. Report. No later than June 14, 2011, the Commissioner of Education shall submit a report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Education and Cultural Affairs on the transfer of funds to offset the Child Development Services General Fund program account shortfall, including the fiscal and programmatic impact of the transfer of funding on the affected Department of Education programs, as well as the status of the Child Development Services System in providing services to eligible children and providing timely payments to therapeutic service providers.

PART M

Sec. M-1. Transfer of funds; Other Special Revenue Funds accounts; departments and agencies statewide. Notwithstanding any other provision of law, transfers of savings from Other Special Revenue Funds accounts of departments and agencies statewide to the unappropriated surplus of the General Fund required to be made by the State Controller in fiscal year 2010-11 by Public Law 2009, chapter 213, Part RRR and Public Law 2009, chapter 571, Parts SS and TT are reduced by $1,209,894.

PART N

Sec. N-1. Transfer; unexpended funds; Department of the Attorney General, Other Special Revenue Funds. Notwithstanding any other provision of law, the State Controller shall transfer $469,000 in unexpended funds in the Department of the Attorney General, Administration - Attorney General, Other Special Revenue Funds program to the General Fund unappropriated surplus at the close of fiscal year 2010-11.

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

Effective April 14, 2011.

CHAPTER 29

H.P. 59 - L.D. 71

An Act To Designate the Official State Treat and the Official State Dessert

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

Sec. 1. 1 MRSA §225 is enacted to read:

§225. State treat

The whoopie pie, a baked good made of 2 cakes with a creamy frosting between them, is the official state treat.

Sec. 2. 1 MRSA §226 is enacted to read:

§226. State dessert

Blueberry pie, made with wild Maine blueberries, is the official state dessert.

See title page for effective date.

CHAPTER 30

H.P. 154 - L.D. 177

An Act To Authorize Licensed Veterinarians To Honor Prescriptions from Other Licensed Veterinarians

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

Sec. 1. 32 MRSA §4876 is enacted to read:

§4876. Prescriptions of other veterinarians

A licensed veterinarian may sell and dispense the written prescription of another licensed veterinarian with respect to any prescription or administration of a drug, medicine or nutritional substance on, for or to any animal in accordance with this chapter.

See title page for effective date.

CHAPTER 31

H.P. 108 - L.D. 126

An Act To Allow a Person with One Arm To Possess Certain Kinds of Prohibited Knives

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

Sec. 1. 17-A MRSA §1055, sub-§3 is enacted to read:

3. Notwithstanding subsection 1, a person who has only one arm may possess and transport a knife described under subsection 1 that has a blade 3 inches or less in length.

See title page for effective date.

CHAPTER 32

H.P. 81 - L.D. 95

An Act To Repeal the Restriction on Serving or Executing Civil Process on Sunday

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

Sec. 1. 14 MRSA §705, as amended by PL 1995, c. 694, Pt. D, §15 and affected by Pt. E, §2, is repealed.

See title page for effective date.

CHAPTER 33

H.P. 110 - L.D. 128

An Act To Provide Access to State Forms

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

Sec. 1. 5 MRSA §58 is enacted to read:

§58. Access to forms

Every state agency, department, board, office, commission, institution, authority or public instrumentality that requires filing of information by the public shall make a paper copy of any required filing form

available, upon request, by regular mail at no cost to the requestor.

See title page for effective date.

CHAPTER 34

H.P. 179 - L.D. 202

An Act To Modify Child Support Enforcement Procedures

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

Sec. 1. 14 MRSA §3128-A, sub-§3, as enacted by PL 1995, c. 419, §8, is amended to read:

3. Duration. The order continues in effect for ~~6 months~~ one year or until the obligor finds work, whichever occurs first.

Sec. 2. 19-A MRSA §2006, sub-§5, ¶C, as amended by PL 2009, c. 290, §13, 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 $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 self-support reserve multiplied by the number of children in the age category is the nonprimary care provider's 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. 3. 19-A MRSA §2369, first ¶, as amended by PL 2001, c. 264, §12, is further amended to read:

The receipt of public assistance for a child constitutes an assignment by the recipient to the department of all rights to support for the child and spousal support~~, including any support unpaid at the time of assignment, as long as public assistance is paid~~ that accrue during the period that the recipient receives public assistance for the child.

See title page for effective date.

CHAPTER 35

H.P. 336 - L.D. 443

An Act To Require Prompt MaineCare Decisions on Care for Children with Life-threatening Conditions

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

Sec. 1. 22 MRSA §3174-QQ is enacted to read:

§3174-QQ. Care for children with life-threatening conditions

The department shall make decisions approving or disapproving care or services for children with life-threatening conditions who are members in the MaineCare program within one working day of receiving a complete urgent request or order from the health care provider or providers for the child.

See title page for effective date.

CHAPTER 36

H.P. 317 - L.D. 391

An Act Concerning Models for Teacher and Principal Evaluations

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

Sec. 1. 20-A MRSA §13802, sub-§1, as amended by PL 2009, c. 646, §2, is further amended to read:

1. Department to propose models. The department shall ~~establish~~ propose models for evaluation of the professional performance of teachers and principals employed in a school administrative unit within the State. The models must include multiple measures.

Sec. 2. 20-A MRSA §13802, sub-§2, as amended by PL 2009, c. 646, §2, is further amended to read:

2. Use of models. Each school administrative unit within the State may select and incorporate one or more of the models ~~developed~~ proposed pursuant to subsection 1 for the evaluation of the professional performance of a teacher or principal employed by that school administrative unit. ~~If a school administrative unit wants to include student assessments as part of teacher evaluations, that school administrative unit must use one of the models developed pursuant to subsection 1.~~ Nothing in this section prevents a school administrative unit from developing and adopting its own models for teacher and principal evaluation.

Sec. 3. PL 2009, c. 646, §3 is amended to read:

Sec. 3. Review of models. The Commissioner of Education shall convene a stakeholder group to review the models ~~developed~~ proposed by the Department of Education pursuant to the Maine Revised Statutes, Title 20-A, section 13802 for the evaluation of the professional performance of teachers and principals who are employed by a school administrative unit within the State. The Commissioner of Education, or the commissioner's designee, shall serve as a member of the stakeholder group. The commissioner shall invite representatives of the following educational associations that are appointed by their respective associations to serve as members of the stakeholder group:

1. The Maine Education Association;

2. The Maine Principals' Association;

3. The Maine School Boards Association;

4. The Maine School Superintendents Association; and

5. The Maine Administrators of Services for Children with Disabilities.

The stakeholder group shall review the models ~~developed~~ proposed by the Department of Education for the evaluation of the professional performance of teachers and principals ~~and shall approve models no later than July 1, 2011~~. The Department of Education may not ~~finally adopt~~ put forth a model that is not approved by a majority vote of the stakeholder group pursuant to this section.

See title page for effective date.

CHAPTER 37

S.P. 114 - L.D. 401

An Act To Enhance Penalties To Protect Senior Investors

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

Sec. 1. 32 MRSA §16412, sub-§3, as amended by PL 2007, c. 14, §7, is further amended to read:

3. Disciplinary penalties, licensees. If the administrator finds that the order is in the public interest and subsection 4, paragraph A, B, C, D, E, F, H, I, J, L or M authorizes the action, an order under this chapter may censure, impose a bar on or impose a civil fine in an amount not to exceed a maximum of $5,000 per violation on a licensee. For a violation involving an investor 65 years of age or older, the amount of the civil fine may be doubled to an amount not to exceed a maximum of $10,000 per violation.

Sec. 2. 32 MRSA §16603, sub-§2, ¶B, as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

B. Order other appropriate or ancillary relief, which may include:

(1) An asset freeze, accounting, writ of attachment, writ of general or specific execution and appointment of a receiver or conservator, which may be the administrator, for the defendant or the defendant's assets;

(2) Ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents and profits, to collect debts and to acquire and dispose of property;

(3) Imposing a civil fine not to exceed $10,000 per violation or an order of rescission, restitution or disgorgement directed to a person that has engaged in an act, practice or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act; ~~and~~

(4) Ordering the payment of prejudgment and postjudgment interest; ~~or~~ and

(5) Doubling the amount of a civil fine, not to exceed a maximum of $20,000 per violation, and doubling the amount of a monetary remedy, other than a civil fine, without limitation for a violation involving an investor 65 years of age or older; or

Sec. 3. 32 MRSA §16604, sub-§4, as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

4. Civil fine; final orders and remedies. In a final order under subsection 3, the administrator may: order remedies described in subsection 1; censure that person; bar that person from association with any issuer, broker-dealer or investment adviser in this State; or impose a civil fine not to exceed $5,000 per violation. For a violation involving an investor 65 years of age or older, the amount of the civil fine may be dou-

bled to an amount not to exceed a maximum of $10,000 per violation.

See title page for effective date.

CHAPTER 38

S.P. 85 - L.D. 279

An Act To Amend Indemnification Notification Laws

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

Sec. 1. 24-A MRSA §3102-A, as enacted by PL 1995, c. 296, §1, is repealed.

See title page for effective date.

CHAPTER 39

H.P. 44 - L.D. 51

An Act Regarding Access to Sexually Explicit Material

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

Sec. 1. 15 MRSA c. 107 is enacted to read:

CHAPTER 107

CUSTODY AND EXAMINATION OF SEXUALLY EXPLICIT MATERIAL

§1121. Limitations on examination of sexually explicit material

1. Sexually explicit material. For purposes of this section, "sexually explicit material" means the property or material described in Title 17-A, chapter 12.

2. Custody of sexually explicit material. Sexually explicit material subject to a criminal investigation or proceeding must remain in the care, custody and control of the attorney for the State or the court. Notwithstanding provisions of the Maine Rules of Criminal Procedure, Rule 16 to the contrary, in any criminal proceeding the attorney for the State may not release to the defendant a copy, photograph, duplicate or any other reproduction of any sexually explicit material, as long as the attorney for the State makes the sexually explicit material reasonably available to the defendant.

3. Reasonably available. For purposes of this section, sexually explicit material is determined to be reasonably available to the defendant if the attorney for the State provides ample opportunity for inspection, viewing and examination of the sexually explicit material at a location within the control of the attorney for the State by the defendant, the defendant's attorney, the defendant's attorney's agent or any person whom the defendant may seek to qualify to furnish expert testimony at trial.

See title page for effective date.

CHAPTER 40

H.P. 156 - L.D. 179

An Act To Prohibit the Issuance of a Duplicate Absentee Ballot under Certain Circumstances

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

Sec. 1. 21-A MRSA §753-B, sub-§4, as amended by PL 2003, c. 447, §31, is further amended to read:

4. Duplicate application. The clerk may issue a ~~2nd~~ duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may ~~also~~ issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error. When a 2nd state absentee ballot is issued to a voter under this section, the clerk

must write the words "second ballot issued" on the return envelope.

See title page for effective date.

CHAPTER 41

S.P. 18 - L.D. 3

An Act To Clarify Joint Tenancy Reinstatement

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

Sec. 1. 33 MRSA §159, as amended by PL 1973, c. 788, §164, is further amended by adding at the end a new paragraph to read:

A conveyance on or after January 1, 2012 by a taxing or assessing authority of real property acquired from joint tenants by foreclosure of a tax or assessment lien mortgage, if made to such persons, recreates the joint tenancy held by the persons at the time of the foreclosure unless otherwise indicated anywhere in the conveyance by appropriate language.

See title page for effective date.

CHAPTER 42

H.P. 415 - L.D. 532

An Act To Update the Maine Uniform Trust Code

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

Sec. 1. 18-B MRSA §103, sub-§4-A is enacted to read:

4-A. Current beneficiary. "Current beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal.

Sec. 2. 18-B MRSA §105, sub-§2, ¶H, as amended by PL 2005, c. 184, §5, is further amended to read:

H. Subject to subsection 3, the duty under section 813, subsection 2, paragraphs B and C to notify ~~qualified~~ current beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, of the identity of the trustee and of their right to request trustee's reports;

Sec. 3. 18-B MRSA §105, sub-§2, ¶I, as amended by PL 2005, c. 184, §5, is further amended to read:

I. Subject to subsection 3, the duty under section 813, subsection 1 to respond to the request of a ~~qualified~~ current beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;

Sec. 4. 18-B MRSA §105, sub-§3, ¶B, as enacted by PL 2005, c. 184, §6, is amended to read:

B. ~~Designating~~ With respect to one or more of the current beneficiaries as to whom the settlor has waived or modified such duties, designating a person or persons, any of whom may or may not be a beneficiary, to act in good faith to protect the interests of the ~~qualified~~ current beneficiaries who are not receiving notice, information or reports and to receive any notice, information or reports required under section 813, subsection 1 or 2 in lieu of providing such notice, information or reports to the ~~qualified~~ current beneficiaries. The person or persons designated under this paragraph are deemed to be representatives of the ~~qualified~~ current beneficiaries not receiving notice, information or reports for the purposes of the time limitation for a beneficiary to commence an action against the trustee for breach of trust as provided in section 1005, subsection 1.

Sec. 5. 18-B MRSA §504, sub-§3, as enacted by PL 2005, c. 184, §12, is repealed and the following enacted in its place:

3. Creditor limited. If a trustee's or cotrustee's discretion to make distributions for the trustee's or cotrustee's own benefit is limited by an ascertainable standard, a creditor may not reach or compel distribution of the beneficial interest except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

Sec. 6. 18-B MRSA §506, as enacted by PL 2003, c. 618, Pt. A, §1 and affected by §2, is repealed and the following enacted in its place:

§506. Overdue distribution

1. Definitions. As used in this section, unless the context otherwise indicates, "mandatory distribution" means a distribution of income or principal that a trustee is required to make to a beneficiary under the terms of a trust, including a distribution upon termination of the trust. "Mandatory distribution" does not include a distribution subject to the exercise of the trustee's discretion even if:

A. The discretion is expressed in the form of a standard of distribution; or

B. The terms of the trust authorizing a distribution couple language of discretion with language of direction.

2. Unreasonable delay in distribution. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distri-

bution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

Sec. 7. 18-B MRSA §813, sub-§6 is enacted to read:

6. Duty to settlor of revocable trust. During the lifetime of the settlor of a revocable trust, whether or not the settlor has capacity to revoke the trust, the trustee's duties under this section are owed exclusively to the settlor. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the trustee's duties under this section by providing information and reports to any one or more of the following in the order of preference listed:

A. The person or persons designated by the settlor in the trust to receive information and reports on the settlor's behalf;

B. The settlor's spouse or registered domestic partner under Title 22, section 2710;

C. The settlor's agent under a durable power of attorney;

D. The settlor's court-appointed conservator; or

E. The settlor's court-appointed guardian.

If the settlor lacks capacity to revoke the trust and there are no persons listed in this subsection to whom the trustee may provide information and reports, the trustee shall satisfy its duties under this section by providing information and reports to the qualified beneficiaries.

See title page for effective date.

CHAPTER 43

H.P. 147 - L.D. 170

An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons

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

Sec. 1. 18-A MRSA §5-104, sub-§(a), as enacted by PL 1997, c. 455, §7, is amended to read:

(a). A parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding ~~6~~ 12 months, any of that parent's or guardian's powers regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward. A delegation by a ~~court-appointed~~ court-appointed guardian becomes effective only when the power of attorney is filed with the court.

Sec. 2. 18-A MRSA §5-213 is enacted to read:

§5-213. Transitional arrangements for minors

In issuing, modifying or terminating an order of guardianship for a minor, the court may enter an order providing for transitional arrangements for the minor if the court determines that such arrangements will assist the minor with a transition of custody and are in the best interest of the child. Orders providing for transitional arrangements may include, but are not limited to, rights of contact, housing, counseling or rehabilitation.

See title page for effective date.

CHAPTER 44

H.P. 455 - L.D. 625

An Act To Amend the Law Pertaining to Loaner Registration Plates

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

Sec. 1. 29-A MRSA §459, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§459. Manufacturers, dealers, transporters, body shops, transmission shops and garages; special plates

1. Special plates. The Secretary of State may select and issue special distinguishing letters, marks or designs for number plates issued to manufacturers, dealers ~~and~~, holders of transporter registration certificates and owners of body shops, transmission shops or garages.

2. Special vanity plates. A ~~new~~ car dealer or an owner of a body shop, transmission shop or garage may apply for special vanity registration plates that may bear letters or combinations of letters and numbers that are approved by the Secretary of State or a designee. A plate may not be duplicated by other licensed vehicle dealers, body shops, transmission shops or garages. These special vanity plates may not be used to supplement existing registration numbers assigned.

The Secretary of State shall charge an additional $30 fee per plate issued pursuant to this subsection.

Sec. 2. 29-A MRSA §1003, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Special vanity registration plates. A ~~new~~ car dealer or an owner of a body shop, transmission shop or garage holding special ~~initial~~ vanity registration plates issued pursuant to section ~~457~~ 459 may apply for special vanity loaner plates bearing the same combination of letters and numbers as appears on the ~~initial~~ special vanity registration plates. Special vanity loaner plates may not be used to supplement existing loaner registration numbers assigned. The Secretary of State shall charge an additional $30 fee per special vanity loaner registration plate.

See title page for effective date.

CHAPTER 45

S.P. 128 - L.D. 424

An Act To Revise the Laws Governing the Licensure of Public Water System Operators

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

Sec. 1. 22 MRSA §2622, first ¶, as amended by PL 2003, c. 33, §4, is further amended to read:

The board, with the advice of the department, shall classify all community public water systems, all nontransient, noncommunity public water systems, all public water systems utilizing surface water and the water treatment plants or collection, treatment, distribution or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

Sec. 2. 22 MRSA §2624-A, sub-§6, as enacted by PL 1995, c. 442, §2, is amended to read:

6. Powers and duties. The powers and duties of the board are as follows.

A. The board shall license persons to serve as operators of all or part of any public water system in the State.

B. The board shall design or approve and hold at least one examination each year at a time and place designated for the purpose of examining candidates for licensure. The board may accept results of examinations approved by the board administered by a 3rd party, whose fees are not governed by section 2629.

C. The board may enter into contracts or agreements to carry out its responsibilities under this section.

Sec. 3. 22 MRSA §2625-A, first ¶, as amended by PL 2003, c. 33, §7, is further amended to read:

All licenses expire on December 31st of each biennial period and may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in the rules. A person who fails to renew that person's license within 2 years following the expiration ~~date shall take an examination~~ of the license must take an examination as a condition of licensure.

Sec. 4. 22 MRSA §2628, as amended by PL 2003, c. 33, §9, is further amended to read:

§2628. Rules

The Board of Licensure of Water System Operators, in accordance with any other appropriate state laws, shall make such rules as are reasonably necessary to carry out the intent of this subchapter. The rules must include, but are not limited to, provisions establishing requirements for licensure and procedures for examination of candidates and such other provisions as are necessary for the administration of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 22 MRSA §2629, as amended by PL 2003, c. 33, §10, is further amended to read:

§2629. Fees

~~The examination fees, licensure fees, biennial renewal fees and reinstatement fees must be established by the Board of Licensure of Water System Operators by rule. The examination and licensure fees may not exceed $70, and the biennial renewal fee and the reinstatement fee may not exceed $60.~~ The Board of Licensure of Water System Operators shall establish by rule fees authorized pursuant to this subchapter. These fees may include examination, licensure, biennial renewal and reinstatement fees in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed $95. Revenues derived from applicants failing the examination must be retained.

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

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Water System Operators - Board of Licensure 0104

Initiative: Deallocates funds as a result of savings from reduced costs for testing.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$0	($10,600)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($10,600)

See title page for effective date.

CHAPTER 46

S.P. 90 - L.D. 301

An Act Relating to Abandoned Vehicles

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

Sec. 1. 29-A MRSA §1852, as amended by PL 2007, c. 150, §2, is further amended to read:

§1852. Abandonment defined

For the purposes of this subchapter, a vehicle is considered "abandoned" if the owner or lienholder does not retrieve it and pay all reasonable charges for towing, storing and authorized repair of the vehicle within ~~7~~ 14 days after the notices to the owner and lienholder are sent by the Secretary of State or ~~7~~ 14 days after the advertisement is published as required in section 1854, subsection 4. There is a rebuttable presumption that the last owner of record of a motor vehicle found abandoned as shown in the files of the office of the Secretary of State is the owner of the motor vehicle at the time it was abandoned and the person who abandoned it.

Sec. 2. 29-A MRSA §1854, sub-§4, ¶B, as amended by PL 2007, c. 150, §5, is further amended to read:

B. State that if the owner of the vehicle or lienholder has not properly retrieved it and paid all reasonable charges for its towing, storage and repair within ~~7~~ 14 days from the publication, ownership of the vehicle passes to the owner of the premises where the vehicle is located; and

Sec. 3. 29-A MRSA §1856, sub-§1, as amended by PL 2007, c. 150, §6, is further amended to read:

1. Evidence of compliance. A person who has complied with section 1854, subsection 4 shall present evidence of compliance to the Secretary of State immediately after the ~~7-day~~ 14-day notice period. The Secretary of State may not issue a letter of ownership or certificate of title until at least 21 days after the date on which the person who has possession of and control over the vehicle notified the Secretary of State by complying with section 1854, subsections 1 and 2.

Sec. 4. 29-A MRSA §1857, as amended by PL 2007, c. 150, §7, is further amended to read:

§1857. Limits

If the notification to the Secretary of State required by section 1854 is made more than ~~7~~ 14 days after receipt of a vehicle described in section 1851, the person holding the vehicle may not collect more than ~~7~~ 14 days of storage fees. Daily storage charges must be reasonable and total storage charges may not exceed $900 for a 30-day period.

See title page for effective date.

CHAPTER 47

H.P. 205 - L.D. 252

An Act To Amend the Laws Governing Aquatic Nuisance Species

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

Sec. 1. 12 MRSA §13001, sub-§6, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

6. Aquatic plant. "Aquatic plant" means a ~~vascular~~ plant species that requires a permanently flooded freshwater habitat.

Sec. 2. 38 MRSA §410-N, sub-§1, ¶A, as enacted by PL 1999, c. 722, §1, is amended to read:

A. "Aquatic plant" means a ~~vascular~~ plant species that requires a permanently flooded freshwater habitat.

Sec. 3. 38 MRSA §1871, sub-§2, as enacted by PL 2001, c. 434, Pt. B, §2, is amended to read:

2. Terms. Members appointed by the Governor serve 4-year terms, except that, as determined by the Governor, of the initial appointments, 4 must be for 3 years, including the public member, and 4 must be for 2 years. Members serve until their successors are appointed. A vacancy must be filled for the remainder of the unexpired term. If after 6 months of a vacancy on the task force in a position listed in subsection 1, paragraph B the Governor cannot fill that vacancy, the Governor may appoint a member who does not meet the qualifications of subsection 1, paragraph B, but who has demonstrated experience or interest in the area of threats to fish and wildlife posed by invasive aquatic plants and nuisance species.

See title page for effective date.

CHAPTER 48

S.P. 71 - L.D. 220

An Act Relating to Maine Farm Wineries

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

Sec. 1. 28-A MRSA §1355, sub-§3, ¶E is enacted to read:

E. A holder of a farm winery license may display up to 25 bottles in the windows of any premises maintained and licensed as permitted premises under paragraph C where wine produced by the holder of the farm winery license is sold.

See title page for effective date.

CHAPTER 49

H.P. 111 - L.D. 129

An Act To Eliminate Dual Certification Requirements for Speech-language Pathologists

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

Sec. 1. 20-A MRSA §13011, sub-§1, ¶A, as enacted by PL 1983, c. 845, §4, is amended to read:

A. Certify teachers and other professional personnel for service in a public school or in an approved private school, except that certification is not required for a person holding a valid license as a speech-language pathologist under Title 32, section 17301 who has received approval pursuant to section 13024 to provide speech-language pathology services in a public school or approved private school;

Sec. 2. State Board of Education to revise rules. The State Board of Education shall revise rules adopted under the Maine Revised Statutes, Title 20-A, section 13011 to be consistent with that section of this Act that amends Title 20-A, section 13011, subsection 1, paragraph A, to provide that certification is not required for a licensed speech-language pathologist who has been approved by the Department of Education to provide speech-language pathology services in a public school or approved private school pursuant to section 13024. Revisions to Rule 05-071, Chapter 115: Certification, Authorization, and Approval of Education Personnel and any other rule revisions necessary to implement this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must be in effect no later than December 1, 2011.

See title page for effective date.

CHAPTER 50

S.P. 172 - L.D. 580

An Act To Protect Children from Sexual Predators

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

Whereas, immediate action by the Legislature is necessary to close a loophole in the current statute regarding sexual exploitation of a minor in order to ensure prosecutors have the necessary tools to prosecute these cases and to better protect children; and

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

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

Sec. 1. 17-A MRSA §284, sub-§1, ¶A, as amended by PL 2005, c. 345, §1, is further amended to read:

A. Intentionally or knowingly transports, exhibits, purchases ~~or,~~ possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 16 years of age; or

(2) The person knows or has reason to know that the other person has not attained 16 years of age.

Violation of this paragraph is a Class D crime;

Sec. 2. 17-A MRSA §284, sub-§1, ¶C, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

C. Intentionally or knowingly transports, exhibits, purchases ~~or,~~ possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file,

videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 12 years of age; or

(2) The person knows or has reason to know that the other person has not attained 12 years of age.

Violation of this paragraph is a Class C crime; or

Sec. 3. 17-A MRSA §284, sub-§5, as enacted by PL 2009, c. 608, §4, is amended to read:

5. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of dissemination ~~or,~~ possession or accessing of the sexually explicit visual image or material.

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

Effective April 25, 2011.

CHAPTER 51

H.P. 480 - L.D. 650

An Act To Create an Apprentice Trapper License

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

Sec. 1. 12 MRSA §12204 is enacted to read:

§12204. Apprentice trapper license

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

A. "In the presence of" means in visual and voice contact without the use of visual or audio enhancement devices, including but not limited to binoculars and citizen band radios.

B. "Supervisor" means a person who is 18 years of age or older, has held a valid trapping license under this subchapter for 3 consecutive years and is trapping with a person holding an apprentice trapper license.

2. Supervisor required. A holder of an apprentice trapper license may not trap other than in the presence of a supervisor.

3. Supervisor responsibility. A supervisor shall ensure that the holder of an apprentice trapper license follows safe and ethical trapping protocol and adheres to the laws under this Part. A supervisor may not intentionally permit a person trapping under an apprentice trapper license with that supervisor to violate subsection 2.

4. Eligibility. A resident or nonresident 16 years of age or older who has never held a valid trapping license or junior trapping license in this State, or any other state, province or country, is eligible to obtain an apprentice trapper license, except that a person may not be issued an apprentice trapper license after having previously held an apprentice trapper license under this section. A person is eligible to obtain an apprentice trapper license without having successfully completed a trapper education course as described in section 10108, subsection 7.

5. Expiration of apprentice trapper license. An apprentice trapper license is valid for up to 12 calendar months and expires on June 30th.

6. Issuance; fee. The commissioner, through the commissioner's authorized agent, shall issue an apprentice trapper license to an eligible person. The fee for an apprentice trapper license is $35 for residents and $317 for nonresidents.

7. Restrictions. The holder of an apprentice trapper license is not eligible to obtain a permit to trap for bear under section 12260-A.

8. 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 $100 and not more than $500 may be adjudged.

B. A person who violates this section 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.

See title page for effective date.

CHAPTER 52

H.P. 278 - L.D. 352

An Act To Amend the Laws Governing Criminal History Record Information

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 facilitate the work of the agency responsible for licensing health and social services agencies and facilities in

the investigation of suspected abuse, neglect or exploitation in licensed, certified and registered facilities and programs that care for children and adults; 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. 16 MRSA §614, sub-§3, ¶B-1 is enacted to read:

B-1. The division of licensing and regulatory services within the Department of Health and Human Services for use in the investigation of suspected abuse, neglect or exploitation in licensed, certified and registered facilities and programs that provide care to children and adults;

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2011.

Effective July 1, 2011.

CHAPTER 53

H.P. 560 - L.D. 753

An Act To Establish Juneteenth Independence Day

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

Sec. 1. 1 MRSA §150-F is enacted to read:

§150-F. Juneteenth Independence Day

The Governor shall annually issue a proclamation designating the 3rd Saturday in June as Juneteenth Independence Day to commemorate the day freedom was proclaimed to all slaves in the South by Union General Gordon Granger in 1865, 2 1/2 years after the Emancipation Proclamation was signed.

See title page for effective date.

CHAPTER 54

H.P. 437 - L.D. 554

An Act To Amend the Telecommunications Education Access Fund

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

Sec. 1. 35-A MRSA §7104-B, sub-§5, as amended by PL 2001, c. 522, §2, is further amended to read:

5. Guidelines for funding. The commission shall allocate money from the fund using the following guidelines:

A. To ensure a basic level of connectivity for all of the qualified schools and qualified libraries in the State;

B. To ensure that all qualified schools, qualified libraries and the Raymond H. Fogler Library at the University of Maine are capable of using the advanced technology equipment obtained through the fund;

C. To ensure that more technologically sophisticated equipment is available to students in grades 9 to 12 and in larger qualified libraries in the State;

D. To provide for necessary equipment to use the services obtained through the fund;

E. To provide for internal connections necessary to use the services obtained through the fund;

F. To provide training to teachers so that they may assist and educate their students in the use of the advanced technology equipment;

G. To provide for the establishment of computer technology training programs in schools to provide training to students in areas such as, but not limited to, electronic commerce, Internet proficiency and World Wide Web-enabled systems; and

H. To provide for electronic database content to be used for the purposes of accessing information by schools and libraries.

~~A minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced.~~

See title page for effective date.

CHAPTER 55

H.P. 541 - L.D. 710

An Act To Amend the Laws Governing the Duties of the Director of the Governor's Office of Energy Independence and Security

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

Sec. 1. 2 MRSA §9, sub-§3, ¶C, as amended by PL 2009, c. 655, Pt. C, §1, is further amended to read:

C. In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and submit an updated plan every 2 years thereafter. Within the comprehensive state energy plan, the director shall identify opportunities to lower the total cost of energy to consumers in this State and transmission capacity and infrastructure needs and recommend appropriate actions to lower the total cost of energy to consumers in this State and facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in Title 35-A, section 3210 and wind energy development goals specified in Title 35-A, section 3404;

Sec. 2. 2 MRSA §9, sub-§3, ¶J, as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read:

J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C including lowering the total cost of energy to consumers in this State.

See title page for effective date.

CHAPTER 56

S.P. 208 - L.D. 677

An Act Regarding the Determination of Distance for the Purposes of the Gambling Control Board Laws

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

Sec. 1. 8 MRSA §1065 is enacted to read:

§1065. Distances

For the purposes of this chapter, unless otherwise provided in the laws relating to the Gambling Control Board, distances are determined by measuring along the most commonly used roadway, as determined by the Department of Transportation.

See title page for effective date.

CHAPTER 57

H.P. 244 - L.D. 302

An Act To Allow an Angler To Gift a Freshwater Fish to a Person Who Is Not Licensed To Fish

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

Sec. 1. 12 MRSA §12613 is enacted to read:

§12613. Possessing gift fish

1. Prohibition. A person who does not possess a valid fishing license issued under chapter 913 or this chapter may not possess a fish or any part of a fish given to that person except a person may possess in that person's domicile a gift fish that was lawfully caught and is plainly labeled with the name of the person who gave the fish and the year, month and day the fish was caught by that person. This section does not apply to baitfish.

2. Penalty. 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 $100 nor more than $500 may be adjudged.

B. A person who violates this section 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.

See title page for effective date.

CHAPTER 58

H.P. 211 - L.D. 258

An Act Relating to Access to Vital Records

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

Sec. 1. 22 MRSA §2706, as amended by PL 2009, c. 601, §12, is further amended to read:

§2706. Disclosure of vital records

Custodians of certificates and records of birth, marriage and death ~~may~~ shall permit inspection of records, or issue certified or noncertified copies of certificates or records, or any parts thereof, when satisfied that the applicant ~~therefor~~ has a direct and legitimate interest in the matter recorded, the decision of the state registrar or the clerk of a municipality being subject to review by the Superior Court, under the limitations of this section.

2. Statistical research. The state registrar may permit the use of data contained in vital records for purposes of statistical research. Such data may not be used in a manner that will identify any individual.

3. National statistics. The national agency responsible for compiling national vital statistics may be furnished such copies or data as it may require for national statistics. The State must be reimbursed for cost of furnishing such copies or data, and such data may not be used in a manner that will identify any individual, except as authorized by the state registrar.

4. Unlawful disclosure of data. It is unlawful for any employee of the State or of any municipality in the State to disclose data contained in such records, except as authorized in this section and except that a clerk of a municipality may cause to be printed in the annual town report the births reported within the year covered by the report, by number of births and location by city or town where birth occurred, deaths reported within the year covered by the report, by date of death, name, age and location by city or town where death occurred, and marriages reported within the year covered by the report by names of parties and date of marriage. All other details of birth, marriage, divorce or death may not be available to the general public, except as specified in department rules.

5. Records disclosed. ~~Vital~~ Certified or noncertified copies of vital records of a person must be made available at any reasonable time upon that person's request or the request of that person's spouse, registered domestic partner, ~~descendants~~ descendant, ~~parents~~ parent or ~~guardians~~ guardian, grandparent, sibling, stepparent, stepchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, personal representative or that person's duly designated attorney or agent or attorney for an agent designated by that person or by a court having jurisdiction over that person whether the request be made in person, by mail, by telephone or otherwise, if the state registrar is satisfied as to the identity of the requester and, if an attorney or agent, if the state registrar is satisfied as to the ~~attorney~~ attorney's or agent's authority to act as that person's agent or attorney. If the agent or attorney has been appointed by a court of competent jurisdiction, or the ~~attorney~~ attorney's or agent's appearance for the person is entered therein, the state registrar shall upon request so ascertain by telephone call to the register, clerk or recorder of the court, and this must be deemed sufficient justification to compel compliance with the request for the record. The state registrar shall, as soon as possible, designate persons in the Office of Data, Research and Vital Statistics who may act in the state registrar's absence or, in case of the state registrar's disqualification, to carry out the intent of this subsection. A record of birth, death, fetal death, marriage, divorce or domestic partner registration may be disclosed as necessary for the department to carry out its responsibilities.

6. Address Confidentiality Program. Access to vital records may be further restricted within the parties listed in subsection 5 according to procedures of the Address Confidentiality Program under Title 5, section 90-B.

7. Public records. After ~~100~~ 75 years from the date of birth for birth certificates, after ~~100~~ 50 years from the date of death for fetal death certificates ~~and~~, after 25 years from the date of death for death certificates, after ~~100~~ 50 years from the date of marriage for marriage certificates and after ~~100~~ 50 years from the registration of domestic partnerships, any person may obtain ~~informational~~ noncertified copies of these vital records in accordance with the department's rules. Certificates and records of birth, marriage and death, including fetal death, created prior to 1892 are open to the public without restriction. All persons may purchase a copy on municipal letterhead or a noncertified copy of a vital record created prior to 1892.

8. Genealogical research. Custodians of certificates and records of birth, marriage and death ~~may~~ shall permit inspection of records by and issue noncertified copies to researchers engaged in genealogical research who hold researcher identification cards, as specified by rule adopted by the department. The department shall adopt rules to implement this subsection. Rules adopted by the department pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 59

H.P. 450 - L.D. 592

An Act Regarding Forensic Examination Kits

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

Sec. 1. 24 MRSA §2986, sub-§3, as amended by PL 2005, c. 538, §1, is further amended to read:

3. Completed kit. If the alleged victim has not reported the alleged offense to a law enforcement agency when the examination is complete, the hospital or health care practitioner shall then notify the nearest law enforcement agency, which shall transport and store the completed forensic examination kit for at least 90 days. The completed kit may be identified only by the tracking number. If during that 90-day period an alleged victim decides to report the alleged offense to a law enforcement agency, the alleged victim may contact the hospital or health care practitioner to determine the tracking number. The hospital or health care practitioner shall provide the alleged victim with the tracking number on the forensic examina-

tion kit and shall inform the alleged victim which law enforcement agency is storing the kit.

If the alleged victim reports the alleged offense to a law enforcement agency by the time the examination is complete, the investigating ~~law enforcement~~ agency shall ~~transport~~ retain custody of the forensic examination kit ~~directly to the Maine State Police Crime Laboratory~~.

If an examination is performed under subsection 5 and the alleged victim does not, within 60 days, regain a state of consciousness adequate to decide whether or not to report the alleged offense, the State may file a motion in the District Court relating to storing or processing the forensic examination kit. Upon finding good cause and after considering factors, including, but not limited to, the possible benefits to public safety in processing the kit and the likelihood of the alleged victim's regaining a state of consciousness adequate to decide whether or not to report the alleged offense in a reasonable time, the District Court may order either that the kit be stored for additional time or that the kit be transported to the Maine State Police Crime Laboratory for processing, or such other disposition that the court determines just. In the interests of justice or upon motion by the State, the District Court may conduct hearings required under this paragraph confidentially and in camera and may impound pleadings and other records related to them.

See title page for effective date.

CHAPTER 60

H.P. 145 - L.D. 168

An Act To Require a Medical Examiner To Determine whether an Autopsy Is Needed in the Case of the Death of a Prisoner in a Correctional Facility

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

Sec. 1. 22 MRSA §3025, sub-§1, ¶D, as repealed and replaced by PL 1985, c. 611, §6, is amended to read:

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional facility, county ~~institution~~ jail, other correctional facility or local lockup~~, unless clearly certifiable by an attending physician as due to specific natural causes~~ or is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official;

Sec. 2. 30-A MRSA §1562-A is enacted to read:

§1562-A. Death of a prisoner

When a prisoner in county or state custody dies, an examination and inquest must be held, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "county or state custody" means custody pursuant to an arrest, confinement in a state correctional facility, county jail, other correctional facility or local lockup or when the prisoner is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

Sec. 3. 30-A MRSA §1563, 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:

§1563. Disposal of body of person who died in jail

When a person dies in jail and if the medical examiner determines that an autopsy is not needed under section 1562-A, the jailer or sheriff shall deliver the body to the friends of the deceased, if requested. Otherwise, the jailer or sheriff shall dispose of it for anatomical purposes, as provided in Title 22, chapter 709, unless the deceased at any time requested to be buried, in which case the jailer or sheriff shall bury the body in the common burying ground and the burial expenses ~~shall~~ must be paid by the municipality in which the deceased had a residence, if any in the State, or, if not, by the State.

Sec. 4. 34-A MRSA §3045, as amended by PL 1991, c. 314, §49, is further amended to read:

§3045. Death of client

When ~~the death of~~ any client in ~~any correctional or detention facility is not clearly the result of natural causes~~ county or state custody dies, an examination and inquest must be held ~~as in other cases~~, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "county or state custody" means custody pursuant to an arrest, confinement in a state correctional facility, county jail, other correctional facility or local lockup or when the prisoner is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is

needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

See title page for effective date.

CHAPTER 61

H.P. 238 - L.D. 294

An Act To Allow Persons 70 Years of Age or Older Expanded Crossbow Privileges

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

Sec. 1. 12 MRSA §10952, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is repealed and the following enacted in its place:

§10952. Open seasons for hunting with bow and arrow and crossbow

1. Hunting with a bow and arrow. A person may, except as otherwise provided in this Part, hunt any wild bird or wild animal with a hand-held bow and arrow during any open season on that bird or animal.

2. Hunting with a crossbow; 70 years of age or older. A person 70 years of age or older may hunt a wild bird or a wild animal with a crossbow during any open season on that wild bird or wild animal subject to the laws of this Part.

This subsection is repealed January 1, 2015.

Sec. 2. 12 MRSA §10953, sub-§1, as enacted by PL 2005, c. 419, §2 and affected by §12, is amended to read:

1. Species and seasons. Except as provided in this Part, a person may hunt bear with a crossbow during the open season on bear as provided in section 11251 and may hunt deer with a crossbow during the open firearm season on deer as provided in section 11401. This subsection does not authorize a person to hunt deer with a crossbow during an expanded archery season established under section 11403 or in an expanded archery zone or during the muzzle-loading-only deer hunting season established under section 11404, except as provided in subsection 1-A.

Sec. 3. 12 MRSA §10953, sub-§1-A is enacted to read:

1-A. Hunting with a crossbow; 70 years of age or older. A person 70 years of age or older may hunt deer with a crossbow during an expanded archery season established under section 11403 or in an expanded archery zone or during the muzzle-loading-only deer hunting season established under section 11404.

This subsection is repealed January 1, 2015.

Sec. 4. 12 MRSA §11403, sub-§2, as amended by PL 2007, c. 163, §2 and affected by §3, is further amended to read:

2. Open archery season on deer. The commissioner shall by rule establish a regular archery-only season beginning at least 30 days prior and extending to the beginning of the regular deer hunting season, as described in section 11401, subsection 1, paragraph A, for the purpose of hunting deer with bow and arrow only. During the regular archery-only season on deer, except as provided in section 10952, subsection 2 and section 10953, subsection 1-A, the following restrictions apply.

A. A person may not take a deer during a regular archery-only season unless that person uses a hand-held bow and broadhead arrow with the following specifications.

(1) Bows must have a minimum draw weight of 35 pounds.

(2) Arrowheads, including mechanical broadheads when open, must be at least 7/8 inch in width.

B. A person may not carry firearms of any kind while hunting any species of wildlife with bow and arrow during the regular archery-only season on deer, except that a person who holds a license that allows hunting with firearms may carry a handgun. This paragraph may not be construed to prohibit a person who holds a valid permit to carry a concealed firearm pursuant to Title 25, section 2003 from carrying a firearm.

C. Except as provided in section 11109-A, subsection 3, if a person takes a deer with bow and arrow during the regular archery-only season on deer, that person is precluded from further hunting for deer during that year.

D. Except as provided in this subsection, the provisions of this Part concerning deer are applicable to the taking of deer with bow and arrow, including the transportation, registration and possession of deer taken by this method.

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

Sec. 5. 12 MRSA §11603, sub-§1-A is enacted to read:

1-A. Hunting moose with a crossbow; 70 years of age or older. Notwithstanding subsection 1, a person 70 years of age or older may hunt moose with a crossbow subject to the laws of this Part.

This subsection is repealed January 1, 2015.

See title page for effective date.

CHAPTER 62

S.P. 17 - L.D. 2

An Act To Allow Farm Wineries To Charge for Wine Tastings

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

Sec. 1. 28-A MRSA §1355, sub-§3, ¶B, as amended by PL 1993, c. 730, §46, is further amended to read:

B. A holder of a farm winery license may serve complimentary samples of wine and sell, during regular business hours, wines produced at the winery by the bottle, by the case or in bulk on the premises of the winery to persons who are not minors. A holder of a farm winery license may serve complimentary samples of wine on Sunday after the hour of 12 noon and may sell wines on Sunday after the hour of 12 noon if the municipality in which the winery is located has authorized the sale of wines on Sunday for consumption off the premises under chapter 5. A farm winery may charge for samples of wine served in accordance with paragraph B-1.

Sec. 2. 28-A MRSA §1355, sub-§3, ¶B-1 is enacted to read:

B-1. A farm winery that wishes to charge for samples shall otherwise comply with the conditions in paragraph B and shall file a form as prescribed by the bureau. After submission of the form to the bureau, each sample poured is subject to a charge in an amount determined by the farm winery and is subject to the sales tax for alcoholic beverages in accordance with Title 36, section 1811. A farm winery shall maintain a record of wine samples subject to a charge and maintain those records for a period of 2 years. A farm winery that charges for samples of wine may not offer complimentary samples until the bureau has been notified that samples are no longer subject to a charge. This paragraph is repealed February 1, 2014.

See title page for effective date.

CHAPTER 63

S.P. 41 - L.D. 86

An Act To Provide Certainty to Businesses and Development

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

Sec. 1. 30-A MRSA §3007, sub-§6 is enacted to read:

6. Restriction on nullification of final permit. A municipality may not nullify or amend a municipal land use permit by a subsequent enactment, amendment or repeal of a local ordinance after a period of 45 days has passed after:

A. The permit has received its lawful final approval; and

B. If required, a public hearing was held on the permit.

For purposes of this subsection, "municipal land use permit" includes a building permit, zoning permit, subdivision approval, site plan approval, conditional use approval, special exception approval or other land use permit or approval. For the purposes of this subsection, "nullify or amend" means to nullify or amend a municipal land use permit directly or to nullify or amend any other municipal permit in a manner that effectively nullifies or amends a municipal land use permit. This subsection does not alter or invalidate any provision of a municipal ordinance that provides for the expiration or lapse of a permit or approval granted pursuant to that permit following the expiration of a certain period of time.

See title page for effective date.

CHAPTER 64

H.P. 313 - L.D. 387

An Act To Amend the Natural Resources Protection Act Regarding Coastal Sand Dune Systems

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

Sec. 1. 38 MRSA §480-B, sub-§2-E is enacted to read:

2-E. Footprint. "Footprint" means the outline that would be created on the ground by extending the exterior walls of a building to the ground surface.

Sec. 2. 38 MRSA §480-B, sub-§5-B is enacted to read:

5-B. Impervious area. "Impervious area" means an area that is a building, parking lot, roadway or similar constructed area. "Impervious area" does not mean a deck or patio.

Sec. 3. 38 MRSA §480-Q, sub-§28, as enacted by PL 2009, c. 75, §4, is amended to read:

28. Release of water from dam after petition by owner for release from dam ownership or water

level maintenance. Activity associated with the release of water from a dam pursuant to an order issued by the department pursuant to section 905; ~~and~~

Sec. 4. 38 MRSA §480-Q, sub-§29, as enacted by PL 2009, c. 75, §5, is amended to read:

29. Dam safety order. Activity associated with the breach or removal of a dam pursuant to an order issued by the Commissioner of Defense, Veterans and Emergency Management under Title 37-B, chapter 24~~.~~; and

Sec. 5. 38 MRSA §480-Q, sub-§30 is enacted to read:

30. Minor expansions to buildings in a coastal sand dune system. Expansion of an existing residential or commercial building in a coastal sand dune system if:

A. The footprint of the expansion is contained within an existing impervious area;

B. The footprint of the expansion is no further seaward than the existing building;

C. The height of the expansion is within the height restriction of any applicable law or ordinance; and

D. The expansion conforms to the standards for expansion of a building contained in the municipal shoreland zoning ordinance adopted pursuant to article 2-B.

See title page for effective date.

CHAPTER 65

S.P. 91 - L.D. 311

An Act To Improve Harbor Safety by Clarifying Requirements for Maintenance Dredging Permits

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

Sec. 1. 38 MRSA §480-E, sub-§7, as enacted by PL 1997, c. 240, §1, is repealed and the following enacted in its place:

7. Individual permit; maintenance dredging. Notwithstanding section 480-X, if an analysis of alternatives to the dredging project has been completed by the applicant within the previous 10 years pursuant to section 480-X and rules adopted to implement that section as part of an individual permit application, the applicant may update the previous analysis for purposes of obtaining an individual permit for maintenance dredging under this subsection.

Sec. 2. 38 MRSA §480-E, sub-§8, as enacted by PL 1997, c. 240, §1, is repealed and the following enacted in its place:

8. Permit by rule; maintenance dredging renewal. An individual permit for maintenance dredging may be renewed with a permit by rule only if the area to be dredged is located in an area that was dredged within the last 10 years and the amount of material to be dredged does not exceed the amount approved by the individual permit.

See title page for effective date.

CHAPTER 66

S.P. 95 - L.D. 315

An Act Relating to the Status of a Private Investigator as an Independent Contractor

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 2009, c. 637, §12, is further amended to read:

F. The term "employment" does not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter are applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State is not certified for any year by the Secretary of Labor under section 3304 of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to that year must be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225,

subsection 5, with respect to contributions erroneously collected;

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system or employment security system established by an Act of Congress. The commissioner is authorized and directed to enter into agreements with the proper agencies under such an Act of Congress, which agreements become effective 10 days after publication thereof in the manner provided in section 1082, subsection 2, for regulations, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such an Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such an Act of Congress, acquired rights to benefits under this chapter;

(4) Agricultural labor as defined in subsection 1, except as provided in paragraph A-2;

(4-1) Services performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(5) Domestic service in a private home, except as provided in paragraph A-3;

(6) Service performed by an individual in the employ of that individual's son, daughter or spouse and service performed by a child under the age of 18 in the employ of that child's father or mother, except for periods of such service for which unemployment insurance contributions are paid;

(6-1) Services performed by a student attending an elementary, secondary or postsecondary school while participating in a cooperative program of education and occupational training or on-the-job training that is part of the school curriculum;

(9) Service performed with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094);

(10) Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such a service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code, except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Federal Internal Revenue Code other than an organization described in section 401(a) or under section 521 of the Code, if the remuneration for such service is less than $150;

(16) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(17) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(18) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to state law;

(19) Service performed by an individual for a person as a real estate broker, a real estate sales representative, an insurance agent or an insurance solicitor, if all such service performed by that individual for that person is performed for remuneration solely by way of commission;

(20) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news except

delivery or distribution to any point for subsequent delivery or distribution;

(21) Service performed in the employ of any organization that is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) or (8) if:

(a) Service is performed in the employ of a church or convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service is performed by a duly ordained, commissioned or licensed minister of a church in the exercise of that minister's ministry or by a member of a religious order in the exercise of duties required by that order;

(c) Prior to January 1, 1978, service is performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education that is not an institution of higher education;

(d) Service is performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service is performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving that work-relief or work-training;

(f) Service is performed in the employ of a hospital as defined in subsection 26 by a patient of that hospital;

(g) Services are performed prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of that prison or correctional institution and after December 31, 1977 by an inmate of a custodial or penal institution;

(h) Service is performed in the employ of a school, college or university if that service is performed by a student who is enrolled and is regularly attending classes at such a school, college or university; or

(i) Prior to January 1, 1978, service is performed in the employ of a school that is not an institution of higher education and after December 31, 1977, service is performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision of a state;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;

(29) Services performed by a hairdresser who holds a booth license and operates within another hairdressing establishment if operated under a booth rental agreement or other rental agreement;

(30) Services performed by a barber who holds a booth license and operates within another barbering establishment if operated under a booth rental agreement or other rental agreement;

(31) Services performed by a contract interviewer engaged in marketing research or pub-

lic opinion interviewing when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(32) After December 31, 1981, services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Act, United States Code, Title 26, Section 3306(c), as it may be amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(33) Services performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer with an employing unit for whom the services are being performed, provided the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(34) Services performed in the delivery or distribution of newspapers or magazines to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the newspaper or magazine;

(35) Services performed by a homeworker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(36) Service performed by a full-time student, as defined in subsection 30, in the employ of a youth camp licensed under Title 22, section 2495 if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year;

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(38) Services performed by a person licensed as a guide as required by Title 12, section 12853, as long as that employment is not subject to federal unemployment tax;

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

(41) Services provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum;

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.;

(43) Services of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax; ~~and~~

(44) Services provided by an owner-operator of a truck or truck tractor while it is leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax~~.~~; and

(45) Services performed by a private investigator, as defined in Title 32, section 8103, subsection 5, as long as that employment is not subject to federal unemployment tax and the following requirements are met:

(a) There is a written contract between the private investigator and the party requesting services;

(b) The private investigator offering the services operates independently of the party requesting services, except for the time frame and quality of finished work as specified in the contract;

(c) Compensation for services is negotiated between the 2 parties and is paid for each service performed; and

(d) The party requesting services furnishes neither equipment nor the place of employment to the private investigator.

See title page for effective date.

CHAPTER 67

H.P. 333 - L.D. 440

An Act To Allow Employees of the Maine School of Science and Mathematics to Join the State's Group Health 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, this legislation permits employees of the Maine School of Science and Mathematics to join the State's group health plan; and

Whereas, immediate enactment of this legislation is necessary to allow the employees to enroll in health coverage for the 2011 plan 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. 5 MRSA §285, sub-§1, ¶F-9 is enacted to read:

F-9. Any employee of the Maine School of Science and Mathematics;

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

Effective May 9, 2011.

CHAPTER 68

H.P. 304 - L.D. 378

An Act To Allow the Transfer of Commercial Whitewater Rafting Trips under Extenuating 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, the efficient use of the limited whitewater rafting resources is vital to the local economies; and

Whereas, this Act must take effect before the short whitewater rafting season begins in early 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 §12913, sub-§2, ¶A, as amended by PL 2009, c. 340, §17, is further 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 es-

tablished 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 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.~~

(3-A) Under extenuating circumstances as determined by the commissioner, the commissioner may allow the emergency transfer of a commercial whitewater rafting trip from a rapidly flowing river to another rapidly flowing river as long as sufficient water is available in the river to which the commercial whitewater rafting trip is to be transferred. Notwithstanding subsection 3, the commissioner may allow the recreational use limits to be exceeded pursuant to this subparagraph. Under no circumstances is a transfer of a whitewater rafting trip allowed to the West Branch Penobscot River. The department shall report annually to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters regarding the implementation of this subparagraph.

(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.

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

Effective May 9, 2011.

CHAPTER 69

S.P. 120 - L.D. 416

An Act To Amend the Taste Testing of Wine Law

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

Sec. 1. 28-A MRSA §1205, sub-§1, as amended by PL 2009, c. 459, §2, is further amended to read:

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee stocking at least 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.

Sec. 2. 28-A MRSA §1205, last ¶, as amended by PL 2005, c. 32, §1, is repealed.

See title page for effective date.

CHAPTER 70

S.P. 193 - L.D. 613

An Act To Clarify the Definition of "Employment" in the Employment Security Law

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 2009, c. 637, §12, is further amended to read:

F. The term "employment" does not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter are applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State is not certified for any year by the Secretary of Labor under section 3304 of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to that year must be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225, subsection 5, with respect to contributions erroneously collected;

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system or employment security system established by an Act of Congress. The commissioner is authorized and directed to enter into agreements with the proper agencies under such an Act of Congress, which agreements become effective 10 days after publication thereof in the manner provided in section 1082, subsection 2, for regulations, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such an Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such an Act of Congress, acquired rights to benefits under this chapter;

(4) Agricultural labor as defined in subsection 1, except as provided in paragraph A-2;

(4-1) Services performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(5) Domestic service in a private home, except as provided in paragraph A-3;

(6) Service performed by an individual in the employ of that individual's son, daughter or spouse and service performed by a child under the age of 18 in the employ of that child's father or mother, except for periods of such service for which unemployment insurance contributions are paid;

(6-1) Services performed by a student attending an elementary, secondary or postsecondary school while participating in a cooperative program of education and occupational training or on-the-job training that is part of the school curriculum;

(9) Service performed with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094);

(10) Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such a service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code, except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt

from income tax under section 501(a) of the Federal Internal Revenue Code other than an organization described in section 401(a) or under section 521 of the Code, if the remuneration for such service is less than $150;

(16) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(17) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(18) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law and service performed as an intern in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to state law;

(19) Service performed by an individual for a person as a real estate broker, a real estate sales representative, an insurance agent or an insurance solicitor, if all such service performed by that individual for that person is performed for remuneration solely by way of commission;

(20) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news except delivery or distribution to any point for subsequent delivery or distribution;

(21) Service performed in the employ of any organization that is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) or (8) if:

(a) Service is performed in the employ of a church or convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service is performed by a duly ordained, commissioned or licensed minister of a church in the exercise of that minister's ministry or by a member of a religious order in the exercise of duties required by that order;

(c) Prior to January 1, 1978, service is performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education that is not an institution of higher education;

(d) Service is performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service is performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving that work-relief or work-training;

(f) Service is performed in the employ of a hospital as defined in subsection 26 by a patient of that hospital;

(g) Services are performed prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of that prison or correctional institution and after December 31, 1977 by an inmate of a custodial or penal institution;

(h) Service is performed in the employ of a school, college or university if that service is performed by a student who is enrolled and is regularly attending classes at such a school, college or university; or

(i) Prior to January 1, 1978, service is performed in the employ of a school that

is not an institution of higher education and after December 31, 1977, service is performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision of a state;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;

~~(29) Services performed by a hairdresser who holds a booth license and operates within another hairdressing establishment if operated under a booth rental agreement or other rental agreement;~~

(29-A) Services performed under a booth rental agreement or other rental agreement by:

(a) A hairdresser who holds a booth license and operates within another hairdressing establishment; or

(b) A tattoo artist if the services performed by the tattoo artist are not subject to federal unemployment tax;

(30) Services performed by a barber who holds a booth license and operates within another barbering establishment if operated under a booth rental agreement or other rental agreement;

(31) Services performed by a contract interviewer engaged in marketing research or public opinion interviewing when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(32) After December 31, 1981, services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Act, United States Code, Title 26, Section 3306(c), as it may be amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(33) Services performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer with an employing unit for whom the services are being performed, provided the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(34) Services performed in the delivery or distribution of newspapers or magazines to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the newspaper or magazine;

(35) Services performed by a homeworker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(36) Service performed by a full-time student, as defined in subsection 30, in the employ of a youth camp licensed under Title 22, section 2495 if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year;

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(38) Services performed by a person licensed as a guide as required by Title 12, section 12853, as long as that employment is not subject to federal unemployment tax;

(39) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(40) Services performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

(41) Services provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum;

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.;

(43) Services of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax; and

(44) Services provided by an owner-operator of a truck or truck tractor while it is leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax.

See title page for effective date.

CHAPTER 71

H.P. 412 - L.D. 529

An Act To Enhance Transparency in the Regulation of Large, Investor-owned Transmission and Distribution Utilities

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

Sec. 1. 35-A MRSA §504, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Filing of information. A balance sheet as of the date the account is closed ~~shall~~ must be promptly taken from the account. Within 3 months after the account is closed, the balance sheet together with any other information ~~as~~ the commission ~~may prescribe, shall~~ requires must be verified by an officer or owner of the public utility and filed with the commission. Each large, investor-owned transmission and distribution utility, as defined in section 3201, subsection 12, shall provide with the balance sheet and other information a calculation of the utility's return on common equity for the same period in the manner the commission requires, and shall provide a calculation of the utility's return on common equity for each of the previous 3 years. For purposes of this subsection, "return on common equity" means the return on common equity on investments subject to commission jurisdiction.

See title page for effective date.

CHAPTER 72

H.P. 325 - L.D. 407

An Act To Clarify the Dig Safe Standards

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 crucial to the public safety and welfare to clarify the so-called "Dig Safe" standards and procedures 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. 23 MRSA §3360-A, sub-§3, ¶E, as enacted by PL 1991, c. 437, §3 and affected by §12, is amended to read:

E. If the proposed excavation or blasting does not commence within ~~30~~ 60 calendar days of notification under this subsection or the excavation or blasting will be expanded outside of the location originally specified in the notification, the excavator responsible for that excavation shall again notify the system as specified in paragraph A.

Sec. 2. 23 MRSA §3360-A, sub-§5, as repealed and replaced by PL 1999, c. 718, §6, is amended to read:

5. Emergency excavations. In an emergency, an excavator may commence an excavation after having taken all reasonable steps, consistent with the emergency, to notify the system and to mark the excavation site consistent with subsection 3, paragraph C. The excavator shall commence an excavation undertaken pursuant to this subsection within 12 hours after providing notice to the system, or as soon thereafter as can safely be accomplished. Each underground facility operator shall locate its underground facilities as soon as ~~practicable~~ reasonably possible after receiving notification of an emergency excavation whether or not the excavation has begun.

Sec. 3. 23 MRSA §3360-A, sub-§5-B, as enacted by PL 1999, c. 718, §7, is amended to read:

5-B. Exemption; commercial forestry operations. A person is exempt from the notice requirements of subsection 3 for any excavation undertaken in conjunction with a commercial timber harvesting activity ~~or borrow pit~~ as long as the excavation:

A. Is not conducted in a public place, on public land or within a public easement, including, but not limited to, a public way;

B. Is not conducted within 100 feet of an easement or land owned by an underground facility operator;

C. Is not conducted within 100 feet of an underground facility; and

D. Does not involve the use of explosives.

Sec. 4. 23 MRSA §3360-A, sub-§5-I is enacted to read:

5-I. Exemption; quarries and borrow pits. An excavator may undertake an excavation within a quarry or borrow pit in accordance with this subsection.

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

(1) "Lawfully expanded after March 1, 2011" means an expansion of a quarry or borrow pit after March 1, 2011:

(a) That requires an authorization, license, permit or variance issued by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the Maine Land Use Regulation Commission under Title 12, chapter 206-A and for which a valid authorization, license, permit or variance has been issued; or

(b) That requires a filing of a notice of intent to comply pursuant to Title 38, chapter 3, article 7 or 8-A and a complete filing has been made.

(2) "Lawfully located on March 1, 2011" means that on March 1, 2011 the quarry or borrow pit existed and:

(a) The owner or operator had been issued all authorizations, licenses, permits or variances by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the Maine Land Use Regulation Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and

(b) The quarry or borrow pit was in compliance with any applicable requirements of Title 38, chapter 3, article 7 or 8-A or with any applicable land use district standards of the Maine Land Use Regulation Commission adopted under Title 12, chapter 206-A.

(3) "Lawfully located after March 1, 2011" means that the quarry or borrow pit is established after March 1, 2011 and:

(a) The owner or operator possesses all authorizations, licenses, permits or variances issued by the Department of Environmental Protection pursuant to Title

38, chapter 3, article 6, 7 or 8-A or by the Maine Land Use Regulation Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and

(b) The quarry or borrow pit is in compliance with the requirements of Title 38, chapter 3, article 7 or 8-A or with applicable land use district standards of the Maine Land Use Regulation Commission adopted under Title 12, chapter 206-A.

(4) "Quarry" has the same meaning as in Title 38, section 490-W, subsection 17.

B. Except as provided in paragraph C, an excavator is exempt from the notice requirements of subsection 3 and subsection 10 when undertaking an excavation within a quarry or borrow pit lawfully located on March 1, 2011.

C. An excavator undertaking an excavation within a quarry or borrow pit lawfully located after March 1, 2011 or lawfully expanded after March 1, 2011 is governed by the following.

(1) The owner or operator of the quarry or borrow pit shall provide notice pursuant to subsections 3 and 10 identifying the entire area potentially subject to excavation.

(2) Owners and operators of underground facilities in the area identified pursuant to subparagraph (1) shall mark those facilities in accordance with subsections 4 and 10, as applicable. Thereafter, the owner or operator of the quarry or borrow pit shall maintain sufficient records or markings to identify the location of underground facilities within the area identified pursuant to subparagraph (1) and an excavator undertaking an excavation in that area is exempt from any further notice requirements under subsection 3 and subsection 10.

(3) The owner or operator of the quarry or borrow pit shall take appropriate action to avoid damage to the underground facilities identified pursuant to subparagraph (2).

Sec. 5. 23 MRSA §3360-A, sub-§5-J is enacted to read:

5-J. Unpaved public road grading procedure. A person may undertake qualified grading activity in accordance with this subsection.

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

(1) "Approved road" means a public way, or portion of a public way, on which a person may undertake qualified grading activity in accordance with this subsection.

(2) "Licensing authority" has the same meaning as in Title 35-A, section 2502, subsection 1.

(3) "Qualified grading activity" means maintenance work that involves the use of suitable equipment with a blade to level or otherwise maintain the sand, gravel, sod or other surface of an unpaved public way.

(4) "Requested road" means a public way, or portion of a public way, on which a licensing authority requests authority to conduct qualified grading activity under this subsection.

(5) "Shallow-depth facilities" means underground facilities located at an insufficient depth to allow qualified grading activity.

B. A licensing authority shall provide notice identifying the requested road and the intended depth of the qualified grading activity to the system and to persons who are not members of the system who own or operate underground facilities in the requested road.

C. Upon receiving notice pursuant to paragraph B, the system shall notify immediately all members whose underground facilities may be affected in accordance with subsection 3-A.

D. The owner or operator of each underground facility within the requested road shall within 3 business days of receiving notice advise the licensing authority of the location and size of the owner's or operator's underground facilities and all underground facilities used in furnishing electric or gas service that are connected to the owner's or operator's facilities and known to the owner or operator that are located in the requested road and whether the depth of the facilities is sufficient to avoid damage by qualified grading activity.

E. After waiting 3 business days of providing notice under paragraph B, the licensing authority may file with the Public Utilities Commission a notice of intent to conduct qualified grading activity on the requested road. Upon filing the notice of intent, the requested road becomes an approved road and any person may undertake qualified grading activity on the approved road at any time during the 12 months following filing of the notice of intent and is not required to provide any further notices under this section during those 12 months. If the licensing authority has been notified pursuant to paragraph D that there are shallow-depth facilities within the requested road, any qualified grading activity must be conducted in a manner that does not disturb the shallow-depth facilities. The licensing authority may require the owner or operator of the shallow-depth facilities to lower or otherwise move its facility in

accordance with applicable law and the terms of its license.

Sec. 6. 23 MRSA §3360-A, sub-§6-C, ¶F, as enacted by PL 2001, c. 577, §11, is amended to read:

F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D ~~or~~, 5-E, 5-I or 5-J.

Sec. 7. 23 MRSA §3360-A, sub-§6-D is enacted to read:

6-D. Penalty payment plan. The Public Utilities Commission shall allow a qualified person who is assessed an administrative penalty under subsection 6-C to pay the penalty through a payment plan. For purposes of this subsection, "qualified person" means a person who demonstrates to the Public Utilities Commission that the person is unable to pay the penalty in full or that paying the penalty in full will cause undue financial hardship. The Public Utilities Commission shall establish a schedule of payments over time that allows the person to pay the fine within that person's financial means.

Sec. 8. Work group; Dig Safe standards. The Dig Safe Work Group, referred to in this section as "the work group," is established.

1. Membership. The work group consists of 23 members as follows.

A. Twenty-two persons appointed by the Public Advocate:

(1) Two persons who are municipal public works officials, one of whom is from a municipality with a large population and one from a municipality with a small population. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Maine Municipal Association within 20 days of the effective date of this Act;

(2) Four persons who are builders or contractors who conduct business in geographically diverse areas of the State. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Associated Builders and Contractors of Maine within 20 days of the effective date of this Act;

(3) Four persons who are general contractors who conduct business in geographically diverse areas of the State. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Associated General Contractors of Maine within 20 days of the effective date of this Act;

(4) One person with expertise in the underground facility damage prevention system who does not represent an active excavator or underground facility operator. The Public Advocate shall consider any person with appropriate expertise who submits a request to be appointed under this subparagraph within 20 days of the effective date of this Act;

(5) Two persons who represent quasi-municipal water or sewer utilities, one of whom represents a small utility and one of whom represents a large utility. The Public Advocate shall consider any recommendation for a person representing a small utility submitted by the Maine Rural Water Association within 20 days of the effective date of this Act. The Public Advocate shall consider any recommendation for a person representing a large utility submitted by the Maine Water Utilities Association within 20 days of the effective date of this Act;

(6) Two persons who represent telephone utilities, one of whom represents a small rural telephone utility and one of whom represents a large telephone utility. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Telephone Association of Maine within 20 days of the effective date of this Act;

(7) One person representing cable television service providers in Maine;

(8) Two persons representing owners or operators of underground fuel facilities. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Maine Energy Marketers Association within 20 days of the effective date of this Act;

(9) One person representing the owner or operator of a natural gas pipeline;

(10) One person representing investor-owned transmission and distribution utilities;

(11) One person representing consumer-owned transmission and distribution utilities; and

(12) One person who represents the Dig Safe system. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by Dig Safe System, Inc. within 20 days of the effective date of this Act; and

B. The Public Advocate.

2. Chair. The Public Advocate serves as chair of the work group.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this section.

4. Duties. The work group, in consultation with the Public Utilities Commission, shall examine ways to clarify and simplify the so-called "dig safe" laws and rules to facilitate compliance and to eliminate regulatory uncertainty. The work group, in consultation with the Public Utilities Commission, shall examine at least the following matters:

A. Preexcavation marking standards for excavators;

B. Marking standards for owners and operators of underground facilities;

C. Enforcement procedures and standards and the appropriate use of penalties; and

D. Clarification of incident reporting and ensuring that incident investigations involve appropriate fact-finding and do not assume or require inappropriate admission of fault.

5. Staff assistance. The Public Advocate and the Public Utilities Commission shall provide necessary staffing services to the work group.

6. Report. No later than January 15, 2012, the Public Utilities Commission and the chair of the work group shall jointly submit a report to the Joint Standing Committee on Energy, Utilities and Technology that includes all findings and recommendations supported by at least 2/3 of the appointed members of the work group. The commission shall also submit provisionally adopted rules to the Second Regular Session of the 125th Legislature pursuant to the Maine Revised Statutes, Title 23, section 3360-A, subsection 13 necessary to carry out the recommendations of the work group and any legislation necessary to carry out the recommendations of the work group.

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

Effective May 9, 2011.

CHAPTER 73

H.P. 459 - L.D. 629

An Act Pertaining to the Laws Governing Pull Events

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

Sec. 1. 7 MRSA §96, sub-§8, as enacted by PL 2005, c. 563, §3, is amended to read:

8. Administrative hearing; suspension. In lieu of a civil action under subsection 9, the commissioner may institute an administrative proceeding on any alleged violation of this section. If the commissioner institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter 4. Upon giving notice to a person who is alleged to be in violation of this section, the commissioner shall immediately prohibit that person from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision following the hearing is received, whichever occurs first, except that the prohibition period is extended by any delays of the hearing requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds the person has committed the violation, the commissioner shall prohibit that person from competing in any event within the State for a period of up to 2 years and shall also exclude the animal from competing in any event within the State for a period of up to one year. The commissioner may also, in an adjudicatory proceeding, in lieu of a civil action under subsection 9, impose an administrative penalty not to exceed $1,000 for a violation of this section.

The commissioner may establish, by rule, a schedule of administrative penalties for violations of this section that includes fines and prohibitions on competing. The schedule must be based on the severity of the violation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §98, sub-§2, as enacted by PL 2005, c. 563, §3, is amended to read:

2. Chair; meetings; secretary. The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. The ~~agricultural fair coordinator from the department shall~~ commissioner shall designate a person to serve as secretary to the Pull Events Commission.

See title page for effective date.

CHAPTER 74

H.P. 439 - L.D. 556

An Act Concerning the Lake and River Protection Fund

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

Sec. 1. 12 MRSA §10257, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9, is amended to read:

§10257. Lake and River Protection Fund

1. Fund established. The Lake and River Protection Fund, referred to in this section as the "fund," is established within the department as a nonlapsing fund. The fund must be administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under section 13058, subsection 3 and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used for enforcing laws pertaining to invasive aquatic plants and nuisance species, inspecting watercraft for invasive aquatic plant and nuisance species materials, educational and informational efforts targeted at invasive aquatic plant and nuisance species prevention, eradication and management activities and the production and distribution of lake and river protection stickers required under section 13058, subsection 3. For purposes of this section, "nuisance species" has the same meaning as in Title 38, section 1861, subsection 2.

See title page for effective date.

CHAPTER 75

S.P. 96 - L.D. 316

An Act To Clarify the Scope of Maine's Franchise Laws for Dealers of Power Equipment, Machinery and Appliances

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 uncertainty regarding the extraterritorial effect of Maine's franchise laws for dealers of power equipment, machinery and appliances and whether these laws apply to out-of-state dealerships; and

Whereas, such uncertainty has the potential to immediately and substantially disrupt the ability of Maine manufacturers, distributors and franchisors to maintain dealerships in other states and cause such manufacturers and distributors to relocate out of Maine, which could cost Maine jobs; 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 §1361, sub-§1, as enacted by PL 1993, c. 195, §1, is amended to read:

1. Dealer. "Dealer" means a person located within this State who sells goods or solicits or advertises the sale of goods to the public. "Dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court nor does it include public officers performing their duties as officers.

Sec. 2. 10 MRSA §1361, sub-§4, as enacted by PL 1993, c. 195, §1, is amended to read:

4. Franchisee. "Franchisee" means a person, dealer or distributor of goods located within this State to whom a franchise is offered or granted.

Sec. 3. Intent; application. It is the intent of the Legislature that the amendments set forth in this Act are a clarification of existing law, not a change in the law. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to all actions and proceedings pending on the effective date of this Act.

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

Effective May 16, 2011.

CHAPTER 76

H.P. 253 - L.D. 320

An Act To Amend Shelter Provisions To Accommodate Rotational Grazing of Livestock

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

Sec. 1. 7 MRSA §4015, sub-§2, ¶B, as amended by PL 2007, c. 439, §27, is further amended to read:

B. Except as provided in subsections 5, 5-A and 6, shelter from inclement weather must be as follows.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in par-

ticular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

Sec. 2. 7 MRSA §4015, sub-§5, as amended by PL 1999, c. 765, §10, is further amended to read:

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. ~~Livestock~~ Except as provided in subsection 5-A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in section 1341, subsection 1.

Sec. 3. 7 MRSA §4015, sub-§5-A is enacted to read:

5-A. Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, "rotational grazing system" means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

Sec. 4. 17 MRSA §1037, sub-§2, ¶B, as amended by PL 2007, c. 702, §49, is further amended to read:

B. Except as provided in subsections 5, 5-A and 7, shelter from inclement weather must be provided according to this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 7, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

Sec. 5. 17 MRSA §1037, sub-§5, as amended by PL 1999, c. 765, §12, is further amended to read:

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. ~~Livestock~~ Except as provided in subsection 5-A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in Title 7, section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in Title 7, section 1341, subsection 1.

Sec. 6. 17 MRSA §1037, sub-§5-A is enacted to read:

5-A. Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, "rotational grazing system" means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

See title page for effective date.

CHAPTER 77

H.P. 579 - L.D. 772

An Act To Modify the Auditing Requirements for Certain Small Water Utilities

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

Sec. 1. 35-A MRSA §505, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§505. Audit of accounts

The commission shall provide for the examination and audit of all accounts and all items ~~shall~~ must be allocated to the accounts in the manner prescribed by the commission.

1. Consumer-owned water utilities. Except as provided in this subsection, the commission may not require under this section that a qualified small water utility cause to be conducted an annual audit of its accounts. For purposes of this subsection, "qualified small water utility" means a consumer-owned water utility with gross annual revenues that do not exceed $250,000.

A. A qualified small water utility with gross annual revenues of $50,000 or less shall for any year used as a test year for rate-making purposes cause to be conducted, in accordance with generally accepted auditing standards, an audit of its accounts by an independent certified public accountant licensed to practice in the State.

B. A qualified small water utility with gross annual revenues greater than $50,000:

(1) Shall cause to be conducted, in accordance with generally accepted auditing standards, an annual review of its accounts by an independent certified public accountant licensed to practice in the State; and

(2) Not less than once every 5 years and for any year used as a test year for rate-making purposes, shall cause to be conducted, in accordance with generally accepted auditing standards, an audit of its accounts by an independent certified public accountant licensed to practice in the State.

Nothing in this subsection limits or affects any other reporting, review, auditing or other requirement imposed by a creditor of the qualified small water utility or by any other applicable law or government authority.

See title page for effective date.

CHAPTER 78

H.P. 410 - L.D. 527

An Act To Bring Maine's Minimum Financial Responsibility Laws Pertaining to Rental Vehicles into Conformity with Privately Owned Vehicles

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

Sec. 1. 29-A MRSA §1611, sub-§2, ¶A, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. B, §18 and affected by Pt. C, §15, is further amended to read:

A. Except as provided in paragraph E, there is a $350,000 combined single limit for ~~rental vehicles,~~ emergency vehicles and for-hire transportation vehicles for transporting freight or merchandise but not passengers in intrastate-exempt service or service exempted by the ~~Interstate Commerce Commission~~ federal Department of Transportation, Surface Transportation Board.

Sec. 2. 29-A MRSA §1611, sub-§2, ¶F is enacted to read:

F. For rental vehicles, the requirements are the same as under section 1605, subsection 1, paragraph C.

See title page for effective date.

CHAPTER 79

S.P. 133 - L.D. 429

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. 5 MRSA §12004-I, sub-§92, as enacted by PL 2007, c. 657, §1, is repealed.

Sec. 2. 35-A MRSA §1702, sub-§§9 and 10 are enacted to read:

9. Other advocacy forums. The Public Advocate, consistent with the priorities established in section 1702-A and the requirements of this chapter, may represent and promote the interests of the using and consuming public:

A. In appropriate proceedings of the Legislature; and

B. In regional or national forums, including but not limited to any proceeding of an independent system operator or the Federal Energy Regulatory Commission.

10. Independent representation of the interests of the using and consuming public. The Public Advocate, when taking a position on any matter in any proceeding or forum pursuant to the Public Advocate's authority under this chapter, shall exercise independent judgment to ensure the position:

A. Is consistent with the priorities established in section 1702-A and the requirements of this chapter; and

B. Promotes stabilization and lowering of prices paid by those members of the using and consuming public whose interests the Public Advocate is representing.

Sec. 3. 35-A MRSA §1712, as enacted by PL 2007, c. 657, §2, is repealed.

See title page for effective date.

CHAPTER 80

H.P. 379 - L.D. 486

An Act To Clarify the Uniform Arbitration Act

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

Sec. 1. 4 MRSA §152, sub-§5, ¶Q, as enacted by PL 1989, c. 392, §1 and amended by c. 919, §§1 and 18, is further amended to read:

Q. Actions in which the equitable relief is sought through an equitable defense, a counterclaim, a cross-claim or other responsive pleading or reply permitted by the Maine Rules of Civil Procedure; ~~and~~

Sec. 2. 4 MRSA §152, sub-§5, ¶R, as enacted by PL 1989, c. 919, §§2 and 18, is amended to read:

R. Actions to enforce access to health care under Title 22, section 1715~~.~~; and

Sec. 3. 4 MRSA §152, sub-§5, ¶S is enacted to read:

S. Actions under the Uniform Arbitration Act, Title 14, chapter 706.

Sec. 4. 14 MRSA §5928, sub-§3, as enacted by PL 1967, c. 430, is amended to read:

3. Arbitration where action pending. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under subsection 1, the application ~~shall~~ must be made therein. Otherwise and subject to section 5944, the application may be made in the Superior Court or the District Court.

Sec. 5. 14 MRSA §5943, as enacted by PL 1967, c. 430, is amended to read:

§5943. Court, jurisdiction

The term "court" means the Superior Court or the District Court of this State. The making of an agreement described in section 5927 providing for arbitration in this State confers jurisdiction on the court to enforce the agreement under this chapter and to enter judgment on an award ~~thereunder~~ under the agreement.

Sec. 6. 14 MRSA §5944, as enacted by PL 1967, c. 430, is amended to read:

§5944. Venue

~~An~~ If the action is to be heard in the Superior Court, an initial application ~~shall~~ must be made to the Superior Court of the county in which the agreement provides the arbitration hearing ~~shall~~ must be held or, if the hearing has been held, in the county in which it was held. Otherwise the application ~~shall~~ must be made in the county where the adverse party resides or has a place of business or, if ~~he~~ the adverse party has no residence or place of business in this State, to the court of any county. All subsequent applications ~~shall~~ must be made to the court hearing the initial application unless the court otherwise directs.

If the action is to be heard in the District Court, an initial application must be made to the division of the District Court in which the agreement provides the arbitration hearing must be held or, if the hearing has been held, in the division in which it was held. Otherwise the application must be made in the division where the adverse party resides or has a place of business or, if the adverse party has no residence or place of business in this State, to any District Court. All subsequent applications must be made to the court hearing the initial application unless the court otherwise directs.

See title page for effective date.

CHAPTER 81

S.P. 178 - L.D. 595

An Act To Allow for Timely Credit for Driver's License Suspensions Imposed by a Court

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

Sec. 1. 29-A MRSA §2411, sub-§5-A, as enacted by PL 1995, c. 368, Pt. AAA, §9, is amended to read:

5-A. Notice and custody. The court shall give notice of a license suspension and shall take physical custody of the driver's license, except when the defendant demonstrates that the defendant's license was previously restored by the Secretary of State following an administrative suspension under section 2453 for operating under the influence based on the same facts and circumstances giving rise to the court-ordered suspension.

Sec. 2. 29-A MRSA §2434, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Stay of suspension. The court, on reasonable cause shown, may stay a suspension for a period not to exceed 4 hours from the time of sentencing and issue evidence of that stay, unless the defendant demonstrates that the defendant's license was previously restored by the Secretary of State following an administrative suspension under section 2453 for operating under the influence based on the same facts and circumstances giving rise to the court-ordered suspension, in which case the court may stay a suspension for up to 7 days.

See title page for effective date.

CHAPTER 82

H.P. 562 - L.D. 755

An Act To Strengthen the Laws Regarding Dangerous Dogs

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

Sec. 1. 7 MRSA §3952, sub-§1, as corrected by RR 2009, c. 1, §9, is amended to read:

1. Procedure. Any person who is assaulted or threatened with imminent bodily injury by a dog or any person witnessing an assault or threatened assault against a person or domesticated animal or a person with knowledge of an assault or threatened assault against a minor, within 30 days of the assault or threatened assault, may make written complaint to the sheriff, local law enforcement officer or animal control officer that the dog is a dangerous dog. For the purposes of this chapter, "domesticated animal" includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

Upon investigation of the complaint, the sheriff, local law enforcement officer or animal control officer may issue a civil violation summons for keeping a dangerous dog.

If, upon hearing, the court finds that the dog is a dangerous dog as defined in section 3907, subsection 12-D, the court shall impose a fine and shall:

A. Order the dog confined in a secure enclosure except as provided in paragraph C or subsection 8. For the purposes of this paragraph, "secure enclosure" means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering the dangerous dog. The secure enclosure must be locked, be designed with secure top, bottom and sides and be designed to prevent the animal from escaping from the enclosure. The court shall specify the length of the period of confinement and may order permanent confinement; ~~or~~

B. Order the dog to be euthanized if it has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault~~.~~ or a prior finding by the court of being a dangerous dog; or

C. Order the dog to be securely muzzled, restricted by a tether not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog's owner or keeper whenever the dog is off the owner's or keeper's premises.

The court may order restitution in accordance with Title 17-A, chapter 54 for any damages inflicted upon a person or a person's property.

Sec. 2. 7 MRSA §3952, sub-§8, as enacted by PL 2007, c. 170, §4, is amended to read:

8. Restriction of movement outside of a secure enclosure. An owner or keeper of a dog confined to a secure enclosure by a court under subsection 1, paragraph A or subsection 1-A, paragraph C may not allow the dog outside of the secure enclosure unless:

A. It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and

B. The dog is securely muzzled, restrained by a tether not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog's owner or keeper.

See title page for effective date.

CHAPTER 83

S.P. 221 - L.D. 731

An Act To Terminate the Authorization of the Maine Self-Insurance Guarantee Association To Serve as a Statistical Advisory Organization for Self-insurers

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

Sec. 1. 24-A MRSA §2384-B, sub-§1, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is amended to read:

1. Collection and reporting system. The statistical advisory organization designated pursuant to section 2382-B, subsection 2 shall develop and file with

the superintendent a plan that includes a comprehensive data collection and reporting system for insurers. ~~The superintendent shall designate an organization to collect and report, to the extent applicable, the data for self-insurers required by this section.~~ The purpose of the system is to permit the superintendent, in a timely manner, to analyze insurance rates and claims practices of insurers ~~and self-insurers~~.

Sec. 2. 24-A MRSA §2384-C, sub-§1, as enacted by PL 1993, c. 610, §2, is amended to read:

1. Collection and reporting system. The superintendent shall adopt rules implementing a data collection system for the purpose of evaluating the costs and operation of the workers' compensation benefit delivery process. The rules must establish reasonable sampling procedures to identify and track a sufficient number of claims to provide reliable information in a cost-effective manner. The superintendent shall, by rule, establish a cost-effective procedure to designate organizations to collect and compile data for insurers ~~and self-insurers~~, except that an insurer able to demonstrate its ability to collect, compile and report data on its own claims is permitted to act as its own statistical organization for the purposes of this section. In this section, "statistical organization" includes an insurer acting as its own statistical organization.

Sec. 3. 39-A MRSA §404, sub-§14, as amended by PL 1993, c. 610, §3, is repealed.

See title page for effective date.

CHAPTER 84

S.P. 135 - L.D. 431

An Act To Require the Efficiency Maine Trust To More Effectively Administer Funds

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

Sec. 1. 35-A MRSA §10153, sub-§1, ¶B, as enacted by PL 2009, c. 591, §1, is amended to read:

B. Involves a renewable energy installation ~~or,~~ an electric thermal storage system or any heating equipment that meets or exceeds standards established or approved by the trust.

See title page for effective date.

CHAPTER 85

S.P. 216 - L.D. 727

An Act Relating to Indemnity Agreements in Motor Carrier Transportation Contracts

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

Sec. 1. 10 MRSA c. 215-A is enacted to read:

CHAPTER 215-A

MOTOR CARRIER TRANSPORTATION CONTRACTS

§1459. Indemnity agreement in motor carrier transportation contract void

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

A. "Motor carrier" has the same meaning as in Title 29-A, section 101, subsection 37.

B. "Motor carrier transportation contract" means a contract, agreement or understanding covering:

(1) The transportation of property for compensation by a motor carrier;

(2) Entrance on property by a motor carrier for the purposes of loading, unloading or transporting property for compensation; or

(3) A service incidental to an activity described in subparagraph (1) or (2), including, but not limited to, storage of property.

C. "Promisee" includes any agent, employee, servant or independent contractor who is directly responsible to the promisee. The term does not include a motor carrier that is party to a motor carrier transportation contract with the promisee and does not include that motor carrier's agent, employee, servant or independent contractor directly responsible to that motor carrier.

2. Certain indemnity agreements void. Notwithstanding any other provision of law, a provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this State and is void and unenforceable.

Sec. 2. Applicability. This Act applies to motor carrier transportation contracts entered into or renewed on or after the effective date of this Act.

See title page for effective date.

CHAPTER 86

S.P. 240 - L.D. 796

An Act To Continue the Axle Fine Waiver 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, the section of law allowing an exception to axle fines is repealed September 15, 2011, which may be earlier than the effective date of laws enacted during the First Regular Session of the Legislature; and

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

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

Sec. 1. 29-A MRSA §2360-A, sub-§3, as amended by PL 2009, c. 444, §1, is repealed.

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

Effective May 16, 2011.

CHAPTER 87

S.P. 279 - L.D. 891

An Act To Amend the Maine Consumer Credit Code Regarding Interest Charged on Deferred Payments

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

Sec. 1. 9-A MRSA §3-308, sub-§3, as amended by PL 2001, c. 482, §1, is further amended to read:

3. A schedule of payments may provide for the deferral of the first periodic payment subsequent to any down payment for a period of not more than 12 months, except that interest or costs may not accrue in connection with the deferral of the first periodic payment if the deferral is for a period of time in excess of ~~90~~ 120 days;

See title page for effective date.

CHAPTER 88

S.P. 190 - L.D. 610

An Act To Clarify the Procedure by Which a Salvage Company May Apply for a Motor Vehicle Title

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

Sec. 1. 29-A MRSA §1851, as amended by PL 2007, c. 150, §1, is further amended by adding at the end a new paragraph to read:

A vehicle left without a transferable title on the premises of an independent entity that temporarily stores a damaged or dismantled vehicle pursuant to an agreement with an insurance company, financial institution or dealer and that is engaged in the sale or resale of damaged or dismantled vehicles is subject to the provisions of section 1862.

Sec. 2. 29-A MRSA §1862 is enacted to read:

§1862. Left with an independent entity

1. Release of vehicle. An insurance company, financial institution or dealer may direct an independent entity that obtains possession of a vehicle to release the vehicle to the owner. The insurance company, financial institution or dealer shall provide the independent entity a release statement under subsection 2 authorizing the independent entity to release the vehicle to the vehicle's owner.

2. Release statement. A release statement authorizing an independent entity under subsection 1 to release a vehicle to a vehicle's owner must be on a form prescribed by the bureau and contain the following information:

A. The insurance policy and claim number relating to the vehicle;

B. The name and address of the insured owner of the vehicle;

C. The vehicle identification number and description of the vehicle; and

D. The signature of an authorized representative of the insurance company, financial institution or dealer.

3. Notice to owner. Upon receiving a release statement concerning a vehicle from an insurance company, financial institution or dealer under subsection 1, an independent entity shall send a notice to the owner of the vehicle that the vehicle is available for pickup by the owner. The notice must contain an invoice for any outstanding charge owed the independent entity, including an initial towing or storage charge paid to a 3rd party, and inform the owner that the owner has 30 days from the date of the postmark on the notice to pick up the vehicle from the independent entity. A notice under this subsection must be sent by first class mail to the owner's address on record with the bureau.

4. Abandonment. If the owner of a vehicle does not pick up the vehicle within 30 days after notice was sent to the owner pursuant to subsection 3, the vehicle is considered abandoned and the independent entity may apply for a certificate of title or certificate of salvage as set forth in this subchapter. The independent entity shall provide the bureau with a copy of the release statement under subsection 1, proof of notice under subsection 3 and any other supporting documentation and fees as determined necessary by the bureau with the application for certificate of title or certificate of salvage.

5. Rules. The bureau may adopt rules to carry out the purposes of this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 89

H.P. 255 - L.D. 322

An Act To Amend the Informed Growth Act

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

Sec. 1. 30-A MRSA §4365-A is enacted to read:

§4365-A. Municipal opt-in

The provisions of this subchapter do not apply to a municipality unless the municipality has adopted an ordinance that specifically adopts by reference the provisions of this subchapter. Nothing in this subchapter limits the home rule authority of municipalities to adopt ordinances on the same subject matter as this subchapter.

Sec. 2. 30-A MRSA §4366, sub-§8, as enacted by PL 2007, c. 347, §1, is repealed.

Sec. 3. 30-A MRSA §4366, sub-§10, as enacted by PL 2007, c. 347, §1, is amended to read:

10. Undue adverse impact. "Undue adverse impact" means that, within the comprehensive economic impact area, the estimated overall negative effects on the factors listed for consideration in section 4367, subsection 4 outweigh the estimated overall positive effects on those factors ~~and that the estimated negative effects of at least 2 of the factors listed in section 4367, subsection 4, paragraph A outweigh the positive effects on those factors~~.

Sec. 4. 30-A MRSA §4367, sub-§1, as enacted by PL 2007, c. 347, §1, is amended to read:

1. Qualified preparer. A comprehensive economic impact study must be prepared by a person, other than the applicant for a large-scale retail development, ~~listed by the office as~~ qualified by education, training and experience to prepare such a study. ~~The office shall provide the list of qualified preparers to a municipal reviewing authority and land use permit applicant upon request. The office shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to carry out the purposes of this subsection.~~

Sec. 5. 30-A MRSA §4367, sub-§3, as enacted by PL 2007, c. 347, §1, is amended to read:

3. Payment. The applicant for the permit shall pay a fee ~~of $40,000~~ to the ~~office to be deposited into a dedicated revenue account~~ municipality. The municipality shall establish the amount of the fee. The development application is not complete for processing until the ~~office confirms that the~~ fee has been paid.

The ~~office shall disburse to the municipality from the dedicated account an amount equal to the~~ municipality shall use the fee to cover the municipality's projected costs of the comprehensive economic impact study contract, notice of the public hearing and related municipal staff support. The municipality's contract for the study must be defined and priced to ensure that the ~~$40,000~~ fee will be sufficient to cover both the costs of the study and the costs listed in this subsection. ~~The office may charge against the fee an amount sufficient to cover its costs to record, administer and disburse the fee, but which may not exceed $1,000.~~ Any unexpended funds from the ~~$40,000~~ fee must be returned to the applicant.

Sec. 6. 30-A MRSA §4367, sub-§4, ¶A, as enacted by PL 2007, c. 347, §1, is amended to read:

A. The municipality may require that the comprehensive economic impact study, using existing studies and data and through the collection and analysis of new data, ~~must~~ identify the economic effects of the large-scale retail development on existing retail operations; supply and demand for

retail space; number and location of existing retail establishments where there is overlap of goods and services offered; employment, including projected net job creation and loss; retail wages and benefits; captured share of existing retail sales; sales revenue retained and reinvested in the comprehensive economic impact area; municipal revenues generated; municipal capital, service and maintenance costs caused by the development's construction and operation, including costs of roads and police, fire, rescue and sewer services; the amount of public subsidies, including tax increment financing; and public water utility, sewage disposal and solid waste disposal capacity.

Sec. 7. 30-A MRSA §4371, as repealed and replaced by PL 2009, c. 260, §1, is repealed.

See title page for effective date.

CHAPTER 90

H.P. 979 - L.D. 1333

An Act To Modify Rating Practices for Individual and Small Group Health Plans and To Encourage Value-based Purchasing of Health Care Services

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

PART A

Sec. A-1. 24-A MRSA §2736-C, sub-§2, ¶C, as amended by PL 2001, c. 410, Pt. A, §1 and affected by §10, is further amended to read:

C. A carrier may vary the premium rate due to ~~smoking status and~~ family membership. ~~The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts based on smoking status. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.~~

Sec. A-2. 24-A MRSA §2736-C, sub-§2, ¶C-1 is enacted to read:

C-1. A carrier may vary the premium rate due to geographic area in accordance with the limitation set out in this paragraph. For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2012, the rating factor used by a carrier for geographic area may not exceed 1.5.

Sec. A-3. 24-A MRSA §2736-C, sub-§2, ¶D, as amended by PL 2007, c. 629, Pt. A, §4, is further amended to read:

D. A carrier may vary the premium rate due to age and ~~geographic area~~ smoking status in accordance with the limitations set out in this paragraph.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between December 1, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and June 30, ~~2009~~ 2012, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

~~(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2009, for each health benefit plan offered by a carrier, the highest premium rate for each rating tier may not exceed 2.5 times the premium rate that could be charged to an eligible individual with the lowest premium rate for that rating tier in a given rating period. For purposes of this subparagraph, "rating tier" means each category of individual or family composition for which a carrier charges separate rates.~~

~~(a) In determining the rating factor for geographic area pursuant to this subparagraph, the ratio between the highest and lowest rating factor used by a carrier for geographic area may not exceed 1.5 and the ratio between highest and lowest combined rating factors for age and geographic area may not exceed 2.5.~~

~~(b) In determining rating factors for age and geographic area pursuant to this subparagraph, no resulting rates, taking into account the savings resulting from the reinsurance program created by chapter 54, may exceed the rates that would have resulted from using projected claims and~~

~~expenses and the rating factors applicable prior to July 1, 2009, as determined without taking into account the savings resulting from the Maine Individual Reinsurance Association established in chapter 54.~~

~~(c) The superintendent shall adopt rules setting forth appropriate methodologies regarding determination of rating factors pursuant to this subparagraph. Rules adopted pursuant to this division are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 1, 2012 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2012, the maximum rate differential due to smoking status filed by the carrier as determined by ratio is 1.5 to 1.

Sec. A-4. 24-A MRSA §2736-C, sub-§2, ¶H, as enacted by PL 2007, c. 629, Pt. A, §6, is repealed.

Sec. A-5. 24-A MRSA §2736-C, sub-§2, ¶I is enacted to read:

I. A carrier that offered individual health plans prior to July 1, 2012 may close its individual book of business sold prior to July 1, 2012 and may establish a separate community rate for individuals applying for coverage under an individual health plan on or after July 1, 2012. If a carrier closes its individual book of business as permitted under this paragraph, the carrier may vary the premium rate for individuals in that closed book of business only as permitted in this paragraph and paragraphs C and C-1.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 1, 2012 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent per-

mitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2012, the maximum rate differential due to smoking status filed by the carrier as determined by ratio is 1.5 to 1.

The superintendent shall establish by rule procedures and policies that facilitate the implementation of this paragraph, including, but not limited to, notice requirements for policyholders and experience pooling requirements of individual health products. When establishing rules regarding experience pooling requirements, the superintendent shall ensure, to the greatest extent possible, the availability of affordable options for individuals transitioning from the closed book of business. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The superintendent shall direct the Consumer Health Care Division, established in section 4321, to work with carriers and health advocacy organizations to provide information about comparable alternative insurance options to individuals in a carrier's closed book of business and upon request to assist individuals to facilitate the transition to an individual health plan in that carrier's or another carrier's open book of business.

Sec. A-6. 24-A MRSA §2808-B, sub-§2, ¶C, as amended by PL 2001, c. 410, Pt. A, §3 and affected by §10, is further amended to read:

C. A carrier may vary the premium rate due to occupation and industry, family membership, ~~smoking status,~~ participation in wellness programs and group size. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts for participation in wellness programs and rating for occupation and industry and group size pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. A-7. 24-A MRSA §2808-B, sub-§2, ¶C-1 is enacted to read:

C-1. A carrier may vary the premium rate due to geographic area in accordance with the limitation set out in this paragraph. For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the rating factor used by a carrier for geographic area may not exceed 1.5.

Sec. A-8. 24-A MRSA §2808-B, sub-§2, ¶D, as amended by PL 2001, c. 410, Pt. A, §4 and affected by §10, is further amended to read:

D. A carrier may vary the premium rate due to age~~, occupation or industry and geographic area~~ and smoking status only under the following schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State ~~after~~ between July 15, 1995 and September 30, 2011, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%~~, except as provided in paragraph D-1~~.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for de-

termining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to smoking status filed by the carrier as determined by ratio is 1.5 to 1.

Sec. A-9. 24-A MRSA §2808-B, sub-§2, ¶D-1, as amended by PL 2001, c. 410, Pt. A, §5 and affected by §10, is repealed.

Sec. A-10. 24-A MRSA §2808-B, sub-§2, ¶H is enacted to read:

H. A carrier that offered small group health plans prior to October 1, 2011 may close its small group book of business sold prior to October 1, 2011 and may establish a separate community rate for eligible groups applying for coverage under a small group health plan on or after October 1, 2011. If a carrier closes its small group book of business as permitted under this paragraph, the carrier may vary the premium rate for that closed book of business only as permitted in this paragraph and paragraphs C and C-1.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to smoking status filed by the carrier as determined by ratio is 1.5 to 1.

PART B

Sec. B-1. 5 MRSA §12004-G, sub-§14-F, as enacted by PL 2007, c. 629, Pt. A, §1, is repealed.

Sec. B-2. 5 MRSA §12004-G, sub-§14-H is enacted to read:

14-H.

Health Care	Board of Directors of the Maine Guaranteed Access Reinsurance Association	Expenses Only	24-A §3953

Sec. B-3. 24-A MRSA §423-E, as enacted by PL 2007, c. 629, Pt. A, §2, is repealed.

Sec. B-4. 24-A MRSA §2736-C, sub-§2, ¶G, as enacted by PL 2007, c. 629, Pt. A, §5, is repealed.

Sec. B-5. 24-A MRSA §2736-C, sub-§2-A, as enacted by PL 2007, c. 629, Pt. A, §7, is repealed.

Sec. B-6. 24-A MRSA §2736-C, sub-§3, as corrected by RR 2001, c. 1, §30, is amended to read:

3. Guaranteed issuance and guaranteed renewal. Carriers providing individual health plans must meet the following requirements on issuance and renewal.

A. Coverage must be guaranteed to all residents of this State other than those eligible without paying a premium for Medicare Part A and may be reinsured through the Maine Guaranteed Access Reinsurance Association established pursuant to chapter 54-A. On or after ~~January 1, 1998~~ July 1, 2012, coverage must be guaranteed to all legally domiciled federally eligible individuals, as defined in section 2848, regardless of the length of time they have been legally domiciled in this State. Except for federally eligible individuals, coverage need not be issued to an individual whose coverage was terminated for nonpayment of premiums during the previous 91 days or for fraud or intentional misrepresentation of material fact during the previous 12 months. When a managed care plan, as defined by section 4301-A, provides coverage a carrier may:

(1) Deny coverage to individuals who neither live nor reside within the approved service area of the plan for at least 6 months of each year; and

(2) Deny coverage to individuals if the carrier has demonstrated to the superintendent's satisfaction that:

(a) The carrier does not have the capacity to deliver services adequately to additional enrollees within all or a designated part of its service area because of its obligations to existing enrollees; and

(b) The carrier is applying this provision uniformly to individuals and groups without regard to any health-related factor.

A carrier that denies coverage in accordance with this paragraph may not enroll individuals residing within the area subject to denial of coverage or groups or subgroups within that area for a period of 180 days after the date of the first denial of coverage.

B. Renewal is guaranteed, pursuant to section 2850-B.

C. A carrier is exempt from the guaranteed issuance requirements of paragraph A provided that the following requirements are met.

(1) The carrier does not issue or deliver any new individual health plans on or after the effective date of this section;

(2) If any individual health plans that were not issued on a guaranteed renewable basis are renewed on or after December 1, 1993, all such policies must be renewed by the carrier and renewal must be guaranteed after the first such renewal date; and

(3) The carrier complies with the rating practices requirements of subsection 2.

D. Notwithstanding paragraph A, carriers offering supplemental coverage for the Civilian Health and Medical Program for the Uniformed Services, CHAMPUS, are not required to issue this coverage if the applicant for insurance does not have CHAMPUS coverage.

E. A carrier may evaluate the health status of an individual for purposes of designating that individual for reinsurance through the Maine Guaranteed Access Reinsurance Association established in chapter 54-A. For individual health plans issued on or after July 1, 2012, the carrier shall use the health statement developed by the Board of Directors of the Maine Guaranteed Access Reinsurance Association pursuant to section 3955, subsection 1, paragraph E to make a designation and may not use any other method to determine the health status of an individual. For purposes of this subsection, "health statement" means any information intended to inform the carrier or an insurance producer acting on behalf of a carrier of the health status of an enrollee or prospective enrollee in an individual health plan.

Sec. B-7. 24-A MRSA c. 54, as amended, is repealed.

Sec. B-8. 24-A MRSA c. 54-A is enacted to read:

CHAPTER 54-A

MAINE GUARANTEED ACCESS REINSURANCE ASSOCIATION ACT

§3951. Short title

This chapter may be known and cited as "the Maine Guaranteed Access Reinsurance Association Act."

§3952. Definitions

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

1. Association. "Association" means the Maine Guaranteed Access Reinsurance Association under section 3953.

2. Board. "Board" means the Board of Directors of the Maine Guaranteed Access Reinsurance Association under section 3953, subsection 2.

3. Covered person. "Covered person" means an individual covered as a policyholder, participant or dependent under a plan, policy or contract of medical insurance.

4. Dependent. "Dependent" means a spouse, a domestic partner as defined in section 2832-A, subsection 1 or a child under 26 years of age.

5. Health maintenance organization. "Health maintenance organization" means an organization authorized under chapter 56 to operate a health maintenance organization in this State.

6. Insurer. "Insurer" means an entity that is authorized to write medical insurance or that provides medical insurance in this State. For the purposes of this chapter, "insurer" includes an insurance company, a nonprofit hospital and medical service organization, a fraternal benefit society, a health maintenance organization, a self-insured employer subject to state regulation as described in section 2848-A, a 3rd-party administrator, a multiple-employer welfare arrangement, a reinsurer that reinsures health insurance in this State, a captive insurance company established pursuant to chapter 83 that insures the health coverage risks of its members, the Dirigo Health Program established in chapter 87 or any other state-sponsored health benefit program whether fully insured or self-funded.

7. Medical insurance. "Medical insurance" means a hospital and medical expense-incurred policy, nonprofit hospital and medical service plan, health maintenance organization subscriber contract or other health care plan or arrangement that pays for or furnishes medical or health care services whether by insurance or otherwise, whether sold as an individual or group policy. "Medical insurance" does not include accidental injury, specified disease, hospital indemnity, dental, vision, disability income, Medicare supplement, long-term care or other limited benefit health insurance or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

8. Medicare. "Medicare" means coverage under both Parts A and B of Title XVIII of the federal Social Security Act, 42 United States Code, Section 1395 et seq., as amended.

9. Member insurer. "Member insurer" means an insurer that offers individual health plans and is actively marketing individual health plans in this State.

10. Producer. "Producer" means a person who is licensed to sell health insurance in this State.

11. Reinsurer. "Reinsurer" means an insurer from whom a person providing health insurance for a resident procures insurance for itself with the insurer with respect to all or part of the medical insurance risk of the person. "Reinsurer" includes an insurer that provides employee benefits excess insurance.

12. Resident. "Resident" has the same meaning as in section 2736-C, subsection 1, paragraph C-2.

13. Third-party administrator. "Third-party administrator" means an entity that is paying or processing medical insurance claims for a resident.

§3953. Maine Guaranteed Access Reinsurance Association

1. Guaranteed access reinsurance mechanism established. The Maine Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business in the State, an insurer that has issued or administered medical insurance within the previous 12 months or is actively marketing a medical insurance policy or medical insurance administrative services in this State must participate in the association. The Dirigo Health Program established in chapter 87 and any other state-sponsored health benefit program shall also participate in the association.

2. Board of directors. The association is governed by the Board of Directors of the Maine Guaranteed Access Reinsurance Association established under Title 5, section 12004-G, subsection 14-H.

A. The board consists of 11 members appointed as described in this paragraph:

(1) Six members appointed by the superintendent: 2 members chosen from the general public and who are not associated with the medical profession, a hospital or an insurer; 2 members who represent medical providers; one member who represents a statewide or-

ganization that represents small businesses; and one member who represents producers. A board member appointed by the superintendent may not be removed without cause; and

(2) Five members appointed by the member insurers, at least one of whom is a domestic insurer and at least one of whom is a 3rd-party administrator.

B. Members of the board serve for 3-year terms. Members of the board may serve up to 3 consecutive terms.

C. The board shall elect one of its members as chair.

D. Board members may be reimbursed from funds of the association for actual and necessary expenses incurred by them as members but may not otherwise be compensated for their services.

3. Plan of operation; rules. The board shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to the superintendent for approval. If the board fails to adopt the plan of operation and suitable articles and bylaws within 90 days after the appointment of the board, the superintendent shall adopt rules to effectuate the requirements of this chapter and those rules remain in effect until superseded by a plan of operation and articles and bylaws submitted by the board and approved by the superintendent. Rules adopted by the superintendent pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Immunity. A board member is not liable and is immune from suit at law or equity for any conduct performed in good faith that is within the scope of the board's jurisdiction.

§3954. Liability and indemnification

1. Liability. The board and its employees may not be held liable for any obligations of the association. A cause of action may not arise against the association; the board, its agents or its employees; a member insurer or its agents, employees or producers; or the superintendent for any action or omission in the performance of powers and duties pursuant to this chapter.

2. Indemnification. The board may provide in its bylaws or rules for indemnification of, and legal representation for, its members and employees.

§3955. Duties and powers of association

1. Duties. The association shall:

A. Establish administrative and accounting procedures for the operation of the association;

B. Select an association administrator in accordance with section 3956;

C. Collect the assessments provided in section 3957. The level of payments must be established by the board. Assessments must be collected pursuant to the plan of operation approved by the board and adopted pursuant to section 3953, subsection 3. In addition to the collection of such assessments, the association shall collect an organizational assessment or assessments from all insurers as necessary to provide for expenses that have been incurred or are estimated to be incurred before receipt of the first calendar year assessments;

D. Establish procedures for the handling and accounting of association assets;

E. Develop a health statement to be used by a member insurer to designate a resident for reinsurance pursuant to section 3959; and

F. Provide for reinsurance for member insurers pursuant to section 3958.

2. Powers. The association may:

A. Exercise powers granted to nonprofit corporations under the laws of this State;

B. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter and may, with the approval of the superintendent, enter into contracts with similar organizations of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions;

C. Sue or be sued and may take legal actions necessary or proper to recover or collect assessments provided in section 3957 due the association;

D. Take legal actions necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association, to recover any amounts erroneously or improperly paid by the association, to recover amounts paid by the association as a result of mistake of fact or law or to recover other amounts due the association;

E. Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance and any other function within the authority of the association;

F. Borrow money to effect the purposes of the association. Notes or other evidence of indebtedness of the association not in default must be legal investments for insurers and may be carried as admitted assets;

G. Provide for reinsurance of risks incurred by members of the association and purchase reinsurance retroceding those risks to the extent the board determines appropriate. The provision of reinsurance may not subject the association to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers; and

H. Apply for funds or grants from public or private sources, including federal grants.

3. Additional duties and powers. The superintendent may, by rule, establish additional powers and duties of the board and may adopt such rules as are necessary and proper to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Review for solvency. An annual review of the association for solvency must be performed by an independent certified public accountant using generally accepted accounting principles. The association shall submit the annual review to the superintendent. If the superintendent determines that the funds of the association are insufficient to support the need for reinsurance, the superintendent may order the association to increase its assessments. If the superintendent determines that the funds of the association are insufficient, the superintendent may order the association to charge additional assessments.

5. Annual report. The association shall report annually to the joint standing committee of the Legislature having jurisdiction over health insurance matters by March 15th. The report must include information on the financial solvency of the association and the administrative expenses of the association.

6. Audit. The association must be audited at least annually by an independent certified public auditor. A copy of the audit must be provided to the superintendent and to the joint standing committee of the Legislature having jurisdiction over health insurance matters.

§3956. Selection of administrator

1. Selection of administrator. The board shall select an insurer or 3rd-party administrator through a competitive bidding process to administer the reinsurance provided by the association.

2. Contract with administrator. The administrator selected pursuant to subsection 1 serves for a period of 3 years pursuant to a contract with the association. At least one year prior to the expiration of that 3-year period of service, the board shall invite all insurers, including the current administrator, to submit bids to serve as the administrator for the succeeding 3-year period. The board shall select the administrator for the succeeding period at least 6 months prior to the ending of the 3-year period.

3. Duties of administrator. The administrator selected pursuant to subsection 1 shall:

A. Perform all administrative functions relating to the association;

B. Submit regular reports to the board regarding the operation of the association. The frequency, content and form of the reports must be as determined by the board;

C. Following the close of each calendar year, determine reinsurance premiums less any administrative expense allowance, the expense of administration pertaining to the reinsurance operations of the association and the incurred losses of the year, and report this information to the superintendent; and

D. Pay reinsurance amounts as provided for in the plan of operation under section 3953, subsection 3.

4. Payment to administrator. The administrator selected pursuant to subsection 1 must be paid, as provided in the contract of the association under subsection 2, for its direct and indirect expenses incurred in the performance of its services. As used in this subsection, "direct and indirect expenses" includes that portion of the audited administrative costs, printing expenses, claims administration expenses, management expenses, building overhead expenses and other actual operating and administrative expenses of the administrator that are approved by the board as allocable to the administration of the association and included in the bid specifications pursuant to subsection 1.

§3957. Assessments against insurers

1. Assessments. For the purpose of providing the funds necessary to carry out the powers and duties of the association under section 3955, the board shall assess insurers at such a time and for such amounts as the board finds necessary. Assessments are due not less than 30 days after written notice to the insurers and accrue interest at 12% per annum on and after the due date.

2. Maximum assessment. The board shall assess each insurer an amount not to exceed $4 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer. An insurer may not be assessed on policies or contracts insuring federal or state employees.

3. Determination of assessment. The board shall make reasonable efforts to ensure that each covered person is counted only once with respect to an assessment. For that purpose, the board shall require each insurer that obtains excess or stop loss insurance to include in its count of covered persons all persons whose coverage is insured, in whole or in part, through excess or stop loss coverage. The board shall allow a

reinsurer to exclude from its number of covered persons those who have been counted by the primary insurer or by the primary reinsurer or primary excess or stop loss insurer for the purpose of determining its assessment under this subsection. The board may verify the amount of each insurer's assessment based on annual statements and other reports determined to be necessary by the board. The board may use any reasonable method of estimating the number of covered persons of an insurer if the specific number is not reported.

4. Organizational assessments. The board may assess insurers for the purpose of organizing the association. Organizational assessments must be equal in amount for all insurers but may not exceed $500 per insurer for all such assessments.

5. Assessments to cover net losses. In addition to the assessment described in subsections 1 to 3, the board shall assess insurers at such a time and for such amounts as the board finds necessary to cover any net loss in an amount not to exceed $2 per month per covered person enrolled in medical insurance insured, reinsured or administered by the insurer in accordance with this subsection.

A. Before April 1st of each year, the association shall determine and report to the superintendent the association's net losses for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses and an estimate of the assessments needed to cover the losses incurred by the association in the previous calendar year.

B. Individual assessments of each insurer are determined by multiplying the absolute value of net losses, if net earnings are negative, by a fraction, the numerator of which is the insurer's total premiums earned in the preceding calendar year from all health benefit plans, including excess or stop loss coverage, and the denominator of which is the total premiums earned in the preceding calendar year from all health benefit plans.

C. The association shall impose a penalty of interest on insurers for late payment of assessments.

6. Deferral of assessment. An insurer may apply to the superintendent for a deferral of all or part of an assessment imposed by the association under this section. The superintendent may defer all or part of the assessment if the superintendent determines that the payment of the assessment would place the insurer in a financially impaired condition. If all or part of the assessment is deferred, the amount deferred must be assessed against other insurers in a proportionate manner consistent with this section. The insurer that receives a deferral remains liable to the association for the amount deferred and is prohibited from reinsuring any person through the association until such time as the insurer pays the assessments.

7. Excess funds. If assessments and other receipts by the association, board or administrator selected pursuant to section 3956 exceed the actual losses and administrative expenses of the association, the board shall hold the excess as interest and shall use those excess funds to offset future losses or to reduce reinsurance premiums. As used in this subsection, "future losses" includes reserves for claims incurred but not reported.

8. Failure to pay assessment. The superintendent may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer that fails to pay an assessment. As an alternative, the superintendent may levy a penalty on any insurer that fails to pay an assessment when due. In addition, the superintendent may use any power granted to the superintendent by this Title to collect any unpaid assessment.

9. Federal funding; reduction of assessment. The board shall work collaboratively with the Dirigo Health Program established pursuant to chapter 87 to develop a proposal to access unused funds from the State's allocation from the federal preexisting condition insurance plan established pursuant to the federal Affordable Care Act to be used to fund, in part, the operations of the association. Any federal funding obtained by the association must be used to reduce the assessment of member insurers required under this section. In developing the proposal, funds necessary for the federal preexisting condition insurance plan as currently administered by Dirigo Health have priority over any funds transferred to the association.

§3958. Reinsurance; premium rates

1. Reinsurance amount. A member insurer offering an individual health plan must be reinsured by the association to the level of coverage provided in this subsection and is liable to the association for the reinsurance premium rate established in accordance with subsection 2.

A. The association may not reimburse a member insurer with respect to claims of a person designated for reinsurance by the member insurer pursuant to section 3959 until the insurer has incurred an initial level of claims for that person of $7,500 for covered benefits in a calendar year. In addition, the insurer is responsible for 10% of the next $25,000 of claims paid during a calendar year. The association shall reimburse insurers for claims paid in excess of $32,500. The association may annually adjust the initial level of claims and the maximum limit to be retained by the insurer to reflect increases in costs and utilization within the standard market for individual health plans within the State. The adjustments may not be less than

the annual change in the Consumer Price Index for medical care services unless the superintendent approves a lower adjustment factor as requested by the association.

B. An insurer shall apply all managed care, utilization review, case management, preferred provider arrangements, claims processing and other methods of operation without regard to whether claims paid for coverage are reinsured under this subsection.

2. Premium rates. The association, as part of the plan of operation under section 3953, subsection 3, shall establish a methodology for determining premium rates to be charged member insurers to reinsure persons eligible for coverage under this chapter. The methodology must include a system for classification of persons eligible for coverage that reflects the types of case characteristics used by insurers for individual health plans pursuant to section 2736-C. The methodology must provide for the development of base reinsurance premium rates, subject to approval of the superintendent, set at levels that reasonably approximate gross premiums charged for individual health plans and that are adjusted to reflect retention levels required under this Title. The association shall periodically review the methodology established under this subsection and may make changes to the methodology as needed with the approval of the superintendent. The association may consider adjustments to the premium rates charged for reinsurance to reflect the use of effective cost containment and managed care arrangements by an insurer.

§3959. Designation for reinsurance

1. Designation. The association shall provide reinsurance to a member insurer for persons designated by a member insurer using the health statement developed by the board pursuant to section 3955, subsection 1, paragraph F.

2. Designation without application. The board shall develop a list of medical or health conditions for which a person is automatically designated for reinsurance. A person who demonstrates the existence or history of any medical or health conditions on the list developed by the board may not be required to complete the health statement specified in subsection 1. The board may amend the list from time to time as appropriate.

§3960. Actions against association or insurers based upon joint or collective actions

Participation in the association, the establishment of reinsurance rates, forms or procedures or any other joint or collective action required by this chapter may not be the basis of any legal action or criminal or civil liability or penalty against the association or an insurer.

§3961. Reimbursement of member insurer

1. Reimbursement. A member insurer may seek reimbursement from the association and the association shall reimburse the member insurer to the extent claims made by a covered person on a calendar year basis after July 1, 2012 exceed the amounts otherwise eligible for reimbursement pursuant to section 3958, subsection 1, paragraph A, if:

A. The member insurer sold an individual health plan to the covered person between December 1, 1993 and July 1, 2012, the individual health plan that was sold has been continuously renewed by the covered person and the member insurer has closed its book of business for individual health plans sold between December 1, 1993 and July 1, 2012; and

B. The member insurer is able to determine through the use of individual health statements, claims history, risk scores or any reasonable means that, between December 1, 1993 and July 1, 2012, while the person received coverage under an individual health plan issued by the member insurer, the covered person would have been designated by the member insurer pursuant to section 3959, subsection 1.

2. Rules. The superintendent may adopt rules to facilitate payment to a member insurer pursuant to this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-9. Maine Guaranteed Access Reinsurance Association staggered terms. Notwithstanding the Maine Revised Statutes, Title 24-A, section 3953, subsection 2, of the members of the Board of Directors of the Maine Guaranteed Access Reinsurance Association initially appointed by the Superintendent of Insurance, 2 members serve for terms of one year, 2 members for terms of 2 years and 2 members for terms of 3 years and, of those members initially appointed by the member insurers, one member serves for a term of one year, 2 members serve for terms of 2 years and 2 members serve for terms of 3 years. The appointing authority shall designate the period of service of each initial appointee at the time of appointment.

Sec. B-10. Effective date. Those sections of this Part that repeal the Maine Revised Statutes, Title 5, section 12004-G, subsection 14-F, Title 24-A, section 423-E, Title 24-A, section 2736-C, subsection 2, paragraph G, Title 24-A, section 2736-C, subsection 2-A and Title 24-A, chapter 54 and that section of this Part that amends Title 24-A, section 2736-C, subsection 3 take effect July 1, 2012.

PART C

Sec. C-1. 24-A MRSA §405, sub-§6, as enacted by PL 1969, c. 132, §1, is amended to read:

6. Any suit or action by the duly constituted receiver, rehabilitator or liquidator of the insurer, or of the insurer's assignee or successor, under laws similar to those contained in chapter 57 ~~(delinquency proceedings; rehabilitation and liquidation).~~; or

Sec. C-2. 24-A MRSA §405, sub-§7 is enacted to read:

7. Transactions pursuant to individual health insurance covering residents of this State written by a regional insurer or health maintenance organization, as defined in section 405-A, duly authorized or qualified to transact individual health insurance in the state or country of its domicile if the superintendent certifies that the regional insurer or health maintenance organization meets the requirements of section 405-A.

Sec. C-3. 24-A MRSA §405-A is enacted to read:

§405-A. Certification of regional insurers or health maintenance organizations to transact individual health insurance

1. Regional insurer or health maintenance organization defined. As used in this section, "regional insurer or health maintenance organization" means an insurer or health maintenance organization that holds a valid certificate of authority to transact individual health insurance in Connecticut, Massachusetts, New Hampshire or Rhode Island.

2. Certification of regional insurers or health maintenance organizations. A regional insurer or health maintenance organization may not transact individual health insurance in this State by mail, the Internet or otherwise unless the superintendent has issued a certification that the regional insurer or health maintenance organization has met the requirements of this subsection. The superintendent shall issue a certification or deny certification within 30 days of a request.

A. A policy, contract or certificate of individual health insurance offered for sale in this State by a regional insurer or health maintenance organization must comply with the applicable individual health insurance laws in the state of domicile of that regional insurer and must be actively marketed in that state.

B. A regional insurer or health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual health plans offered for sale in this State and disclose to prospective enrollees how the health plans differ from individual health plans offered by domestic insurers in a format approved by the superintendent. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement: "This policy is issued by a regional insurer or health maintenance organization and is governed by the laws and rules of (regional insurer's or health maintenance organization's state of domicile). This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage."

C. A regional insurer or health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State.

D. A regional insurer or health maintenance organization shall meet the requirements of chapter 56-A for provider network adequacy with respect to health plans offered for sale in this State.

E. A regional insurer or health maintenance organization shall meet the requirements of chapter 33 with respect to rates for individual health plans offered for sale in this State.

F. A regional insurer or health maintenance organization shall designate an agent for receiving service of legal documents or process in the manner provided in this Title.

G. A regional insurer or health maintenance organization shall meet the requirements of this Title with respect to allowing the superintendent access to records of the regional insurer or health maintenance organization.

3. Unfair trade practices. The provisions of chapter 23 apply to a regional insurer or health maintenance organization permitted to transact individual health insurance under this section or section 405.

4. Taxes; assessments. A regional insurer or health maintenance organization transacting individual health insurance in this State under this section is subject to applicable taxes or assessments imposed on insurers transacting individual health insurance in this State pursuant to this Title and Title 36.

5. Compliance with court orders. A regional insurer or health maintenance organization transacting individual health insurance in this State under this section shall comply with lawful orders from courts of competent jurisdiction issued in a voluntary dissolution proceeding or in response to a petition for an injunction by the superintendent asserting that the re-

gional insurer or health maintenance organization is in a hazardous financial condition.

6. Exemption from other requirements. Except as expressly provided in this section, the requirements of this Title do not apply to a regional insurer or health maintenance organization permitted to transact individual health insurance under this section.

7. Agreement with insurance regulators in other state. The superintendent shall enter into a memorandum of understanding or other agreement with the insurance department of the state of domicile of a regional insurer or health maintenance organization permitted to transact individual health insurance in this State under this section with respect to enforcement of the provisions of this section.

8. Sale of policies. An individual health insurance policy, contract or certificate may not be offered for sale in this State pursuant to this section before January 1, 2014.

Sec. C-4. 24-A MRSA §405-B is enacted to read:

§405-B. Domestic insurers or licensed health maintenance organization; individual health insurance approved in other states

Notwithstanding any other provision of this Title, a domestic insurer or licensed health maintenance organization authorized to transact individual health insurance in this State may offer for sale in this State an individual health plan duly authorized for sale in Connecticut, Massachusetts, New Hampshire or Rhode Island by a parent or corporate affiliate of the domestic insurer or licensed health maintenance organization if the following requirements are met.

1. Certificate of authority from state of domicile. The parent or corporate affiliate of the domestic insurer or licensed health maintenance organization must hold a valid certificate of authority to transact individual health insurance in the state of domicile of the parent or corporate affiliate.

2. Compliance with laws of state of domicile. A policy, contract or certificate of individual health insurance offered for sale in this State by the domestic insurer or licensed health maintenance organization must comply with the applicable individual health insurance laws in the state of domicile of the parent or corporate affiliate and must be actively marketed in that state.

3. Disclosure and reporting. The domestic insurer or licensed health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual health plans offered for sale in this State and disclose to prospective enrollees how the individual health plans of the parent or corporate affiliate differ from individual health plans offered by other domestic insurers or licensed health maintenance organizations in a format approved by the superintendent. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement: "This policy is issued by a domestic insurer or licensed health maintenance organization but is governed by the laws and rules of (state of domicile of parent or corporate affiliate of domestic insurer or licensed health maintenance organization), which is the state of domicile of the parent or corporate affiliate of the domestic insurer or licensed health maintenance organization. This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage."

4. Grievance procedures. The domestic insurer or licensed health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State.

5. Sale of policies. A domestic insurer or licensed health maintenance organization may not offer an individual health plan for sale in this State pursuant to this section before January 1, 2014.

Sec. C-5. 24-A MRSA §405-C is enacted to read:

§405-C. Domestic insurers or licensed health maintenance organizations; parity with regional insurers

Notwithstanding any other provision of this Title, a domestic insurer or licensed health maintenance organization authorized to transact individual health insurance in this State may offer for sale in this State an individual health plan equivalent to any plan offered for sale in this State by a regional insurer or health maintenance organization pursuant to section 405-A. An individual health plan may not be offered for sale pursuant to this section before January 1, 2014.

PART D

Sec. D-1. 24-A MRSA §14 is enacted to read:

§14. Affordable Care Act defined

As used in this Title, "federal Affordable Care Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to or regulations or guidance issued under those acts.

Sec. D-2. 24-A MRSA §2736-C, sub-§2-B is enacted to read:

2-B. Optional guaranteed loss ratio. Notwithstanding section 2736, subsection 1 and section 2736-A, at the carrier's option, rate filings for a carrier's individual health plans may be filed in accordance with this subsection. Rates filed in accordance with this subsection are filed for informational purposes unless rate review is required pursuant to the federal Affordable Care Act.

A. A carrier's individual health plans are considered credible if the anticipated average number of members during the period for which the rates will be in effect is at least 1,000 in the aggregate or if the individual health plans in the aggregate meet credibility standards adopted by the superintendent by rule. The rate filing must state the anticipated average number of members during the period for which the rates will be in effect and the basis for the estimate. If the superintendent determines that the number of members is likely to be less than 1,000 and the carrier does not satisfy any alternative credibility standards adopted by the superintendent by rule, the filing is subject to subsection 1 and section 2736-A.

B. On an annual schedule as determined by the superintendent, the carrier shall file a report with the superintendent showing aggregate earned premiums and incurred claims for the period the rates were in effect. Incurred claims must include claims paid to a date after the end of the annual reporting period and an estimate of unpaid claims. The report must state how the unpaid claims estimate was determined. The superintendent shall determine the reporting period and the paid-to date; beginning January 1, 2011, both the reporting period and the paid-to date must be consistent with those for the rebates required pursuant to the federal Affordable Care Act and federal regulations adopted pursuant to the federal Affordable Care Act.

Sec. D-3. 24-A MRSA §2736-C, sub-§5, as amended by PL 2007, c. 629, Pt. M, §5, is further amended to read:

5. Loss ratios. ~~For~~ Except as provided in subsection 2-B, for all policies and certificates issued on or after the effective date of this section, the superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for an individual health policy unless it is anticipated that the aggregate benefits estimated to be paid under all the individual health policies maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 65% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums. For the purposes of this calculation, any payments paid pursuant to former section 6913 must be treated as incurred claims.

Sec. D-4. 24-A MRSA §2808-B, sub-§2-C, ¶B, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

B. On an annual schedule as determined by the superintendent, the carrier shall file a report with the superintendent showing aggregate earned premiums and incurred claims for the period the rates were in effect. Incurred claims must include claims paid to a date ~~6 months~~ after the end of the annual reporting period ~~determined by the superintendent~~ and an estimate of unpaid claims. The report must state how the unpaid claims estimate was determined. The superintendent shall determine the reporting period and the paid-to date; beginning January 1, 2011, both the reporting period and the paid-to date must be consistent with those for the rebates required pursuant to section 4319 and to the federal Affordable Care Act and federal regulations adopted pursuant to the federal Affordable Care Act.

Sec. D-5. 24-A MRSA §4319 is enacted to read:

§4319. Rebates

1. Rebates required. Carriers must provide rebates in the large group, small group and individual markets to the extent required by the federal Affordable Care Act and federal regulations adopted pursuant thereto if the medical loss ratio under subsection 2 is less than the minimum medical loss ratio under subsection 3.

2. Medical loss ratio. For purposes of this section, the medical loss ratio is the ratio of the numerator to the denominator as described in paragraphs A and B, respectively, plus any credibility adjustment. The period for which the medical loss ratio is determined and the meaning of all terms used in this subsection must be in accordance with the federal Affordable Care Act and federal regulations adopted pursuant thereto. For the purposes of this subsection:

A. The numerator is the amount expended on reimbursement for clinical services provided to enrollees and activities that improve health care quality; and

B. The denominator is the total amount of premium revenue excluding federal and state taxes and licensing and regulatory fees paid and after accounting for payments or receipts for risk adjustment, risk corridors and reinsurance pursuant to federal law.

3. Minimum medical loss ratio. The minimum medical loss ratio is:

A. In the large group market, 85%;

B. In the small group market, 80%; and

C. In the individual market, 80% or such lower minimum medical loss ratio as the Secretary of the United States Department of Health and Human Services determines based on a finding, pursuant to the federal Affordable Care Act and federal regulations adopted pursuant thereto, that an 80% minimum medical loss ratio might destabilize the individual market in this State.

PART E

Sec. E-1. 2 MRSA §101, as amended by PL 2005, c. 369, §1 and amended by c. 397, Pt. C, §1 and affected by §2, is repealed.

Sec. E-2. 2 MRSA §103, as amended by PL 2009, c. 355, §§1 to 3, is repealed.

Sec. E-3. 2 MRSA §104, as amended by PL 2009, c. 609, §§1 to 3, is repealed.

PART F

Sec. F-1. 24-A MRSA §2736-C, sub-§8, as amended by PL 1999, c. 256, Pt. D, §2, is repealed.

Sec. F-2. 24-A MRSA §2839-A, sub-§1, as amended by PL 2005, c. 121, Pt. F, §1, is further amended to read:

1. Notice of rate increase on existing policies. An insurer offering group health insurance, except for accidental injury, specified disease, hospital indemnity, disability income, Medicare supplement, long-term care or other limited benefit group health insurance, must provide written notice by ~~first class~~ mail or electronically of a rate increase to all affected policyholders or others who are directly billed for group coverage at least 60 days before the effective date of any increase in premium rates. An increase in premium rates may not be implemented until 60 days after the notice is provided. For small group health plan rates subject to section 2808-B, subsection 2-B, if the increase is pending approval at the time of notice, the disclosure must state that the increase is subject to regulatory approval.

Sec. F-3. 24-A MRSA §2850-B, sub-§3, ¶I, as enacted by PL 2003, c. 428, Pt. A, §2, is amended to read:

I. In renewing an individual or small group policy in accordance with this section, a carrier may make minor modifications to the coverage, terms and conditions of the policy consistent with other applicable provisions of state and federal laws as long as the modifications meet the conditions specified in this paragraph and are applied uniformly to all policyholders of the same product. Modifications not meeting the requirements in this paragraph are considered a discontinuance of the product pursuant to paragraph G.

(1) A modification pursuant to this paragraph must be approved by the superintendent. The superintendent shall approve the modification if it meets the requirements of this section.

(2) A change in a requirement for eligibility is not a minor modification pursuant to this paragraph if the change results in the exclusion of a class or category of enrollees currently covered.

(3) Benefit modifications required by law are deemed minor modifications for purposes of this paragraph.

(4) Benefit modifications other than modifications required by law are minor modifications only if they meet the requirements of this subparagraph. For purposes of this subparagraph, changes in administrative conditions or requirements specified in the policy, such as preauthorization requirements, are not considered benefit modifications.

(a) The total of any increases in benefits may not increase the actuarial value of the total benefit package by more than 5%.

(b) The total of any decreases in benefits may not decrease the actuarial value of the total benefit package by more than 5%.

(c) For purposes of the calculations in divisions (a) and (b), increases and decreases must be considered separately and may not offset one another.

(5) A carrier must give 60 days' notice of any modification pursuant to this paragraph to all affected policyholders and certificate holders.

Sec. F-4. 24-A MRSA §4202-A, sub-§1, as amended by PL 2001, c. 218, §1, is further amended to read:

1. Basic health care services. "Basic health care services" means health care services that an enrolled population might reasonably require in order to be maintained in good health and includes, at a minimum, emergency care, inpatient hospital care, inpatient physician services, outpatient physician services, ancillary services such as x-ray services and laboratory services and all benefits mandated by statute and mandated by rule applicable to health maintenance organizations. The superintendent may adopt rules defining "basic health care services" to be provided by health maintenance organizations. In adopting such rules, the superintendent shall consider the coverages that have traditionally been provided by health maintenance organizations; the need for flexibility in the marketplace; and the importance of providing multiple options to employers and consumers. ~~The superintendent may not~~

~~require that all health benefit plans offered by health maintenance organizations meet or exceed each of the particular requirements of standard or basic health plans specified in Bureau of Insurance Rule, Chapter 750.~~ The superintendent ~~may select required services from among those set forth in Bureau of Insurance Rule, Chapter 750 and~~ shall permit reasonable, but not excessive or unfairly discriminatory, variations in the copayment, coinsurance, deductible and other features of ~~such~~ coverage, except that these features must meet or exceed those required in benefits mandated by statute. The superintendent shall permit deductible, coinsurance and copayment levels consistent with the deductible levels permitted for policies issued pursuant to chapter 33 or 35. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. F-5. 24-A MRSA §4203, sub-§3, ¶S, as amended by PL 2003, c. 469, Pt. E, §18, is further amended to read:

S. A list of the names and addresses of all physicians and facilities with which the health maintenance organization has or will have agreements. If products are offered that pay full benefits only when providers within a subset of the contracted physicians or facilities are utilized, a list of the providers in that limited network must be included, as well as a list of the geographic areas where the products are offered. ~~This paragraph may not be construed to prohibit a health maintenance organization from offering a health plan that includes financial provisions designed to encourage members to use designated providers in a network in accordance with section 4303, subsection 1, paragraph A.~~

Sec. F-6. 24-A MRSA §4204, sub-§2-A, ¶N, as amended by PL 1995, c. 332, Pt. I, §2, is repealed.

Sec. F-7. 24-A MRSA §4303, sub-§1, as amended by PL 2009, c. 652, Pt. A, §33, is repealed and the following enacted in its place:

1. Demonstration of adequate access to providers. A carrier offering or renewing a managed care plan shall provide to its members reasonable access to health care services. A carrier may provide incentives to members to use designated providers based on cost or quality, but may not require members to use designated providers of health care services.

Sec. F-8. 24-A MRSA §6603, sub-§9, as enacted by PL 2007, c. 278, §1, is repealed.

PART G

Sec. G-1. 24-A MRSA §2849-B, sub-§1, as amended by PL 1999, c. 36, §1, is further amended to read:

1. Policies subject to this section. This section applies to all individual, group and blanket medical insurance policies except hospital indemnity, specified accident, specified disease, long-term care and short-term policies issued by insurers or health maintenance organizations. For purposes of this section, a short-term policy is an individual, nonrenewable policy issued for a term that ~~does not exceed~~ is less than 12 months. This section does not apply to Medicare supplement policies as defined in section 5001, subsection 4.

Sec. G-2. 24-A MRSA §2849-B, sub-§8, ¶B, as enacted by PL 1995, c. 342, §8, is amended to read:

B. An insurer or the insurer's agent or broker may not issue a short-term policy that replaces a prior short-term policy if the combined term of the new policy and all prior successive policies exceed ~~12~~ 24 months. All individuals making an application for coverage under a short-term policy must disclose any prior coverage under a short-term policy and the policy duration.

PART H

Sec. H-1. 36 MRSA §5122, sub-§1, ¶CC, as enacted by PL 2009, c. 213, Pt. BBBB, §5, is amended to read:

CC. For tax years beginning on or after January 1, 2009 but before January 1, 2011, an amount equal to the gross income during the taxable year from the discharge of indebtedness deferred under the Code, Section 108(i); ~~and~~

Sec. H-2. 36 MRSA §5122, sub-§1, ¶DD, as enacted by PL 2009, c. 213, Pt. ZZZ, §1, is amended to read:

DD. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax~~.~~; and

Sec. H-3. 36 MRSA §5122, sub-§1, ¶EE is enacted to read:

EE. The amount claimed as a deduction in determining federal adjusted gross income that is included in the credit for wellness programs under section 5219-FF.

Sec. H-4. 36 MRSA §5200-A, sub-§1, ¶V, as amended by PL 2009, c. 652, Pt. A, §54, is further amended to read:

V. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax; ~~and~~

Sec. H-5. 36 MRSA §5200-A, sub-§1, ¶W, as reallocated by PL 2009, c. 652, Pt. A, §55, is amended to read:

W. For tax years beginning on or after January 1, 2009 but before January 1, 2011, an amount equal to the gross income during the taxable year from the discharge of indebtedness deferred under the Code, Section 108(i)~~.~~; and

Sec. H-6. 36 MRSA §5200-A, sub-§1, ¶X is enacted to read:

X. The amount claimed as a deduction in determining federal taxable income that is included in the credit for wellness programs under section 5219-FF.

Sec. H-7. 36 MRSA §5219-FF is enacted to read:

§5219-FF. Credit for wellness programs

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

A. "Employee" means an individual who performs services for an employing unit.

B. "Employing unit" has the same meaning as in Title 26, section 1043, subsection 10.

C. "Qualified wellness program expenditure" means an expenditure made by an employing unit to develop, institute and maintain a wellness program.

D. "Wellness program" means a program instituted by an employing unit that improves employee health, morale and productivity, including, without limitation:

(1) Health education programs;

(2) Behavioral change programs, such as counseling or seminars or classes on nutrition, stress management or smoking cessation; and

(3) Incentive awards to employees who engage in regular physical activity.

2. Credit allowed. A taxpayer constituting an employing unit with 20 or fewer employees, on an average monthly basis during the taxable year, is allowed a credit against the tax imposed by this Part for each taxable year beginning on or after January 1, 2014 for a qualified wellness program expenditure made during the taxable year.

3. Record keeping. An employing unit seeking a credit under subsection 2 is responsible for recording the amount of time employees engage in wellness programs for which the employing unit is claiming an expense.

4. Limit; carry-over. The total credit for each taxpayer under this section is limited to $100 per employee or $2,000, whichever is less, per tax year. The credit may not reduce the tax otherwise due under this Part to less than zero. A taxpayer entitled to a credit under this section for any taxable year may carry over the portion, as reduced from year to year, of any unused credit and apply it to the tax liability for any one or more of the next succeeding 5 taxable years.

Sec. H-8. Application. This Part applies to tax years beginning on or after January 1, 2014.

PART I

Sec. I-1. 24-A MRSA §6702, sub-§4, as amended by PL 2009, c. 335, §9, is further amended to read:

4. License. If the superintendent is satisfied that the documents and statements filed by the captive insurance company under subsections 2 and 3 comply with this chapter, the superintendent may grant a license authorizing it to do insurance business in accordance with this subsection. ~~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.~~

A. A captive insurance company shall comply with all applicable federal laws. A captive insurance company, other than an association captive insurance company preliminarily conditionally approved for a license before January 1, 2012 and that elects to secure coverage in accordance with section 6706, subsection 2-A, shall comply with state and federal laws relating to the risks insured pursuant to the license granted by the superintendent to the extent provided in rules adopted pursuant to this chapter.

B. An association captive insurance company insuring the health coverage risks of its members shall comply with the requirements for community rating and guaranteed issuance and renewal for association members pursuant to section 2808-B and any requirements for mandated benefits that apply to small group health plans.

C. The superintendent shall grant a license to an association captive insurance company that files an application in accordance with this section and satisfies the following requirements:

(1) The association captive insurance company insures only health risks and requires participating association members to be jointly and severally liable in accordance with section 6706, subsection 2-A;

(2) The association captive insurance company's plan of operation is fiscally sound and establishes dispute resolution mechanisms acceptable to the superintendent in accor-

dance with this section and designates a 3rd-party administrator approved by the superintendent; and

(3) The superintendent determines that the association members have an aggregate net worth of at least $100,000,000.

Sec. I-2. 24-A MRSA §6702, sub-§7, ¶D, as amended by PL 2009, c. 335, §9, is further amended to read:

D. A captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or individual health insurance coverage or any component thereof;

Sec. I-3. 24-A MRSA §6704, sub-§1, as amended by PL 2009, c. 335, §10, is further amended to read:

1. Minimum capital and surplus. A captive insurance company 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 $250,000;

B. In the case of an association captive insurance company, not less than $750,000, except for an association captive insurance company insuring only health risks that elects to secure coverage in accordance with section 6706, subsection 2-A, maintains adequate reserve funds and has reinsurance unless the superintendent waives or modifies the reinsurance requirement. Reserve funds are presumed adequate if the association members have an aggregate net worth of at least $100,000,000 and the superintendent determines that the funds are adequate to cover at least 3 months of claims and expenses;

C. In the case of an industrial insured captive insurance company, not less than $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, except for an association captive health insurance company insuring only health risks that elects to secure coverage in accordance with section 6706, subsection 2-A.

Sec. I-4. 24-A MRSA §6706, sub-§2-A is enacted to read:

2-A. Association captive insurance company providing health insurance. An association captive insurance company that provides health insurance may elect to require, in its plan of operation, that all association members who participate in the health insurance be jointly and severally liable for the health insurance obligations of the association captive insurance company and meet the financial criteria and employer required wellness criteria established in the plan of operation. The wellness criteria may not have the effect of making health status a condition of eligibility for any association member. The superintendent may not require joint and several liability as a condition of approval of an application.

Sec. I-5. 24-A MRSA §6706, sub-§4, as amended by PL 2009, c. 335, §12, is further amended to read:

4. Applicability of chapter 47. To the extent ~~not inconsistent~~ consistent 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:

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.

Sec. I-6. 24-A MRSA §6708, sub-§1, as enacted by PL 1997, c. 435, §1, is amended to read:

1. Powers, authorities and duties of superintendent. The powers, authorities and duties relating to examinations and investigations are vested in and imposed upon the superintendent ~~pursuant to chapter 3 are extended to and imposed upon the superintendent in respect to examinations of captive insurance companies to the same extent they would otherwise be applicable with respect to domestic insurers~~ in order for the superintendent to verify that all captive insurance companies operate in accordance with the provisions of this chapter.

Sec. I-7. 24-A MRSA §6718, as enacted by PL 1997, c. 435, §1, is amended to read:

§6718. Rules

The superintendent may adopt rules to implement this chapter. Rules adopted pursuant to this ~~chapter~~

section are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. I-8. 24-A MRSA §6719, as enacted by PL 1997, c. 435, §1, is amended to read:

§6719. Laws applicable

An insurance law of this State, other than described or referenced in this chapter, does not apply to a captive insurance company. This exclusion must be strictly construed so as to further the public policy in favor of providing alternative means for providing insurance coverage.

PART J

Sec. J-1. 5 MRSA §12004-I, sub-§31-A, as enacted by PL 2003, c. 469, Pt. B, §2, is repealed.

Sec. J-2. 22 MRSA §328, sub-§3-A, as enacted by PL 2003, c. 469, Pt. C, §2, is amended to read:

3-A. Capital investment fund. "Capital investment fund" means that fund ~~established by the Governor pursuant to~~ described in Title 2, section ~~101, subsection 1, paragraph D~~ 102.

Sec. J-3. 22 MRSA §328, sub-§27, as enacted by PL 2003, c. 469, Pt. C, §6, is repealed.

Sec. J-4. 22 MRSA §333-A, sub-§3, ¶A, as enacted by PL 2007, c. 681, §5, is amended to read:

A. The department may approve a nursing facility certificate of need application when the applicant proposes capital expenditures for renovations and improvements that are necessary:

(1) To achieve compliance with code and related regulatory requirements;

(2) To comply with the federal Health Insurance Portability and Accountability Act of 1996 and related patient privacy standards;

(3) To address other patient safety requirements and standards~~, consistent with the priorities set forth in the current State Health Plan~~; or

(4) To address other necessary and time-sensitive patient safety or compliance issues.

Sec. J-5. 22 MRSA §335, sub-§1, ¶B, as amended by PL 2005, c. 369, §7, is repealed.

Sec. J-6. 22 MRSA §335, sub-§7, as amended by PL 2005, c. 369, §8, is further amended to read:

7. Review; approval. Except as provided in section 336, the commissioner shall issue a certificate of need if the commissioner determines and makes specific written findings regarding that determination that:

A. The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards;

B. The economic feasibility of the proposed services is demonstrated in terms of the:

(1) Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and

(2) Applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;

C. There is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(1) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(2) Whether the project will have a positive impact on the health status indicators of the population to be served;

(3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;

D. The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

(1) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(2) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(3) The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available; and

E. The project meets the criteria set forth in subsection 1.

In making a determination under this subsection, the commissioner shall use data ~~available in the State Health Plan under Title 2, section 103, including demographic, health care service and health care cost data, data~~ from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high-quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

~~In making all determinations under this subsection, the commissioner must be guided by the State Health Plan as described in Title 2, section 103.~~

Sec. J-7. 22 MRSA §412, sub-§4, ¶A, as enacted by PL 2009, c. 355, §5, is amended to read:

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; and

~~(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.

Sec. J-8. 22 MRSA §412, sub-§6, ¶¶A and B, as enacted by PL 2009, c. 355, §5, are amended to read:

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; and

~~(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~~,~~ and 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 man-

agement 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.

Sec. J-9. 22 MRSA §412, sub-§6, ¶F, as enacted by PL 2009, c. 355, §5, is repealed and the following enacted in its place:

F. 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.

Sec. J-10. 22 MRSA §1711-E, sub-§5, as enacted by PL 2007, c. 460, §1, is amended to read:

5. Rules. The department~~, after consultation with the Governor's Office of Health Policy and Finance,~~ shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. J-11. 22 MRSA §1844, sub-§2, ¶A, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

A. At least 45 days prior to filing an application for a certificate of public advantage for a merger, the parties to a merger agreement shall file a letter of intent with the department describing the proposed merger. Copies of the letter of intent and all accompanying materials must be submitted to the Attorney General ~~and to the Governor's Office of Health Policy and Finance~~ at the time the letter of intent is filed with the department.

Sec. J-12. 22 MRSA §1844, sub-§2, ¶D, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

D. The parties to a cooperative agreement shall submit copies of the application and all the accompanying materials to the Attorney General ~~and the Governor's Office of Health Policy and Finance~~ at the time they file the application with the department.

Sec. J-13. 22 MRSA §1844, sub-§4, ¶C, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

C. The department shall provide the Attorney General ~~and the Governor's Office of Health Policy and Finance~~ with copies of all comments from persons submitted under paragraph B.

Sec. J-14. 22 MRSA §1844, sub-§4, ¶F, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

F. The department shall issue a final decision to grant or deny an application for a certificate of public advantage under this section no less than 40 days and no more than 90 days after the filing of the application. The department shall issue a preliminary decision at least 5 days prior to issuing the final decision. The preliminary and final decisions must be in writing and set forth the basis for the decisions. The department shall provide copies of the preliminary and final decisions to the applicants, the Office of the Attorney General~~, the Governor's Office of Health Policy and Finance~~ and all persons who requested notification from the department under subsection 3, paragraph B.

Sec. J-15. 22 MRSA §1844, sub-§6, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

6. Intervention. The Attorney General ~~and the Governor's Office of Health Policy and Finance~~ may intervene as a right in any proceeding under this chapter before the department. Except as provided in this subsection, intervention is governed by the provisions of Title 5, section 9054.

Sec. J-16. 22 MRSA §1845, sub-§1, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

1. Periodic report and supervisory review. With regard to a certificate of public advantage approved under this chapter, the certificate holder shall report periodically to the department on the extent of the benefits realized and compliance with other terms and conditions of the certificate. The certificate holder shall submit copies of the report to the Attorney General ~~and to the Governor's Office of Health Policy and Finance~~ at the time the report is filed with the department. The Attorney General ~~and the Governor's Office of Health Policy and Finance~~ may submit to the department comments on the report filed under this subsection. The department shall consider any comments on the report from the Attorney General ~~and the Governor's Office of Health Policy and Finance~~ in the course of its evaluation of the certificate holder's report. Within 60 days of receipt of the certificate holder's report, the department shall make findings regarding the report, including responses to any com-

ments from the Attorney General ~~and the Governor's Office of Health Policy and Finance~~, determine whether to institute additional supervisory activities under this section and notify the certificate holder.

Sec. J-17. 22 MRSA §1845, sub-§2, ¶¶A and B, as enacted by PL 2005, c. 670, §1 and affected by §4, are amended to read:

A. The department shall conduct additional supervisory activities whenever requested by the Attorney General ~~or the Governor's Office of Health Policy and Finance,~~ or whenever the department, in its discretion, determines those activities appropriate, and:

(1) For certificates of public advantage not involving mergers, at least once in the first 18 months after the transaction described in the cooperative agreement has closed; and

(2) For certificates of public advantage involving mergers, at least once between 12 and 30 months after the transaction described in the cooperative agreement has closed.

B. In its discretion, the department may conduct additional supervisory activities by:

(1) Soliciting and reviewing written submissions from the certificate holders, the Attorney General~~, the Governor's Office of Health Policy and Finance~~ or the public;

(2) Conducting a hearing in accordance with Title 5, chapter 375, subchapter 4 and the department's administrative hearings rules; or

(3) Using any alternative procedures appropriate under the circumstances.

Sec. J-18. 22 MRSA §1849, sub-§5, as enacted by PL 2005, c. 670, §1 and affected by §4, is amended to read:

5. Termination; surrender. This chapter does not prohibit certificate holders from terminating their cooperative agreement by mutual agreement, consent decree or court determination or by surrendering their certificate of public advantage to the department. Any certificate holder that terminates the agreement shall file a notice of termination with the department within 30 days after termination, surrender the certificate of public advantage and submit copies to the Attorney General ~~and the Governor's Office of Health Policy and Finance~~ at the time the notice of termination is submitted to the department.

Sec. J-19. 22 MRSA §2061, sub-§2, as corrected by RR 2003, c. 2, §71, is amended to read:

2. Review. Each project for a health care facility has been reviewed and approved to the extent required by the agency of the State that serves as the designated planning agency of the State or by the Department of Health and Human Services in accordance with the provisions of the Maine Certificate of Need Act of 2002, as amended~~, and is consistent with the cost containment provisions for health care and health coverage of the State Health Plan adopted pursuant to Title 2, section 101, subsection 1, paragraph A~~;

Sec. J-20. 24-A MRSA §2694-A, sub-§3, as enacted by PL 2009, c. 350, Pt. B, §1, is repealed.

Sec. J-21. 24-A MRSA §2752, sub-§3, ¶A, as amended by PL 1997, c. 616, §5, is further amended to read:

A. The social impact of mandating the benefit, including:

(1) The extent to which the treatment or service is utilized by a significant portion of the population;

(2) The extent to which the treatment or service is available to the population;

(3) The extent to which insurance coverage for this treatment or service is already available;

(4) If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;

(5) If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;

(6) The level of public demand and the level of demand from providers for the treatment or service;

(7) The level of public demand and the level of demand from the providers for individual or group insurance coverage of the treatment or service;

(8) The level of interest in and the extent to which collective bargaining organizations are negotiating privately for inclusion of this coverage in group contracts;

(9) The likelihood of achieving the objectives of meeting a consumer need as evidenced by the experience of other states;

(10) The relevant findings of ~~the state health planning agency or~~ the appropriate health system agency relating to the social impact of the mandated benefit;

(11) The alternatives to meeting the identified need;

(12) Whether the benefit is a medical or a broader social need and whether it is consis-

tent with the role of health insurance and the concept of managed care;

(13) The impact of any social stigma attached to the benefit upon the market;

(14) The impact of this benefit on the availability of other benefits currently being offered;

(15) The impact of the benefit as it relates to employers shifting to self-insured plans and the extent to which the benefit is currently being offered by employers with self-insured plans; and

(16) The impact of making the benefit applicable to the state employee health insurance program;

Sec. J-22. 24-A MRSA §6904, sub-§1, as amended by PL 2007, c. 447, §4, is further amended to read:

1. Appointments. The board consists of 9 voting members and ~~4~~ 3 ex officio, nonvoting members as follows.

A. The 9 voting members of the board are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters and confirmation by the Senate in accordance with this paragraph.

(1) Five members qualified in accordance with subsection 2-A, paragraph A are appointed by the Governor.

(2) One member qualified in accordance with subsection 2-A, paragraph A is appointed by the Governor and must be selected from candidates nominated by the President of the Senate.

(3) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from candidates nominated by the Speaker of the House.

(4) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from the candidates nominated by the Senate Minority Leader.

(5) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from candidates nominated by the House Minority Leader.

B. The ~~4~~ 3 ex officio, nonvoting members of the board are:

(1) The Commissioner of Professional and Financial Regulation or the commissioner's designee;

~~(2) The director of the Governor's Office of Health Policy and Finance or the director of a successor agency;~~

(3) The Commissioner of Administrative and Financial Services or the commissioner's designee; and

(4) The Treasurer of State or the treasurer's designee.

Sec. J-23. 24-A MRSA §6951, sub-§8, as enacted by PL 2003, c. 469, Pt. A, §8, is repealed.

Sec. J-24. 24-A MRSA §6952, sub-§7, ¶D, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

D. Make recommendations regarding quality assurance and quality improvement priorities ~~for inclusion in the State Health Plan described in Title 2, chapter 5~~; and

PART K

Sec. K-1. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Insurance - Bureau of 0092

Initiative: Allocates funds for a part-time (0.5) Actuary position and a part-time (0.5) Actuary Assistant position and related costs for the Bureau of Insurance to analyze an expected increase in insurance rate filings as a result of changes that will affect health care premiums.

OTHER SPECIAL REVENUE FUNDS	**2011-12**	**2012-13**
POSITIONS - FTE COUNT	1.000	1.000
Personal Services	$68,607	$93,191
All Other	$17,933	$11,249
OTHER SPECIAL REVENUE FUNDS TOTAL	$86,540	$104,440

See title page for effective date, unless otherwise indicated.

CHAPTER 91

H.P. 222 - L.D. 269

An Act To Implement a Maine Unemployment Insurance Work-sharing Program

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

Sec. 1. 26 MRSA §1198 is enacted to read:

§1198. Work-sharing benefits

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

A. "Affected unit" means a specified plant, department, shift or other definable unit consisting of 2 or more eligible employees to which a work-sharing plan applies.

B. "Commissioner" means the Commissioner of Labor or the commissioner's designee.

C. "Eligible employee" means an individual who usually works for the eligible employer submitting a work-sharing plan.

D. "Eligible employer" means a public or private employer who is not delinquent in the payment of contributions or reimbursements or in the reporting of wages.

E. "Fringe benefits" includes, but is not limited to, health insurance, retirement benefits, paid vacation and holidays, sick leave and similar advantages that are incidents of employment.

F. "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

G. "Seasonal employment" means employment in seasonal industries within the determined seasonal period or periods.

H. "Seasonal industry" means an industry in which, because of the seasonal nature of the industry, it is customary to operate only during a regularly recurring period or periods of less than 26 weeks in a calendar year and any seasonal industry under section 1251, subsection 1.

I. "Temporary layoff" means the layoff of workers in an affected unit for an indefinite period expected to last for at least 2 months but less than 6 months.

J. "Usual weekly hours of work" means the normal hours of work each week for an eligible employee in an affected unit when that unit is operating on a full-time basis, not to exceed 40 hours and not including overtime.

K. "Work-sharing benefits" means benefits payable to eligible employees in an affected unit under an approved work-sharing plan.

L. "Work-sharing employer" means an eligible employer with an approved work-sharing plan in effect.

M. "Work-sharing plan" means a plan submitted to the commissioner by an eligible employer under which there is a reduction in the number of hours worked by the eligible employees in the affected unit in lieu of temporary layoffs of some of the employees.

2. Criteria for approval of a work-sharing plan. An eligible employer wishing to participate in a work-sharing program under this section must submit a signed work-sharing plan to the commissioner for approval. The commissioner shall approve a work-sharing plan if the following requirements are met:

A. The work-sharing plan identifies the affected unit or units and specifies the effective date of the plan;

B. The work-sharing plan identifies the eligible employees in the affected unit or units by name, social security number, usual weekly hours of work, proposed wage and hour reduction and any other information that the commissioner requires;

C. The work-sharing plan certifies that the reduction in the usual weekly hours of work is in lieu of temporary layoffs that would have affected at least 10% of the eligible employees in the affected unit or units and that would have resulted in an equivalent reduction in work hours;

D. Under the work-sharing plan the usual weekly hours of work for eligible employees in the affected unit or units are reduced by not less than 10% and not more than 50% and the reduction in hours in each affected unit is spread equally among eligible employees in the affected unit;

E. The work-sharing plan specifies the manner in which the fringe benefits of the eligible employees will be affected;

F. In the case of eligible employees represented by a collective bargaining agent, the work-sharing plan is approved in writing by the collective bargaining agent that covers the affected eligible employees. In the absence of a collective bargaining agent, the work-sharing plan must contain a certification by the eligible employer that the proposed plan, or a summary of the plan, has been made available to each eligible employee in the affected unit;

G. A statement that the work-sharing plan will not serve as a subsidy of seasonal employment

during the off-season or of intermittent employment is included; and

H. The eligible employer agrees to furnish reports relating to the proper conduct of the work-sharing plan and agrees to allow the commissioner or the commissioner's designee or authorized representatives access to all records necessary to verify the plan prior to approval and to monitor and evaluate application of the plan after approval.

3. Approval or rejection of the work-sharing plan. The commissioner shall approve or reject a work-sharing plan in writing. The commissioner's decision is final and not subject to appeal. The eligible employer may submit another work-sharing plan for approval, and a determination must be made based upon the new information submitted by the eligible employer.

4. Effective date and duration of the work-sharing plan. A work-sharing plan takes effect on the date specified in the plan or on the first Sunday following the date on which the plan is approved by the commissioner, whichever is later. It expires at the end of the 12th full calendar month after its effective date or on the date specified in the plan if that date is earlier, unless the plan is previously revoked by the commissioner. If a plan is revoked by the commissioner, it terminates on the date specified in the written order of revocation.

5. Review; revocation of approval. The commissioner shall review the operation of each approved work-sharing plan at least once during the period the plan is in effect to ensure that it complies with the work-sharing plan requirements under subsection 2. The commissioner may revoke approval of a work-sharing plan for good cause.

A. The revocation order must be in writing, state the reason for revocation and specify the date the revocation takes effect. The revocation order is final and not subject to appeal.

B. Action to revoke the work-sharing plan may be taken at any time by the commissioner on the commissioner's own motion, on the motion of any of the affected unit's eligible employees or on the motion of a collective bargaining agent that covers the affected employees.

For the purposes of this subsection, "good cause" includes, but is not limited to, failure to comply with assurances given in the work-sharing plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the plan and violation of any criteria on which approval of the plan was based.

6. Modification of the work-sharing plan. An operational approved work-sharing plan may be modified by the eligible employer with the consent of a collective bargaining agent that covers the affected employees, if any, if the modification is not substantial, conforms with the plan approved by the commissioner and is reported promptly to the commissioner by the eligible employer. If the hours of work are increased or decreased substantially beyond the level in the original plan or any other conditions are changed substantially, the commissioner shall approve or disapprove the modifications without changing the expiration date of the original plan. If the substantial modifications do not meet the requirements for approval under subsection 2, the commissioner shall disallow those modifications in writing. The decision of the commissioner is final and not subject to appeal.

7. Eligibility for work-sharing benefits. After serving a waiting period as prescribed by the commissioner, an eligible employee is eligible to receive work-sharing benefits with respect to any week only if the commissioner finds that, in addition to meeting other conditions of eligibility for regular benefits under this Title that are not inconsistent with this section:

A. During the week, the eligible employee is employed as a member of an affected unit under an approved work-sharing plan that was approved prior to that week and that is in effect with respect to the week for which work-sharing benefits are claimed; and

B. The eligible employee is available and able to work the normal workweek with the work-sharing employer.

Notwithstanding any other provisions of this chapter, an eligible employee is deemed unemployed in any week for which remuneration is payable to that eligible employee as an eligible employee in an affected unit for less than that eligible employee's normal weekly hours of work as specified under the approved work-sharing plan in effect for the week.

Notwithstanding any other provisions of this Title, an eligible employee may not be denied work-sharing benefits for any week by reason of the application of laws and rules relating to the availability for work and active search for work with an employer other than the work-sharing employer.

8. Work-sharing benefits. This subsection governs the payment of work-sharing benefits under this section.

A. The weekly work-sharing benefit amount is the product of the regular weekly benefit amount, including any dependents' allowances, multiplied by the percentage reduction in the eligible employee's usual weekly hours of work as specified in the approved work-sharing plan. If the weekly work-sharing benefit amount is not an exact multiple of $1, the weekly work-sharing benefit

amount must be rounded down to the next lower multiple of $1.

B. An eligible employee may not receive a total of work-sharing benefits and regular unemployment compensation in any benefit year that exceeds the maximum entitlement established for unemployment compensation, nor may an eligible employee be paid work-sharing benefits for more than 52 weeks in any benefit year pursuant to an approved work-sharing plan.

C. The work-sharing benefits paid must be deducted from the maximum entitlement amount established for an eligible employee's benefit year.

D. If an eligible employer approves time off and the eligible employee has performed some work during the week, the eligible employee is eligible for work-sharing benefits based on the combined work and paid leave hours for that week. If the eligible employer does not grant time off, the question of availability must be investigated by the commissioner.

E. If an eligible employee was sick and consequently did not work all the hours offered by the work-sharing employer in a given week, the employee must be denied work-sharing benefits for that week.

F. Claims for work-sharing benefits must be filed in the same manner as claims for unemployment compensation or as prescribed in rules by the commissioner.

G. Laws and rules applicable to unemployment compensation claimants apply to work-sharing claimants to the extent that they are not inconsistent with the established work-sharing provisions. An eligible employee who files an initial claim for work-sharing benefits, if eligible for work-sharing benefits, must be provided a monetary determination of entitlement to work-sharing benefits and must serve a waiting period of one week.

H. If an eligible employee works in the same week for a work-sharing employer and an employer other than the work-sharing employer, the eligible employee's work-sharing benefits must be computed in the same manner as if the eligible employee worked solely with the work-sharing employer, except that if the eligible employee is not able to work or is not available for the normal workweek with the work-sharing employer, work-sharing benefits may not be paid to that eligible employee for that week.

I. An eligible employee who does not work during a week for the work-sharing employer and is otherwise eligible must be paid the full weekly unemployment compensation amount. That week is not counted as a week for which work-sharing benefits were received.

J. An eligible employee who does not work for the work-sharing employer during a week but works for another employer and is otherwise eligible must be paid benefits for that week under the partial unemployment compensation provisions of this chapter. That week is not counted as a week for which work-sharing benefits were received.

K. Nothing in this section precludes an otherwise eligible employee from receiving total or partial unemployment benefits when the eligible employee's work-sharing benefits have been exhausted.

9. Benefit charges. Notwithstanding any other provisions of this Title, work-sharing benefits are charged to the account of the work-sharing employer. Employers liable for payments in lieu of contributions must reimburse the Unemployment Compensation Fund for the full amount of work-sharing benefits paid to their employees under an approved work-sharing plan.

10. Extended benefits. An individual who has received all of the unemployment compensation or combined unemployment compensation and work-sharing benefits available in a benefit year is considered an exhaustee for purposes of extended benefits, as provided in section 1043, subsection 5, paragraph B, and, if otherwise eligible under that paragraph, is eligible to receive extended benefits.

11. Rules. The commissioner shall adopt rules to implement this section. Those rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

12. Repeal. This section is repealed February 28, 2014.

Sec. 2. Reports. The Commissioner of Labor shall provide the proposed rules implementing the Maine Revised Statutes, Title 26, section 1198 for review by the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 15, 2012. The Commissioner of Labor shall report to the joint standing committee of the Legislature having jurisdiction over labor matters on the implementation and status of the work-sharing program implemented pursuant to Title 26, section 1198 by January 15, 2014.

Sec. 3. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 26, section 1198 takes effect March 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 92
H.P. 12 - L.D. 20

An Act Establishing a Vietnam War Remembrance Day

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

Sec. 1. 1 MRSA §150-G is enacted to read:

§150-G. Vietnam War Remembrance Day

In recognition of the service and sacrifice of those veterans of the United States Armed Forces who served during the Vietnam War, the State designates March 30th of each year as Vietnam War Remembrance Day. The Governor shall annually issue a proclamation urging the people of the State to observe the day with appropriate celebration and activity.

Sec. 2. Fiftieth anniversary program. The Department of Defense, Veterans and Emergency Management shall work with the Governor's office and the United States Department of Defense to develop a program to commemorate the contribution of Maine veterans in the Vietnam War in conjunction with the 10-year program being developed by the Federal Government to recognize the 50th anniversary of the Vietnam War.

Sec. 3. Review. No later than April 1, 2021, the joint standing committee of the Legislature having jurisdiction over veterans matters shall review the establishment of Vietnam War Remembrance Day pursuant to the Maine Revised Statutes, Title 1, section 150-G and determine whether the language establishing the day of remembrance requires amendment or modification.

See title page for effective date.

CHAPTER 93
H.P. 270 - L.D. 337

An Act To Make Technical Changes to Aquaculture Laws

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

Sec. 1. 12 MRSA §6072, sub-§8, as amended by PL 1997, c. 231, §4, is further amended to read:

8. Preference. ~~Except as provided in subsection 8-A, if~~ If more than one person applies to lease an area, preference must be given as follows:

A. First, to the ~~department~~ person who holds a lease for the area or a portion of the area under section 6072-A and who submitted an application for a lease under this section for the area or a portion of the area before the lease under section 6072-A expired;

B. Second, to the ~~riparian owner of the intertidal zone within the leased area~~ department;

C. Third, to ~~a person who fishes commercially and who has traditionally fished in or near the proposed lease area~~ the riparian owner of the intertidal zone in which the leased area is located; ~~and~~

D. Fourth, to ~~the riparian owner within 100 feet of leased coastal waters.~~ a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and

E. Fifth, to the riparian owner within 100 feet of leased coastal waters.

Sec. 2. 12 MRSA §6072, sub-§8-A, as enacted by PL 1997, c. 231, §5, is repealed.

Sec. 3. 12 MRSA §6072, sub-§12, as amended by PL 2005, c. 535, §2, is further amended to read:

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, at least 90 days prior to the ~~termination~~ expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term;

B. The lessee has complied with the lease agreement during the term of the lease;

C. The commissioner determines that renewal of the lease is in the best interest of the State;

D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and

E. The lease is not being held for speculative purposes.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 days after the date of the commissioner's decision.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given as required under subsection 6 and a hearing must be held if it is requested in writing by 5 persons.

The commissioner may review multiple leases concurrently during the lease renewal process.

A lease renewal application must include a nonrefundable application fee of no more than $1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

Sec. 4. 12 MRSA §6072, sub-§12-B, as enacted by PL 2005, c. 92, §2, is repealed.

Sec. 5. 12 MRSA §6072-A, sub-§18, as enacted by PL 1997, c. 231, §6, is amended to read:

18. Scientific lease renewal. A limited-purpose lease for scientific research may be renewed. ~~The commissioner must hold a public hearing before deciding upon the request for renewal.~~ A scientific research lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a public hearing is not mandatory unless it is requested in writing by 25 or more persons. The commissioner may review multiple leases concurrently during the lease renewal process. The commissioner shall renew a limited-purpose lease for scientific research unless the commissioner finds that:

A. The lease holder has not complied with the terms of the limited-purpose lease;

B. Research has not been conducted during the term of the lease; or

C. It is not in the best interest of the State to renew the limited-purpose lease.

Sec. 6. 12 MRSA §6072-A, sub-§20, as enacted by PL 1997, c. 231, §6, is amended to read:

20. Extension of commercial lease. If a person who holds a limited-purpose lease for commercial aquaculture research and development submits ~~a completed~~ an application under section 6072 for that lease area or a portion of that area before the expiration of that limited-purpose lease, and if the commissioner's decision under section 6072 occurs after the expiration of that limited-purpose lease, the lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072, that person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072. If the commissioner denies that person a lease under section 6072, that person's limited-purpose lease remains in effect until 30 days after the commissioner's decision.

Sec. 7. 12 MRSA §6072-B, sub-§7, as enacted by PL 1997, c. 231, §6, is amended to read:

7. Extension of emergency aquaculture lease. If a person who holds an emergency aquaculture lease submits an application under section 6072 or 6072-A for all or a portion of that lease area ~~within 60 days of being granted~~ before the emergency aquaculture lease expires, and if the commissioner's decision under section 6072 or 6072-A occurs after the expiration of that emergency aquaculture lease, the emergency aquaculture lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until the effective date of the lease issued under section 6072 or 6072-A. If the commissioner denies that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until 30 days after the commissioner's decision.

See title page for effective date.

CHAPTER 94

H.P. 612 - L.D. 816

An Act To Clarify Provisions of the Law Concerning Municipal Inspections of Buildings

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

Sec. 1. 25 MRSA §2357-A, as enacted by PL 2009, c. 261, Pt. B, §7, is amended to read:

§2357-A. No occupancy without certificate; appeal

Subject to the provisions of Title 10, chapter 951, a building may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, pursuant to the required inspections in section 2373 that the building has been built in accordance with section 2353-A, and so as to be safe from fire. The ~~inspector of buildings~~ building official may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

This section takes effect December 1, 2010.

Sec. 2. 25 MRSA §2371, sub-§2, as enacted by PL 2007, c. 699, §11, is amended to read:

2. Building official. "Building official" means a building official appointed pursuant to section ~~2351~~ 2351-A.

Sec. 3. 25 MRSA §2448-A, sub-§2, ¶A, as enacted by PL 2009, c. 364, §2, is amended to read:

A. A municipal ~~inspector of buildings~~ building official has been appointed pursuant to section ~~2351~~ 2351-A.

See title page for effective date.

CHAPTER 95

H.P. 531 - L.D. 701

An Act To Amend Certain Laws Governing County Sheriffs

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

Sec. 1. 30-A MRSA §373, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Salaries; full compensation. County sheriffs shall receive annual salaries as set forth in ~~section 2~~ subsection 3. The salaries are in full compensation for:

A. Services in attendance upon the Supreme Judicial Court and upon the Superior Court;

B. Services as jailer, master or keeper of the jail in each county;

C. Receiving and committing prisoners in the jail;

D. The service of all criminal and civil processes; and

E. The performance of all duties relating to the enforcement of all criminal laws.

Sec. 2. 30-A MRSA §373, sub-§3 is enacted to read:

3. Salary; procedures. The board of county commissioners of each county, through the county budget process, shall set the base salary for the county sheriff.

A. The salary for the county sheriff must be set prior to the election of a new county sheriff by the board of county commissioners by final budget approval prior to the first date that applicants may file with the Secretary of State for the office of county sheriff.

B. The salary of the county sheriff may not be reduced during the sheriff's term other than upon complaint of malfeasance, misfeasance, neglect, gross negligence or failure to maintain certification with the Maine Criminal Justice Academy by the board of county commissioners to the Office of the Governor.

Sec. 3. 30-A MRSA §374, 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:

§374. County sheriff to be full time

The office of county sheriff is a full-time office in each county. The duties of the county sheriff include law enforcement, jail administration and court services, with irregular hours, requiring a nonstandard work schedule.

See title page for effective date.

CHAPTER 96

H.P. 427 - L.D. 544

An Act To Eliminate Duplication of Paint Disclosure and Radon Requirements

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

Sec. 1. 14 MRSA §6030-B, sub-§1, as amended by PL 2009, c. 566, §17, is repealed.

Sec. 2. 14 MRSA §6030-B, sub-§2, as amended by PL 2009, c. 566, §17, is repealed.

Sec. 3. 14 MRSA §6030-D, sub-§1-A is enacted to read:

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

Sec. 4. 22 MRSA §1328, as enacted by PL 2005, c. 339, §2, is repealed.

Sec. 5. 33 MRSA §173, sub-§4, ¶B, as amended by PL 2005, c. 339, §3, is further amended to read:

B. Lead-based paint for pre-1978 homes in accordance with federal regulations ~~and Title 22, section 1328~~;

See title page for effective date.

CHAPTER 97

H.P. 796 - L.D. 1061

An Act To Amend the Lien Process for Unpaid Water Rates

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

Sec. 1. 35-A MRSA §6111-A, sub-§1, as enacted by PL 2005, c. 7, §2, is amended to read:

1. Liens for unpaid rates; water utilities. A ~~consumer-owned~~ water utility has a lien on real estate served by that ~~consumer-owned~~ water utility to secure the payment of unpaid rates.

Sec. 2. 35-A MRSA §6111-A, sub-§4, as enacted by PL 2009, c. 490, §1, is amended to read:

4. Waiver of water lien foreclosure. The treasurer of a ~~consumer-owned~~ water utility, when authorized by the trustees or directors of the utility, may waive the foreclosure of a lien mortgage created pursuant to this section by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate, toll, rent or other charges are not affected by the filing of a waiver under this section. The waiver of foreclosure must be substantially in the following form:

The foreclosure of the water lien mortgage on real estate for charges against ..... (NAME) to ..... (NAME OF WATER UTILITY) dated ..... and recorded in the ..... County Registry of Deeds in Book ....., Page ..... is hereby waived.

The form must be dated, signed by the treasurer of the water utility and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

See title page for effective date.

CHAPTER 98

H.P. 575 - L.D. 768

An Act To Amend the Laws Relating to Group Trusts Established by Group Self-insurers of Workers' Compensation Benefits

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

Sec. 1. 39-A MRSA §403, sub-§3, ¶C, as amended by PL 2005, c. 98, §2, is further amended to read:

C. A self-insurer may establish an actuarially determined fully funded trust, funded at a level sufficient to discharge those obligations incurred by the employer pursuant to this Act as they become due and payable from time to time, as long as the Superintendent of Insurance requires that the value of trust assets be at least equal to the present value of ultimate expected incurred claims and claims settlement costs, plus required safety margins and, if determined necessary by the superintendent, administrative costs for the operation of the plan of self-insurance. For the purpose of determining whether an actuarially determined fully funded trust has a surplus of funds in excess of that required by this subsection, the superintendent shall consider, based upon the group's audit for all completed plan years, only the following assets held outside the trust account: cash up to $10,000; accounts receivable, limited to amounts collected and deposited in the trust account by the date of the surplus distribution; accrued interest on trust account assets that will be collected and deposited in the trust account within 6 months from the date of the surplus determination; tangible assets that will be converted to cash and deposited in the trust account prior to the distribution date of any surplus; and a letter of credit to be used to partially fund the trust to the extent allowed under this section and rules adopted by the superintendent, as supported in the actuarial review. The superintendent shall consider cash held outside the trust account in excess of $10,000 if the self-insurer provides, to the superintendent's satisfaction, documentation regarding why the money is being held outside the trust account. An actuarially determined fully funded trust must be funded as follows, as determined by the superintendent.

(1) For individual and group self-insurers, the amount of security must be determined based upon an actuarial review. The actuarial review must take into consideration the use by a group self-insurer of any irrevocable standby letter of credit. Except as provided in subparagraph (3), initial funding for each plan year must be maintained at the 90% or higher confidence level. Funding after the completion of the initial plan year may be established no lower than the 75% confidence level if the following has occurred:

(a) A year considered for reduction is completed;

(b) The supporting actuarial review includes an evaluation of the completed

year experience with claims evaluated not less than 6 months from the end of the plan year, or in the case of a group self-insurer in existence for at least 36 months, not less than 4 months from the end of the plan year; and

(c) For individual self-insurers, prior approval from the superintendent is obtained.

For the purposes of determining the confidence level, all completed years at the same confidence level may be aggregated. For individual self-insurers, funds may not be released from the trust or transferred between years except as approved by the superintendent. The governing body of a group self-insurer may at any time declare a surplus of funds above the required confidence level, but may only release funds after the completion of any plan year. The superintendent may request information regarding any such declaration. Any distribution of surplus must be based upon an actuarial review of all outstanding obligations for all completed plan years, an audited financial statement of the group for all completed plan years and a surplus distribution worksheet for all completed plan years on a form approved by the superintendent. The group self-insurer must provide the required information within 10 days after the distribution. Any surplus declared or distributed pursuant to this paragraph is subject to adjustment after review by the superintendent within 60 days of the receipt of the required information. Any deficit below the required confidence level, as determined by the superintendent, that results from a distribution under this paragraph must be funded within 45 days from the date of the notice by the superintendent.

(2) A group self-insurer may elect to fund at a higher confidence level through the use of cash, marketable securities or reinsurance. If a member of a group self-insurer terminates membership in the group for any reason, that member shall fund the member's proportionate share of the liabilities and obligations of the trust to the 95% confidence level. If for any reason the departing member fails to fund the member's proportionate share of the trust's exposure to the 95% level of confidence, the ~~remaining members of the group shall make the additional contribution no later than the anniversary date of the program as required to fund the departing member's exposure in accordance with this provision~~ trust is responsible for that member's liabilities and obligations to the trust. If the superintendent finds that a material risk to the trust's ability to satisfy its liabilities and obligations in full exists due to the failure of one or more departing members to fund the departing members' proportionate share of those liabilities and obligations to the 95% confidence level or due to the failure of the group trust to enforce the funding requirement, the superintendent shall consider the unfunded share of the trust's exposure when approving a determination of a surplus or deficit in the trust.

(3) Subject to prior approval by the superintendent in accordance with subparagraph (5), a self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 5 or more consecutive years may fund all years, including the prospective fund year, at the 75% or higher confidence level in the aggregate and a group self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 10 or more consecutive years may fund all years, including the prospective fund year, at the 65% or higher confidence level in the aggregate.

(4) Trust assets must consist of cash or marketable securities of a type and risk character as specified in subsection 9. The trustee shall submit a report to the superintendent not less frequently than quarterly that lists the assets comprising the corpus of the trust, including a statement of their market value and the investment activity during the period covered by the report. The trust must be established and maintained subject to the condition that trust assets may not be transferred or revert in any manner to the employer except to the extent that the superintendent finds that the value of the trust assets exceeds the present value of incurred claims and claims settlement costs with an actuarially indicated margin for future loss development. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and payout, must be as approved by the superintendent, except that the value of the trust account must be actuarially calculated at least annually by a casualty actuary who is a member of the American Academy of Actuaries and adjusted to the required level of funding.

(5) In determining whether a self-insurer that maintains an actuarially determined fully funded trust qualifies for a reduction in the required confidence level pursuant to subparagraph (1) or (3) or is subject to an enhanced confidence level pursuant to subparagraph (6), the superintendent shall consider

the financial condition of the self-insurer in relation to the potential workers' compensation liabilities. The factors the superintendent may consider include the self-insurer's liquidity, leverage, tangible net worth, size and net income. For group self-insurers, the superintendent's review must be based on the aggregate financial condition of the group members. At the request of the superintendent, a group self-insurer shall report relevant financial information, on a form prescribed by the superintendent, at such intervals as the superintendent directs. The superintendent may establish additional review criteria or procedures by rule. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(6) If the superintendent determines, based on an evaluation of a self-insurer's financial condition pursuant to subparagraph (5), that the confidence level at which the self-insurer has been authorized to fund its trust is not sufficient to provide adequate security for the self-insurer's reasonably anticipated potential workers' compensation liabilities, the superintendent shall make a determination of the appropriate confidence level and order the self-insurer to take prompt action to increase funding to that level within 60 days.

See title page for effective date.

CHAPTER 99

H.P. 853 - L.D. 1155

An Act To Allow Harness Racing Betting To Be Conducted at Class A Lounges

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

Sec. 1. 8 MRSA §275-D, sub-§1, as amended by PL 2003, c. 493, §1 and affected by §14, is further amended to read:

1. Off-track betting on simulcast racing. A person may conduct pari-mutuel wagering at an off-track betting facility that is licensed under this section, if the person is licensed to operate a hotel, as defined in Title 28-A, section 2, subsection 15, paragraph H, with public dining facilities, a Class A lounge, as defined in Title 28-A, section 2, subsection 15, paragraph L, a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or a Class A restaurant/lounge, as defined in Title 28-A, section 2, subsection 15, paragraph R-1.

See title page for effective date.

CHAPTER 100

S.P. 26 - L.D. 11

An Act To Regulate the Keeping of Wolf Hybrids

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 keeping of wolf hybrids poses concerns for public safety; and

Whereas, current regulation of wolf hybrid kennels does not provide adequate safeguards; and

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

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

Sec. 1. 7 MRSA §3907, sub-§8-A, as amended by PL 2009, c. 403, §1, 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, 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 §3907, sub-§12-C, as enacted by PL 1997, c. 690, §5, is amended to read:

12-C. Dog. "Dog" means a member of the genus and species known as canis familiaris, except that in chapters 720, 721, 725, 727, 729 and 739 "dog" means a member of the genus and species known as canis familiaris or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid ~~as defined in subsection 30~~.

Sec. 3. 7 MRSA §3907, sub-§12-D, as amended by PL 2007, c. 702, §4, is further amended to read:

12-D. Dangerous dog. "Dangerous dog" means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use. "Dangerous dog" does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

Sec. 4. 7 MRSA §3907, sub-§17, as amended by PL 2009, c. 343, §4, 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, 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 §3911-A, as enacted by PL 2001, c. 129, §1, is amended to read:

§3911-A. Abandonment of wolf hybrid

A person who abandons a wolf hybrid licensed under section 3922 commits a civil violation for which a ~~forfeiture~~ fine not to exceed $1,000 may be adjudged. A person who abandons a wolf hybrid not licensed under section 3922 commits a civil violation for which a fine of $1,000 must be adjudged and may also be subject to a penalty under Title 12, section 12153. For the purposes of this section "abandon" means to desert. For enforcement purposes a wolf hybrid is abandoned if the animal is found a distance of more than 5 miles from the premises of the owner and is not under the control of any person.

Sec. 6. 7 MRSA §3911-B is enacted to read:

§3911-B. Disposition of wolf hybrid at large

The owner or keeper of a wolf hybrid found at large commits a civil violation. An animal control officer or person acting in that capacity shall seize, impound or restrain a wolf hybrid found at large and proceed under this section.

1. Owner of wolf hybrid located. If a wolf hybrid at large is licensed under section 3922, subsection 3-B or its owner can otherwise be identified and located, an animal control officer or person acting in that capacity shall take the wolf hybrid to its owner and issue citations for violations of this Part.

2. Unable to locate owner. If an animal at large is permanently identified as a wolf hybrid in accordance with section 3921-A but the owner of record cannot be located, an animal control officer or person acting in that capacity shall take the wolf hybrid to the animal shelter designated by the respective municipality in which the wolf hybrid was found.

An animal shelter that accepts a wolf hybrid under this subsection is entitled to receive from the department the sum of $4 a day for the period for which food and shelter are furnished, not to exceed 6 days. The animal shelter's responsibilities and the procedure for filing claims and calculating fees established under section 3913, subsection 3 apply to wolf hybrids accepted under this subsection. Upon expiration of the 6-day period, ownership of the wolf hybrid is vested in the animal shelter. The animal shelter shall:

A. Transfer ownership of the wolf hybrid to a person holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2;

B. Transfer ownership of the wolf hybrid to a person who operates an animal refuge in another state and is licensed to accept wolf hybrids; or

C. After keeping the wolf hybrid for 8 days, euthanize the wolf hybrid humanely in accordance with Title 17, chapter 42, subchapter 4.

3. Owner unknown. If an animal suspected of being a wolf hybrid is found at large and that animal is not licensed under section 3922 and does not bear any identification of the owner, an animal control officer or person acting in that capacity shall notify the Department of Inland Fisheries and Wildlife and request assistance in the capture and disposition of the animal under Title 12, section 12160.

4. Euthanasia for severely sick, severely injured or extremely vicious wolf hybrid. Notwithstanding subsections 1, 2 and 3, a humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or extremely vicious wolf hybrid upon determining that the following conditions are met:

A. The clerk, dog recorder or animal control officer of the respective municipality where the wolf

hybrid was found has been notified of the animal's presence and the owner of the wolf hybrid, if known, has been notified; and

B. A veterinarian states in writing that the wolf hybrid's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the wolf hybrid presents a danger to the public.

Notwithstanding paragraphs A and B, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, the wolf hybrid is severely injured or sick and has no possibility of recovery.

5. Immunity from civil liability. A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with subsection 4 nor is any person performing euthanasia under that authorization.

Sec. 7. 7 MRSA §3914, as amended by PL 2007, c. 439, §7, is further amended by adding at the end a new paragraph to read:

A wolf hybrid may not be sold or exchanged for value. Ownership of a wolf hybrid may be transferred only in accordance with section 3911-B or section 3921-B, subsection 3.

Sec. 8. 7 MRSA §3919-B, sub-§3, as enacted by PL 2003, c. 405, §9, is amended to read:

3. Transfer of ownership; disposition of pet. If an owner fails to arrange for release of a pet in accordance with subsection 2 within 10 days of the pet's acceptance by the shelter, ownership of the pet is vested with the animal shelter upon expiration of the 10-day period and the animal shelter may:

A. ~~Offer~~ Except for a wolf hybrid, offer the pet for adoption or sell or give away the pet; or

B. Dispose of the pet humanely in accordance with Title 17, chapter 42, subchapter 4.

An animal shelter may not sell or give a pet to a research facility. An animal shelter may not sell, give away or offer for adoption a wolf hybrid. Ownership of a wolf hybrid may be transferred only in accordance with section 3921-B, subsection 3.

Sec. 9. 7 MRSA §3921-A, as enacted by PL 2001, c. 129, §2, is amended to read:

§3921-A. Permanent identification of wolf hybrids

The commissioner shall adopt rules to establish methods of identifying wolf hybrids through tattooing, the placement of a microchip under the animal's skin or any other method determined by the commissioner as adequately providing a permanent means of identification on the body of the animal. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A. A person may not own or keep a wolf hybrid under section 3921-B, subsection 2 or under Title 12, section 12152 unless the animal has identification in compliance with the rules adopted under this section.

Sec. 10. 7 MRSA §3921-B is enacted to read:

§3921-B. Prohibition on keeping a wolf hybrid; exception

1. Prohibition. Except as provided in subsection 2, a person may not keep a wolf hybrid in the State unless that person holds a valid permit to possess wildlife in captivity issued by the Department of Inland Fisheries and Wildlife under Title 12, section 12152.

2. Exception. A person keeping a wolf hybrid as a pet and in compliance with all applicable provisions in this Part on June 1, 2011 may continue to keep that wolf hybrid as long as the following conditions are met:

A. The wolf hybrid has been spayed or neutered; and

B. The owner continues to license the wolf hybrid in accordance with section 3922, subsection 3-B.

3. Restrictions on transfer. A person keeping a wolf hybrid under subsection 2 may transfer ownership of the wolf hybrid to a person:

A. Holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2;

B. Who operates an animal refuge in another state that is licensed to accept wolf hybrids; or

C. Who has had direct contact with the wolf hybrid, is familiar with the wolf hybrid's behavior and has been advised of the reporting requirement under subsection 4 and licensing laws under section 3922.

A person transferring ownership of a wolf hybrid under this subsection shall within 10 days of the transfer notify the department and provide the name and address of the person accepting the transfer.

4. Duty to report death. The owner of a wolf hybrid kept under subsection 2 shall notify the department of the wolf hybrid's death on a form prescribed by the department within 30 days of the wolf hybrid's death.

5. Violation. A person who violates this section commits a civil violation for which a fine of $2,500 may be adjudged.

Sec. 11. 7 MRSA §3922, sub-§3-B, as enacted by PL 2001, c. 129, §3, is amended to read:

3-B. Proof of permanent identification and other restrictions on licensing a wolf hybrid. A municipal clerk may not issue a license for a wolf hy-

brid until the applicant has filed with the clerk proof that ~~the wolf hybrid has been permanently identified in accordance with section 3921-A.~~:

A. The wolf hybrid has been permanently identified in accordance with section 3921-A;

B. The wolf hybrid has been spayed or neutered; and

C. The wolf hybrid was licensed in this State in 2011 by:

(1) June 1, 2011 if the wolf hybrid was 6 months old or older on June 1, 2011; or

(2) December 31, 2011 if the wolf hybrid was less than 6 months old on June 1, 2011.

Sec. 12. 7 MRSA §3923-G, sub-§6 is enacted to read:

6. Exclusion of wolf hybrids. This section does not apply to the licensing of a wolf hybrid. A person owning a wolf hybrid shall obtain a license from the municipal clerk or the dog recorder for the municipality, plantation or unorganized territory in which the person owning the wolf hybrid resides.

Sec. 13. 7 MRSA §3931-B, as enacted by PL 2001, c. 129, §4, is repealed.

Sec. 14. 7 MRSA §4151, sub-§1, as enacted by PL 1995, c. 589, §1, is amended to read:

1. Animal. "Animal" means a dog, wholly ~~or in part~~ of the species canis familiaris, or a cat, wholly or in part of the species felis domesticus.

Sec. 15. 7 MRSA §4153, as amended by PL 2007, c. 702, §24, is further amended by adding at the end a new paragraph to read:

A seller may not sell a wolf hybrid.

Sec. 16. 12 MRSA §12160 is enacted to read:

§12160. Disposition of wolf hybrids

1. Determination of species. The department shall respond to requests under Title 7, section 3911-B, subsection 3 for assistance in capturing and disposing of an animal suspected of being a wolf hybrid. The department may presume that the animal is a wolf hybrid if:

A. Licensure as a dog under Title 7, section 3922 cannot be confirmed;

B. The animal bears no identification indicating ownership; and

C. The animal has distinct wolflike characteristics.

The department may pursue genetic testing to determine if the animal is a wolf or wolf hybrid.

2. Rulemaking. The department shall adopt rules establishing procedures for disposing of animals determined to be wolf hybrids under subsection 1. For the purposes of this section, "disposing" includes, but is not limited to, transferring the animal to a person holding a permit under section 12152 or euthanasia in accordance with Title 17, chapter 42, subchapter 4. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 17. 17 MRSA §1011, sub-§8-A, as amended by PL 2009, c. 403, §11, 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, 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. 18. 17 MRSA §1011, sub-§17, as amended by PL 2009, c. 343, §25, 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, 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. 19. Department of Inland Fisheries and Wildlife to require a permit to possess wolf hybrids. The Commissioner of Inland Fisheries and Wildlife shall amend rules adopted under the Maine Revised Statutes, Title 12, section 12152 to require a permit for the importation and possession of wolf hybrids as defined in Title 7, section 3907, subsection 30. The commissioner shall establish confinement standards in rule that prevent escape of a wolf hybrid and restrict unauthorized humans from having contact with a wolf hybrid kept under a permit. The rule must recognize the exception for wolf hybrids kept as pets under Title 7, section 3921-B, subsection 2. Rules adopted under this section must be in effect no later than July 1, 2012.

Sec. 20. Department of Agriculture, Food and Rural Resources to assist in identifying wolf hybrids kept as pets. The Commissioner of Agriculture, Food, and Rural Resources shall periodically update the Commissioner of Inland Fisheries and

Wildlife on the number and location of wolf hybrids licensed under the Maine Revised Statutes, Title 7, section 3922, subsection 3-B. Upon determining that all of the wolf hybrids kept as pets under that provision have died, the commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall submit a bill to repeal the exception under Title 7, section 3921-B, subsection 2 and clarify that a permit issued by the Department of Inland Fisheries and Wildlife is required to keep any wolf hybrid in captivity.

Sec. 21. Transition provisions. The following transition provisions apply.

1. The Companion Animal Sterilization Fund established under the Maine Revised Statutes, Title 7, section 3910-B may be used for the spaying and neutering of wolf hybrids until February 1, 2012.

2. Until July 1, 2012, a person operating a facility licensed as an animal shelter under Title 7, section 3932-A and functioning as a refuge exclusively for wolf hybrids on April 1, 2011 may:

A. Accept wolf hybrids from other animal shelters licensed under Title 7, section 3932-A; and

B. Accept ownership of a wolf hybrid directly from an owner when the wolf hybrid was living with its owner in this State in 2011.

3. A person operating a facility licensed as an animal shelter under Title 7, section 3932-A and functioning as a refuge exclusively for wolf hybrids on April 1, 2011 must obtain a permit to possess wildlife under Title 12, section 12152 no later than December 31, 2012 to continue keeping wolf hybrids.

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

Effective May 19, 2011.

CHAPTER 101

S.P. 259 - L.D. 855

An Act To Treat Plantations in the Same Manner as Towns for Purposes of Tax Increment Financing

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

Sec. 1. 30-A MRSA §5221, sub-§1, as enacted by PL 2001, c. 669, §1, is amended to read:

1. Legislative finding. The Legislature finds that there is a need for new development in areas of municipalities and plantations to:

A. Provide new employment opportunities;

B. Improve and broaden the tax base; and

C. Improve the general economy of the State.

Sec. 2. 30-A MRSA §5221, sub-§2, as amended by PL 2009, c. 314, §1, is further amended to read:

2. Authorization. For the reasons set out in subsection 1, municipalities and plantations may develop a program for improving a district of the municipality or plantation:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination;

B. To increase employment; and

C. To provide the facilities outlined in the development program adopted by the legislative body of the municipality or plantation.

Sec. 3. 30-A MRSA §5222, sub-§1-A, as enacted by PL 2007, c. 413, §2, is amended to read:

1-A. Arts district. "Arts district" means a specified area within the corporate limits of a municipality or plantation that has been designated by the municipality or plantation for the purpose of providing employment and cultural opportunities through the development of arts opportunities, including, but not limited to, museums, galleries, arts education, art studios, performing arts venues and associated businesses.

Sec. 4. 30-A MRSA §5222, sub-§4, as enacted by PL 2001, c. 669, §1, is amended to read:

4. Current assessed value. "Current assessed value" means the assessed value of the district certified by the municipal or plantation assessor as of April 1st of each year that the development district remains in effect.

Sec. 5. 30-A MRSA §5222, sub-§6, as enacted by PL 2001, c. 669, §1, is amended to read:

6. Development district. "Development district" means a specified area within the corporate limits of a municipality or plantation that has been designated as provided under sections 5223 and 5226 and that is to be developed under a development program.

Sec. 6. 30-A MRSA §5222, sub-§15, as enacted by PL 2001, c. 669, §1, is amended to read:

15. Tax increment. "Tax increment" means real and personal property taxes assessed by a municipality or plantation, in excess of any state, county or special district tax, upon the increased assessed value of property in the development district.

Sec. 7. 30-A MRSA §5222, sub-§17, as enacted by PL 2001, c. 669, §1, is amended to read:

17. Tax shifts. "Tax shifts" means the effect on a municipality's or plantation's state revenue sharing, education subsidies and county tax obligations that results from the designation of a tax increment financing district and the capture of increased assessed value.

Sec. 8. 30-A MRSA §5223, as amended by PL 2009, c. 627, §1, is further amended to read:

§5223. Development districts

1. Creation. A municipal or plantation legislative body may designate a development district within the boundaries of the municipality or plantation in accordance with the requirements of this chapter. If the municipality has a charter, the designation of a development district may not be in conflict with the provisions of the municipal charter.

2. Considerations for approval. Before designating a development district within the boundaries of a municipality or plantation, or before establishing a development program for a designated development district, the legislative body of a municipality or plantation must consider whether the proposed district or program will contribute to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5226, subsection 1. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality or plantation and produces substantial evidence to that effect, the legislative body must consider that evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or program on that interested party's existing business in the municipality or plantation is outweighed by the contribution made by the district or program to the economic growth or well-being of the municipality or plantation or to the betterment of the health, welfare or safety of the inhabitants of the municipality or plantation.

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 or plantation. The total area of all development districts may not exceed 5% of the total acreage of the municipality or plantation.

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 or plantation may not exceed 5% of the total value of taxable property within the municipality or plantation 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 or plantation; 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 and plantation 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 im-

provements, buildings, structures, fixtures and equipment included within the development program and financed through municipal or plantation 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 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.

4. Powers of municipality or plantation. Within development districts and consistent with the development program, the municipality or plantation may acquire, construct, reconstruct, improve, preserve, alter, extend, operate or maintain property or promote development intended to meet the objectives of the development program. Pursuant to the development program, the municipality or plantation may acquire property, land or easements through negotiation or by using eminent domain powers in the manner authorized for community development programs under section 5204. The municipality's or plantation's legislative body may adopt ordinances regulating traffic in and access to any facilities constructed within the development district. The municipality or plantation may install public improvements.

Sec. 9. 30-A MRSA §5224, sub-§1, as enacted by PL 2001, c. 669, §1, is amended to read:

1. Adoption. The legislative body of a municipality or plantation shall adopt a development program for each development district. The development program must be adopted at the same time as is the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same notice and hearing requirements of section 5226. Before adopting a development program, the municipal or plantation legislative body shall consider the factors and evidence specified in section 5223, subsection 2.

Sec. 10. 30-A MRSA §5224, sub-§2, ¶I, as enacted by PL 2001, c. 669, §1, is amended to read:

I. All documentation submitted to or prepared by the municipality or plantation under section 5223, subsection 2.

Sec. 11. 30-A MRSA §5224, sub-§5, as enacted by PL 2001, c. 669, §1, is amended to read:

5. Limitation. For tax increment financing districts, the municipality or plantation may expend the tax increments received for any development program only in accordance with the financial plan.

Sec. 12. 30-A MRSA §5225, sub-§1, ¶A, as corrected by RR 2009, c. 1, §22, is 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, public ways, buildings, structures, fixtures and equipment for public, arts district, new or existing recreational trail, 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~~;~~.

(ii) Eligible recreational trail-related development district capital costs include but are not limited to new or existing trails, 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, signs, crosswalks, signals and warning systems and other related improvements.

(iii) Eligible development district capital costs for public ways include but are not limited to scenic turnouts, signs, railing and other related improvements;

(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, archi-

tectural, 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 or plantation employees in connection with the implementation of a development program;

(6) Relocation costs, including, but not limited to, relocation payments made following condemnation;

(7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

Sec. 13. 30-A MRSA §5225, sub-§1, ¶B, as enacted by PL 2001, c. 669, §1, is amended to read:

B. Costs of improvements that are made outside the tax increment financing district but are directly related to or are made necessary by the establishment or operation of the district, including, but not limited to:

(1) That portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets;

(2) Costs of public safety improvements made necessary by the establishment of the district; and

(3) Costs of funding to mitigate any adverse impact of the district upon the municipality or plantation and its constituents. This funding may be used for public facilities and improvements if:

(a) The public facilities or improvements are located in a downtown tax increment financing district; and

(b) The entire tax increment from the downtown tax increment financing district is committed to the development program of the tax increment financing district;

Sec. 14. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2009, c. 314, §11, is further amended to read:

C. Costs related to economic development, environmental improvements or employment training within the municipality or plantation, including, but not limited to:

(1) Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;

(2) Costs of funding environmental improvement projects developed by the municipality or plantation 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 or plantation. 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;

(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

Sec. 15. 30-A MRSA §5225, sub-§1, ¶D, as amended by PL 2009, c. 126, §1, is further amended to read:

D. Costs of constructing or improving facilities or buildings leased by State Government or a municipal or plantation government that are located in approved downtown tax increment financing districts.

Sec. 16. 30-A MRSA §5226, sub-§1, as enacted by PL 2001, c. 669, §1, is amended to read:

1. Notice and hearing. Before designating a development district or adopting a development program, the municipal or plantation legislative body or the municipal or plantation legislative body's designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation.

Sec. 17. 30-A MRSA §5226, sub-§3, as enacted by PL 2001, c. 669, §1, is amended to read:

3. Effective date. A designation of a tax increment financing district is effective upon approval by the commissioner. A designation of a development district other than a tax increment financing district is effective upon approval by the municipal or plantation legislative body.

Sec. 18. 30-A MRSA §5226, sub-§4, as enacted by PL 2001, c. 669, §1, is amended to read:

4. Administration of district. The legislative body of a municipality or plantation may create a department, designate an existing department, office, agency, municipal housing or redevelopment authority or enter into a contractual arrangement with a private entity to administer activities authorized under this chapter.

Sec. 19. 30-A MRSA §5226, sub-§5, as enacted by PL 2001, c. 669, §1, is amended to read:

5. Amendments. A municipality or plantation may amend a designated development district or an adopted development program only after meeting the requirements of this section for designation of a development district or adoption of a development program. A municipality or plantation may not amend the designation of a development district if the amendment would result in the district's being out of compliance with any of the conditions in section 5223, subsection 3.

Sec. 20. 30-A MRSA §5227, as enacted by PL 2001, c. 669, §1, is amended to read:

§5227. Tax increment financing

1. Designation of captured assessed value. A municipality or plantation may retain all or part of the tax increment revenues generated from the increased assessed value of a tax increment financing district for the purpose of financing the development program. The amount of tax increment revenues to be retained is determined by designating the captured assessed value. When a development program for a tax increment financing district is adopted, the municipal or plantation legislative body shall adopt a statement of the percentage of increased assessed value to be retained as captured assessed value in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The municipal assessor or plantation assessor shall certify the amount of the captured assessed value to the municipality or plantation each year.

2. Certification of assessed value. On or after formation of a tax increment financing district, the assessor of the municipality or plantation in which it is located shall certify the original assessed value of the taxable property within the boundaries of the tax increment financing district. Each year after the designation of a tax increment financing district, the municipal assessor or plantation assessor shall certify the amount by which the assessed value has increased or decreased from the original value.

Nothing in this subsection allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property in the State. An owner of real property within the tax increment financing district shall pay real property taxes apportioned equally with property taxes paid elsewhere in the municipality or plantation.

3. Development program fund; tax increment revenues. If a municipality or plantation has designated captured assessed value under subsection 1, the municipality or plantation shall:

A. Establish a development program fund that consists of the following:

(1) A project cost account that is pledged to and charged with the payment of project costs that are outlined in the financial plan and are

paid in a manner other than as described in subparagraph (2); and

(2) In instances of municipal or plantation indebtedness, a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the development program fund;

B. Annually set aside all tax increment revenues on captured assessed values and deposit all such revenues to the appropriate development program fund account established under paragraph A in the following order of priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 5231 and the financial plan; and

(2) To the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

C. Make transfers between development program fund accounts established under paragraph A as required, provided that the transfers do not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

D. Annually return to the municipal or plantation general fund any tax increment revenues remaining in the development sinking fund account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development sinking fund account after taking into account any transfers made under paragraph C. The municipality or plantation, at any time during the term of the district, by vote of the municipal or plantation officers, may return to the municipal or plantation general fund any tax increment revenues remaining in the project cost account established under paragraph A in excess of those estimated to be required to satisfy the obligations of the development project cost account after taking into account any transfer made under paragraph C. In either case, the corresponding amount of local valuation may not be included as part of the captured assessed value as specified by the municipality or plantation.

Sec. 21. 30-A MRSA §5228, as enacted by PL 2001, c. 669, §1, is amended to read:

§5228. Assessments

1. Assessments. A municipality or plantation may estimate and make the following assessments:

A. A development assessment upon lots or property within the development district. The assessment must be made upon lots or property that have been benefited by improvements constructed or created under the development program and may not exceed a just and equitable proportionate share of the cost of the improvement. All revenues from assessments under this paragraph are paid into the appropriate development fund program account established under section 5227, subsection 3;

B. A maintenance assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program and the continued operation of the public facilities. The total maintenance assessments may not exceed the cost of maintenance and operation of the public facilities within the district. The cost of maintenance and operation must be in addition to the cost of maintenance and operation already being performed by the municipality or plantation within the district when the development district was adopted; and

C. An implementation assessment upon all lots or property within the development district. The assessment must be assessed equally and uniformly on all lots or property receiving benefits from the development program. The implementation assessments may be used to fund activities that, in the opinion of the municipal or plantation legislative body, are reasonably necessary to achieve the purposes of the development program. The activities funded by implementation assessments must be in addition to those already conducted within the district by the municipality or plantation when the development district was adopted.

2. Notice and hearing. Before estimating and making an assessment under subsection 1, the municipality or plantation must give notice and hold a hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality or plantation. The notice must include:

A. The date, time and place of hearing;

B. The boundaries of the development district by legal description;

C. A statement that all interested persons owning real estate or taxable property located within the district will be given an opportunity to be heard at the hearing and an opportunity to file objections to the amount of the assessment;

D. The maximum rate of assessments to be extended in any one year; and

E. A statement indicating that a proposed list of properties to be assessed and the estimated assessments against those properties is available at the city or town office or at the office of the assessor.

The notice may include a maximum number of years the assessments will be levied.

3. Apportionment formula. A municipality or plantation may adopt ordinances apportioning the value of improvements within a development district according to a formula that reflects actual benefits that accrue to the various properties because of the development and maintenance.

4. Increase of assessments and extension of time limits. A municipality or plantation may increase assessments or extend the specified period after notice and hearing as required under subsection 2.

5. Collection. Assessments made under this section must be collected in the same manner as municipal or plantation taxes. The constable or municipal tax collector or plantation assessor has all the authority and powers by law to collect the assessments. If any property owner fails to pay any assessment or part of an assessment on or before the dates required, the municipality or plantation has all the authority and powers to collect the delinquent assessments vested in the municipality or plantation by law to collect delinquent municipal or plantation taxes.

Sec. 22. 30-A MRSA §5229, as enacted by PL 2001, c. 669, §1, is amended to read:

§5229. Rules

The commissioner may adopt rules necessary to carry out the duties imposed by this chapter and to ensure municipal or plantation compliance with this subchapter following designation of a tax increment financing district. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

Sec. 23. 30-A MRSA §5230, as enacted by PL 2001, c. 669, §1, is amended to read:

§5230. Grants

A municipality or plantation may receive grants or gifts for any of the purposes of this chapter. The tax increment revenues within a development district may be used as the local match for certain grant programs.

Sec. 24. 30-A MRSA §5231, as enacted by PL 2001, c. 669, §1, is amended to read:

§5231. Bond financing

The legislative body of a municipality or plantation may authorize, issue and sell bonds, including, but not limited to, general obligation or revenue bonds or notes, that mature within 20 years from the date of issue to finance all project costs needed to carry out the development program within the development district. The plantation or municipal officers authorized to issue the bonds or notes may borrow money in anticipation of the sale of the bonds for a period of up to 3 years by issuing temporary notes and notes in renewal of the bonds. All revenues derived under section 5227 or under section 5228, subsection 1 received by the municipality or plantation are pledged for the payment of the activities described in the development program and used to reduce or cancel the taxes that may otherwise be required to be expended for that purpose. The notes, bonds or other forms of financing may not be included when computing the municipality's or plantation's net debt. Nothing in this section restricts the ability of the municipality or plantation to raise revenue for the payment of project costs in any manner otherwise authorized by law.

Sec. 25. 30-A MRSA §5232, as enacted by PL 2001, c. 669, §1, is amended to read:

§5232. Tax exemption

All publicly owned parking structures and pedestrian skyway systems are exempt from taxation by the municipality or plantation, county and State. This section does not exempt any lessee or person in possession from taxes or assessments payable under Title 36, section 551.

Sec. 26. 30-A MRSA §5233, as enacted by PL 2001, c. 669, §1, is amended to read:

§5233. Advisory board

The legislative body of a municipality or plantation may create an advisory board, a majority of whose members must be owners or occupants of real property located in or adjacent to the development district they serve. The advisory board shall advise the legislative body and the designated administrative entity on the planning, construction and implementation of the development program and maintenance and operation of the district after the program has been completed.

Sec. 27. 30-A MRSA §5234, as enacted by PL 2001, c. 669, §1, is amended to read:

§5234. Special provisions

Notwithstanding the provisions of section 5223, subsection 1 and any other provision of law, in the case of investments exceeding $100,000,000 in shipyard facilities in districts authorized prior to June 30, 1999, revenues must be set aside and deposited by the municipality or plantation to the appropriate development program fund account established under section 5227, subsection 3 and expended to satisfy the obligations of the accounts without the need for further action by the municipality or plantation by appropriation or otherwise. Unless otherwise provided by the mu-

nicipality or plantation in connection with its approval of the district, tax increment revenues on all captured assessed value may not be taken into account for purposes of calculating any limitation on the municipality's or plantation's annual expenditures or appropriations, and the payment of tax increment revenues on captured assessed value is not subject to any limitation or restriction on the municipality's or plantation's authority or power to enter into contracts with respect to making payments for a term equal to the term of the district.

Sec. 28. 30-A MRSA §7051, sub-§9-A is enacted to read:

9-A. Development districts for municipalities and plantations. Chapter 206, subchapter 1;

Sec. 29. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 30-A, chapter 206, subchapter 1, in the subchapter headnote, the words "municipal development districts" are amended to read "development districts for municipalities and plantations" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 102

H.P. 416 - L.D. 533

An Act To Clarify the Use of Tax Increment Financing Funds for Recreational Development

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

Sec. 1. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2009, c. 314, §11, is further amended to read:

C. Costs related to economic development, environmental improvements, recreational trails 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;

(6) Costs ~~relating to planning, design, construction, maintenance, grooming and improvements to~~ associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include 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 103

H.P. 411 - L.D. 528

An Act To Change the Frequency of Alcoholic Beverage Tastings Allowed in a 12-month Period

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

Sec. 1. 28-A MRSA §460, sub-§2, ¶J, as amended by PL 2009, c. 510, §1, is further amended to read:

J. The agency liquor store may conduct up to 3 tastings per month ~~but no more than 24 taste-testing events per year~~, including tastings conducted under sections 1205 and 1207.

Sec. 2. 28-A MRSA §1205, sub-§2, ¶H, as amended by PL 2009, c. 510, §4, is further amended to read:

H. The retail licensee may conduct up to 3 tastings per month ~~but no more than 24 taste testing events per year~~, including tastings conducted under sections 460 and 1207;

Sec. 3. 28-A MRSA §1207, sub-§2, ¶H, as amended by PL 2009, c. 510, §9, is further amended to read:

H. The retail licensee may conduct up to 3 tastings per month ~~but no more than 24 taste testing events per year~~, including tastings under section 460 or 1205.

See title page for effective date.

CHAPTER 104

H.P. 241 - L.D. 297

An Act To Allow Treasurers To Process Tax Lien Discharge and Sanitary District Sewer Lien Documents Using Facsimile Signatures

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

Sec. 1. 36 MRSA §943, 3rd ¶ is amended to read:

In the event that ~~said~~ the tax, interest and costs ~~shall be~~ underlying the tax lien are paid within the period of redemption, the municipal treasurer or assignee of record shall prepare and record a discharge of the tax lien mortgage in the same manner as is now provided for the discharge of real estate mortgages, except that a facsimile signature of the treasurer or treasurer's assignee may be used.

Sec. 2. 36 MRSA §944, sub-§2, as amended by PL 1987, c. 736, §57, is further amended to read:

2. Form. The waiver of foreclosure ~~shall~~ must be substantially in the following form:

The foreclosure of the tax lien mortgage on real estate for a tax assessed against ..... to ..... dated ..... (name) (name of municipality) and recorded in ..... registry of deeds in Book ...., Page .... is hereby waived.

Dated this ..... date of ..... ~~19~~ 20..

..... A.B. .....
Treasurer of .....

State of Maine
..... ss. ..... ~~19~~ 20....

Then personally appeared the above named ..... A.B. ..... Treasurer and acknowledged the foregoing instrument to be ~~his~~ a free act and deed in ~~his~~ the Treasurer's said capacity.

Before me, ...
.....
Notary Public

The form required by this subsection must be dated, signed by the treasurer or bear the treasurer's facsimile signature and notarized.

~~There shall be included in the amount secured by the tax lien mortgage a~~ A charge to the municipality of 50¢ for the waiver of foreclosure and the charges of the registry of deeds for the recording ~~thereof which shall be~~ of the waiver in accordance with the fees set forth in Title 33, section 751, subsection ~~10~~ 1 must be included in the amount secured by the tax lien mortgage.

Sec. 3. 38 MRSA §1208, 2nd ¶, as amended by PL 2001, c. 319, §1, is further amended to read:

The treasurer of the district has full and complete authority and power to collect the rates, tolls, rents and other charges established under section 1202 and the ~~same~~ rate, toll, rent or other charge must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the district in a civil action for any rate, toll, rent or other charge remaining unpaid in any court of competent jurisdiction. In addition to other methods established by law for the collection of rates, tolls, rents and other charges, and without waiver of the right to sue for the ~~same~~ rate, toll, rent or other charge, the lien created may be enforced in the following manner. The treasurer, when a rate, toll, rent or other charge has been committed to the treasurer for collection, may, after the expiration of 3 months and within one year after the date when the ~~same~~ rate, toll, rent or other charge became due and payable, give to the owner of the real estate served, or

leave at the owner's last and usual place of abode, or send by certified mail, return receipt requested, to the owner's last known address, a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or other charge and demanding the payment of the rate, toll, rent or other charge within 30 days after service or mailing, with $1 for the treasurer for mailing the notice together with the certified mail, return receipt requested, fee. The notice must contain a statement that the district is willing to arrange installment payments of the outstanding debt. For the purpose of this section, a mobile home is defined as real estate. After the expiration of a period of 30 days and within one year thereafter, the treasurer shall record in the registry of deeds of the county in which the property of such person is located a certificate signed by the treasurer or bearing the treasurer's facsimile signature setting forth the amount of such rate, toll, rent or other charge, describing the real estate on which the lien is claimed, and stating that a lien is claimed on the real estate to secure payment of the rate, toll, rent or other charge and that a notice and demand for payment of the ~~same~~ rate, toll, rent or other charge has been given or made in accordance with this section and stating further that such rate, toll, rent or other charge remains unpaid. At the time of the recording of any such certificate in the registry of deeds as provided, the treasurer shall file in the office of the district a true copy of such certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to such record holder at the record holder's last and usual place of abode.

Sec. 4. 38 MRSA §1208, 3rd ¶, as amended by PL 1979, c. 541, Pt. A, §276, is further amended to read:

The filing of the certificate in the registry of deeds ~~shall be deemed to create, and shall create,~~ creates a mortgage on the underlying real estate ~~therein described~~ to the district ~~which shall have~~ that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and ~~shall give~~ gives to the district all the rights usually possessed by mortgagees, except that the district as mortgagee ~~shall~~ does not have any right to possession of ~~said~~ the real estate until the right of redemption ~~provided for shall have~~ has expired. If the mortgage, together with interest and costs, ~~shall~~ has not ~~have~~ been paid within 18 months after the date of filing of ~~said~~ the certificate in the registry of deeds ~~as provided~~, the mortgage ~~shall be~~ is deemed to ~~have been~~ be foreclosed and the right of redemption to have expired. The filing of the certificate in the registry of deeds ~~shall be~~ is sufficient notice of the existence of the mortgage ~~provided for~~ created in this paragraph. ~~In the event that said~~ If the rate, toll, rent or other charge, with interest and costs, ~~shall be~~ is paid within the period of redemption ~~provided for~~, the treasurer of the district shall discharge the mortgage in the same manner as ~~provided~~ for the discharge of ~~real estate~~ tax lien mortgages pursuant to Title 36, section 943.

See title page for effective date.

CHAPTER 105

H.P. 267 - L.D. 334

An Act To Promote Further Stability within the Workers' Compensation System by Extending the Number of Terms That May Be Served on the Maine Employers' Mutual Insurance Company Board of Directors

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 extends the number of terms that may be served on the Maine Employers' Mutual Insurance Company from 3 terms to 4 terms; and

Whereas, immediate enactment of this legislation is necessary to authorize current board members whose terms are expiring to be appointed to additional terms; 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. 24-A MRSA §3703, sub-§6, as amended by PL 1999, c. 120, §1, is further amended to read:

6. Terms. A full term on the board of directors is 3 years. An individual may not serve more than ~~3~~ 4 consecutive full terms as a director, except for the president and chief executive officer. All members shall serve for the terms provided and until their successors are appointed or elected and qualified.

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

Effective May 19, 2011.

CHAPTER 106
H.P. 668 - L.D. 909

An Act To Provide Additional Flexibility for the Funding of Infrastructure Improvements by Consumer-owned Water Utilities

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

Sec. 1. 35-A MRSA §6104-A, sub-§§2, 3 and 5, as enacted by PL 2009, c. 237, §2, are amended to read:

2. Application of this section; qualification; supporting materials. Notwithstanding section 310 or section 6104, any consumer-owned water utility ~~that meets the requirements of this subsection~~ may elect to increase rates pursuant to this section. ~~To~~ ~~qualify for a rate increase under this section, a consumer-owned water utility must have negative net income in the 2 consecutive fiscal years immediately preceding the year in which the rate increase is proposed. The consumer-owned water utility must file with the commission supporting documentation demonstrating the 2 years of negative net income as provided in this subsection.~~

~~A. A consumer-owned water utility that is required to file balance sheets under section 504, shall file copies for the 3 most recent years of the balance sheet together with other annual financial information the commission may prescribe to be filed pursuant to section 504, subsection 2, including the operating statement or other statements showing annual operating income and expenses.~~

~~B. A consumer-owned water utility that is excused from filing balance sheets pursuant to section 504, subsection 3 shall file copies for the 3 most recent years of financial statements from financial audits or reviews of the utility or other information documenting the operating income and expenses of the utility considered acceptable by the commission.~~

The consumer-owned water utility shall file its proposed rate increase, in accordance with the limits established in subsection 3, along with a copy of ~~the required documentation~~ all materials required to be submitted under section 6104, subsection 4-A supporting the proposed rate increase with the commission and the Public Advocate at least 30 days prior to the public meeting required under subsection 4. A copy of the required ~~documentation~~ materials supporting the proposed rate increase must be made available to customers for examination at the offices of the utility for at least 30 days prior to the public meeting. The utility shall promptly provide any readily available relevant additional material or information requested by a customer, the commission or the Public Advocate.

3. Maximum rate increase. The maximum rate increase that a consumer-owned water utility may propose under this section:

A. Is ~~2%~~ 3% of current rates if the utility is a large consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 10% over 5 years;

B. Is ~~3.5%~~ 5% of current rates if the utility is a medium consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 15% over 5 years; and

C. Is ~~5%~~ 7.5% of current rates if the utility is a small consumer-owned water utility. The cumulative total of rate increases under this paragraph may not exceed 20% over 5 years.

~~The cumulative total of rate increases under this section may not exceed 10% over 5 years.~~

5. Notice of proposed rate increase and public meeting. The consumer-owned water utility shall, at least 14 days prior to the public meeting required under subsection 4, publish a notice of the proposed rate increase and the meeting, including the date, time, place and purpose of the meeting, in a newspaper of general circulation in the area encompassed by the consumer-owned water utility and give one notice of the proposed rate change and the date, time, place and purpose of the meeting to each of its customers. The published and individual notices must include a statement describing the amount of the rate increase and the percentage change for each customer class, the customer's right to request information relating to the present and proposed rates and the availability of assistance from the Public Advocate. ~~The published and individual notices must inform customers of the 10-person complaint process under section 1302.~~ Copies of the notice must be sent to the commission and the Public Advocate at least 14 days prior to the meeting.

Sec. 2. Review and report. The Public Utilities Commission shall convene a work group that includes representatives of small consumer-owned water utilities and the Public Advocate to examine ways of ensuring that the capital requirements of these water utilities are provided for in an adequate and appropriate manner. The commission shall report the results of the examination and any recommendations for changes to laws to the Joint Standing Committee on Energy, Utilities and Technology by January 15, 2012. The Joint Standing Committee on Energy, Utilities and

Technology may report out a bill to the Second Regular Session of the 125th Legislature relating to the subject matter of the report.

See title page for effective date.

CHAPTER 107

H.P. 938 - L.D. 1279

An Act Relating to Qualified Financial Contracts by Domestic Insurers

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

Sec. 1. 24-A MRSA §4353, sub-§20 is enacted to read:

20. Netting agreement. "Netting agreement" means:

A. A contract or agreement, including terms and conditions incorporated by reference into a contract or agreement, including a master agreement, that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration or closeout under or in connection with one or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements under one or more qualified financial contracts, including liquidation or close-out values relating to such obligations or entitlements among the parties to the netting agreement;

B. Any master agreement or bridge agreement for one or more master agreements described in paragraph A; or

C. Any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in paragraph A or B.

A contract or agreement described in paragraph A or B relating to agreements or transactions that are not qualified financial contracts is considered to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts. For the purposes of this subsection, a master agreement together with all schedules, confirmations, definitions and addenda to the master agreement and transactions under any master agreement, is treated as one netting agreement.

Sec. 2. 24-A MRSA §4353, sub-§21 is enacted to read:

21. Qualified financial contract. "Qualified financial contract" means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement and any similar agreement that the superintendent determines to be a qualified financial contract.

A. "Commodity contract" means:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the federal Commodity Exchange Act or a board of trade outside the United States;

(2) An agreement that is subject to regulation under Section 23 of the federal Commodity Exchange Act and that is commonly known to the commodities trade as a margin account, margin contract, leverage account or leverage contract;

(3) An agreement or transaction that is subject to regulation under Section 4c(b) of the federal Commodity Exchange Act and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of the agreements or transactions referred to in this paragraph; or

(5) Any option to enter into an agreement or transaction referred to in this paragraph.

B. "Forward contract," "repurchase agreement," "securities contract" and "swap agreement" have the meanings set forth in the Federal Deposit Insurance Act, 12 United States Code, Section 1821(e)(8)(D), as amended from time to time.

Sec. 3. 24-A MRSA §4387 is enacted to read:

§4387. Qualified financial contracts

1. Qualified financial contracts. Notwithstanding any other provision of this chapter, including any other provision of this chapter permitting the modification of contracts, or other provision of law to the contrary, a person may not be stayed or prohibited from exercising:

A. A contractual right to cause the termination, liquidation, acceleration or closeout of obligations under or in connection with any netting agreement or qualified financial contract with an insurer because of:

(1) The insolvency, financial condition or default of the insurer at any time, if the right is enforceable under applicable law other than this chapter; or

(2) The commencement of a formal delinquency proceeding under this chapter;

B. Any right under a pledge, security, collateral, reimbursement or guarantee agreement or arrangement or any other similar security agreement or arrangement or other credit enhancement relating to one or more netting agreements or qualified financial contracts;

C. Subject to section 4381, subsection 2, any right to offset, set off or net out any termination value, payment amount or other transfer obligation arising under or in connection with one or more qualified financial contracts when the counterparty or its guarantor is organized under the laws of the United States or a state or a foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting; or

D. If a counterparty to a master netting agreement or a qualified financial contract with an insurer subject to a proceeding under this chapter terminates, liquidates, closes out or accelerates the agreement or contract, damages must be measured as of the date or dates of termination, liquidation, closeout or acceleration. The amount of a claim for damages is the actual direct compensatory damages calculated in accordance with subsection 6.

2. Termination of contract. Upon termination of a netting agreement or qualified financial contract, the net or settlement amount, if any, owed by a nondefaulting party to an insurer that is the subject of a delinquency proceeding under this chapter must be transferred to or on the order of the receiver for the insurer, even if the insurer is the defaulting party, notwithstanding any walkaway clause in the netting agreement or qualified financial contract. For purposes of this subsection, "walkaway clause" means a provision in a netting agreement or a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation or acceleration of the netting agreement or qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the party's status as a nondefaulting party. Any limited 2-way payment or first method provision in a netting agreement or qualified financial contract with an insurer that has defaulted is considered to be a full 2-way payment or 2nd method provision as against the defaulting insurer. Any such property or amount, except to the extent it is subject to one or more secondary liens or encumbrances or rights of netting, offset or setoff, must be a general asset of the insurer.

3. Transfer of contract. In making any transfer of a netting agreement or qualified financial contract of an insurer subject to a proceeding under this chapter, the receiver shall either:

A. Transfer to one party, other than an insurer subject to a delinquency proceeding under this chapter, all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer that is the subject of the proceeding, including:

(1) All rights and obligations of each party under each netting agreement and qualified financial contract; and

(2) All property, including any guarantees or other credit enhancement, securing any claims of each party under each netting agreement and qualified financial contract; or

B. Transfer none of the netting agreements, qualified financial contracts, rights, obligations or property referred to in paragraph A with respect to the counterparty and any affiliate of the counterparty.

4. Notice. If a receiver for an insurer makes a transfer of one or more netting agreements or qualified financial contracts, then the receiver must use its best efforts to notify any person who is a party to the netting agreements or qualified financial contracts of the transfer by noon, the receiver's local time, on the business day following the transfer. For purposes of this subsection, "business day" means a day other than a Saturday, Sunday or any day on which the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

5. Transfer prior to delinquency. Notwithstanding any other provision of this chapter and except as provided in this subsection, a receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract or any pledge, security, collateral or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract that is made before the commencement of a delinquency proceeding under this chapter. A transfer may be avoided under section 4375-A, subsection 1, paragraph A if the transfer was made with actual intent to hinder, delay or defraud the insurer, a receiver appointed for the insurer or existing or future creditors.

6. Rights of disaffirmance or repudiation. Disaffirmance or repudiation is governed by this subsection.

A. In exercising the rights of disaffirmance or repudiation of a receiver with respect to any netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall either:

(1) Disaffirm or repudiate all netting agreements and qualified financial contracts between a counterparty or any affiliate of the

counterparty and the insurer that is the subject of the proceeding; or

(2) Disaffirm or repudiate none of the netting agreements and qualified financial contracts referred to in subparagraph (1) with respect to the person or any affiliate of the person.

B. Notwithstanding any other provision of this chapter, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or immediately preceding rehabilitation proceeding must be determined and either allowed or disallowed:

(1) As if the claim had arisen before the date of the filing of the petition for liquidation;

(2) If a rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of the filing of the petition for rehabilitation; or

(3) As if the claim had arisen before the issuance of any order or the commencement of any summary proceeding under this chapter.

The amount of the claim is the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages used in the derivatives, securities or other market for the contract and agreement claims.

7. Contractual right defined. "Contractual right," as used in this section, includes any right set forth in a rule or bylaw of a derivatives clearing organization as defined in the federal Commodity Exchange Act, a multilateral clearing organization as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, a national securities exchange, a national securities association, a securities clearing agency or a contract market designated under the federal Commodity Exchange Act, a derivatives transaction execution facility registered under the federal Commodity Exchange Act, or a board of trade as defined in the federal Commodity Exchange Act or in a resolution of the governing board thereof and any right, whether or not evidenced in writing, arising under statutory or common law, or under law merchant, or by reason of normal business practice.

8. Affiliates. This section does not apply to any persons who are affiliates of the insurer that is the subject of the proceeding.

9. Rights of counterparties. All rights of counterparties under this chapter apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

See title page for effective date.

CHAPTER 108

H.P. 939 - L.D. 1280

An Act To Establish a Pilot Physical Education Project in Four Maine Schools

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

Whereas, 1/3 of Maine youth are overweight or obese; and

Whereas, obesity is the 3rd leading cause of preventable death in Maine; and

Whereas, students in Maine schools receive far less physical education than students in most other states in the nation; and

Whereas, the 2010 report to the Joint Standing Committee on Education and Cultural Affairs on the Physical Education Capacity of Elementary Schools submitted by the Department of Education pursuant to Public Law 2009, chapter 264 revealed that a student in grade 2 typically receives physical education instruction for one class per week for a period of approximately 36 minutes; 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 §6631, sub-§1, as enacted by PL 2009, c. 264, §1, is amended to read:

1. Fund established. The Obesity and Chronic Disease Fund, referred to in this section as "the fund," is established as an interest-bearing account administered by the department and the Department of Health and Human Services.

Sec. 2. 20-A MRSA §6631, sub-§3, as enacted by PL 2009, c. 264, §1, is amended to read:

3. Use of fund; health and physical fitness. Balances in the fund may be used for the necessary expenses of the department and the Department of Health and Human Services in the administration of the fund. Balances in the fund may be used to pay for new equipment, new staff training, new personnel, new administrative costs and other expenses not related to an existing physical education program and for the implementation of a new physical education program for elementary schools.

Sec. 3. PE4ME planning and oversight team; reauthorization. The Commissioner of Education, the Commissioner of Health and Human Services and the Maine Governor's Council on Physical Activity shall reconvene the planning and oversight team, known as "PE4ME," that was established pursuant to Resolve 2007, chapter 102. The commissioners shall reappoint PE4ME members to further implement plans for improving the health and physical fitness of elementary school children in the State, including the implementation of a pilot project to demonstrate the efficacy of progressive practices involving physical education in elementary schools in accordance with this section.

1. Reconvening PE4ME; subcommittees and staff support. The commissioners shall reconvene PE4ME no later than 30 days after the effective date of this Act. PE4ME may create subcommittees and seek assistance from outside the team membership in addressing its charge and meeting its responsibilities. The commissioners shall provide staff and technical assistance to PE4ME within existing resources.

2. Charge; duties. In further examining initiatives to improve the health, nutrition and physical fitness of elementary school children in the State, the commissioners' charge to PE4ME includes, but is not limited to, the following duties:

A. Reviewing the recommendations and implementation plan presented in the PE4ME report submitted to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Health and Human Services in December 2007 pursuant to Resolve 2007, chapter 102;

B. Reviewing the findings, conclusions and recommendations presented in the Department of Education report submitted to the Joint Standing Committee on Education and Cultural Affairs in March 2010 pursuant to Public Law 2009, chapter 264, section 2; and

C. Designing and implementing a pilot project in up to 4 elementary schools in the State to demonstrate the efficacy of fully implementing progressive practices involving physical education and health education and the coordination of reporting information regarding the health, fitness and academic performance of elementary school children.

3. Pilot project; site selection; funding. PE4ME shall invite elementary schools in the State to volunteer to participate in the pilot project. PE4ME shall select up to 4 elementary schools to serve as pilot project sites from among the elementary schools that volunteer to participate in the pilot project. The pilot project must be conducted during the 2011-2012 school year. The elementary schools selected for the pilot project must agree to cooperate with PE4ME in fully implementing PE4ME recommendations for students in kindergarten to grade 8, including meeting national guidelines for providing physical education instruction and physical activity each week, as well as reporting information regarding the health, fitness and academic performance of elementary school children. The elementary schools selected as pilot sites also must participate in follow-up activities required by PE4ME to evaluate the pilot project following the end of the 2011-2012 school year. PE4ME may use funds available from the Obesity and Chronic Disease Fund established in the Maine Revised Statutes, Title 20-A, section 6631 to design, implement and evaluate the pilot project. The Department of Education and the Department of Health and Human Services are not obligated to implement this section if sufficient resources are not available from the Obesity and Chronic Disease Fund.

4. Reports. PE4ME shall prepare an interim report on the design and implementation of the pilot project established pursuant to this section and submit it to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Education and Cultural Affairs no later than January 31, 2012. PE4ME shall also prepare a final report on the completion of the pilot project established pursuant to this section and submit it 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 education matters no later than January 31, 2013. The final report must include the findings and conclusions determined by PE4ME in evaluating the pilot project. The final report also may include any recommendations for legislation that may be necessary to further implement PE4ME recommendations regarding changes needed to improve physical education instruction and opportunities for physical activity in elementary schools or other initiatives that are needed to promote improvements in the health, nutrition and physical fitness of elementary school children in the State.

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

Effective May 19, 2011.

CHAPTER 109

H.P. 356 - L.D. 463

An Act Concerning Policy Objectives of the Public Utilities Commission

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

Sec. 1. 35-A MRSA §3215, sub-§1, ¶A, as enacted by PL 1997, c. 316, §3, is amended to read:

A. Intervene and participate in proceedings at the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the United States Department of Energy and other federal agencies and in proceedings conducted by Canadian or other authorities or agencies whenever the interests of competition, consumers of electricity or economic development in this State are affected. When intervening or participating in proceedings under this paragraph, the commission shall promote system reliability, the reduction of the cost of electricity to ratepayers in the State and long-term sustainable resource planning; and

See title page for effective date.

CHAPTER 110

S.P. 492 - L.D. 1545

An Act To Authorize the Public Utilities Commission To Exercise Jurisdiction over Private Natural Gas Pipelines To Ensure Safe Operation

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 immediate need within the State to facilitate the construction of private natural gas pipelines to enable consumers to lower their energy costs and reduce their emissions; and

Whereas, in order to encourage investment in private natural gas pipelines, the State, rather than the Federal Government, should be responsible for the safety regulation of such pipelines; and

Whereas, because the permitting, approval and construction process for a private natural gas pipeline can take many months, it is necessary to make changes to Maine law to enable such pipelines to be built during the current construction 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. 35-A MRSA §4517 is enacted to read:

§4517. Private natural gas pipelines

1. Private natural gas pipelines; definition. As used in this section, "private natural gas pipeline" means a pipeline that is used solely for the transport of natural gas to a single customer, is owned by the customer or an affiliate of the customer and is not a natural gas pipeline utility or gas utility.

2. Safety regulation. The commission may exercise safety regulation over an entity that owns or operates a private natural gas pipeline on public land or land owned by a 3rd party, notwithstanding that the entity is not a public utility. Safety regulation under this subsection may be enforced as provided in sections 4515 and 4516-A.

3. Approval of construction. A private natural gas pipeline may not be constructed without approval of the commission. When requesting approval, the entity that owns or operates a private natural gas pipeline shall submit to the commission information concerning the engineering design of the pipeline and the standards of construction the entity proposes to follow and any other information the commission determines necessary to make a determination of whether to approve construction. The commission shall approve the construction if the commission determines that the standards of construction of the pipeline adequately protect the safety of the public.

4. Waiver. The commission may waive for good cause any requirements under this section.

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

Effective May 19, 2011.

CHAPTER 111

H.P. 120 - L.D. 138

An Act To Allow a Nonresident To Perform a Single Marriage Ceremony

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

Sec. 1. 19-A MRSA §654, as amended by PL 2001, c. 574, §5, is further amended to read:

§654. Record of marriages

1. Copy. Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by that person in conformity with the forms and instructions prescribed by the State Registrar of Vital Statistics pursuant to Title 22, section 2701.

2. Return of marriage license. The person who solemnized the marriage shall return ~~each original certificate~~ the marriage license to the clerk who issued the ~~certificate~~ license within 7 working days following the date on which the marriage is solemnized by that person. The clerk and the State Registrar of Vital Statistics each shall retain a copy of the ~~certificate~~ license.

3. Statement including officiant and witnesses. ~~Each certificate and copy~~ The marriage license returned must contain a statement giving the names of the parties united in marriage, place and date of the marriage, the signature of the person by whom the marriage was solemnized and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which the marriage was solemnized, the residence of the person who solemnized the marriage and:

A. The date ordained or authorized by a religious faith to perform marriages;

B. The date the notary public's commission expires; ~~or~~

C. The date the lawyer was admitted to the Maine Bar~~.~~; or

D. The date the person's temporary registration certificate was issued under section 655, subsection 1-A.

4. Recorded by clerk. The clerk shall record all ~~certificates or copies~~ marriage licenses returned under this section.

Sec. 2. 19-A MRSA §655, sub-§1, ¶A, as amended by PL 2001, c. 574, §6, is further amended to read:

A. If a resident of this State:

(1) A justice or judge;

(2) A lawyer admitted to the Maine Bar; or

(4) A notary public under Title 4, chapter 19; ~~and~~

Sec. 3. 19-A MRSA §655, sub-§1, ¶B, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

B. Whether a resident or nonresident of this State and whether or not a citizen of the United States:

(1) An ordained minister of the gospel;

(2) A cleric engaged in the service of the religious body to which the cleric belongs; or

(3) A person licensed to preach by an association of ministers, religious seminary or ecclesiastical body~~.~~; and

Sec. 4. 19-A MRSA §655, sub-§1, ¶C is enacted to read:

C. A nonresident of the State who has a temporary registration certificate issued by the Office of Data, Research and Vital Statistics pursuant to subsection 1-A.

Sec. 5. 19-A MRSA §655, sub-§1-A is enacted to read:

1-A. Temporary registration certificate. The Office of Data, Research and Vital Statistics may issue a temporary registration certificate to solemnize a marriage ceremony to an individual who is a resident of another state and who is authorized under the laws of that state to solemnize marriages.

A. An individual seeking a temporary registration certificate under this subsection must submit to the Office of Data, Research and Vital Statistics:

(1) A copy of a valid commission or other indicia of authority to perform marriage ceremonies in the individual's state of residence as proof of existence of the authority;

(2) A copy of the other state's statute that grants the individual authority to solemnize marriages in that state;

(3) The names and residences of the 2 parties whose marriage the individual proposes to solemnize and the expected date of the marriage ceremony; and

(4) A $100 registration fee.

B. Upon finding that the individual has satisfied the requirements of paragraph A, the Office of Data, Research and Vital Statistics shall issue to the individual a temporary registration certificate authorizing the individual to solemnize the marriage of the parties whose names were provided pursuant to paragraph A, subparagraph (3). The

Office of Data, Research and Vital Statistics may decline to issue a temporary registration certificate if complaints filed against the individual for actions in this State have been substantiated or for other good cause, even if the state in which the individual is authorized to solemnize marriages has not taken disciplinary action.

C. A temporary registration certificate does not authorize the individual to solemnize any marriage other than the marriage of the parties provided pursuant to paragraph A, subparagraph (3).

D. A temporary registration certificate under this subsection expires upon the individual's signing the marriage license or 90 days after issuance, whichever occurs first.

E. The Office of Data, Research and Vital Statistics shall keep a permanent record of all temporary registration certificates issued under this subsection. The records must contain the name and residence of each individual to whom a temporary registration certificate is issued.

See title page for effective date.

CHAPTER 112

H.P. 463 - L.D. 633

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 §3, sub-§1, ¶D, as amended by PL 2007, c. 461, §1, is further amended to read:

D. Have the following powers and duties.

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

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

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

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

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

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

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

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

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

(10) The Adjutant General shall accept, receive and administer federal funds for and on behalf of the State that are available for military purposes or that would further the intent and specific purposes of this chapter and chapter 3.

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

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

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

(14) The Adjutant General shall report at the beginning of each biennium to the joint standing committee of the Legislature having jurisdiction over veterans' affairs on any recommended changes or modifications to the laws governing veterans' affairs, particularly as those changes or modifications relate to changes in federal veterans' laws.

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

(16) The Adjutant General may establish a science, mathematics and technology education improvement program for schoolchildren known as the STARBASE Program. The Adjutant General may accept financial assistance and in-kind assistance, advances, grants, gifts, contributions and other forms of financial assistance from the Federal Government or other public body or from other sources, public or private, to implement the STARBASE Program. The Adjutant General may employ a director and other employees, permanent or temporary, to operate the STARBASE Program.

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

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

Sec. 2. 37-B MRSA §107, as repealed and replaced by PL 1999, c. 291, §1, is amended to read:

§107. Qualifications for appointment of Adjutant General and assistant adjutant general

A person appointed Adjutant General or assistant adjutant general must have attained the federally recognized rank of Colonel in the Maine National Guard and meet the criteria for federal recognition as a General Officer for either the United States Army National Guard or the United States Air National Guard as prescribed by federal service regulations.

Sec. 3. 37-B MRSA §1130, sub-§1, as enacted by PL 2001, c. 460, §3, is amended to read:

1. Fund established. The Dam Repair and Reconstruction Fund, referred to in this section as the "fund," is established within the department. The department shall administer the fund and make low-interest loans from the fund for purposes pursuant to this section. The department may seek assistance from the ~~Finance Authority of Maine~~ Maine Municipal Bond Bank in administering the fund.

Sec. 4. 37-B MRSA §1130, sub-§2, as amended by PL 2007, c. 167, §12, is further amended to read:

2. Purposes. The department may use the fund to provide low-interest loans to municipalities and quasi-municipal corporations or districts for engineering, legal and construction costs involved in acquiring title to, establishing a long-term management plan for, repairs to, reconstruction of, breaching of or removal of a dam or to pay emergency costs incurred for actions taken pursuant to section 1114. For the purposes of this section, "municipality" has the same meaning as set out in Title 30-A, section 5903, subsection 7-A and "quasi-municipal corporation or district" has the same meaning as set out in Title 30-A, section 2351, subsection 4.

See title page for effective date.

CHAPTER 113
H.P. 727 - L.D. 983

An Act To Amend the Maine Limited Liability Company Act

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

Whereas, the Maine Limited Liability Company Act, as enacted by Public Law 2009, chapter 629, takes effect on July 1, 2011; and

Whereas, the delayed effective date allows amendment of the Maine Limited Liability Company Act prior to its effective date; and

Whereas, the effective dates of the amendments to the Maine Limited Liability Company Act should coincide with the effective date of the Act itself; 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. 31 MRSA §1502, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Certificate of formation. "Certificate of formation" means the certificate described in section ~~1541~~ 1531, and the certificate as amended or restated.

Sec. A-2. 31 MRSA §1502, sub-§16, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

16. Low-profit limited liability company. "Low-profit limited liability company" means a ~~domestic for-profit~~ limited liability company that satisfies the requirements of section 1611 ~~or a foreign for-profit limited liability company that satisfies the requirements of the laws of the jurisdiction where it was formed and that, in either case, does not have as a significant purpose the production of income or the appreciation of property~~.

Sec. A-3. 31 MRSA §1502, sub-§17, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

17. Majority of the members. Unless otherwise provided in the limited liability company agreement, "majority of the members" means ~~a majority of~~ members who own more than 50% of the ~~then current percentage or other interest~~ interests in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate.

Sec. A-4. 31 MRSA §1502, sub-§23, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

23. Secretary of State. "Secretary of State" means the Secretary of State for ~~the~~ this State.

Sec. A-5. 31 MRSA §1503, sub-§4, ¶A, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

A. Matters included in the certificate of formation under section 1531, subsection 1, ~~paragraphs~~ paragraph A ~~and B~~, upon filing;

Sec. A-6. 31 MRSA §1522, sub-§1, ¶D, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

D. Except as otherwise provided in section ~~1523~~ 1524, subsection 2, restrict the rights under this chapter of a person other than a member or transferee;

Sec. A-7. 31 MRSA §1522, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Good faith and fair dealing. Notwithstanding any contrary provision of law, there exists an implied contractual covenant of good faith and fair dealing in every limited liability company agreement~~, which may not be eliminated by the terms of the limited liability company agreement~~.

Sec. A-8. 31 MRSA §1531, sub-§3, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

3. Notice. The fact that a certificate of formation is on file in the office of the Secretary of State is notice of the matters required to be included by subsection 1, ~~paragraphs~~ paragraph A ~~and B~~, subparagraphs (1) and (2) and matters that may be included pursuant to section 1611, subsection 2, but is not notice of any other fact.

Sec. A-9. 31 MRSA §1533, sub-§1, ¶C, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

C. Upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting ~~entity~~ converted organization in a merger or consolidation; or

Sec. A-10. 31 MRSA §1551, sub-§2, ¶B, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

B. As the result of a transaction effective under subchapter ~~10~~ 12;

Sec. A-11. 31 MRSA §1591, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1591. Grounds for administrative dissolution of limited liability company

Notwithstanding Title 4, chapter 5 and Title 5, chapter 375, the Secretary of State may commence a proceeding under section 1592 to administratively dissolve a ~~domestic~~ limited liability company if:

1. Nonpayment of fees or penalties. The ~~domestic~~ limited liability company does not pay when due any fees or penalties imposed by this chapter or other law;

2. Failure to file annual report. The ~~domestic~~ limited liability company does not deliver its annual report to the Secretary of State as required by section 1665;

3. Failure to pay late filing penalty. The ~~domestic~~ limited liability company does not pay the annual report late filing penalty as required by section 1667;

4. Failure to maintain registered agent. The ~~domestic~~ limited liability company is without a registered agent in this State as required by section 1661 and Title 5, section 105, subsection 1;

5. Failure to notify of change of registered agent or address. The ~~domestic~~ limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or that its registered agent has resigned as required by Title 5, section 111; or

6. Filing of false information. A member, manager or agent of the ~~domestic~~ limited liability company signed a document with the knowledge that the document was false in a material respect and with the intent that the document be delivered to the office of the Secretary of State for filing.

Sec. A-12. 31 MRSA §1592, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1592. Procedure for and effect of administrative dissolution of limited liability company

1. Notice of determination to administratively dissolve limited liability company. If the Secretary of State determines that one or more grounds exist under section 1591 for dissolving a ~~domestic~~ limited liability company, the Secretary of State shall serve the limited liability company with written notice of that determination as required by subsection 8.

2. Administrative dissolution. The ~~domestic~~ limited liability company is administratively dissolved if, within 60 days after the notice under subsection 1 is issued and is perfected under subsection 8, the Secretary of State determines that the limited liability company has failed to correct the ground or grounds for the dissolution. The Secretary of State shall send notice to the limited liability company as required by subsection 8 that recites the ground or grounds for dissolution and the effective date of dissolution.

3. Effect of administrative dissolution; prohibition. A ~~domestic~~ limited liability company administratively dissolved continues its existence but may not transact any business in this State except as necessary to wind up the affairs of the limited liability company.

4. Validity of contracts; right to be sued; right to defend suit. The administrative dissolution of a ~~domestic~~ limited liability company under this section does not impair:

A. The validity of any contract or act of the ~~domestic~~ limited liability company;

B. The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or

C. The right of the ~~domestic~~ limited liability company to defend any action, suit or proceeding in any court of this State.

5. Authority of registered agent. The administrative dissolution of a ~~domestic~~ limited liability company does not terminate the authority of its registered agent.

6. Protecting limited liability company name after administrative dissolution. The name of a ~~domestic~~ limited liability company remains in the office of the Secretary of State's record of limited liability company names and is protected for a period of 3 years following administrative dissolution.

7. Notice to Superintendent of Financial Institutions in case of financial institution or credit union. In the case of a financial institution authorized to do business in this State or a credit union authorized to do business in this State, as defined in Title 9-B, section 131, the Secretary of State shall notify the Superintendent of Financial Institutions within a reasonable time prior to administratively dissolving the financial institution or credit union under this section.

8. Delivery of notice. The Secretary of State shall send notice of its determination under subsection 1 by regular mail or other medium as defined by rule by the Secretary of State and the service upon the ~~domestic~~ limited liability company is perfected 5 days

after the Secretary of State deposits its determination in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed or delivered by a medium authorized by the Secretary of State to the registered agent of the limited liability company.

Sec. A-13. 31 MRSA §1593, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1593. Reinstatement following administrative dissolution of limited liability company

1. Application for reinstatement. A ~~domestic~~ limited liability company administratively dissolved under section 1592 may apply to the Secretary of State for reinstatement within 6 years after the effective date of administrative dissolution. The application must:

A. State the name of the ~~domestic~~ limited liability company and the effective date of its administrative dissolution;

B. State that the ground or grounds for dissolution of the ~~domestic~~ limited liability company either did not exist or have been eliminated; and

C. State that the ~~domestic~~ limited liability company's name satisfies the requirements of section 1508.

2. Reinstatement after administrative dissolution. If the Secretary of State determines that the application contains the information required under subsection 1 and is accompanied by the reinstatement fee set forth in section 1680, subsection 17 and that the information is correct, the Secretary of State shall cancel the administrative dissolution and prepare a notice of reinstatement that recites that determination and the effective date of reinstatement. The Secretary of State shall use the procedures set forth in section 1592, subsection 8 to deliver the notice to the ~~domestic~~ limited liability company.

3. Effect of reinstatement. When the reinstatement is effective under subsection 2, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and the ~~domestic~~ limited liability company resumes business as if the administrative dissolution had not occurred.

4. Cancellation of certificate of formation. In the event a ~~domestic~~ limited liability company that is administratively dissolved under section 1592 fails to be reinstated in accordance with the terms of this section within 6 years after the effective date of administrative dissolution, the Secretary of State shall cancel the certificate of formation of the limited liability company ~~must be cancelled~~, effective on the 6th anniversary of the effective date of administrative dissolution.

Sec. A-14. 31 MRSA §1594, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1594. Appeal from denial of reinstatement of limited liability company

1. Denial of reinstatement. If the Secretary of State denies a ~~domestic~~ limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the ~~domestic~~ limited liability company under section 1592, subsection 8 with a written notice that explains the reason or reasons for denial.

2. Appeal. A ~~domestic~~ limited liability company may appeal a denial of reinstatement under subsection 1 to the Superior Court of the county where the limited liability company's principal office is located or, if there is no principal office in this State, in Kennebec County within 30 days after the date of the notice of denial. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's notice of administrative dissolution, the limited liability company's application for reinstatement and the Secretary of State's notice of denial.

3. Court action. The court may summarily order the Secretary of State to reinstate an administratively dissolved ~~domestic~~ limited liability company or may take other action the court considers appropriate.

4. Final decision. The court's final decision in an appeal under this section may be appealed as in other civil proceedings.

Sec. A-15. 31 MRSA §1604, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1604. Revival of limited liability company after dissolution

1. Determination of need to revive company. If the Secretary of State finds that a ~~domestic~~ limited liability company has dissolved in any manner under this chapter, that the certificate of formation for that ~~domestic~~ limited liability company has been cancelled pursuant to section 1533 and that the ~~domestic~~ limited liability company should be revived for any specified purpose or purposes for a specific period of time, the Secretary of State may upon application by an interested party accompanied by the payment of the fee required by section 1680 file a certificate of revival in a form or format prescribed by the Secretary of State for reviving the ~~domestic~~ limited liability company.

2. Certificate of revival. The certificate of revival must include:

A. The name of the limited liability company prior to revival;

B. The name of the limited liability company following revival, which limited liability company name must comply with section 1508;

C. The date of formation of the limited liability company;

D. The date of dissolution of the limited liability company, if known, together with the date the certificate of cancellation was filed by the Secretary of State;

E. The name and address of the registered agent of the limited liability company prior to revival. If the registered agent has resigned or no longer can be located by the limited liability company, the limited liability company shall deliver for filing a form appointing a registered agent as required by Title 5, chapter 6-A, which form must accompany the certificate under this section;

F. The name and address of the party or parties requesting the revival;

G. The purpose or purposes for which revival is requested; and

H. The time period needed to complete the purpose or purposes specified under paragraph G.

3. Notice of revival. The Secretary of State shall issue a notice to the ~~domestic~~ limited liability company to the address provided in subsection 2, paragraph F stating that the revival has been granted for the purpose or purposes and for the time period specified pursuant to the certificate of revival filed under this section.

4. Amendment to certificate of formation. Once the revival has been granted in accordance with subsection 3, the certificate of revival is deemed to be an amendment to the certificate of formation of the limited liability company, and the limited liability company may not be required to take any further action to amend its certificate of formation under this chapter with respect to the matters set forth in the certificate of revival.

5. Termination of revival. When the time period specified in subsection 2, paragraph H has expired, the Secretary of State shall issue a notice to the ~~domestic~~ limited liability company at the address provided in subsection 2, paragraph F that the status of the limited liability company has returned to the status prior to filing the certificate of revival under this section.

Sec. A-16. 31 MRSA §1621, sub-§4, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is repealed and the following enacted in its place:

4. Rights; privileges; duties; restrictions; penalties; liabilities. A foreign limited liability company that has filed a statement of foreign qualification:

A. Has in this State the same but no greater rights of a limited liability company of like character;

B. Has in this State the same but no greater privileges as a limited liability company of like character; and

C. Except as otherwise provided by this chapter, is in this State subject to the same duties, restrictions, penalties and liabilities now or later imposed on a limited liability company of like character.

Sec. A-17. 31 MRSA §1625, sub-§5, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

5. Failure to notify of change of registered agent or address. The foreign limited liability company does not notify the Secretary of State that its registered agent has changed as required by Title 5, section 108, subsection 1 or the address of its registered agent has been changed as required by Title 5, section 109 or 110 or ~~that~~ fails to appoint a replacement registered agent after its registered agent has resigned ~~as required by~~ under Title 5, section 111;

Sec. A-18. 31 MRSA §1626, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Revocation. The statement of foreign qualification is revoked if ~~within 60 days after the notice under subsection 1 was issued~~ the Secretary of State determines that the foreign limited liability company has failed to correct the ground or grounds for revocation within 60 days after the notice under subsection 1 was issued. The Secretary of State shall send notice to the foreign limited liability company as required by subsection 7 that recites the ground or grounds for revocation and the effective date of revocation.

Sec. A-19. 31 MRSA §1631, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Direct action against member. Subject to subsection 2, a member may maintain a direct action against another member, a manager or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the ~~operating~~ limited liability company agreement or this chapter or arising independently of the membership relationship.

Sec. A-20. 31 MRSA §1632, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Demand. The member first makes a demand on the limited liability company to take suitable action, and the limited liability company does not take suitable action within a reasonable time; or

Sec. A-21. 31 MRSA §1637, sub-§1, ¶B, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

B. No ~~membership~~ transferable interests listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national securities association.

Sec. A-22. 31 MRSA §1643, sub-§2, ¶E, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is repealed and the following enacted in its place:

E. If the surviving organization exists before the merger:

(1) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization that are in a public record; or

(2) A statement that the organizational documents remain unchanged;

Sec. A-23. 31 MRSA §1644, sub-§1, ¶H, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

H. Except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of subchapter ~~7~~ 8;

Sec. A-24. 31 MRSA §1648, sub-§2, ¶F, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

F. Except as otherwise agreed, the converting organization is not required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion may not be deemed to constitute a dissolution of that converting organization. When a converting organization has been converted to a limited liability company pursuant to this ~~section~~ subchapter, the limited liability company is deemed to be the same organization as the converting organization, and the conversion constitutes a continuation of the existence of the converting organization in the form of a limited liability company;

Sec. A-25. 31 MRSA §1661, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1661. Registered agent for limited liability company

A ~~domestic~~ limited liability company must have and continuously maintain a registered agent in this State as defined by Title 5, section 102, subsection 27.

Sec. A-26. 31 MRSA §1662, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1662. Service of process

Service of process, notice or demand required or permitted by law on a ~~domestic~~ limited liability company is governed by Title 5, section 113.

Sec. A-27. 31 MRSA §1678, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is repealed.

Sec. A-28. 31 MRSA §1678, sub-§3 is enacted to read:

3. Unsworn falsification. The execution of a certificate or articles containing one or more false statements constitutes unsworn falsification under Title 17-A, section 453.

Sec. A-29. 31 MRSA §1679, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Street or rural route. An actual street address or rural route box number ~~in this State~~; and

Sec. A-30. 31 MRSA §1679, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Mailing address. A mailing address ~~in this State~~, if different from the address under subsection 1.

Sec. A-31. 31 MRSA §1680, sub-§17, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

17. Reinstatement fee after administrative dissolution. For failure to file an annual report, a fee of $150, to a maximum fee of $600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of $150; for failure to appoint or maintain a registered agent, a fee of $150; for failure to notify the Secretary of State that the registered agent or the address of the registered agent has been changed or ~~that~~ failure to appoint a replacement registered agent after the registered agent has resigned, a fee of $150; and for filing false information, a fee of $150;

Sec. A-32. 31 MRSA §1693, sub-§2, ¶B, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

B. Solely for purposes of applying section 1541, ~~language in~~ the limited liability company's articles of organization ~~designating the limited liability company's management structure operates as if that language were in the limited liability company agreement~~ operate as a statement of authority filed pursuant to section 1542. For this purpose, the designation of the company's management structure in the articles of organization must be treated as a statement described in section 1542, subsection 1, paragraph C and the statement of the name of the limited liability company must

be treated as satisfying the requirement under section 1542, subsection 1, paragraph A.

Sec. A-33. 31 MRSA §1693, sub-§5, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

5. Administrative dissolution prior to effective date. A ~~domestic~~ limited liability company administratively dissolved under former chapter 13 is deemed to have been administratively dissolved under section 1592 for purposes of reinstatement following administrative dissolution under section 1593.

PART B

Sec. B-1. 31 MRSA §852, sub-§1, ¶N, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

N. Being a partner in a registered limited partnership or a domestic general partnership or a member in a ~~domestic~~ limited liability company.

Sec. B-2. 31 MRSA §1431, sub-§9, ¶C, as enacted by PL 2005, c. 543, Pt. C, §2, is amended to read:

C. For a ~~domestic~~ limited liability company or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;

Sec. B-3. 31 MRSA §1502, sub-§20, ¶C, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

C. For a ~~domestic~~ limited liability company or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable records as provided in its governing statute;

Sec. B-4. 31 MRSA §1508, sub-§5, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

5. Use of another limited liability company's name. A limited liability company may use the name, including the assumed or fictitious name, of another ~~domestic~~ limited liability company or foreign limited liability company that is used in this State if the other limited liability company is organized or authorized to transact business in this State and the limited liability company proposing to use the name:

A. Has merged with the other limited liability company;

B. Has been formed by reorganization of the other limited liability company; or

C. Has acquired all or substantially all of the assets, including the limited liability company name, of the other limited liability company.

Sec. B-5. 31 MRSA §1510, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Authorized to transact business. Upon complying with this section, a ~~domestic~~ limited liability company or foreign limited liability company that has filed a statement of foreign qualification in this State may transact its business in this State under one or more assumed or fictitious names.

Sec. B-6. 31 MRSA §1511, sub-§5, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

5. Qualify as foreign limited liability company. A foreign limited liability company whose registration under this section is effective may, after the registration is effective, file a statement of foreign qualification as a foreign limited liability company under the registered name or may consent in writing to the use of that name by a limited liability company organized under this chapter or by another foreign limited liability company authorized to transact business in this State. The registration terminates when the ~~domestic~~ limited liability company is organized or the foreign limited liability company files a statement of foreign qualification or consents to the qualification of another foreign limited liability company under the registered name.

Sec. B-7. 31 MRSA §1664, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Certificate of existence; certificate of qualification. The Secretary of State, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a ~~domestic~~ limited liability company or certificate of qualification for a foreign limited liability company if the records filed in the office of the Secretary of State show that the limited liability company has been formed under the laws of this State or authorized to transact business in this State. A certificate of existence or certificate of qualification must state:

A. The limited liability company's name;

B. That, if a ~~domestic~~ limited liability company, the limited liability company is duly formed under the laws of this State and the date of formation;

C. That, if a foreign limited liability company, the foreign limited liability company is authorized to transact business in this State, the date on which the limited liability company was authorized to transact business in this State and its jurisdiction of organization;

D. That all fees and penalties owed to the State have been paid in full, if:

(1) Payment is reflected in the records of the office of the Secretary of State; and

(2) Nonpayment affects the existence or authorization of the ~~domestic~~ limited liability company or foreign limited liability company;

E. That the limited liability company's most recent annual report required by section 1519 has been filed by the Secretary of State;

F. Whether the limited liability company has delivered to the office of the Secretary of State for filing a certificate of cancellation by a ~~domestic~~ limited liability company or a statement of cancellation of foreign qualification; and

G. Other facts of record in the office of the Secretary of State that are specified by the person requesting the certificate.

Sec. B-8. 31 MRSA §1665, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Annual report. Each year, each ~~domestic~~ limited liability company or each foreign limited liability company authorized to conduct business in this State shall deliver to the office of the Secretary of State for filing an annual report setting forth:

A. The name of the limited liability company or the foreign limited liability company;

B. The information required by Title 5, section 105, subsection 1;

C. The address of the limited liability company's or foreign limited liability company's principal office;

D. A brief statement of the character of the business in which the limited liability company is actually engaged in this State; and

E. The name and address of at least one ~~or more individuals designated as a contact~~ person ~~for~~ who is a member, manager or other authorized person of the limited liability company.

Sec. B-9. 31 MRSA §1665, sub-§5, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

5. Certificate of excuse. The Secretary of State, upon application by a ~~domestic~~ limited liability company and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the limited liability company, after which the limited liability company is excused from filing annual reports with the office of the Secretary of State, as long as the limited liability company in fact transacts no business. The name of a limited liability company remains in the office of the Secretary of State's records of entity names and is protected for a period of 5 years following excuse.

Sec. B-10. 31 MRSA §1665, sub-§6, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

6. Resumption of business. A ~~domestic~~ limited liability company that has been excused from filing annual reports pursuant to subsection 5 may elect to resume transacting business. A certificate executed and filed as provided in section 1673 setting forth that an election was made to resume the transaction of business authorizes the ~~domestic~~ limited liability company to resume transaction of business. After that certificate is filed, the ~~domestic~~ limited liability company is required to file annual reports beginning with the next reporting deadline following resumption.

Sec. B-11. 31 MRSA §1666, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1666. Amended annual report of limited liability company or foreign limited liability company

1. Amended annual report. If the information contained in an annual report filed under section 1519 has changed, a limited liability company may, if it determines it to be necessary, deliver to the office of the Secretary of State for filing an amended annual report to change the information on file.

2. Contents. The amended annual report under subsection 1 must set forth:

A. The name of the ~~domestic~~ limited liability company or foreign limited liability company and the jurisdiction of its organization;

B. The date on which the original annual report was filed; and

C. The information that has changed and the date on which it changed.

3. Filing date. An amended annual report under subsection 1 may be filed by the limited liability company after the date of the original filing and until December 31st of that filing year.

Sec. B-12. 31 MRSA §1667, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

§1667. Failure to file annual report; incorrect report; penalties

1. Failure to file; penalty. A ~~domestic~~ limited liability company or foreign limited liability company that is required to deliver an annual report for filing as provided by section 1665 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee,

the late filing penalty set forth in section 1680, subsection 10 as long as the report is received by the Secretary of State prior to revocation or administrative dissolution. Upon a limited liability company's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and administratively dissolve a ~~domestic~~ limited liability company. The Secretary of State shall use the procedures set forth in section 1592 to administratively dissolve a ~~domestic~~ limited liability company and the procedures set forth in section 1626 to revoke a foreign limited liability company's authority to transact business in this State. A ~~domestic~~ limited liability company that has been administratively dissolved under section 1592 must follow the requirements set forth in section 1603 to reinstate.

2. Return for correction. If the Secretary of State finds that an annual report delivered for filing does not conform with the requirements of section 1665, the report must be returned for correction.

3. Excused from liability. If the annual report of a ~~domestic~~ limited liability company or foreign limited liability company is not delivered for filing within the time specified in section 1665, the limited liability company is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

Sec. B-13. 31 MRSA §1672, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Recording as filed; acknowledgment. The Secretary of State files a document pursuant to subsection 1 by recording it as filed on the date of receipt. After filing a document, the Secretary of State shall deliver to the ~~domestic~~ limited liability company or foreign limited liability company or its representative a copy of the document with an acknowledgement of the date of filing. If the person delivering the document for filing so requests, the acknowledgment must further include the hour and minute of filing.

Sec. B-14. 31 MRSA §1672, sub-§3, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

3. Refusal to file; written explanation. If the Secretary of State refuses to file a document, the Secretary of State shall return it to the ~~domestic~~ limited liability company or foreign limited liability company or its representative within 5 days after the document was delivered, together with a brief written explanation of the reason for the refusal.

Sec. B-15. 31 MRSA §1675, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

1. Statement of correction. A ~~domestic~~ limited liability company or foreign limited liability company may deliver to the office of the Secretary of State for filing a statement of correction to correct a record previously delivered by the ~~domestic~~ limited liability company or foreign limited liability company to the office of the Secretary of State and filed by the Secretary of State if at the time of filing the record contained incorrect information or was defectively signed or if the information subsequently becomes inaccurate.

Sec. B-16. 31 MRSA §1677, sub-§2, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

2. Party to action. If a petitioner under subsection 1 is not the ~~domestic~~ limited liability company or foreign limited liability company to whom the record pertains, the petitioner shall make the domestic limited liability company or foreign limited liability company a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in a separate action against the person required to sign the record or as a part of any other action concerning the limited liability company in which the person required to sign the record is made a party.

Sec. B-17. 31 MRSA §1680, sub-§6, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

6. Annual report. For filing of an annual report under section 1665, a fee of $85 for a ~~domestic~~ limited liability company or a fee of $150 for a foreign limited liability company;

Sec. B-18. 31 MRSA §1680, sub-§9, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

9. Amended annual report. For filing of an amended annual report under section 1666, a fee of $85 for a ~~domestic~~ limited liability company or a fee of $150 for a foreign limited liability company;

Sec. B-19. 31 MRSA §1680, sub-§18, as corrected by RR 2009, c. 2, §86, is amended to read:

18. Certificate of revival after dissolution. For filing a certificate of revival after dissolution for a ~~domestic~~ limited liability company under section 1604, a fee of $150;

Sec. B-20. 39-A MRSA §324, sub-§3, ¶C, as amended by PL 2009, c. 520, §2, is further amended to read:

C. The employer, if organized as a corporation, is subject to administrative dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do business in this State as provided in Title 13-C, section 1532. The employer, if organized as a ~~domestic~~ limited liability company, is subject to administrative dissolution as provided in Title 31, section ~~608-B~~ 1592. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A or whose license may be revoked or suspended by proceedings in the District Court or by the Secretary of State, is subject to revocation or suspension of the license, certification or registration.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2011.

Effective July 1, 2011.

CHAPTER 114

H.P. 608 - L.D. 812

An Act To Allow Municipalities the Option To Subsidize Publicly Owned Bus Stops through Advertising

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

Sec. 1. 23 MRSA §1908-A is enacted to read:

§1908-A. Outdoor advertising; publicly owned bus stops

A municipality may erect and maintain at a publicly owned bus stop outdoor advertising signs visible to the traveling public from a public way. For purposes of this section, "bus stop" means a place where a public transport bus stops for the purpose of allowing passengers to board or leave the bus. The municipality is responsible for the administration of outdoor advertising signs under this section. Any revenue collected under this section by a municipality must be used for transportation purposes, including, but not limited to, maintenance of a publicly owned bus stop.

See title page for effective date.

CHAPTER 115

H.P. 403 - L.D. 520

An Act To Allow a Waiver for On-premises Signs

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

Sec. 1. 23 MRSA §1903, sub-§8, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

8. On-premises sign. "~~On-premise~~ On-premises sign" means a sign ~~which~~ that is erected and maintained according to the standards set forth in section 1914 upon the ~~same~~ real property ~~that~~ upon which the business, facility or point of interest advertised by the sign is located or an approach sign as permitted by section 1914, subsection 10. The ~~signs shall only~~ sign may advertise only the business, facility or point of interest ~~conducted thereon~~ at, or the sale, rent or lease of, the property upon which it is located.

Sec. 2. 23 MRSA §1914, sub-§4, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

4. Location, relation to public way. ~~No on-premise~~ On-premises signs ~~may be permitted~~ are prohibited:

A. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;

B. ~~Within~~ Except as provided in subsection 4-A, within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width; ~~or~~ and

C. Within the full width of the right-of-way of any public way.

Paragraphs A and B ~~shall~~ do not apply to signs erected before September 1, 1957.

Sec. 3. 23 MRSA §1914, sub-§4-A is enacted to read:

4-A. Waiver. The commissioner may grant a person a written waiver of the prohibition under subsection 4, paragraph B for an on-premises sign when the owner of property on which the on-premises sign is to be located assumes all costs for removal and installation of the on-premises sign and provides a written statement of this fact to the registry of deeds for the county where the on-premises sign is to be located if:

A. The majority of on-premises signs on either edge of the public way within 1,000 feet of the location of the proposed on-premises sign are located within 20 feet from the outside edge of the paved portion of the public way; or

B. The proposed on-premises sign replaces an existing on-premises sign at the same location within 20 feet from the outside edge of the paved portion of the public way.

If an on-premises sign is granted a waiver under this subsection, the owner of the on-premises sign does not gain any permanent property rights relating to the

right-of-way of the public way by installing the on-premises sign within the right-of-way of the public way. The department is not responsible for loss or damage to an on-premises sign under this subsection from the use of the right-of-way of the public way for highway purposes. An on-premises sign under this subsection may be removed by the department at any time without compensation to the owner of the on-premises sign and at the owner's expense to accommodate highway uses.

The commissioner may adopt rules necessary for the implementation of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 23, chapter 21 the term "on-premise" appears, it is amended to read "on-premises," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 116

H.P. 152 - L.D. 175

An Act To Create a Short-term All-terrain Vehicle Registration System

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

Sec. 1. 12 MRSA §13155, sub-§5, as amended by PL 2005, c. 12, Pt. III, §43, is repealed and the following enacted in its place:

5. Fees. The ATV registration fee is:

A. For a resident, $33 annually. The registration for an ATV owned by a resident is valid for one year, beginning on July 1st of each year; and

B. For a nonresident:

(1) Fifty-three dollars for a registration valid for 7 consecutive days. A person may purchase more than one 7-day registration in any season; and

(2) Sixty-eight dollars for a registration valid for one year.

The registration for an ATV owned by a nonresident must specify the dates for which the registration is valid.

Sec. 2. Effective date. This Act takes effect May 1, 2012.

Effective May 1, 2012.

CHAPTER 117

H.P. 349 - L.D. 456

An Act Relating to Temporary Disability Parking Permits

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

Sec. 1. 29-A MRSA §521, sub-§6-A is enacted to read:

6-A. Parking permit. The Secretary of State shall create a 21-day parking permit for a person with a disability to be used while a person is waiting to receive a disability registration plate or placard and may appoint a licensed physician, physician assistant, nurse practitioner or registered nurse as an agent authorized solely to issue such a permit. The Secretary of State shall determine by rule qualifications and requirements for an agent authorized under this subsection. The 21-day parking permit must be in a form prescribed by the Secretary of State by rule and convey the privileges and restrictions authorized under this section. The 21-day parking permit must be displayed in a manner so that it may be viewed from the front of the vehicle whenever the vehicle is parked in a parking space for a person with a disability. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Agents appointed pursuant to this subsection may not charge a fee for issuing a 21-day parking permit for a person with a disability.

See title page for effective date.

CHAPTER 118

S.P. 57 - L.D. 207

An Act To Amend the Laws Regarding Tips Used in Payment of Service Employees

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

Sec. 1. 26 MRSA §663, sub-§8, as amended by PL 2007, c. 367, §1, is further amended to read:

8. Service employee. "Service employee" means any employee engaged in an occupation~~, such as waiters, waitresses, bellhops, counter personnel and bartenders who serve customers,~~ in which the employee customarily and regularly receives more than $30 a month in tips.

Sec. 2. 26 MRSA §663, sub-§15 is enacted to read:

15. Tip. "Tip" means a sum presented by a customer in recognition of services performed by one or

more service employees, including a charge automatically included in the customer's bill. "Tip" does not include a service charge added to a customer's bill in a banquet or private club setting by agreement between the customer and employer.

Sec. 3. 26 MRSA §664, sub-§2, as amended by PL 2007, c. 367, §2, is further amended to read:

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

The tips received by a service employee become the property of the employee and may not be shared with the employer. ~~Service employees may volunteer to pool their tips to be split among other service employees or may volunteer to share a part of their tips with other employees who do not generally receive tips directly from customers.~~ Tips that are automatically included in the customer's bill or that are charged to a credit card must be treated like tips given to the service employee. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

Sec. 4. 26 MRSA §664, sub-§§2-A and 2-B are enacted to read:

2-A. Tip pooling. This section may not be construed to prohibit an employer from establishing a valid tip pooling arrangement among service employees that is consistent with the federal Fair Labor Standards Act and regulations made pursuant to that Act.

2-B. Service charges. An employer in a banquet or private club setting that adds a service charge shall notify the customer that the service charge does not represent a tip for service employees. The employer in a banquet or private club setting may use some or all of any service charge to meet its obligation to compensate all employees at the rate required by this section.

See title page for effective date.

CHAPTER 119

H.P. 254 - L.D. 321

An Act To Change the Qualifications of Certain Members of the Board of Pesticides Control

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

Sec. 1. 22 MRSA §1471-B, sub-§1, as amended by PL 2007, c. 466, Pt. B, §17, is further amended to read:

1. Board established. The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Food and Rural Resources. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System ~~specializing in agronomy or entomology~~ having practical experience and ~~knowledge of~~ expertise in integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must ~~have a demonstrated interest in environmental protection and~~ represent different geographic areas of the State. The term must be for 4 years, except that of the initial appointees, 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and one shall serve a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

Sec. 2. Application. This Act does not require the terms of members serving on the Board of Pesticides Control on the effective date of this Act to be terminated.

See title page for effective date.

CHAPTER 120

H.P. 751 - L.D. 1015

An Act To Reduce Unnecessary Reporting Requirements Related to Natural Resources

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

Sec. 1. 4 MRSA §152, sub-§6-A, ¶C, as amended by PL 1991, c. 377, §1, is further amended to read:

C. Shoreland zoning ordinances enacted under Title 30-A, section 3001, and in accordance with Title 38, sections 435 to 446 ~~and section 449~~;

Sec. 2. 38 MRSA §344, sub-§7, as amended by PL 1991, c. 804, Pt. A, §3, is further amended to read:

7. Permit by rule. The Board of Environmental Protection may permit, by rule, any class of activities that would otherwise require the individual issuance of a permit or approval by the board, if the board determines that activities within the class will have no significant impact upon the environment. Any such rule must describe with specificity the class of activities covered by the rule and may establish standards of design, construction or use as may be considered necessary to avoid adverse environmental impacts. Any such rule must require notification to the commissioner prior to the undertaking of the regulated activity.

~~The commissioner shall annually review activities requiring permits or approval from the department to determine whether any additional classes of activities are more effectively administered under a permit by rule system. As part of this review, the commissioner shall solicit public comments on recommendations for activities to be included under permit by rule and shall review the performance of the existing permit by rule program, including a review of the compliance record of the permit by rule program. The commissioner shall annually recommend to the board any additional categories of permits for the board to permit by rule.~~

Sec. 3. 38 MRSA §352, sub-§6, as amended by PL 1993, c. 736, §6, is repealed.

Sec. 4. 38 MRSA §449, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §49, is repealed.

Sec. 5. 38 MRSA §470-C, sub-§§8 and 9, as enacted by PL 2001, c. 619, §1, are amended to read:

8. In-stream storage ponds. A water withdrawal from an artificial pond constructed in a stream channel ~~provided~~ that ~~it~~ is subject to a minimum-flow release requirement in an existing permit~~, and~~ if the water user files a notice of intent to be covered by this exemption on a form to be provided by the department; ~~and~~

9. Duplication of reporting. A water withdrawal that is reported to any other state agency under any program requiring substantially similar data ~~provided that~~ if the other agency has entered into a memorandum of agreement with the department for the collection and sharing of that data~~.~~; and

Sec. 6. 38 MRSA §470-C, sub-§10 is enacted to read:

10. Agricultural producers. An agricultural producer that is subject to rules adopted under section 470-H and the provisions of Title 7, section 353.

Sec. 7. 38 MRSA §470-D, 2nd ¶, as enacted by PL 2001, c. 619, §1 and amended by PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

Water withdrawal reports must be submitted to either the Commissioner of Environmental Protection, the Commissioner of Conservation~~,~~ or the Commissioner of Health and Human Services ~~or the Commissioner of Agriculture, Food and Rural Resources~~ in a form or manner prescribed by that commissioner. No later than January 1, 2003, those commissioners shall jointly publish a list indicating which classes of users are to report to which department. The form and manner of reporting must be determined by each commissioner~~, provided~~ except that the required information ~~is~~ must be collected from each user above the threshold and in a manner that allows that data to be combined with data collected by the other commissioners. The reports must include information on actual and anticipated water use, the identification of the water source, the location of the withdrawal including the distance of each groundwater withdrawal from the nearest surface water source, the volume of the withdrawals that might be reasonably anticipated under maximum high-demand conditions and the number of days those withdrawals may occur each month and the location and volume of each point of discharge. The reporting may allow volumes to be reported in ranges established by the commissioners and reported volumes may be calculated estimates of volumes. The board, ~~the Department of Agriculture, Food and Rural Resources,~~ the Department of Conservation and the Department of Health and Human Services may adopt routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A as necessary to implement the reporting provisions of this article.

Sec. 8. 38 MRSA §585-D, last ¶, as amended by PL 2007, c. 619, §7, is repealed.

Sec. 9. 38 MRSA §585-H, as amended by PL 2003, c. 638, §3, is repealed.

Sec. 10. PL 1997, c. 444, §9 is repealed.

See title page for effective date.

CHAPTER 121

H.P. 758 - L.D. 1022

An Act To Amend the Law Concerning Overboard Discharge Systems

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

Sec. 1. 38 MRSA §413, sub-§3, as amended by PL 2009, c. 654, §3, is further amended to read:

3. Transfer of ownership. Application for transfer of a license must be made no later than 2 weeks after the transfer of ownership or interest in the source of the discharge is completed. If a person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge, without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, except that the parties to the transfer are jointly and severally liable for any violation until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42 based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection. The licensed site evaluator shall demonstrate experience in designing replacement systems for overboard discharge. If an alternative to the overboard discharge is identified, the alternative system must be installed within 90 days of property transfer, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A.

This subsection applies to overboard discharge licenses issued before September 1, 2010.

Sec. 2. 38 MRSA §413, sub-§3-A, ¶¶A and B, as enacted by PL 2009, c. 654, §4, are amended to read:

A. Application for transfer of an overboard discharge license must be made no later than 2 weeks after the transfer of ownership or interest in the source of the discharge is completed. If a person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license as long as the parties to the transfer are jointly and severally liable for any violation thereof until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

B. If there is a transfer, or if a significant action is proposed, the owner of an overboard discharge must conduct an alternatives analysis and may be required to remove the overboard discharge system as provided in this paragraph.

(1) Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(2) Except when it has been demonstrated within 5 years prior to the significant action, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to the significant action the owner of the overboard discharge shall determine the feasibility of a technologically proven alternative to the overboard discharge that is consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42.

(3) The determination concerning whether there is a technologically proven alternative to an overboard discharge must be based on documentation from a licensed site evaluator

provided by the applicant and approved by the Department of Environmental Protection that the system constitutes a best practicable treatment under section 414-A, subsection 1-B. If an alternative to the overboard discharge is identified, the alternative system must be installed within ~~90~~ 180 days of property transfer or significant action, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A. On a property transfer, a commercial establishment may request an extension of the ~~90-day~~ 180-day period based on information that an extension is necessary due to technical, economic or environmental considerations. The department may authorize an extension for a commercial establishment for as short an additional period as the department considers reasonable but in no case may an extension be authorized to continue beyond the expiration of the current waste discharge license or 2 years from the property transfer, whichever is later. Within 10 business days of receipt of a complete extension request, the department shall issue a written decision approving or denying the extension.

(4) When the ownership of a property containing an overboard discharge has been transferred, the transferee may request from the department a waiver from the requirement in subparagraph (3) to install an alternative system. The department shall grant the waiver upon demonstration by the transferee that the transferee's annual income as defined in section 411-A, subsection 2-A is less than $25,000. A request for a waiver must be submitted with an application for transfer of the overboard discharge license in accordance with paragraph A.

Nothing in this paragraph requires a municipality to withhold a local permit or approval associated with a significant action until the provisions of this paragraph have been met.

See title page for effective date.

CHAPTER 122

H.P. 742 - L.D. 1006

An Act To Provide a Remedy to Property Owners When a Tenant Defaults on a Lease

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

Sec. 1. 14 MRSA §6001, sub-§1-B is enacted to read:

1-B. Lease without termination or notice language. If a written lease or contract does not include a provision to terminate the tenancy or does not provide for any written notice of termination in the event of a material breach of a provision of the written lease or contract, either the landlord or the tenant may terminate the written lease or contract pursuant to this subsection.

A. A landlord may terminate the tenancy in accordance with section 6002, subsections 1 and 2. After a landlord has provided notice and service as provided in section 6002, including language advising the tenant that the tenant has the right to contest the termination in court, the landlord may commence a forcible entry and detainer action as provided in this section.

B. A tenant may terminate the tenancy by providing the landlord with 7 days' written notice of the termination if the landlord has substantially breached a provision of the written lease or contract. In the event that the tenant or the tenant's agent has made at least 3 good faith efforts to personally serve the landlord in-hand, that service may be accomplished by both mailing the notice by first-class mail to the landlord's last known address and by leaving the notice at the landlord's last and usual place of abode.

See title page for effective date.

CHAPTER 123

S.P. 93 - L.D. 313

An Act To Permit Insured Persons To Designate a 3rd Party To Receive Notice of Cancellation of Medicare Supplement Policies and To Restrict the Cancellation of Certain Insurance Policies for Nonpayment of Premium Due to Cognitive Impairment or Functional Incapacity

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

Sec. 1. 24-A MRSA §2556, sub-§§2 and 3, as enacted by PL 2007, c. 40, §1, are amended to read:

2. Restrictions on lapse or termination; cognitive impairment or functional incapacity. Notwithstanding any other provision of this chapter, ~~the bu-~~

~~reau shall adopt rules to~~ an insurer shall provide restrictions on cancellation, termination or lapse of individual life insurance policies in accordance with this subsection to reduce the danger that a life insurance policyholder will lose life insurance coverage ~~due to organic brain disease~~ when the policyholder suffers from cognitive impairment or functional incapacity and the loss of coverage is due to that cognitive impairment or functional incapacity. Within 90 days after cancellation, termination or lapse of coverage due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a life insurance policy may request reinstatement on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may request a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation, termination or lapse. The medical demonstration may be at the expense of the policyholder. A policy reinstated pursuant to this subsection must cover any loss or claim occurring from the date of the termination, cancellation or lapse and must be issued without any evidence of insurability. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this subsection shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation, termination or lapse of coverage. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

3. Rulemaking. The bureau may adopt rules to implement the requirements of this section. The rules adopted pursuant to this ~~section~~ subsection apply to all life insurance policies and riders delivered or issued for delivery, continued or renewed in this State. Rules adopted pursuant to this ~~section~~ subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24-A MRSA §2707-A, as enacted by PL 1989, c. 835, §2, is amended to read:

§2707-A. Notification prior to cancellation; restrictions on lapse or termination due to cognitive impairment or functional incapacity

~~The superintendent shall, by January 1, 1991, adopt rules to~~ An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of ~~premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease~~ premium.

Within 90 days after cancellation due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a health insurance policy or certificate may request reinstatement on the basis that the loss of coverage was the result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this section must cover any loss or claim occurring from the date of the cancellation. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this section shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

The superintendent may adopt rules to implement the requirements of this section. The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and ~~cancellation restrictions~~ the right of reinstatement. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 24-A MRSA §2847-C, as enacted by PL 1991, c. 695, §5 and c. 824, Pt. A, §51, is amended to read:

§2847-C. Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity

~~The superintendent shall, by January 1, 1991, adopt rules to~~ An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance certificate for nonpayment of ~~premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease~~ premium.

Within 90 days after cancellation due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a health insurance pol-

icy or certificate may request reinstatement on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this section must cover any loss or claim occurring from the date of the cancellation. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this section shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

The superintendent may adopt rules to implement the requirements of this section. The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and ~~cancellation restrictions~~ the right of reinstatement. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

Sec. 4. 24-A MRSA §5016 is enacted to read:

§5016. Notification prior to cancellation; restrictions on lapse or termination due to cognitive impairment or functional incapacity

1. Notice of cancellation. An insurer that issues Medicare supplement policies shall provide notification to the insured person and another person, if designated by the insured, prior to cancellation of a Medicare supplement policy for nonpayment of premiums.

2. Right to reinstatement. Within 90 days after cancellation, termination or lapse of coverage due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under the policy may request reinstatement of the policy on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation, termination or lapse. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this subsection must cover any loss or claim occurring from the date of the termination, cancellation or lapse and must be issued without any evidence of insurability. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this subsection shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

3. Rules. The superintendent may adopt rules to implement 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. The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

Sec. 5. Application. The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2012. For purposes of this Act, all policies, contracts and certificates are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 124

H.P. 375 - L.D. 482

An Act To Amend the Laws Dealing with Limitation of Actions

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

Sec. 1. 14 MRSA §817 is enacted to read:

§817. Limitation of actions for breach of covenants; vested interest in 6-year limitations period

1. Twenty years. An action on a breach of covenants in any deed or other instrument for the conveyance of real property in this State or any interest therein must be commenced within 20 years after the

cause of action accrues. This subsection applies to all deeds and other instruments for the conveyance of real property executed on or after October 7, 1967.

2. Vested interest in 6-year statute of limitations; notice, right of action; trial. A person who is a party to an instrument conveying real property that was not executed under seal and for which the 6-year statute of limitations on causes of action for breach of covenants expired before the effective date of this section and who claims the benefit of the 6-year statute of limitations may record within 12 months of the effective date of this section in the registry of deeds where the instrument is recorded or the property is located a conformed copy of the notice set forth in this subsection.

A. The notice must include the names of the current record owner of the real property that was the subject of the instrument and the mortgagees of record. Within 20 days of recording the notice, the person shall give a copy of the notice to the current record owners and the mortgagees by mailing by the United States Postal Service, postage prepaid. The notice must be substantially as follows.

"NOTICE

By virtue of the Maine Revised Statutes, Title 14, section 817, subsection 2, the following instrument that was not executed under seal is deemed to be subject to a 20-year limitations period for breach of covenants if no claim of a vested right to assert the 6-year statute of limitations for breach of covenants is timely made:

(list here the instrument by grantor name, grantee name, date of execution and recording information, if any)

This instrument affects real estate located at (identify here street location, municipality and county where the real estate is located).

Pursuant to the Maine Revised Statutes, Title 14, section 817, the undersigned hereby claims a vested right to assert the defense of statute of limitations for any cause of action asserting a breach of covenants in the above described instrument that is not commenced within 6 years of the date the cause of action accrued."

B. A person receiving a notice under paragraph A is barred from maintaining an action for breach of covenants under the identified instrument by the 6-year limitations period unless within one year from the date of the recording of the notice the person files in the registry of deeds where the notice was recorded a statement under oath claiming application of the 20-year statute of limitations. The claim to applicability of the 20-year statute of limitations is barred unless, within 180 days of the recording of the statement, the claimant or a person on behalf of the claimant commences a declaratory judgment action under Title 14, chapter 707.

C. Upon trial of an action initiated under paragraph B, the court shall declare the 20-year limitations period applicable if the court finds that:

(1) The grantee of the instrument did not, at the time of delivery of the instrument, intend for the 6-year statute of limitations to apply; or

(2) The grantor executed the instrument fraudulently or in bad faith.

See title page for effective date.

CHAPTER 125

H.P. 514 - L.D. 718

An Act Regarding the Milk Handling Fee

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

Sec. 1. 36 MRSA §4901, sub-§3, as enacted by PL 2005, c. 396, §8, is amended to read:

3. Handler. "Handler," with respect to a particular container of packaged milk, means the wholesale handler or, if none, the producer-handler or the retail handler. If more than one wholesale handler handles a particular container of packaged milk in this State, "handler" means the wholesale handler that first handles a particular container of packaged milk.

Sec. 2. 36 MRSA §4902, sub-§1, as amended by PL 2007, c. 240, Pt. PPP, §1 and c. 269, §1, is further amended to read:

1. Fee. Upon notification by the Maine Milk Commission in accordance with Title 7, section 2954, subsection 16, the assessor shall levy and impose a fee at the rate established in subsection 2-A on the handling in this State of packaged milk for sale in this State. With respect to the handling in this State of a particular container of packaged milk for sale in this State, the fee must be paid by the handler, but in no event may a container of packaged milk for sale in this State be subject to more than one handling fee. There is no fee on the handling in this State of packaged milk for sale in containers of less than one quart or more than 20 ~~or more~~ quarts in volume, or packaged milk that is sold to an institution that is owned and operated by the State or the Federal Government.

Sec. 3. 36 MRSA §4903 is enacted to read:

§4903. Credit or refund for fee paid for packaged milk

1. Credit or refund allowed. A handler or handler's designee may claim a credit or refund for a fee paid pursuant to this chapter on packaged milk that is subsequently exported from this State by a customer of the handler or the handler's designee for sale out of state.

2. Handler's claim for credit or refund. A handler claiming a credit or refund under subsection 1 must file a claim with the assessor. The credit or refund must be claimed on the report required under section 4902, subsection 5. A handler may not claim a credit or refund under this section for any sales occurring before October 1, 2011.

3. Designee's claim for credit or refund. A handler's designee claiming a credit or refund under subsection 1 must file a claim with the assessor. The credit or refund must be claimed on a report required under section 4902, subsection 5 or other form as prescribed by the assessor. A handler's designee may not claim a credit or refund under this section for any sales occurring before October 1, 2011.

See title page for effective date.

CHAPTER 126

H.P. 760 - L.D. 1024

An Act To Amend the Laws Governing Land Surveyors

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

Sec. 1. 33 MRSA §801, as amended by PL 1999, c. 689, §1 and affected by §7, is repealed.

Sec. 2. 33 MRSA §801-A is enacted to read:

§801-A. Definitions

The systems of plane coordinates that have been established by the National Ocean Survey, and the National Geodetic Survey, or their successors, and the State for defining and stating the geographic positions of locations of points on the surface of the earth within the State are hereafter to be known and designated as the Maine Coordinate System of 1927, the Maine Coordinate System of 1983 and the Maine Coordinate System of 2000. For the purpose of the use of these systems, the State is divided into the "East Zone," "West Zone," "Maine 2000 West Zone," "Maine 2000 Central Zone," and "Maine 2000 East Zone" as follows.

1. East Zone. The area included in the following counties constitutes the East Zone: Aroostook, Hancock, Knox, Penobscot, Piscataquis, Waldo and Washington.

2. West Zone. The area included in the following counties constitutes the West Zone: Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc, Somerset and York.

3. Maine 2000 West Zone. The Maine 2000 West Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the county line between Aroostook and Somerset counties, thence following the Somerset County line easterly to the northwest corner of the Somerset and Piscataquis county line, thence southerly along this county line to the northeast corner of the Athens town line, thence westerly along the town line between Brighton Plantation and Athens to the westerly corner of Athens, and continuing southerly to the southwest corner of the town of Athens where it meets the Cornville town line, thence westerly along the Cornville - Solon town line to the intersection of the Cornville - Madison town line, thence southerly and westerly following the Madison town line to the intersection of the Norridgewock - Skowhegan town line, thence southerly along the Skowhegan town line to the Fairfield town line, thence easterly along the Fairfield town line to the Clinton town line, being determined by the Kennebec River, thence southerly along the Kennebec River to the Augusta city line, thence easterly along the city line to the Windsor town line, thence southerly along the Augusta - Windsor town line to the northwest corner of the Lincoln County line, thence southerly along the westerly Lincoln County line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary southwesterly to the Maine - New Hampshire state line, thence following the state boundary on the westerly side of the State to the point of beginning.

4. Maine 2000 Central Zone. The Maine 2000 Central Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the county line between Aroostook and Somerset counties, thence northeasterly along the state line to the intersection of the Fort Kent - Frenchville town line, thence southerly along this town line to the intersection with the New Canada Plantation - T17 R5 WELS town line, thence continuing southerly along town lines to the northeast corner of Penobscot County, thence continuing southerly along the Penobscot County line to the intersection of the Woodville - Mattawamkeag town line (being determined by the Penobscot River), thence along the Penobscot River to the Enfield - Lincoln town line, thence southeasterly along the Enfield - Lincoln town line and the Enfield - Lowell town line, thence westerly to the northeast corner of the town of Passadumkeag, thence south-southeasterly along town lines to the intersection of the Hancock County line, thence

southerly along the county line to the intersection of the Otis - Mariaville town line, thence southerly along the Otis - Mariaville town line to the Ellsworth city line, thence southerly along the Ellsworth city line to the intersection of the Surry - Trenton town line, thence southerly along the easterly town lines of Surry, Blue Hill, Brooklin, Deer Isle and Stonington to the Knox County line, thence following the Knox County line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary westerly to the intersection of the Sagadahoc - Lincoln county line, thence northerly along the easterly boundary of the Maine 2000 West Zone, as defined, to the point of beginning.

5. Maine 2000 East Zone. The Maine 2000 East Zone is the area bounded by the following: beginning at the point determined by the intersection of the Maine state line and the Fort Kent - Frenchville town line, thence continuing easterly and then southerly along the state line to the boundary of the State of Maine as determined by maritime law, thence following the state boundary westerly to the intersection of the Knox - Hancock county line, thence northerly along the easterly boundary of the Maine 2000 Central Zone, as defined, to the point of beginning.

Sec. 3. 33 MRSA §802, as amended by PL 1999, c. 689, §1 and affected by §7, is repealed and the following enacted in its place:

§802. East, West, Maine 2000 West, Maine 2000 Central and Maine 2000 East zones

1. East Zone. As established for use in the East Zone, the Maine Coordinate System of 1927 or the Maine Coordinate System of 1983 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 1927 East Zone" or "Maine Coordinate System of 1983 East Zone."

2. West Zone. As established for use in the West Zone, the Maine Coordinate System of 1927 or the Maine Coordinate System of 1983 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 1927 West Zone" or "Maine Coordinate System of 1983 West Zone."

3. Maine 2000 West Zone. As established for use in the Maine 2000 West Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 West Zone."

4. Maine 2000 Central Zone. As established for use in the Maine 2000 Central Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 Central Zone."

5. Maine 2000 East Zone. As established for use in the Maine 2000 East Zone, the Maine Coordinate System of 2000 must be named and, in any land description in which it is used, must be designated the "Maine Coordinate System of 2000 East Zone."

Sec. 4. 33 MRSA §803, as amended by PL 1999, c. 689, §1 and affected by §7, is further amended to read:

§803. Plane coordinates of a point

The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of such point in the appropriate zone of this system, must consist of 2 distances ~~in~~ expressed in United States Survey feet and decimal feet or international meters and ~~decimals of a foot~~ decimal meters when using the Maine Coordinate System of 1927 ~~and expressed in meters and decimals of a meter when using,~~ the Maine Coordinate System of 1983 or the Maine Coordinate System of 2000. One of these distances, to be known as the "x-coordinate" or "Easting Coordinate," gives the position in an east-and-west direction; the other, to be known as the "y-coordinate" or "Northing Coordinate," gives the position in a north-and-south direction. These coordinates must be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the North American Horizontal Geodetic Control Network as published by the National Ocean Survey and the National Geodetic Survey, or ~~its~~ their successors, and whose plane coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to any of the Maine Coordinate Systems.

Sec. 5. 33 MRSA §806, as repealed and replaced by PL 1981, c. 156, is amended to read:

§806. Use in making official records of land boundaries

No coordinates based on ~~either~~ any of the Maine Coordinate ~~System~~ Systems and originating from established Federal Geodetic Control Committee of the United States Department of Commerce or predecessor or successor agency control points and purporting to define the position of a point on a land boundary may be presented to be recorded in any public land records or deed records, unless the survey method used for the determination of these coordinates is specifically described on the record plan or description of the survey.

Sec. 6. 33 MRSA §807-A, as repealed and replaced by PL 1999, c. 689, §6 and affected by §7, is repealed.

See title page for effective date.

CHAPTER 127

H.P. 487 - L.D. 657

An Act To Permit Disposal of Abandoned Manufactured Housing

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

Whereas, legislation enacted last year inadvertently repealed the statutory process governing the disposal of abandoned manufactured housing or mobile homes; and

Whereas, this legislation provides mobile home park owners and operators a process for disposing of abandoned manufactured housing or mobile homes, including modular homes located on leased land; and

Whereas, immediate enactment is necessary to allow mobile home park owners and operators the ability to dispose of currently abandoned manufactured housing or mobile homes; 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 §9097, sub-§1-B is enacted to read:

1-B. Abandoned mobile home or manufactured housing. Manufactured housing that is abandoned or unclaimed by a tenant following the tenant's eviction in accordance with this section and section 9097-B must be disposed of by a mobile home park owner or operator as follows. For purposes of this subsection, "manufactured housing" includes all housing described in section 9002, subsection 7 located in a land lease community or mobile home park.

A. After a mobile home park owner or operator obtains a judgment for forcible entry and detainer, the mobile home park owner or operator shall send written notice by first-class mail, with proof of mailing, to the last known address of the tenant with a copy to the lienholder, if known. The notice must set forth the mobile home park owner's or operator's intent to dispose of the manufactured housing. The notice must advise the tenant and lienholder, if known, that if the tenant or lienholder does not respond to the notice within 14 calendar days the mobile home park owner or operator may dispose of the property as set forth in this subsection. If the tenant or lienholder does respond to the notice, the tenant or lienholder shall take possession of the property within 21 calendar days. Subsection 2-B applies with respect to the rights and responsibilities of the lienholder.

B. If a tenant or lienholder claims ownership of the manufactured housing within 14 calendar days after the notice under paragraph A is sent, the tenant or lienholder shall take possession of the property within 21 calendar days of claiming ownership. If the tenant or lienholder timely claims the property but is not able to move the property within 21 days due to weather or posted road conditions, the mobile home park owner or operator shall allow the tenant or lienholder to remove the property after the 21-day period but the mobile home park owner or operator may charge for any additional costs incurred as a result of the delay.

C. If a tenant or lienholder does not claim ownership of the property within 14 calendar days after the notice under paragraph A is sent or fails to take possession of the property after claiming ownership pursuant to paragraph B, the mobile home park owner or operator may take one or more of the following actions:

(1) Condition the release of the property to the tenant or lienholder upon payment of all rental arrearages, damages, costs of legal fees and costs of storage;

(2) Sell any property for a reasonable fair market price and apply all proceeds to rental arrearages, damages, costs of storage, marketing expenses, legal fees and outstanding taxes. Any balance must be sent to the tenant's or lienholder's last known mailing address and, if returned to the sender, the balance must be forwarded to the Treasurer of State; and

(3) Dispose of any property that has no reasonable fair market value.

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

Effective May 23, 2011.

CHAPTER 128

H.P. 421 - L.D. 538

An Act To Assist the Commercial Fishing Safety Council

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

Sec. 1. 12 MRSA §6034, sub-§1, as amended by PL 2009, c. 369, Pt. A, §25, 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 ~~16~~ 9 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 or the Scallop Advisory Council, recommended by the chair of the Sea Urchin Zone Council or the Scallop Advisory Council;

D. ~~Five~~ Three 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 or an expert in fishing industry risk analysis and occupational health;

~~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 is an ex officio 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. 2. 12 MRSA §6034, sub-§2, as enacted by PL 2003, c. 90, §2, is amended to read:

2. Term. The term of an appointed member is 3 years, except a vacancy of a member before the expiration of the member's term must be filled in the same manner as the original member for the unexpired portion of the member's term. ~~An appointed member may not serve more than 2 consecutive terms.~~

See title page for effective date.

CHAPTER 129

H.P. 471 - L.D. 641

An Act To Allow a Portion of Snowmobile Registration Fees To Be Used for the Repair of Trail-grooming Equipment

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

Sec. 1. 12 MRSA §13104, sub-§4, as amended by PL 2009, c. 213, Pt. OO, §20 and c. 226, §1, is repealed and the following enacted in its place:

4. Fee. Except as provided in subsection 5, the annual snowmobile registration fee is as follows:

A. For residents, $40. The registration for a snowmobile owned by a resident is valid for one year, commencing on July 1st of each year; and

B. For nonresidents:

(1) Forty-three dollars for a 3-consecutive-day registration. A person may purchase more than one 3-day registration in any season; and

(2) Eighty-eight dollars for a seasonal registration.

The registration for a snowmobile owned by a nonresident must specify the dates for which the registration is valid.

Five dollars from each registration fee collected pursuant to this subsection must be transferred to a special fund administered by the Off-Road Vehicle Division of the Bureau of Parks and Lands within the Department of Conservation. The funds must be used to assist any entity that has a snowmobile trail grooming contract with the bureau in the purchase of trail-grooming equipment. The funds also may be used for the repair or overhaul of trail-grooming equipment.

Seven dollars from each resident snowmobile registration fee must be transferred to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.

See title page for effective date.

CHAPTER 130

S.P. 137 - L.D. 433

An Act To Exempt from Income Tax the Income of Nonresidents Working in Maine Pursuant to an Interlocal Agreement

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

Sec. 1. 36 MRSA §5142, sub-§9 is enacted to read:

9. Compensation for work under interlocal agreement. Compensation received as an employee of a political subdivision of an adjoining state performing service in this State pursuant to an interlocal agreement under Title 30-A, chapter 115 is not considered income derived from sources within this State as long as the performance of the service under the interlocal agreement does not displace an employee currently performing the service who is a resident of this State.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 2011.

See title page for effective date.

CHAPTER 131

S.P. 337 - L.D. 1104

An Act To Direct the Judicial Branch To Take Requisite Measures To Collect Fines and Penalties

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

Sec. 1. 4 MRSA §20, as enacted by PL 1989, c. 875, Pt. E, §3, is amended to read:

§20. Provide for collection of overdue fines and fees from money collected

The Chief Justice of the Supreme Judicial Court shall plan and implement arrangements for the collection of overdue fines and fees due the state courts, the costs of which may be paid from money collected. These arrangements may include but are not limited to: Employing special project clerks, assistants and other staff; contracting with state agencies; contracting for special or private debt collection services; purchasing necessary equipment; and compensating state, county and municipal law enforcement agencies for services provided.

See title page for effective date.

CHAPTER 132

S.P. 339 - L.D. 1130

An Act To Amend the Laws Regarding the Determination of Domicile Based on the Geographic Location of an Individual's Bank

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 income tax law may provide an incentive for part-time residents and nonresidents to remove capital from financial institutions in 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:

Sec. 1. 36 MRSA §5102, sub-§5, as amended by PL 2005, c. 519, Pt. G, §1 and affected by §2, is further amended to read:

5. Resident individual. "Resident individual" means an individual:

A. Who is domiciled in Maine, unless:

(1) The individual does not maintain a permanent place of abode in this State, maintains a permanent place of abode elsewhere and spends in the aggregate not more than 30 days of the taxable year in this State; or

(2) Within any period of 548 consecutive days, the individual:

(a) Is present in a foreign country or countries for at least 450 days;

(b) Is not present in this State for more than 90 days;

(c) Does not maintain a permanent place of abode in this State at which a minor child of the individual or the individual's spouse is present for more than 90 days,

unless the individual and the individual's spouse are legally separated; and

(d) During the nonresident portion of the taxable year with which, or within which, such period of 548 consecutive days begins and the nonresident portion of the taxable year with which, or within which, such period ends, is present in this State for a number of days that does not exceed an amount that bears the same ratio to 90 as the number of days contained in such portion of the taxable year bears to 548; or

B. Who is not domiciled in Maine, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is in the Armed Forces of the United States.

The geographic location of a political organization or political candidate that receives one or more contributions from the individual is not in and of itself determinative on the question of whether the individual is domiciled in Maine. The geographic location of a professional advisor retained by an individual or the geographic location of a financial institution with an active account or loan of an individual may not be used to determine whether or not an individual is domiciled in Maine. For purposes of this subsection, "professional advisor" includes, but is not limited to, a person that renders medical, financial, legal, accounting, insurance, fiduciary or investment services. Charitable contributions may not be used to determine whether or not an individual is domiciled in Maine.

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

Effective May 23, 2011.

CHAPTER 133

H.P. 863 - L.D. 1165

An Act To Enable Prosecutions for Criminal Invasion of Computer Privacy

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

Sec. 1. 17-A MRSA §434 is enacted to read:

§434. Prosecution of invasion of computer privacy

1. The crime of criminal invasion of computer privacy as defined in section 432 may be prosecuted and punished in:

A. The county in which the defendant was located when the defendant accessed the computer resource; or

B. A county in which the computer resource was located.

2. The crime of aggravated criminal invasion of computer privacy as defined in section 433 may be prosecuted and punished in:

A. The county in which the defendant was located when the defendant copied the computer program, computer software or computer information;

B. The county in which the defendant was located when the defendant damaged the computer resource;

C. The county in which the defendant was located when the defendant introduced or allowed the introduction of a computer virus into the computer resource; or

D. A county in which the computer resource was located.

See title page for effective date.

CHAPTER 134

S.P. 304 - L.D. 986

An Act To Allow a Person To Receive a Designation of Active Military or Veteran Status on a Driver's License or Nondriver Identification Card

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

Sec. 1. 29-A MRSA §1412 is enacted to read:

§1412. Military service designation for active military personnel and veterans

The Secretary of State shall, at the request of an eligible applicant, issue a driver's license or nondriver identification card to that applicant with a military service designation that identifies the applicant as a person actively serving in an enlisted grade of the United States Armed Forces or as a veteran of the United States Armed Forces.

1. Eligibility. In order to make a determination of eligibility for a military service designation under this section, the bureau shall determine, based on an examination of an applicant's military identification, whether the following criteria are met:

A. The applicant is serving in an enlisted grade in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011); or

B. The applicant has served in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011) and has been honorably discharged. To receive the designation under this paragraph, the applicant must provide an Armed Forces Report of Transfer or Discharge, DD Form 214, or a certification from the United States Veterans Administration or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge.

2. Renewal. A license or nondriver identification card with a military service designation issued in accordance with subsection 1, paragraph A may be renewed upon verification of continuing eligibility.

3. Design and location. The Secretary of State shall determine the design and location on the license and nondriver identification card for the military service designation under this section.

See title page for effective date.

CHAPTER 135

S.P. 105 - L.D. 343

An Act To Facilitate a Change of Location for Agency Liquor Stores

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

Sec. 1. 28-A MRSA §453-D is enacted to read:

§453-D. Change of location

The bureau shall permit the relocation of an agency liquor store within the same municipality as prescribed by this section.

1. Relocation application requirements. The bureau shall permit a change of location of an agency liquor store licensee if:

A. The licensee submits a $2,000 relocation fee and an application in a form prescribed by the bureau;

B. The application includes proof of receipt of municipal approval of the relocation;

C. The licensee has held the license and operated as an agency liquor store for no less than one year at the currently licensed location, unless the relocation is directly related to retroactive zoning or unintentional destruction of the property that prevents rebuilding at the current location; and

D. The proposed location of the agency liquor store meets all applicable criteria for licensure for an agency liquor store.

2. Hearing on relocation application. Within 45 days of receipt of a relocation application under this section, the bureau, in accordance with the provisions of the Maine Administrative Procedure Act, shall conduct a hearing to take testimony, consider comment and deliberate on the proposed relocation. In addition to giving any notice required by the Maine Administrative Procedure Act, the bureau shall give notice of public hearing in writing to any agency liquor stores located in the same municipality as the applicant's proposed relocation site by regular mail at least 15 days prior to the hearing.

See title page for effective date.

CHAPTER 136

H.P. 839 - L.D. 1127

An Act To Amend the Authority of the Washington County Development 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 immediately necessary to allow the Washington County Development Authority to borrow money and issue bonds; and

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

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

Sec. 1. 5 MRSA §13083-B, sub-§2-A is enacted to read:

2-A. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest not otherwise pledged or dedicated.

Sec. 2. 5 MRSA §13083-C, sub-§1, ¶F-4 is enacted to read:

F-4. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any

part of that obligation by pledge of all or any part of the operating revenues of the authority;

Sec. 3. 5 MRSA §13083-C, sub-§1, ¶F-5 is enacted to read:

F-5. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and institutions that administer pension funds, or trustees for those institutions for the issuance of bonds and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds;

Sec. 4. 5 MRSA §13083-D-1 is enacted to read:

§13083-D-1. Bonds

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance and its terms at least twice in a newspaper of general circulation in Washington County and holding a duly advertised public hearing on the issuance.

2. Authority. The authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority.

B. Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of the bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine must determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine shall consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds.

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds;

B. Whether the bonds are payable upon demand or mature at a certain time or times;

C. The interest rate or rates of the bonds;

D. The denomination or denominations of the bonds;

E. The form of the bonds, whether coupon or registered;

F. The conversion or registration privileges carried by the bonds;

G. The rank or priority of the bonds;

H. The manner of execution of the bonds;

I. The medium and place or places of payment;

J. The terms of redemption of the bonds, with or without premium;

K. The manner secured; and

L. Any other characteristics of the bonds.

4. Price sold. The bonds may be:

A. Sold to a person on such terms as the authority may negotiate;

B. Exchanged for other bonds on the basis of par; or

C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.

5. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

7. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article.

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

9. Investment of funds; redemption of bonds. The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; and

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price.

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

Effective May 25, 2011.

CHAPTER 137
H.P. 441 - L.D. 558

An Act To Provide Members of the Penobscot Nation with Marine Resources Licenses

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 expands the availability of marine resources licenses for members of the Penobscot Nation; and

Whereas, it is important that these licenses be available during the summer to take advantage of the seasonal nature of harvesting certain marine species; 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 §6302-A, as amended by PL 2009, c. 396, §1, is further amended to read:

§6302-A. Taking of marine organisms by Passamaquoddy tribal members and members of the Penobscot Nation

1. Tribal exemption; commercial harvesting licenses. A member of the Passamaquoddy Tribe or Penobscot Nation 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, 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 or nation to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe or Penobscot Nation 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 or nation:

A. May utilize lobster traps tagged with trap tags issued by the tribe or nation in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe or nation is not required to pay trap tag fees under section 6431-B if the tribe or nation issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe or nation in a manner consistent with tags issued pursuant to 6505-B. A member of the tribe or nation is not required to pay elver fishing gear fees under section 6505-B if the tribe or nation 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.

2. Tribal exemption; sustenance or ceremonial tribal use. Notwithstanding any other provision of law, a member of the Passamaquoddy Tribe or Penobscot Nation who is a resident of the State may at any time take, possess, transport and distribute:

A. Any marine organism, except lobster, for sustenance use if the tribal member holds a valid sustenance fishing license issued by the tribe or nation. A sustenance fishing license holder who fishes for sea urchins may not harvest sea urchins out of season;

B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster license issued by the tribe or nation. The sustenance lobster license holder's traps must be tagged with sustenance use trap tags issued by the tribe or nation in a manner consistent with trap tags issued pursuant to section 6431-B; however, a sustenance lobster license holder may not harvest lobsters for sustenance use with more than 25 traps; and

C. Any marine organism for noncommercial use in a tribal ceremony within the State, if the member holds a valid ceremonial tribal permit issued to the tribal member by the Joint Tribal Council of the Passamaquoddy Tribe or the governor and council at either Passamaquoddy reservation or by the Penobscot Reservation Tribal Council.

For purposes of this subsection, "sustenance use" means all noncommercial consumption or noncommercial use by any person within the Passamaquoddy reservation at Pleasant Point or Indian Township, the Penobscot Indian Reservation or at any location within the State by a tribal member, by a tribal member's immediate family or within a tribal member's household. The term "sustenance use" does not include the sale of marine organisms. A member of the Passamaquoddy Tribe or Penobscot Nation who takes a marine organism under a license or permit issued pursuant to this subsection must comply with all laws and rules applicable to a person who holds a state license or permit that authorizes the taking of that organism, except that a state law or rule that sets a season for the harvesting of a marine organism does not apply to a member of the Passamaquoddy Tribe or Penobscot Nation who takes a marine organism for sustenance use or for noncommercial use in a tribal ceremony. A member of the Passamaquoddy Tribe or Penobscot Nation issued a license or permit under this subsection is exempt from paying elver gear fees under section 6505-B or trap tag fees under section 6431-B and is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy Tribe or Penobscot Nation who fishes for or takes lobster under a license or permit issued pursuant to this subsection must comply with the closed periods under section 6440.

3. Lobster, sea urchin, scallop and elver licenses; limitations. ~~The Passamaquoddy Tribe may not issue pursuant~~ Pursuant to subsection 1:

A. ~~More than~~ The Passamaquoddy Tribe and Penobscot Nation may each issue up to 24 commercial lobster and crab fishing licenses in any calendar year ~~1998~~, including all licenses equivalent to Class I, Class II or Class III licenses and student licenses, but not including apprentice licenses. ~~Any lobster and crab fishing license issued by the tribe after calendar year 1998 is~~ Licenses issued under this paragraph are subject to the eligibility requirements of section 6421, subsection 5; ~~and~~

B. ~~More~~ The Passamaquoddy Tribe may not issue more than 24 commercial licenses for the taking of sea urchins in any calendar year. Sea urchin licenses must be issued by zone in accordance with section 6749-P~~.~~;

C. The commissioner shall adopt rules authorizing the Penobscot Nation to issue commercial sea urchin licenses if the commissioner determines that sea urchin resources are sufficient to permit the issuance of new licenses. The commissioner may not authorize the Penobscot Nation to issue more than 24 commercial sea urchin licenses in any calendar year;

D. The Penobscot Nation may not issue more than 20 commercial licenses for the taking of scallops in any calendar year, except that the commissioner shall by rule allow the Penobscot Nation to issue additional commercial licenses for the taking of scallops if the commissioner determines that scallop resources are sufficient to permit the issuance of new licenses; and

E. The Penobscot Nation may not issue more than 8 commercial licenses for the taking of elvers in any calendar year, except that the commissioner shall by rule allow the Penobscot Nation to issue additional commercial licenses for the taking of elvers if the commissioner determines that elver resources are sufficient to permit the issuance of new licenses.

The Passamaquoddy Tribe, Penobscot Nation and Department of Marine Resources shall report on the status of the sea urchin, scallop and elver fisheries to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of each even-numbered year.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Sea urchin and scallop handfishing and tender licenses; limitations. The Passamaquoddy Tribe or Penobscot Nation may not issue a license or permit pursuant to subsection 1 or 2:

A. For the harvesting of sea urchins or scallops by hand unless the license or permit applicant meets the diver competency requirements of section 6531; and

B. For the tending of a person who fishes for or takes scallops or sea urchins by diving unless the applicant meets the safety training requirements of section 6533.

5. Notification. Subsections 1 and 2 do not apply to a member of the Passamaquoddy Tribe or Penobscot Nation unless a copy of that member's tribal license or permit is filed with the commissioner by the tribal licensing agency or a tribal official in accordance with section 6027.

6. License suspension. If a member of the Passamaquoddy Tribe or Penobscot Nation issued a license or permit under this section is convicted or adjudicated of a violation for which a license suspension is mandatory under chapter 617, the commissioner shall suspend that member's license or permit for the specified period. If a member of the Passamaquoddy Tribe or Penobscot Nation issued a license or permit under this section is convicted or adjudicated of a violation for which the commissioner may suspend a license, the commissioner may suspend that member's license or permit in accordance with chapter 617.

7. Enforcement. A violation of a marine resources law or rule by a member of the Passamaquoddy Tribe or Penobscot Nation who is issued a license or permit pursuant to this section must be enforced pursuant to chapter 609. A member of the Passamaquoddy Tribe or Penobscot Nation who is issued a license or permit pursuant to this section must possess and exhibit that license or permit in accordance with section 6305 and must comply with the provisions of section 6306 regarding inspections and searches by marine patrol officers for violations related to licensed or permitted activities.

8. Resident of the State defined. For the purposes of this section, "resident of the State" means a member of the Passamaquoddy Tribe or Penobscot Nation who is eligible to obtain a state resident license under section 6301, subsection 1.

9. Political subdivision. Nothing in this section may be construed to indicate that the Passamaquoddy Tribe or the Penobscot Nation is a political subdivision of the State.

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

Effective May 25, 2011.

CHAPTER 138

H.P. 284 - L.D. 358

An Act To Exempt from the Income Tax Military Survivors Annuity Payments

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

Sec. 1. 36 MRSA §5122, sub-§2, ¶FF, as corrected by RR 2009, c. 2, §112, is amended to read:

FF. To the extent included in federal adjusted gross income, student loan payments made by the taxpayer's employer in accordance with section 5217-D; ~~and~~

Sec. 2. 36 MRSA §5122, sub-§2, ¶GG, as reallocated by RR 2009, c. 2, §113, is amended to read:

GG. To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year~~.~~; and

Sec. 3. 36 MRSA §5122, sub-§2, ¶HH is enacted to read:

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73.

Sec. 4. Application. This Act applies to tax years beginning on or after January 1, 2011.

See title page for effective date.

CHAPTER 139

H.P. 958 - L.D. 1306

An Act Relating to Custom Vehicles

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

Sec. 1. 29-A MRSA §101, sub-§19-A, as enacted by PL 2005, c. 321, §1 and affected by §6, is repealed and the following enacted in its place:

19-A. Custom vehicle. "Custom vehicle" means a motor vehicle manufactured after model year 1948 that:

A. Is at least 25 years old or was manufactured to resemble a motor vehicle that is at least 25 years old; and

B. Has been altered or modified from the manufacturer's original design or has a body constructed from nonoriginal material.

Sec. 2. 29-A MRSA §458-B, sub-§6, as enacted by PL 2005, c. 321, §4 and affected by §6, is amended to read:

6. Weight limit. A custom vehicle registration plate may be issued for a motor vehicle that does not exceed ~~6,000~~ 10,000 pounds.

Sec. 3. 29-A MRSA §458-B, sub-§7, as enacted by PL 2005, c. 321, §4 and affected by §6, is amended to read:

7. Inspection. A custom vehicle is subject to the inspection requirements of section 1751, except that the Chief of the State Police may provide certain exemptions for custom vehicles pursuant to section 1769.

See title page for effective date.

CHAPTER 140

S.P. 268 - L.D. 864

An Act Regarding the Minimum Stock Required by Agency Liquor Stores

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

Sec. 1. 28-A MRSA §461 is enacted to read:

§461. Minimum stock requirement

An agency liquor store shall maintain a minimum number of product codes in accordance with this section. For the purposes of this section, "product code" means a single spirit or fortified wine product purchased from the State or the State's wholesale distributor.

1. Store in municipality with population of 1,000 or more. An agency liquor store located in a municipality with a population of 1,000 or more shall have in stock, or on hand, a minimum of 100 different product codes.

2. Store in municipality with population of 999 or less. An agency liquor store located in a municipality with a population of 999 or less shall have in stock, or on hand, a minimum of 50 different product codes.

See title page for effective date.

CHAPTER 141

S.P. 182 - L.D. 602

An Act To Clarify the Method of Appealing Decisions of the Executive Director of the Maine Commission on Indigent Legal Services

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

Sec. 1. 4 MRSA §1804, sub-§3, ¶J, as enacted by PL 2009, c. 419, §2, is repealed and the following enacted in its place:

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, or the executive director's designee, determining:

(1) Whether an attorney meets the minimum eligibility requirements to receive assignments or to receive assignments in special-

ized case types pursuant to any commission rule setting forth eligibility requirements;

(2) Whether an attorney previously found eligible is no longer eligible to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements; and

(3) Whether to grant or withhold a waiver of the eligibility requirements set forth in any commission rule.

All decisions of the commission, including decisions on appeals under subparagraphs (1), (2) and (3), constitute final agency action. All decisions of the executive director, or the executive director's designee, other than decisions appealable under subparagraphs (1), (2) and (3), constitute final agency action.

See title page for effective date.

CHAPTER 142

S.P. 153 - L.D. 561

An Act To Clarify Certain Provisions in the Harness Racing 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, the harness racing season has already begun for the year 2011; and

Whereas, provisions that promote and support the harness racing industry are beneficial to the economy and the preservation of agricultural traditions 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. 8 MRSA §275-B, sub-§1, as amended by PL 2003, c. 401, §11, is further amended to read:

1. Racetracks. A person licensed pursuant to section 271 to conduct harness horse racing with pari-mutuel betting may sell pari-mutuel pools and common pari-mutuel pools for simulcast races. The seller must be within the enclosure of the racetrack where the licensed race or race meet is conducted or within the licensee's slot machine facilities licensed pursuant to section 1011.

Sec. 2. 8 MRSA §275-C, sub-§1, as enacted by PL 1997, c. 390, §1, is amended to read:

1. Authority. A person authorized to sell pari-mutuel pools on horse racing may sell common pari-mutuel pools for simulcast races. The sale must be conducted within the enclosure of the licensee's racetrack, at the licensee's slot machine facilities licensed pursuant to section 1011 or at the licensee's off-track betting facility.

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

Effective May 25, 2011.

CHAPTER 143

S.P. 323 - L.D. 1090

An Act To Allow a Stay of an Administrative License Suspension for Refusal To Submit to a Test

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

Sec. 1. 29-A MRSA §2483, sub-§4-A is enacted to read:

4-A. Stay after failure to submit to test. When a hearing is requested by a petitioner under this section and the petitioner is not entitled to a stay of the suspension pending the hearing due to failure to submit to a test at the request of a law enforcement officer, if the hearing is postponed or otherwise continued by a person other than the petitioner or a cause not attributable to the petitioner, the suspension must be stayed until a hearing is held and a decision is issued. A stay does not apply during a delay caused or requested by the petitioner.

See title page for effective date.

CHAPTER 144

H.P. 461 - L.D. 631

An Act To Update the Radon Registration Act

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

Sec. 1. 22 MRSA §772, sub-§3, as enacted by PL 1989, c. 657, §1 and amended by PL 2003, c. 689,

Pt. B, §6, is repealed and the following enacted in its place:

3. Division. "Division" means the division of environmental health within the Department of Health and Human Services.

Sec. 2. 22 MRSA §775, as enacted by PL 1989, c. 657, §1, is amended to read:

§775. Radon mitigation; registration required

A person may not offer advice or plans to reduce the level of radon in new or existing structures or contract to modify an existing structure in a manner intended to reduce the level of radon unless registered with the division.

Sec. 3. 22 MRSA §776, sub-§2, as enacted by PL 1989, c. 657, §1, is amended to read:

2. New construction. A builder utilizing preventive or safeguarding measures in new construction as ~~recommended in "Radon resistant Residential New Construction" EPA/60018-881087 published by the United States Environmental Protection Agency or an equivalent publication as determined by the department~~ specified in the Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103;

See title page for effective date.

CHAPTER 145

H.P. 566 - L.D. 759

An Act To Increase Efficiency and Effectiveness in the Licensing of Certain Health and Human Services Providers

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

Sec. 1. 5 MRSA §20024, as amended by PL 1991, c. 850, §5, is further amended by adding at the end a new paragraph to read:

A treatment facility or program that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this paragraph in response to a complaint against the facility or program.

Sec. 2. 22 MRSA §7801, sub-§6 is enacted to read:

6. National accreditation. A person, firm, corporation or association operating a program or facility described under subsection 1 that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this subsection in response to a complaint against the program or facility.

Sec. 3. 34-B MRSA §1203-A, sub-§8 is enacted to read:

8. National accreditation. An agency or facility required to obtain a license under this section that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this subsection in response to a complaint against the agency or facility.

See title page for effective date.

CHAPTER 146

H.P. 748 - L.D. 1012

An Act To Require a Mortgagee To Provide the Original Release of Mortgage to the Mortgagor after the Release Is Recorded

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

Sec. 1. 33 MRSA §551, 2nd ¶, as enacted by PL 1999, c. 230, §1 and affected by §2, is amended to read:

Within 60 days after full performance of the conditions of the mortgage, the mortgagee shall record a valid and complete release of mortgage together with any instrument of assignment necessary to establish the mortgagee's record ownership of the mortgage. Within 30 days after receiving the recorded release of the mortgage from the registry of deeds, the mortgagee shall send the release by first class mail to the mortgagor's address as listed in the mortgage agreement or to an address specified in writing by the mortgagor for this purpose. As used in this paragraph, the term "mortgagee" means both the owner of the mortgage at the time it is satisfied and any servicer who receives the final payment satisfying the debt. If a release is

not transmitted to the registry of deeds within 60 days, the owner and any such servicer are jointly and severally liable to an aggrieved party for damages equal to exemplary damages of $200 per week after expiration of the 60 days, up to an aggregate maximum of $5,000 for all aggrieved parties or the actual loss sustained by the aggrieved party, whichever is greater. If multiple aggrieved parties seek exemplary damages, the court shall equitably allocate the maximum amount. If the release is not sent by first class mail to the mortgagor's address as listed in the mortgage agreement or to an address specified in writing by the mortgagor for this purpose within 30 days after receiving the recorded release, the mortgagee is liable to an aggrieved party for damages equal to exemplary damages of $500. The mortgagee is also liable for court costs and reasonable attorney's fees in any successful action to enforce the liability imposed under this paragraph. The mortgagee may charge the mortgagor for any recording fees incurred in recording the release of mortgage and any postage fees incurred in sending the release to the mortgagor.

See title page for effective date.

CHAPTER 147

H.P. 919 - L.D. 1228

An Act To Streamline the Liquor Licensing Reporting Procedure

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

Sec. 1. 28-A MRSA §1364, as amended by PL 1997, c. 373, §119, is further amended to read:

§1364. Invoices and reports

1. Furnish invoices. All certificate of approval holders shall promptly file with the bureau a copy of every invoice sent to wholesale licensees and the original copy of the Maine purchase order. The invoice must include the licensee's name and the purchase number.

2. File monthly reports. All certificate of approval holders shall furnish a monthly report on or before the ~~10th~~ 15th day of each calendar month in the form prescribed by the bureau.

3. Certification that excise tax paid. ~~No~~ A certificate of approval holder may not ship or cause to be transported into the State any malt liquor or wine until the bureau has certified that:

A. The excise tax has been paid; or

B. The Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 1405.

4. Reports of low-alcohol spirits products. Each certificate of approval holder that manufactures low-alcohol spirits products shall submit to the bureau, on or before the ~~10th~~ 15th day of each calendar month, a form specifying the number of gallons of low-alcohol spirits product sold to wholesale licensees in the State with a copy of each invoice relating to each such sale.

Sec. 2. 28-A MRSA §1405, sub-§3, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. The wholesale licensee shall pay the excise tax and premium by the ~~10th~~ 15th day of the calendar month following the month in which shipment occurs.

Sec. 3. 28-A MRSA §1652, sub-§2-A, as enacted by PL 1987, c. 623, §17, is amended to read:

2-A. Payment due. On the ~~10th~~ 15th day of each month, every brewery and winery shall pay the excise taxes and premium due on malt liquor and wine ~~which~~ that that brewery or winery removed from areas required to be bonded by the Federal Government.

See title page for effective date.

CHAPTER 148

H.P. 983 - L.D. 1342

An Act To Amend the Washington County Development Authority

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

Sec. 1. 5 MRSA §13083-C, sub-§1, ¶F-4 is enacted to read:

F-4. Enter into a memorandum of understanding with a municipality to perform the function of a local development corporation under section 13120-B, subsection 9;

Sec. 2. 5 MRSA §13120-B, sub-§9, as enacted by PL 2001, c. 703, §6, is amended to read:

9. Local development corporation. "Local development corporation" means any nonprofit organization created by a municipality that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, which is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State. A majority vote of the municipal officers is sufficient to form a local development

corporation, notwithstanding Title 13, chapter 81. "Local development corporation" also means any nonprofit organization that is incorporated under Title 13, chapter 81 or that is incorporated under Title 13-B or otherwise chartered by the State, and is designed to foster, encourage and assist the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State that applies for financial assistance for a project under this article, as long as that application is formally endorsed by a vote of the governing body of the municipality in which the project is to be located. "Local development corporation" also means a development authority under subchapter 3 that is acting under the authority of a memorandum of understanding with a municipality to carry out the authorized activities of a local development corporation under this subsection.

See title page for effective date.

CHAPTER 149

H.P. 803 - L.D. 1068

An Act To Protect the Privacy of Maine Residents under the Driver's License Laws

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

Sec. 1. 1 MRSA §402, sub-§3, ¶P, as corrected by RR 2009, c. 1, §2, is amended to read:

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; ~~and~~

Sec. 2. 1 MRSA §402, sub-§3, ¶Q, as reallocated by RR 2009, c. 1, §3, is amended to read:

Q. 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~~.~~; and

Sec. 3. 1 MRSA §402, sub-§3, ¶R is enacted to read:

R. Social security numbers in the possession of the Secretary of State.

Sec. 4. 29-A MRSA §1301, sub-§6-A is enacted to read:

6-A. Confidentiality. Except as authorized under 18 United States Code, Section 2721, the Secretary of State may not disseminate information collected under subsection 6 to any entity without specific authorization from the Legislature. For every willful violation of this subsection, a person commits a civil violation for which a fine of not more than $500 may be adjudged.

Sec. 5. 29-A MRSA §1401, sub-§6, as enacted by PL 1999, c. 470, §24, is repealed and the following enacted in its place:

6. Storage, recording, retention and distribution of digital images and digitized signatures. Digital images and digitized signatures used to produce a license are confidential and may be distributed only for use by a law enforcement agency in carrying out its functions or as otherwise authorized under the provisions of 18 United States Code, Section 2721. The Secretary of State may store, record and retain digital images and digitized signatures used only for the purpose of producing a license. A violation of this subsection is a violation of section 2103, subsection 4.

Sec. 6. 29-A MRSA §1401, sub-§9 is enacted to read:

9. Use of biometric technology. The Secretary of State may not use biometric technology, including, but not limited to, retinal scanning, facial recognition or fingerprint technology, to produce a license or nondriver identification card. This subsection does not apply to digital images.

Sec. 7. 29-A MRSA §1410, sub-§5, as enacted by PL 1997, c. 437, §40, is repealed and the following enacted in its place:

5. Storage, recording, retention and distribution of digital images and digitized signatures. Digital images and digitized signatures used to produce a nondriver identification card are confidential and may be distributed only for use by a law enforcement agency in carrying out its functions or as otherwise authorized under the provisions of 18 United States Code, Section 2721. The Secretary of State may store, record and retain digital images and digitized signatures used only for the purpose of producing a nondriver identification card. A violation of this subsection is a violation of section 2103, subsection 4.

Sec. 8. PL 2007, c. 648, §9 is repealed.

Sec. 9. Allocation of funds. Cost savings as a result of this Act must be allocated to the Highway and

Bridge Capital program within the Department of Transportation.

See title page for effective date.

CHAPTER 150

H.P. 871 - L.D. 1173

An Act To Make Changes to the Maine College Savings Program

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

Sec. 1. 20-A MRSA §11473, sub-§1, as enacted by PL 1997, c. 732, §4, is amended to read:

1. Creation. The Maine College Savings Program Fund, referred to in this chapter as ~~the~~ "the program fund," is established as a nonlapsing fund to be held, directed and administered by the authority ~~and held by the Treasurer of State~~. The ~~Treasurer of State~~ authority shall keep the program fund segregated from all other funds held by the ~~Treasurer of State~~ authority and shall invest and reinvest, or cause to be invested and reinvested, the program fund for the benefit of the program under the direction of and with the advice of the advisory committee. The program fund so administered is a fund held on behalf of participants and beneficiaries who are deemed specifically named persons for the purposes of Title 5, section 135-A.

Sec. 2. 20-A MRSA §11473, sub-§5, as enacted by PL 1997, c. 732, §4, is amended to read:

5. Common investment of funds. The authority may commingle, or cause or allow to be commingled, amounts credited to some or all accounts for investment purposes and may provide for the application of program earnings to pay any administrative costs of the program fund prior to crediting program earnings to participants' accounts.

Sec. 3. 20-A MRSA §11474, sub-§2, as enacted by PL 1997, c. 732, §4, is amended to read:

2. Invest funds. With the advice of the advisory committee, ~~direct the Treasurer of State to~~ invest and reinvest, or cause to be invested and reinvested, money in the program fund in any investments determined by the authority to be appropriate, notwithstanding any general statutory limitations on investments of public funds specifically determined to be inapplicable to the program fund. The authority must invest, or cause to be invested, money from the program fund in financial institutions located in the State to the extent determined reasonable by the authority;

Sec. 4. 20-A MRSA §11476, as enacted by PL 1997, c. 732, §4, is amended to read:

§11476. Investment options and parameters

The authority, with the advice of the advisory committee, may provide investment options for a participant within the program fund to the extent permitted by Internal Revenue Code provisions addressing qualified state tuition programs. The authority, with the advice of the advisory committee, shall invest, or cause to be invested, the amounts on deposit in the program fund in a reasonable manner to achieve the objectives of each fund, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. A participant or designated beneficiary may not direct the investment of any amounts on deposit in the program fund, except to the extent allowed pursuant to provisions of the Internal Revenue Code addressing qualified state tuition programs. The authority shall give due consideration to rate of return, term or maturity, diversification and liquidity of investments within the program fund or any account in the program fund pertaining to the projected disbursements and expenditures from the program fund and the expected payments, deposits, contributions and gifts to be received.

Sec. 5. 20-A MRSA §11484, sub-§1, ¶B-1, as enacted by PL 2001, c. 417, §19, is repealed.

Sec. 6. 20-A MRSA §11484, sub-§1, ¶B-2, as enacted by PL 2001, c. 417, §19, is amended to read:

B-2. ~~One member~~ Two members appointed by the Governor from at large;

Sec. 7. 20-A MRSA §11484, sub-§1, ¶D, as enacted by PL 1997, c. 732, §4, is repealed.

Sec. 8. 20-A MRSA §11484, sub-§1, ¶E is enacted to read:

E. Two members representing institutions with experience in and knowledge of higher education financial and investment matters. One member must be a member appointed by the Governor with experience in and knowledge of institutional investment of funds. One member must be appointed by the chair of the authority's board of directors who is a member of the authority's board of directors other than the Treasurer of State.

Sec. 9. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 20-A, section 11473, subsections 1 and 5; section 11474, subsection 2; and section 11476 take effect on July 1, 2012. That section of this Act that repeals Title 20-A, section 11484, subsection 1, paragraph B-1 and that section of this Act that amends Title 20-A, section 11484, subsection 1, paragraph B-2 take effect at the expiration of the term of the member with knowledge of student financial assistance or when the position is vacant. That section of this Act that repeals Title 20-A, section 11484, subsection 1, paragraph D and

that section of this Act that enacts Title 20-A, section 11484, subsection 1, paragraph E take effect at the expiration of the terms of the member representing public institutions of higher education and the member representing private institutions of higher education or when the positions are vacant.

See title page for effective date, unless otherwise indicated.

CHAPTER 151

S.P. 469 - L.D. 1493

An Act Regarding the Powers of the Director of the Maine State Museum Commission

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

Sec. 1. 27 MRSA §85-A, sub-§4, as amended by PL 1999, c. 452, §1, is further amended to read:

4. Solicitation and acceptance of gifts, grants, donations, bequests, endowments and membership fees. To solicit and accept gifts, grants, donations, bequests, endowments and membership fees for purposes consistent with the purposes of this chapter. Any funds, if given as an endowment or trust, must be invested by the Treasurer of State according to the laws governing the investment of trust funds. All gifts, grants, donations, bequests and proceeds of endowment funds must be used solely to carry out the purposes for which they were made;

Sec. 2. 27 MRSA §86, sub-§1, as amended by PL 1985, c. 763, Pt. A, §77, is further amended to read:

1. Acquisition. The Maine State Museum is authorized to solicit and accept donations of property for the sole use of the museum ~~provided~~ as long as the donations are of a nature to carry out and promote the purposes of this chapter. The Maine State Museum may purchase works of art, artifacts and specimens for the enrichment of the collections from funds provided in the budget, secured from private donations or bequests or generated from the disposition of deaccessioned items.

See title page for effective date.

CHAPTER 152

S.P. 470 - L.D. 1494

An Act To Support Maine State Museum Accreditation

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

Sec. 1. 27 MRSA §81, as enacted by PL 1965, c. 502, §1, is amended to read:

§81. Declaration of policy

The Legislature declares it is the policy of the State that in order to further the cultural and educational interests of the people of the State, to present through the use of its collections and activities the proud heritage and unique historical background, and to preserve and exhibit the environmental and cultural richness of the State, there is established the Maine State Museum.

The Legislature further declares its expectation that the Maine State Museum will follow professional museum, scientific and artifact conservation standards to assemble and protect its tangible collections and intellectual assets held in public trust.

A general diffusion of the advantages of education being essential to promoting the common welfare, the Legislature recognizes these tangible collections and intellectual assets as educational resources essential to the Maine State Museum's mission and public trust responsibilities.

See title page for effective date.

CHAPTER 153

S.P. 419 - L.D. 1356

An Act To Amend the Laws Concerning the School Revolving Renovation Fund

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

Sec. 1. 30-A MRSA §6006-F, sub-§3, ¶A, as amended by PL 2001, c. 439, Pt. OOOO, §2, is further amended to read:

A. To make loans to school administrative units for school repair and renovation.

(1) The following repair and renovation needs receive ~~first priority~~ Priority 1 status:

(a) Repair or replacement of a roof on a school building;

(b) Bringing a school building into compliance with the federal Americans with Disabilities Act, 42 United States Code, Section 12101 et seq.;

(c) Improving air quality in a school building;

(d) Removing ~~asbestos from~~ or abating ~~asbestos~~ hazardous materials in a school building; and

(f) Undertaking other health, safety and compliance repairs.

(2) Repairs and improvements ~~not~~ related to ~~health, safety and compliance repairs receive 2nd priority status. Those repairs and improvements are limited to~~ a school building structure, windows and doors and ~~to a school building~~ water or septic ~~system~~ systems receive Priority 2 status.

(3) ~~Upgrade of learning spaces in school buildings and small scale capital improvements receive 3rd priority status.~~ Repairs and improvements related to energy and water conservation receive Priority 3 status.

(4) ~~The Commissioner of Education may approve other necessary repairs.~~ Upgrades of learning spaces in school buildings receive Priority 4 status.

(5) ~~After the total amount appropriated, allocated and repaid to the fund exceeds $75,000,000, loans may be provided for 2nd priority status, 3rd priority status or other necessary repairs, improvements and upgrades, with approval of the~~ The Commissioner of Education~~, based on rules adopted under this section, as long as the Commissioner of Education determines that substantial progress has been made in addressing~~ may approve other necessary repairs ~~and renovations with first priority status~~;

Sec. 2. 30-A MRSA §6006-F, sub-§3, ¶B, as amended by PL 1999, c. 81, §16, is further amended to read:

B. To make loans to a school administrative unit to finance expenditures incurred after June 1, 1998 for repairs or renovations authorized under paragraph A ~~and certified under subsection 5~~;

Sec. 3. 30-A MRSA §6006-F, sub-§3, ¶C, as enacted by PL 1997, c. 787, §13, is amended to read:

C. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a school administrative unit for the purpose of financing any repair authorized under paragraph A ~~and certified under subsection 5~~;

Sec. 4. 30-A MRSA §6006-F, sub-§3, ¶E, as enacted by PL 1997, c. 787, §13, is amended to read:

E. To deposit with a lending institution or with a trustee bank~~,~~ available fund balances to offset loan balances for school administrative districts undertaking projects authorized by paragraph A ~~and certified under subsection 5~~;

Sec. 5. 30-A MRSA §6006-F, sub-§3, ¶G, as amended by PL 2005, c. 683, Pt. A, §53, is further amended to read:

G. 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, or if the proceeds of the sale of the obligations are used for the purposes authorized in paragraph A ~~and certified under subsection 5~~, or as a source of revenue to subsidize the school administrative unit loan payment obligations;

Sec. 6. 30-A MRSA §6006-F, sub-§3, ¶J, as enacted by PL 2005, c. 272, §2, is amended to read:

J. To reimburse school administrative units for costs incurred for ~~first priority~~ Priority 1 status health and safety projects described in paragraph A, subparagraph (1) and approved by the Commissioner of Education. The amount of the reimbursement must be determined in accordance with the school administrative unit's state share percentage as provided in subsection 6~~, paragraph A~~.

Sec. 7. 30-A MRSA §6006-F, sub-§6, as amended by PL 2005, c. 2, Pt. D, §65 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is further amended to read:

6. Forgiveness of principal payments. The fund must provide direct grants by forgiving the principal payments of a loan for an eligible school administrative unit. The amount of the forgiveness of principal payments must be determined by the school administrative unit's state share percentage as determined in Title 20-A, section 15672, subsection 31, not to exceed~~:~~ 70% and not less than 30%.

~~A. Seventy percent and no less than 30% for health, safety and compliance;~~

~~B. Seventy percent and no less than 30% for repairs and improvements; and~~

~~C. Seventy percent and no less than 30% for learning space upgrades.~~

See title page for effective date.

CHAPTER 154

H.P. 161 - L.D. 184

An Act To Promote the Financial Literacy of High School Students

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

Sec. 1. 20-A MRSA §254, sub-§13 is enacted to read:

13. Technical assistance; integrated model for instruction in personal finance. The commissioner shall develop a program of technical assistance that promotes the importance of financial literacy and encourages school administrative units to implement an integrated model for instruction in personal finance that may be used in secondary schools as part of the instruction in social studies or mathematics required by section 4722, subsection 2, paragraphs B and C. The commissioner, in consultation with the Finance Authority of Maine, the Office of Securities within the Department of Professional and Financial Regulation, Jobs for Maine's Graduates, organizations representing banks, credit unions and financial professionals and other interested organizations promoting personal finance initiatives, shall prepare and distribute annually, in January, a report to school boards and superintendents that includes strategies and resources available to implement an integrated model for instruction in personal finance for use in secondary schools. The annual report must also be provided to the joint standing committee of the Legislature having jurisdiction over education matters, and the department shall post the report on its publicly accessible website.

See title page for effective date.

CHAPTER 155

S.P. 361 - L.D. 1186

An Act To Amend the Probate Code Relating to the Authority of the Probate Court To Approve Transfers from a Protected Person's Estate

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

Sec. 1. 18-A MRSA §5-408, sub-§(6), as enacted by PL 2005, c. 12, Pt. DDD, §4 and affected by §17, is amended to read:

(6). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the protected person's spouse or dependent, blind or disabled child if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and~~ if the court finds:

(a). That the remaining estate assets of the protected person are sufficient for the protected person's care and maintenance for the next ~~36~~ 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and

(b). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next ~~36~~ 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (a) and (b).

Sec. 2. 18-A MRSA §5-409, sub-§(d), as enacted by PL 2005, c. 12, Pt. DDD, §6 and affected by §17, is amended to read:

(d). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the protected person's spouse or dependent, blind or disabled child if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and~~ if the court finds:

(1). That the remaining estate assets of the protected person are sufficient for the protected person's care and maintenance for the next ~~36~~ 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and

(2). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next ~~36~~ 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (1) and (2).

Sec. 3. 18-A MRSA §5-425, sub-§(b-1), as enacted by PL 2005, c. 12, Pt. DDD, §8 and affected by §17, is amended to read:

(b-1). The court may authorize a gift or other transfer for less than fair market value from the protected person's estate ~~other than to the spouse or dependent, blind or disabled child if the court finds that the gift or other transfer will not, directly or indirectly, diminish the protected person's estate in order to qualify for federal or state aid or benefits, including the MaineCare program under Title 22, chapter 855, and~~ if the court finds:

(1). That the remaining estate assets of the protected person are sufficient for the protected person's care and maintenance for the next ~~36~~ 60 months, including due provision for the protected person's established standard of living and for the support of any persons the protected person is legally obligated to support and any dependents of the protected person; and

(2). That the gift or other transfer will not hasten the date of eligibility for MaineCare coverage of the protected person's long-term care expenses during the next ~~36~~ 60 months.

~~This subsection does not prevent a transfer~~ If the gift or other transfer is being made to the protected person's spouse or blind or disabled child or to a trust established pursuant to 42 United States Code, Section 1396p(d)(4), or is otherwise specifically allowed without a transfer penalty by law governing the federal Medicaid program under 42 United States Code, the court may authorize the gift or other transfer without making the findings under paragraphs (1) and (2).

See title page for effective date.

CHAPTER 156

H.P. 741 - L.D. 1005

An Act To Clarify the Standard of Proof for Traffic Infractions

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

Sec. 1. 29-A MRSA §103, sub-§4 is enacted to read:

4. Standard of proof. The burden of proof that a traffic infraction has occurred is on the State and must be established by a standard of a preponderance of the evidence.

See title page for effective date.

CHAPTER 157

H.P. 783 - L.D. 1048

An Act To Delay the Implementation of the Rental Housing Radon Testing Requirement

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

Sec. 1. 14 MRSA §6030-D, sub-§1, as amended by PL 2009, c. 566, §19, is further amended to read:

1. Testing. By ~~2012~~ March 1, 2014 and every 10 years thereafter, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. 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.

See title page for effective date.

CHAPTER 158

H.P. 370 - L.D. 477

An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles

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

Whereas, this Act provides a defense for mufflers or exhaust systems of motor vehicles and motorcycles to violations of excessive or unusual noise; and

Whereas, it is important to enact this law immediately as motorcycle traffic is at its peak during the spring and summer months and the effective date of this legislative session's enacted laws will likely occur in late summer or early fall; 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 §1912, sub-§6, as amended by PL 2005, c. 314, §11, is repealed and the following enacted in its place:

6. Defense for noise violations by motor vehicles and motorcycles. The following are defenses to a violation of subsection 1 or 3.

A. If a muffler or exhaust system of a motor vehicle as defined in section 101, subsection 42, not including a motorcycle, does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998, subsections 1 and 3 do not apply. A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J-1169 adopted by the Society of Automotive Engineers in May 1998. Measurements must be made by a participating certified inspection station.

B. Subsections 1 and 3 do not apply to a muffler or exhaust system of a motorcycle that does not emit noise, as measured in accordance with standards and specifications outlined in standard J-2825 adopted by the Society of Automotive Engineers in May 2009, in excess of 92 decibels at an idle and emits noise that does not measure:

(1) More than 96 decibels using the set RPM test or swept RPM test for an engine configuration other than a 3-cylinder or 4-cylinder engine configuration; or

(2) More than 100 decibels using the set RPM test or swept RPM test for a 3-cylinder or 4-cylinder engine configuration.

A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not exceed decibel levels as described in this paragraph. Measurements must be made by a participating certified inspection station.

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

Effective May 26, 2011.

CHAPTER 159

S.P. 331 - L.D. 1098

An Act To Increase Accountability for the Most Serious Offenders of Laws Prohibiting Operating under the Influence of Drugs and Alcohol

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

Sec. 1. 29-A MRSA §2411, sub-§1-A, ¶D, as amended by PL 2009, c. 447, §38, 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 B or 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 an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the 10-year limitation specified in section 2402 and Title 17-A, subsection 9-A, subsection 3 does not apply to the prior criminal homicide conviction.

See title page for effective date.

CHAPTER 160

H.P. 690 - L.D. 930

An Act To Clarify Maine's Phaseout of the "Deca" Mixture of Polybrominated Diphenyl Ethers

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 a person may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical that is a brominated or chlorinated flame retardant; and

Whereas, a manufacturer that wants to replace the "deca" mixture of polybrominated diphenyl ethers with a brominated or chlorinated flame retardant that may be a safer alternative than the "deca" mixture will not be able to move forward with that replacement until this legislation takes effect; and

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

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

Sec. 1. 38 MRSA §1609, sub-§14, ¶B, as enacted by PL 2009, c. 610, §7, is amended to read:

B. Effective June 1, 2011, a person subject to the restrictions under this section may not replace the "deca" mixture of polybrominated diphenyl ethers with a chemical alternative that the commissioner, in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, determines:

(1) Has been identified as or meets the criteria for identification as a persistent, bioaccumulative and toxic chemical by the United States Environmental Protection Agency;

(2) Is a brominated or chlorinated flame retardant, unless the person demonstrates to the satisfaction of the commissioner that the flame retardant is a safer alternative; or

(3) Creates another chemical as a breakdown product through degradation or metabolism that meets the provisions of subparagraph (1).

A replacement to the "deca" mixture of polybrominated diphenyl ethers may contain an amount of the chemicals listed or described in subparagraphs (1), (2) and (3) equal to or less than 0.1%, except that a replacement may contain an amount of a halogenated organic chemical containing the element fluorine equal to or less than 0.2%.

Upon request by the commissioner, a person subject to the restrictions under this subsection shall provide the commissioner with all existing information about the hazard and exposure characteristics of the replacement chemical that is known to, in the possession or control of or reasonably ascertainable by the person.

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

Effective May 26, 2011.

CHAPTER 161

H.P. 647 - L.D. 880

An Act To Protect Minors from Questioning by Private Investigators

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

Sec. 1. 32 MRSA §8113, sub-§7, as amended by PL 2001, c. 298, §5, is further amended to read:

7. Employment of prohibited person. Employment, in connection with a private investigation business, in any capacity, of any person who has been convicted of a crime punishable by imprisonment for one year or more or any former licensee whose license has been revoked; ~~or~~

Sec. 2. 32 MRSA §8113, sub-§8, as repealed and replaced by PL 1985, c. 207, §2, is amended to read:

8. Representations that licensee is sworn peace officer. Representation by the licensee ~~which~~ that suggests, or ~~which~~ that would reasonably cause another person to believe, that ~~he~~ the licensee is a sworn peace officer of this State, any political subdivision of this State, any other state or of the Federal Government~~.~~; or

Sec. 3. 32 MRSA §8113, sub-§9 is enacted to read:

9. Unpermitted contact with a child. Contact or communication with a child who has not attained 14 years of age regarding a private investigation if that contact or communication includes conduct with the intent to harass, torment, intimidate or threaten a child.

See title page for effective date.

CHAPTER 162

H.P. 842 - L.D. 1136

An Act To Require the Opportunity To Recite the Pledge of Allegiance in Schools

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

Sec. 1. 20-A MRSA §4010 is enacted to read:

§4010. Pledge of Allegiance

A school administrative unit shall allow every student enrolled in the school administrative unit the opportunity to recite the Pledge of Allegiance at some

point during a school day in which students are required to attend. A school administrative unit may not require a student to recite the Pledge of Allegiance.

See title page for effective date.

CHAPTER 163

H.P. 648 - L.D. 881

An Act To Amend Certain Insurance Provisions Relating to Variable Annuity Death Benefits and Multiple Employer Trusts

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

Sec. 1. 24-A MRSA §2537, sub-§10, as repealed and replaced by PL 2007, c. 544, §1, is amended to read:

10. A variable annuity contract delivered or issued for delivery in this State may include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to ~~the greater of~~ either the value of the contract at the time of death or the sum of the premiums ~~or stipulated payments paid under the contract and the value of the contract at the time of death~~ less adjusted withdrawals from the policy, whichever is greater. The beneficiary under the contract may not be paid any other amount. A variable annuity contract that includes such incidental benefit may not be deemed to be life insurance and therefore is not subject to the provisions of this Title governing life insurance contracts. A variable annuity contract with a provision for any other benefit on death during the deferred period is subject to the provisions of this Title governing life insurance contracts. A payment on death pursuant to a variable annuity contract under this subsection must be made in accordance with section 2436. This subsection applies to variable annuity contracts delivered or issued for delivery in this State on or after January 1, 2009.

Sec. 2. 24-A MRSA §2606-A, first ¶, as enacted by PL 1981, c. 150, §7, is amended to read:

The lives of a group of individuals may be insured under a policy issued to a trust or to the trustee or trustees of a fund established or adopted by 2 or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustees are considered the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements.

See title page for effective date.

CHAPTER 164

H.P. 1115 - L.D. 1512

An Act To Ensure That the State Is in Compliance with Certain Federal Motor Carrier Safety Regulations

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

Sec. 1. 29-A MRSA §555, sub-§2, as amended by PL 2009, c. 251, §1, is further amended to read:

2. Adoption of federal regulations. The bureau may adopt rules to incorporate by reference federal regulations in 49 Code of Federal Regulations, Parts 40, 382, 383, 385, 390, 391, 392, 393, 395 and 396, and appendices, as amended, and may adopt amendments to those federal regulations. The following provisions apply to the adoption of federal regulations under this section.

A. Except as provided in paragraph A-1, the Maine Administrative Procedure Act does not apply to the adoption by reference of federal regulations under this subsection.

A-1. A rule adopted by the bureau under this subsection is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A if it:

(1) Adopts by reference any provision of the federal regulations described under this subsection that would result in a modification of the substance or effect of any amendment to the federal regulations adopted by the bureau and in effect on the effective date of this paragraph; or

(2) Adopts an amendment to any federal regulation described under this subsection.

A-2. The bureau may not adopt any rule that exempts motor carriers, vehicles or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 Code of Federal Regulations, Part 172 from any federal regulation adopted and incorporated by reference into any rule adopted by the bureau pursuant to this subsection. Notwithstanding paragraph A-1, the Maine Administrative Procedure Act does not apply to the amendment of any rule consistent with the prohibition set forth in this paragraph.

C. For every rule adopted under this subsection:

(1) The bureau shall file with the Secretary of State:

(a) A certified copy of the rule;

(b) A published copy of the federal regulation or amendment as printed in the Federal Register; and

(c) Annually, a published copy of the updated volume of the Code of Federal Regulations containing the federal regulation.

The bureau shall make available for inspection at no charge, and for copying at actual cost, a current published copy of the referenced federal regulations.

D. The Secretary of State shall publish, pursuant to Title 5, section 8053, subsection 5, a notice containing the following information:

(1) A statement that the rule has been adopted and its effective date;

(2) A brief description of the substance of the rule and the referenced federal regulation or amendment; and

(3) The addresses at which copies of the rule and the federal regulation or amendment may be obtained.

E. The Secretary of State shall maintain and make available at the Secretary of State's office for inspection at no charge, and for copying or purchase at actual cost, current copies of these rules and include them within the compilations subject to Title 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State shall also make available for inspection at no charge and for copying at actual cost a current published copy of the referenced federal regulations and amendments.

F. A rule adopted under this section may not take effect until at least 5 days after filing with the Secretary of State, except that, if the bureau finds that immediate adoption of the rule is necessary to avoid an immediate threat to public health, safety or general welfare, the bureau may adopt the rule as an emergency rule in accordance with Title 5, section 8054, and that rule takes effect immediately.

Sec. 2. 29-A MRSA §555, sub-§4, ¶D is enacted to read:

D. A state police officer or motor carrier inspector designated by the Chief of the State Police who has satisfactorily completed a prescribed course of instruction established by the Federal Motor Carrier Safety Administration and the bureau with respect to the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section must investigate an alleged violation of this subchapter or a rule adopted by the bureau or by the United States Department of Transportation, prosecute violators and aid in the enforcement of the provisions of this subchapter.

Sec. 3. 29-A MRSA §555, sub-§4, ¶E is enacted to read:

E. A state police officer or motor carrier inspector designated in paragraph D is authorized:

(1) To stop, enter upon and inspect all commercial motor vehicles using the interstate highway system or public ways; and

(2) To inspect and copy records and inspect and examine lands, buildings and equipment of motor carriers for the purposes of verifying compliance with the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section.

See title page for effective date.

CHAPTER 165

H.P. 1068 - L.D. 1454

An Act To Allow Police Officers To Operate Mobile Command Units without a Special License

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

Sec. 1. 29-A MRSA §1252, sub-§1, ¶C, as amended by PL 2007, c. 383, §20, is further amended to read:

C. A Class C license may be issued for the operation of a single vehicle or a combination of vehicles that does not meet the definition of Class A or Class B license.

A holder of a Class C license may, with an appropriate endorsement, operate all vehicles in that class.

A Class C license authorizes:

(1) A full-time or volunteer member of an organized municipal, state or federal fire department and a law enforcement officer who is a member of an organized municipal, state or federal law enforcement department to operate fire apparatus as described in 49 Code of Federal Regulations, Section 383.3 (2005) and to operate a commercial motor vehicle as a mobile command unit. For purposes of this subparagraph, "mobile command unit" means

a motor vehicle designed and used by a law enforcement agency primarily as a command and control platform for emergency response;

(2) A person to operate recreational vehicles for personal use;

(3) A person to operate commercial motor vehicles for military purposes as required in 49 Code of Federal Regulations, Section 383.3 (2005);

(4) A person to operate registered farm motor trucks bearing the letter "F" on the registration plate when the vehicle is:

(a) Controlled and operated by a farmer, including operation by the farmer's employees or family members;

(b) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;

(c) Not used in the operation of a common or contract motor carrier; and

(d) Used within 150 miles of the registered owner's farm;

(5) A person, employed by a city, town, county, district or other unit of local government created by or pursuant to law that has a total population of 3,000 individuals or less, to operate a commercial motor vehicle within the boundaries of that unit of local government for the purpose of removing snow or ice from a roadway by plowing, sanding or salting, if:

(a) The properly licensed employee who ordinarily operates a commercial motor vehicle for those purposes is unable to operate the vehicle; or

(b) The employing governmental entity determines that a snow or ice emergency exists that requires additional assistance; or

(6) A person to operate a truck registered as an antique automobile, regardless of weight or combination weight, provided the vehicle is used for noncommercial recreational purposes or purposes pursuant to section 101, subsection 3.

See title page for effective date.

CHAPTER 166

S.P. 400 - L.D. 1286

An Act To Rename the Maine Fire Training and Education Program at Southern Maine Community College the Maine Fire Service Institute

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

Sec. 1. 20-A MRSA §9001, first ¶, as repealed and replaced by PL 1987, c. 124, §3 and amended by PL 1989, c. 878, Pt. I, §12, is further amended to read:

The president may conduct programs to provide fire training and education for members of municipal fire departments, incorporated volunteer fire departments, industrial fire brigades, institutional fire brigades and the general public, to be known as the Maine Fire ~~Training and Education Program~~ Service Institute.

See title page for effective date.

CHAPTER 167

S.P. 72 - L.D. 221

An Act To Make Changes to the Motorcycle Inspection Sticker Requirements

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

Sec. 1. 29-A MRSA §405, sub-§1, as amended by PL 2005, c. 577, §9, is further amended to read:

1. Automobile, truck, truck tractor, motor home, moped, semitrailers not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer registration. Registration for an automobile, truck, truck tractor, motor home, ~~motorcycle,~~ moped, semitrailer not exceeding a gross vehicle weight of 2,000 pounds, special mobile equipment, tractor and camp trailer is as follows.

A. A registration expires on the last day of the month one year from the month of issuance.

B. When an application is made after the registration for the previous year has expired, the term of the renewal begins on the month of the issuance of the previous registration.

C. A person who has a fleet of 5 or more motor vehicles may petition the Secretary of State for a common expiration date of all vehicle registrations.

Sec. 2. 29-A MRSA §1758, sub-§3, as enacted by PL 2009, c. 624, §2 and affected by §4, is amended to read:

3. Motorcycles; proof of inspection. If a motorcycle meets the inspection standard, upon payment of applicable inspection fees pursuant to section 1751, subsection 3-A a valid certificate of inspection and an official inspection sticker for the motorcycle must be issued. The certificate of inspection must be kept with the registration certificate of the motorcycle and the official inspection sticker must be affixed to the rear of the motorcycle~~:~~ on the registration plate.

~~A. On a mounting plate that must be securely fastened to the motorcycle frame or similar integral component of the motorcycle; or~~

~~B. On a rear fender or similar frame or integral body part of the motorcycle.~~

The official inspection sticker must be located so that it is completely and clearly visible from the rear of the motorcycle ~~and may not be affixed to the registration plate~~. If the registration plate is reassigned to another motorcycle pursuant to section 463, subsection 4, the certificate of inspection and the official inspection sticker expire upon reassignment.

Sec. 3. PL 2009, c. 624, §4 is amended to read:

Sec. 4. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 29-A, section 1758 take effect ~~January~~ March 1, 2012.

Sec. 4. Motorcycle registration plates; registration sticker; direction to the Secretary of State. Before March 1, 2012, the Secretary of State shall design and issue one registration sticker for motorcycle registration plates to be used in lieu of issuing new motorcycle registration plates each calendar year as provided in the Maine Revised Statutes, Title 29-A, section 451, subsection 3. This registration sticker must clearly indicate both the year and month of registration expiration.

Sec. 5. Proof of inspection. Before March 1, 2013, if a motorcycle meets the inspection standard under the Maine Revised Statutes, Title 29-A, section 1751, either a valid certificate of inspection or an official inspection sticker for the motorcycle is acceptable proof of inspection for purposes of Title 29-A, section 1758, subsecton 3.

Sec. 6. Registration transition. Motorcycle registrations issued after the effective date of this Act expire on March 31, 2012. Registration fees required by the Maine Revised Statutes, Title 29-A, section 515, subsection 1 and payment of excise tax under Title 36, section 1482 must be prorated accordingly.

A motorcycle registration that is renewed on or after March 1, 2012 has a registration period from April 1st to March 31st of the next calendar year. No portion of the fee is refundable, but, beginning March 1, 2012, credit toward the registration fee and excise tax must be given and registration fees required by Title 29-A, section 515, subsection 1 and payment of excise tax under Title 36, section 1482 must be prorated accordingly.

Sec. 7. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 29-A, section 405, subsection 1 and section 1758, subsection 3 take effect March 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 168

S.P. 139 - L.D. 435

An Act To Improve the Rate of Organ and Tissue Donation by Establishing the Organ Donation Advisory Council

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

Whereas, there is a shortage of organs and tissue available to individuals with life-threatening conditions; and

Whereas, increasing the rates of organ and tissue donation is a critical function of the Organ Donation Advisory Council; 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 §12004-I, sub-§36-E is enacted to read:

36-E.

Human Services	Organ Donation Advisory Council	Not Authorized	29-A MRSA §1402-B

Sec. 2. 29-A MRSA §1402-A, sub-§4, ¶B, as enacted by PL 2003, c. 394, §4 and affected by §6, is repealed.

Sec. 3. 29-A MRSA §1402-A, sub-§4, ¶D, as enacted by PL 2003, c. 394, §4 and affected by §6, is repealed.

Sec. 4. 29-A MRSA §1402-B is enacted to read:

§1402-B. Organ Donation Advisory Council

1. Appointment; composition; term; compensation. The Organ Donation Advisory Council, established by Title 5, section 12004-I, subsection 36-E, referred to in this section as "the council," consists of 10 members as follows:

A. The Secretary of State or the secretary's designee;

B. The Commissioner of Health and Human Services or the commissioner's designee;

C. A representative of the Department of the Secretary of State, Bureau of Motor Vehicles, appointed by the Secretary of State;

D. The president of a statewide medical society, appointed by the President of the Senate;

E. A representative of a federally designated organ procurement organization serving the State, appointed by the Speaker of the House of Representatives;

F. Three members of the public with experience in the field of organ and tissue donation or transplantation, at least one of whom must be a recipient of a donated organ or tissue and at least one of whom must be a donor or a family member of a donor, appointed by the President of the Senate; and

G. Two members of the public with experience in the field of organ and tissue donation or transplantation, at least one of whom must be a doctor experienced in organ and tissue transplantation, appointed by the Speaker of the House of Representatives.

All appointed members are appointed for a term of 3 years. A vacancy must be filled in the same manner as the position was originally filled 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. Members serve without compensation.

2. Meetings; reports. The council shall meet at least 4 times a year and convene special meetings at the call of the chair, a majority of the members of the council or the Secretary of State. The members of the council shall elect a chair, except that the Secretary of State may not be chair. The council shall make an annual report to the Governor that must include an account of all actions taken to further organ and tissue donation and file a copy of the report to the Secretary of State, the Secretary of the Senate and the Clerk of the House of Representatives.

3. Duties. The council shall:

A. Assist the Secretary of State in coordinating the efforts of all public and private agencies within the State concerned with the donation and transplantation of organs and tissues;

B. Advise the Secretary of State on policy and priorities of need in the State for a comprehensive program relating to organ and tissue donation and transplantation;

C. Assist the Secretary of State in developing strategies to increase donations that the council may find effective; and

D. Establish numerical goals for increasing organ and tissue donation rates in the State, to include a baseline account of current organ and tissue donation rates, as well as periodic benchmarks for success. The bureau may provide monthly donor designation rates for each branch office of the bureau to assist in identifying goals.

Sec. 5. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1402-B, subsection 1, of the initial appointments to the Organ Donation Advisory Council pursuant to Title 29-A, section 1402-B, subsection 1, the appointments made pursuant to paragraphs E and G and 2 of the appointments made pursuant to paragraph F are for 2 years.

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

Effective May 30, 2011.

CHAPTER 169

H.P. 719 - L.D. 975

An Act To Require Certification of Private Applicators of General Use Pesticides

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

Sec. 1. 22 MRSA §1471-C, sub-§22-A is enacted to read:

22-A. Private applicator of general use pesticides. "Private applicator of general use pesticides" means a person who uses or supervises the use of general use pesticides for purposes of producing agricul-

tural commodities on property owned or rented by that person or that person's employer when:

A. The agricultural commodities produced are plants or plant products intended for human consumption as food; and

B. The person applying the pesticides or the employer of the person applying the pesticides derives $1,000 or more in annual income from the sale of those commodities.

Sec. 2. 22 MRSA §1471-D, sub-§2-D is enacted to read:

2-D. Certification required; private applicator of general use pesticides for food production. A private applicator of general use pesticides may not use or supervise the use of general use pesticides for food production without prior certification from the board, except that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator. Additional certification under this section is not required for a person certified as a commercial applicator or a private applicator under subsection 1 or 2, respectively.

Sec. 3. 22 MRSA §1471-M, sub-§1, ¶C-1 is enacted to read:

C-1. Establish standards for the certification and renewal of certification of private applicators of general use pesticides. Such standards must require that the private applicator of general use pesticides indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label and to apply pesticides in accordance with label instructions and warnings.

Sec. 4. Board of Pesticides Control to establish certification requirements. No later than January 1, 2012, the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control shall adopt rules under the Maine Revised Statutes, Title 22, section 1471-M, subsection 1, paragraph C-1 establishing certification requirements for private applicators of general use pesticides under Title 22, section 1471-D, subsection 2-D. The rules must require an initial certification examination and one hour per year of continuing education credits for recertification. Upon establishing certification requirements in rule, the board shall begin offering or arrange for the offering of courses and other opportunities to prepare applicators for the examination and to meet certification requirements. The board shall establish a license fee in rule that equals the license fee for a private applicator established in the board's rule in Chapter 32.

No later than April 1, 2012, the board shall begin outreach efforts to inform agricultural producers that, beginning April 1, 2015, a license will be required to apply general use pesticides for food production.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Pesticides Control - Board of 0287

Initiative: Provides funding for one part-time Office Associate II position and related All Other to administer exams and training for farms.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	$31,127	$32,086
All Other	$251	$251
OTHER SPECIAL REVENUE FUNDS TOTAL	$31,378	$32,337

Sec. 6. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 22, section 1471-D, subsection 2-D takes effect April 1, 2015.

See title page for effective date, unless otherwise indicated.

CHAPTER 170

H.P. 394 - L.D. 501

An Act To Provide the Opportunity To Register with the Selective Service System When Obtaining a Driver's License or Nondriver Identification Card

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

Sec. 1. 29-A MRSA §1301, sub-§12 is enacted to read:

12. Selective service registration. Before issuing or renewing a driver's license to a male United States citizen or immigrant who is at least 18 years of age and under 26 years of age, the Secretary of State shall provide the applicant with a short statement on the requirements of the federal Military Selective Service Act, 50 United States Code, Section 453 and a federal Military Selective Service registration form. If an applicant consents to register with the federal Se-

lective Service System pursuant to this subsection, the Secretary of State shall forward the necessary information of the applicant to the federal Selective Service System.

Sec. 2. 29-A MRSA §1410, sub-§10 is enacted to read:

10. Selective service registration. Before issuing or renewing a nondriver identification card to a male United States citizen or immigrant who is at least 18 years of age and under 26 years of age, the Secretary of State shall provide the applicant a short statement on the requirements of the federal Military Selective Service Act, 50 United States Code, Section 453 and a federal Military Selective Service registration form. If an applicant consents to register with the federal Selective Service System pursuant to this subsection, the Secretary of State shall forward the necessary information of the applicant to the federal Selective Service System.

See title page for effective date.

CHAPTER 171

H.P. 959 - L.D. 1307

An Act To Amend and Clarify Certain Education Statutes

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

Sec. 1. 20-A MRSA §1252, sub-§2, ¶C, as amended by PL 1983, c. 806, §15, is further amended to read:

C. A plan may not permit the voting power of any director to exceed by more than ~~2%~~ 5% the percentage of voting power the director would have if all 1,000 votes were apportioned equally among the directors.

Sec. 2. 20-A MRSA §1479, first ¶, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

A regional school unit shall maintain a program that includes kindergarten to grade 12 except for the school administrative districts that did not operate kindergarten to grade 12 that were reformulated into regional school units in accordance with Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12, as amended by Public Law 2007, chapter 668, section 48.

Sec. 3. 20-A MRSA §1486, sub-§1, as amended by PL 2009, c. 571, Pt. QQQ, §1, is further amended to read:

1. Budget validation. Following development of the annual regional school unit budget and approval at a regional school unit budget meeting as provided in section 1485, a referendum must be held in the regional school unit as provided in this section to allow the voters to validate or reject the total budget adopted at the regional school unit budget meeting.

Every 3 years, the voters in a regional school unit shall consider continued use of the budget validation referendum process. The warrant at the budget validation referendum in the 3rd year following adoption or continuation of the referendum process must include an article by which the voters of the school administrative ~~district~~ unit may indicate whether they wish to continue the process for another 3 years. The warrant for the referendum to validate the fiscal year 2010-11 budget is deemed the 3rd-year warrant. A vote to continue retains the process for 3 additional years. A vote to discontinue the process ends its use beginning with the following budget year and prohibits its reconsideration for at least 3 years.

An article to consider reinstatement of the budget validation referendum process may be placed on a warrant for a referendum vote by either a majority vote of the regional school unit board or a written petition filed with the regional school unit board by at least 10% of the number of voters voting in the last gubernatorial election in the municipalities in the school administrative ~~district~~ unit. The regional school unit board shall place the article on the next scheduled warrant or an earlier one if determined appropriate by the regional school unit board. If adopted by the voters, the budget validation referendum process takes effect beginning in the next budget year or the following budget year if the adoption occurs less than 90 days before the start of the next budget year. Once approved by the voters, the budget validation referendum process may not be changed for 3 years.

Sec. 4. 20-A MRSA §1511, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

§1511. Supermajority vote to close school in the regional school unit

A school operated within the regional school unit may not be closed for lack of need unless closure of the school is approved at a regular or special meeting of the regional school unit board by an affirmative vote of 2/3 of the elected membership or voting power of the regional school unit board. A regional school unit must proceed in accordance with section 1512 for elementary schools or for secondary schools if the regional school unit has more than one secondary school. For regional school units with only one member municipality, section 1512 does not apply and the regional school unit must proceed in accordance with section 4102, subsection 4, paragraph B-1.

Sec. 5. 20-A MRSA §2953, first ¶, as amended by PL 2005, c. 153, §4, is repealed.

Sec. 6. 20-A MRSA §2953, sub-§1, as amended by PL 2005, c. 153, §4, is repealed.

Sec. 7. 20-A MRSA §4102, sub-§4, as amended by PL 2007, c. 539, Pt. C, §1 and affected by §23 and amended by PL 2007, c. 599, §1 and affected by §3, is further amended to read:

4. Voter approval. Before a school board may close a school building pursuant to subsection 3, voter approval shall be obtained as follows.

A. Elementary schools in school administrative districts, regional school units and community school districts may only be closed if approved by the voters in accordance with the procedures set out in section 1512 for regional school units.

B. Secondary schools in school administrative districts, regional school units and community school districts ~~and either elementary or secondary schools in other school administrative units may be closed without voter approval, unless the school board is presented with a written petition, within 30 days of the board's decision to close the school, by 10% of the number of voters in the school administrative unit who voted at the last gubernatorial election, then a special referendum shall be called pursuant to:~~ may be closed only if approved by the voters in accordance with the procedures set out in section 1512 for regional school units.

~~(1) Section 1351 for school administrative districts;~~

~~(2) Title 30-A, sections 2528 to 2532, for community school districts, except the school board shall issue a warrant specifying that the municipalities within the district place the petitioned article on the ballot, and shall prepare and furnish the required number of ballots for carrying out the election; and~~

~~(3) Title 21-A and Title 30-A, respectively, for cities and towns.~~

B-1. Elementary or secondary schools in school administrative units that are not school administrative districts, regional school units or community school districts may be closed without voter approval, unless the school board is presented with a written petition, within 30 days of the board's decision to close the school, by 10% of the number of voters in the school administrative unit who voted at the last gubernatorial election, in which case a special referendum must be called pursuant to:

(1) Section 1351 for school administrative districts;

(2) Title 30-A, sections 2528 to 2532, for community school districts, except the school board shall issue a warrant specifying that the municipalities within the district place the petitioned article on the ballot, and shall prepare and furnish the required number of ballots for carrying out the election; and

(3) Title 21-A and Title 30-A, respectively, for cities and towns.

C. The article to be used shall be substantially in the following form:

"Article: Shall the school committee of ..... (name of town) (the board of directors of School Administrative District No. .....) be authorized to close ..... (name of school)?

Yes..... No.....

The additional cost of keeping the school open has been estimated by the school committee (board of directors) to be $ ..... ."

Sec. 8. 20-A MRSA §4102, last ¶, as enacted by PL 2007, c. 240, Pt. XXXX, §23, is repealed.

Sec. 9. 20-A MRSA §6004, as amended by PL 2009, c. 508, §2, is further amended to read:

§6004. Student counts

The following provisions apply to the annual counting of students.

1. Duty of superintendent. ~~By April 15th and October 15th~~ In accordance with time schedules established by the commissioner, the superintendent of each school administrative unit and the ~~principal~~ administrator of each private school shall inform the commissioner, in the format specified by and with the content required by the commissioner, of the number of students attending their schools and in the case of public schools the number of students residing in their school administrative unit. This information ~~shall~~ must be supplied on forms provided by the commissioner.

2. Student count. Students ~~shall~~ must be counted as follows.

A. A student residing in the school administrative unit may be considered in attendance on October 1st and April 1st ~~only~~ if the student~~:~~ is attending school on that date. A student must be counted as a resident if the student meets the residence requirement of chapter 213 and must be counted for subsidy if the student meets the definition of "subsidizable pupils" under section 15672, subsection 32.

~~(1) Attended school at least 75% of the time between October 1st and April 1st, if enrolled by October 1st; or~~

~~(2) Attended school at least 75% of the time between the date of the student's first enroll-~~

~~ment and April 1st, if not enrolled by October 1st.~~

Excused absences and absences due to illness ~~shall~~ may not be considered absences under this subsection.

B. Students who attend school under section 5205, subsections 2, 3-A, 4, 5 and 6 must be counted in the school administrative unit in which they attend school.

D. Private schools may report privately funded students on October 1st. All publicly funded students must be reported on October 1st and April 1st in the specified format and with the specific content and in accordance with the time schedules established by the commissioner.

Sec. 10. 20-A MRSA §15917, sub-§1, as enacted by PL 1995, c. 632, §3, is repealed.

See title page for effective date.

CHAPTER 172

H.P. 720 - L.D. 976

An Act To Require 3 Years of Experience in a School Administrative Unit before a Teacher May Receive a Continuing Contract Offer

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

Sec. 1. 20-A MRSA §1055, sub-§10, as amended by PL 2001, c. 588, §17, is further amended to read:

10. Supervise school employees. The superintendent is responsible for the evaluation of all teachers and other employees of the school administrative unit. The superintendent shall evaluate probationary teachers during, but not limited to, their 2nd year of employment. The method of evaluation must be determined by the school board and implemented by the superintendent.

Sec. 2. 20-A MRSA §13201, as amended by PL 1989, c. 285, is further amended to read:

§13201. Nomination and election of teachers; teacher contracts

The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board ~~shall make~~ makes. Upon the approval of nominations~~,~~ by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent ~~may deem~~ determines proper, subject to the approval of the school board. The superintendent, subject to the approval of the school board, shall implement a program to support probationary teachers pursuant to section 13015. Prior to May 15th before the expiration of a first ~~or,~~ 2nd or 3rd year probationary teacher's contract, the superintendent shall notify the teacher in writing of the superintendent's decision to nominate or not nominate that teacher for another teaching contract. If, after receiving a complaint from a teacher, the commissioner finds that the superintendent has failed to notify a teacher of a decision not to nominate that teacher, the school administrative unit shall pay a forfeiture to the teacher. The amount of that forfeiture ~~shall~~ must be equal to the teacher's per diem salary rate times the number of days between the notification deadline and the date on which notification is made or on which the complaint is filed, whichever occurs first. In case the superintendent of schools and the school board fail to legally elect a teacher, the commissioner ~~shall have~~ has the authority to appoint a substitute teacher who ~~shall serve~~ serves until such election is made.

After a probationary period ~~not to exceed 2~~ of 3 years, subsequent contracts of duly certified teachers ~~shall~~ must be for not less than ~~2~~ 5 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract ~~shall~~ must be extended automatically for one year and similarly in subsequent years. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties.

Just cause for dismissal or nonrenewal ~~shall be~~ is a negotiable item in accordance with the procedure set forth in Title 26, chapter 9-A~~,~~ for teachers who have served beyond the probationary period.

After a probationary period of ~~2~~ 3 years, any teacher~~,~~ who receives notice in accordance with this section that ~~his or her~~ the teacher's contract is not going to be renewed~~,~~ may during the 15 days following such notification request a hearing with the school board. The teacher may request reasons. The hearing ~~shall~~ must be private except by mutual consent and except that either or both parties may be represented by counsel. That hearing must be granted within 30 days of the receipt of the teacher's request.

The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall ~~shall be~~ is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A~~, provided that in~~. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall may include, but ~~shall~~ may not be limited to, seniority.

Sec. 3. Reports. The Department of Education shall review how teacher evaluation systems are used by various school administrative units, both in this State and in other states, to aid hiring, retention and dismissal decisions, as well as how such systems are used to aid professional development and support teachers. The Department of Education shall report its findings to the Joint Standing Committee on Education and Cultural Affairs by December 30, 2011.

Sec. 4. Application. That section of this Act that amends the Maine Revised Statutes, Title 20-A, section 13201 applies to newly hired teachers beginning with the 2012-2013 school year.

See title page for effective date.

CHAPTER 173

H.P. 196 - L.D. 243

An Act To Ensure Emergency Communications for Persons with Disabilities

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

Sec. 1. 26 MRSA §1419, sub-§1, ¶B-2, as amended by PL 2003, c. 553, Pt. A, §1, is further amended to read:

B-2. "Specialized customer communications equipment" means communications equipment used by persons with disabilities to conduct telephone communications or equipment that provides or assists in providing emergency alert notification to deaf persons or hard-of-hearing persons. "Specialized customer communications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, telecoil technology, large number dial overlays, direct telephone dialing, fax machines, equipment necessary to use short message services or text message services and other equipment used by persons with disabilities to provide access to telephone networks and equipment that provides or facilitates emergency alert notification to deaf persons or hard-of-hearing persons.

See title page for effective date.

CHAPTER 174

S.P. 149 - L.D. 516

An Act To Amend Maine Law Regarding Employment Practices for Certain Minors

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

Sec. 1. 26 MRSA §774, sub-§1, ¶B, as amended by PL 2003, c. 53, §1, is further amended to read:

B. More than ~~20~~ 24 hours in any week when the minor's school is in session~~, except that the minor may work up to 8 hours on each day that an authorized school closure occurs in that minor's school up to a total of 28 hours in that week~~. In addition, the maximum weekly hours a minor may work is 50 hours during any week that the approved school calendar for the minor's school is less than 3 days or during the first or last week of the school calendar, regardless of how many days the minor's school is in session for the week. If requested, a school must provide verification of its closings to the minor's employer or the Department of Labor;

Sec. 2. 26 MRSA §774, sub-§1, ¶D, as amended by PL 2003, c. 53, §1, is further amended to read:

D. More than ~~4~~ 6 hours in any day when the minor's school is in session, except that the minor may work up to 8 hours on the last scheduled day of the school week;

Sec. 3. 26 MRSA §774, sub-§1, ¶F, as amended by PL 2003, c. 53, §1, is further amended to read:

F. After ~~10~~ 10:15 p.m. on a day preceding a day on which the minor's school is in session or after 12 midnight on a day that does not precede such a school day; or

See title page for effective date.

CHAPTER 175

S.P. 312 - L.D. 992

An Act To Amend the Depuration Laws

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

Sec. 1. 12 MRSA §6856, sub-§3, as amended by PL 2007, c. 15, §1, is further amended to read:

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurat-

ing and processing methods and any other provisions required to ensure the public safety. ~~A depuration plant operator shall maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection.~~ The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

Sec. 2. 12 MRSA §6856, sub-§3-A, as amended by PL 2009, c. 561, §32, is repealed.

Sec. 3. 12 MRSA §6856, sub-§3-B, as enacted by PL 2007, c. 15, §3, is repealed.

Sec. 4. 12 MRSA §6856, sub-§3-C, as enacted by PL 2007, c. 15, §4, is repealed.

Sec. 5. 12 MRSA §6856, sub-§3-D is enacted to read:

3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs. Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area for municipal pollution abatement activities.

(1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.

(2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.

(3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph.

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient municipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State.

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives.

D. A depuration certificate holder shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4.

Sec. 6. 12 MRSA §6856, sub-§7, as amended by PL 2007, c. 15, §5, is repealed.

Sec. 7. 12 MRSA §6856, sub-§8, as enacted by PL 1991, c. 831, §2, is repealed.

See title page for effective date.

CHAPTER 176
S.P. 332 - L.D. 1099

An Act Concerning Independent Contractors in the Trucking and Messenger Courier Industries

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

Sec. 1. 39-A MRSA §114 is enacted to read:

§114. Independent contractor status for truckers and couriers

1. Presumption of employee status. Notwithstanding section 102, subsection 13, the operator of a motor vehicle engaged in the business of freight transportation or courier and messenger services is considered an employee unless all of subsection 2 applies or the operator is able to provide proof of coverage by a valid workers' compensation insurance policy; in either of which case, the operator is considered an independent contractor. For purposes of this section, "motor vehicle" means a van, truck or truck tractor used for freight transportation or courier and messenger services.

2. Factors to determine independent contractor status. An operator of a motor vehicle is considered an independent contractor in the business of

freight transportation or courier and messenger services if the operator:

A. Owns the motor vehicle or holds it under a bona fide lease agreement;

B. Is responsible for the maintenance of the motor vehicle;

C. Is responsible for substantially all of the principal operating expenses of the motor vehicle, including without limitation fuel, repairs, supplies and insurance. The operator may be reimbursed, including prospectively, for the operator's fuel surcharge fees and incidental costs, including tolls, permits and freight handling fees, by the entity contracting with the operator;

D. Is responsible for paying the operator's personal expenses;

E. Is responsible for supplying the necessary services to operate the motor vehicle;

F. Is compensated based on factors directly related to the work performed, such as mileage-based rates, and not solely on the amount of time expended by the operator;

G. Substantially controls the means and manner of performing the services related to the business of freight transportation or courier and messenger services in conformance with the specifications of a shipper and the law; and

H. Possesses a certification statement affirming that the operator whose services are being acquired meets each of the factors in paragraphs A to G and that the operator is understood to be an independent contractor and not an employee. The statement must be signed and dated by the operator supplying the service and the hiring entity. The statement must be supplied on demand to an insurance premium auditor or the board.

3. Repeal. This section is repealed October 1, 2013.

See title page for effective date.

CHAPTER 177

H.P. 306 - L.D. 380

An Act To Enhance Enforcement of Civil Orders of Arrest

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

Sec. 1. 14 MRSA §3135, as amended by PL 2009, c. 205, §§1 and 2, is further amended to read:

§3135. Civil order of arrest

A civil order of arrest issued under section 3134, subsection 1, or section 3136, must direct the sheriff to arrest the individual named in the order and bring the individual to a hearing any day the court is in session. In the case of a nonindividual debtor, the civil order of arrest must be issued for the arrest of any officer, director or managing agent of the debtor or other agent appointed by the debtor to accept service and who was served with the disclosure subpoena.

After a civil order of arrest has been issued, the sheriff shall cause the ~~individual~~ debtor named in the order to be arrested and shall deliver the ~~individual~~ debtor without undue delay to the division of the District Court designated in the civil order of arrest or obtain from the debtor a personal recognizance bond to appear in court at the specified date and time. ~~Should the debtor fail to appear at that time a warrant may issue for the debtor's arrest.~~ The sheriff may take such steps determined necessary for the sheriff's safety or the safety of others then present, including searching the debtor for weapons, if the sheriff has a reasonable suspicion that the debtor has a weapon, and handcuffing the debtor if that is necessary to transport the debtor to the court or to cause the debtor to remain peaceably at the court. Upon arrival at the court, the sheriff shall notify the clerk or bailiff that the debtor is present and may release the debtor into the custody of the bailiff. The sheriff shall instruct the debtor that the debtor must wait at the court until released by the court or clerk. Upon release of the debtor into the custody of the bailiff, the sheriff need not remain with the debtor at the court. ~~A debtor who fails to appear for the disclosure hearing after being released upon the debtor's personal recognizance commits a Class E crime.~~

After the judgment debtor is brought to the court, the clerk shall promptly notify the judgment creditor or the judgment creditor's attorney of record in person or by telephone that the presence of one of them is required for a hearing. If a disclosure or contempt hearing cannot be held that day due to the inability of the judgment creditor or the judgment creditor's attorney to appear or due to the absence of the judge or the inability of the court to hear the matter because of other business, the court or clerk shall release the debtor upon the debtor's personal recognizance for appearance on a date certain. ~~A debtor who fails to appear for the disclosure or contempt hearing after being released upon the debtor's personal recognizance commits a Class E crime.~~

If the debtor fails to appear at the time and place specified in a personal recognizance bond obtained by the sheriff, clerk or court, and upon request of the judgment creditor, the court shall order the Department of Labor to provide the judgment creditor with the name and address of the current or most recent

employer of the debtor, if any, together with the date the employer last reported wage information concerning the debtor and issue an additional civil order of arrest pursuant to section 3134 directing the sheriff to cause the debtor named in the order to be arrested and delivered to the District Court without obtaining from the debtor a personal recognizance bond.

An order directed to the Department of Labor under this section may be served by the judgment creditor by ordinary mail, accompanied by a reasonable fee set by the Department of Labor. The Department of Labor shall respond to the judgment creditor within 20 days after receipt of the court order.

A debtor admitted to personal recognizance bond under this section shall date and sign the bond and provide the following information: date of birth, hair color, eye color, height, weight, gender, race, telephone number, name of employer, address of employer and days and hours of employment.

A debtor who fails to appear for a disclosure or contempt hearing after being released upon the debtor's personal recognizance commits a Class E crime.

Unless the judgment debtor shows good cause for failure to appear after being duly served with a disclosure subpoena under section 3123, a contempt subpoena under section 3136 or an order to appear and disclose under Title 19-A, section 2361, the debtor must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest are $25 plus mileage at a rate of 42¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

See title page for effective date.

CHAPTER 178

H.P. 539 - L.D. 708

An Act Concerning Arrests for Violating Protection from Abuse Orders

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

Sec. 1. 19-A MRSA §4011, sub-§2, as amended by PL 2005, c. 510, §13, is further amended to read:

2. Exception. When the only provision that is violated concerns relief authorized under section 4007, subsection 1, paragraph F or F-1 or section 4007, subsection 1, paragraphs H to N, the violation must be treated as contempt and punished in accordance with law.

See title page for effective date.

CHAPTER 179

S.P. 351 - L.D. 1151

An Act Regarding Reporting Procedures of Lobbyists

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

Sec. 1. 3 MRSA §314, 3rd ¶, as repealed and replaced by PL 1993, c. 691, §13, is amended to read:

If termination is effected prior to November 30th, no further reports are required~~, except that the lobbyist and employer are required to file an annual report pursuant to section 317, subsection 2. The filing of an annual report, signed by the lobbyist and employer, before November 30th is considered a notification of termination~~.

Sec. 2. 3 MRSA §315-A, sub-§2, ¶E, as amended by PL 2007, c. 630, §11, is further amended to read:

E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed; ~~and~~

Sec. 3. 3 MRSA §315-A, sub-§2, ¶F, as enacted by PL 2007, c. 630, §11, is further amended to read:

F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C~~.~~; and

Sec. 4. 3 MRSA §315-A, sub-§2, ¶G is enacted to read:

G. The monthly reports filed under section 317 and an annual summary of those monthly reports.

Sec. 5. 3 MRSA §317, sub-§2, as amended by PL 2007, c. 630, §15, is repealed.

Sec. 6. 3 MRSA §317, sub-§2-A, as enacted by PL 2005, c. 301, §4, is amended to read:

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 ~~and annual reports under subsection 2~~ through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the

deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

Sec. 7. 3 MRSA §319, sub-§1, as repealed and replaced by PL 1993, c. 691, §22, is repealed and the following enacted in its place:

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of $100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is $50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the fine or penalty in whole or in part;

B. An error by the commission; or

C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

See title page for effective date.

CHAPTER 180

S.P. 404 - L.D. 1301

An Act To Amend the Laws Governing Security Deposits of Workers' Compensation Self-insurers

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

Sec. 1. 39-A MRSA §403, sub-§3, as amended by PL 2007, c. 75, §1, is further amended to read:

3. Proof of solvency and financial ability to pay; trust. The employer may comply with this section by furnishing satisfactory proof to the Superintendent of Insurance of solvency and financial ability to pay the compensation and benefits, and depositing cash, satisfactory securities, irrevocable standby letters of credit issued by a qualified financial institution or a surety bond with the ~~board~~ superintendent, in such sum as the superintendent may determine pursuant to subsection 8, ~~the bond to run to~~ the Treasurer of State to be listed as beneficiary of the bond or the irrevocable standby letter of credit and the bond or the irrevocable standby letter of credit to be conditional upon the faithful performance of this Act relating to the payment of compensation and benefits to any injured employee. In case of cash or securities being deposited, or drawn on a surety bond or letter of credit, the cash or securities must be placed in an account at interest by the Treasurer of State, and the accumulation of interest on the cash or securities so deposited must be credited to the account and may not be paid to the employer to the extent that the interest is required to secure the employer's self-insurance obligations, including the amount needed to support any present value discounting in the determination of the amount of the deposit. Any security deposit must be held by the Treasurer of State in trust for the benefit of the self-insurer's employees for the purposes of making payments under this Act. If the superintendent determines that the self-insurer has experienced a deterioration in financial condition that adversely affects the self-insurer's ability to pay obligations under this Act, the security amount may be in excess of the minimum amount required by this Title.

A self-insurer may, with the approval of the Superintendent of Insurance, use the following types of security to satisfy the self-insurer's responsibility to post security required by the superintendent: a surety bond; an irrevocable standby letter of credit; cash deposits and acceptable securities; and an actuarially determined fully funded trust. For purposes of this section, "tangible net worth" means equity less assets that have no physical existence and depend on expected future benefits for their ascribed value. Unless disapproved by the superintendent pursuant to paragraph C, subparagraphs (5) and (6), a group self-insurer that maintains a trust actuarially funded to the confidence level required by the superintendent may use an irrevocable standby letter of credit as follows: only in an amount not greater than the difference between the funding to the required confidence level and funding to the confidence level reduced by 10 percentage points; only as long as the trust assets are not used as collateral for the letter of credit; and only as long as the value of trust assets, excluding the value of the letter of credit, is at least equal to the present value, evaluated to the 65% confidence level, of ultimate incurred claims, claims settlement costs and, if determined necessary by the superintendent, administrative costs.

A. An individual self-insurer providing an irrevocable standby letter of credit as security shall file with the Superintendent of Insurance a letter of credit, on a form approved by the superintendent, copies of any agreements or other documents establishing the terms and conditions of the employer's reimbursement obligations to the financial institution issuing the letter of credit, together with copies of any required security agreements, mortgages or other agreements or documents granting security for the employer's reimbursement obligations and any other agreements that contain conditions, restrictions or limitations of any kind upon the employer, the superintendent or the Treasurer of State. The form of letter of credit approved by the superintendent must include, but is not limited to, all terms specifically required by this subsection and all terms reasonably required to secure the payment of compensation and benefits to claimants as required under this Act. ~~The superintendent, upon receipt of the original irrevocable standby letter of credit, shall promptly forward it to the Treasurer of State.~~

In order to issue an irrevocable standby letter of credit as security under this paragraph, a financial institution or its parent company must either:

(1) Maintain a long-term unsecured debt rating of at least A by either Moody's Investors Service, Inc. or Standard and Poor's Corporation;

(2) Maintain a short-term commercial paper rating within the 3 highest categories established by Moody's Investors Service, Inc. or Standard and Poor's Corporation; or

(3) Be certified in writing by the Superintendent of Financial Institutions to be well capitalized and well managed in accordance with the criteria set forth in Title 9-B, section 446-A, subsections 1 and 2. The Superintendent of Insurance shall keep the certification confidential, except from the subject financial institution, in accordance with Title 9-B, section 226.

The Superintendent of Insurance may adopt rules to establish additional qualifications for financial institutions issuing irrevocable standby letters of credit. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The irrevocable standby letter of credit must be the individual obligation of the issuing financial institution, may not be subject to any agreement, condition, qualification or defense between the financial institution and the employer and may not in any way be contingent on reimbursement by the employer. If the rating of an issuing financial institution that has issued an irrevocable standby letter of credit pursuant to this section falls below the required standard, the employer shall obtain a new irrevocable standby letter of credit from a qualified financial institution or shall provide other eligible security of equal value approved by the Superintendent of Insurance. The irrevocable standby letter of credit is automatically extended for one year from the date of expiration unless, 90 days prior to any expiration date, the issuing financial institution notifies the Superintendent of Insurance that the financial institution elects not to renew the irrevocable standby letter of credit.

An irrevocable standby letter of credit that has been issued by a qualified financial institution and accepted by the Superintendent of Insurance binds the issuing financial institution to pay one or more drafts drawn by the Treasurer of State, as directed by the superintendent, as long as the draft does not exceed the total amount of the irrevocable standby letter of credit. Any draft presented by the Treasurer of State, as directed by the superintendent, must be promptly honored if accompanied by the certification of the superintendent that any obligation under this chapter has not been paid when due or that a proceeding in bankruptcy has been initiated by or with respect to the employer in a court of competent jurisdiction.

If the Superintendent of Insurance certifies that the superintendent has been notified by the issuing financial institution that the irrevocable standby letter of credit expires by its terms in 30 days or less and that the irrevocable standby letter of credit was not replaced within 15 days after that notice to the superintendent by other eligible security of equal value approved by the superintendent, then the financial institution must remit within 15 days the full amount of the irrevocable letter of credit to the Treasurer of State without further certification.

Any proceeds from a draw on such an irrevocable standby letter of credit by the Treasurer of State, as directed by the Superintendent of Insurance, must be held by the Treasurer of State on behalf of workers' compensation claimants to secure payment of claims until either the superintendent authorizes the Treasurer of State to release those proceeds to the employer upon provision by the employer of replacement security adequate to meet the requirements for security set by the superintendent or the superintendent directs distribution of the proceeds in accordance with this Title.

To the extent not inconsistent with state law, the letter of credit is subject to and governed by the International Standby Practices 1998 or successor practices governing standby letters of credit duly adopted by the International Chamber of Com-

merce. If any legal proceedings are initiated with respect to payment of the letter of credit, those proceedings are subject to the State's courts and law.

B. The Superintendent of Insurance shall prescribe the form of the surety bond that may be used to satisfy, in whole or in part, the self-insurer's responsibility under this section to post security. The bond must be continuous, be subject to nonrenewal only upon not less than 60 days' notice to the superintendent, cover payment of all present and future liabilities incurred under this Act while the bond is in force and cover payments that become due while the bond is in force that are attributable to injuries incurred in prior periods and otherwise unsecured by cash, irrevocable standby letters of credit or acceptable securities. A bond must be held until all payments secured by the bond have been made or until the bond has been replaced by other eligible security approved by the superintendent that covers all outstanding liabilities. Payments under the bond are due within 30 days after notice has been given to the surety by the board that the principal has failed to make a payment required under the terms of an award, agreement or governing law. A trust established to satisfy the requirements of this section may not be funded by a surety bond.

C. A self-insurer may establish an actuarially determined fully funded trust, funded at a level sufficient to discharge those obligations incurred by the employer pursuant to this Act as they become due and payable from time to time, as long as the Superintendent of Insurance requires that the value of trust assets be at least equal to the present value of ultimate expected incurred claims and claims settlement costs, plus required safety margins and, if determined necessary by the superintendent, administrative costs for the operation of the plan of self-insurance. For the purpose of determining whether an actuarially determined fully funded trust has a surplus of funds in excess of that required by this subsection, the superintendent shall consider, based upon the group's audit for all completed plan years, only the following assets held outside the trust account: cash up to $10,000; accounts receivable, limited to amounts collected and deposited in the trust account by the date of the surplus distribution; accrued interest on trust account assets that will be collected and deposited in the trust account within 6 months from the date of the surplus determination; tangible assets that will be converted to cash and deposited in the trust account prior to the distribution date of any surplus; and a letter of credit to be used to partially fund the trust to the extent allowed under this section and rules adopted by the superintendent, as supported in the actuarial review. The superintendent shall consider cash held outside the trust account in excess of $10,000 if the self-insurer provides, to the superintendent's satisfaction, documentation regarding why the money is being held outside the trust account. An actuarially determined fully funded trust must be funded as follows, as determined by the superintendent.

(1) For individual and group self-insurers, the amount of security must be determined based upon an actuarial review. The actuarial review must take into consideration the use by a group self-insurer of any irrevocable standby letter of credit. Except as provided in subparagraph (3), initial funding for each plan year must be maintained at the 90% or higher confidence level. Funding after the completion of the initial plan year may be established no lower than the 75% confidence level if the following has occurred:

(a) A year considered for reduction is completed;

(b) The supporting actuarial review includes an evaluation of the completed year experience with claims evaluated not less than 6 months from the end of the plan year, or in the case of a group self-insurer in existence for at least 36 months, not less than 4 months from the end of the plan year; and

(c) For individual self-insurers, prior approval from the superintendent is obtained.

For the purposes of determining the confidence level, all completed years at the same confidence level may be aggregated. For individual self-insurers, funds may not be released from the trust or transferred between years except as approved by the superintendent. The governing body of a group self-insurer may at any time declare a surplus of funds above the required confidence level, but may only release funds after the completion of any plan year. The superintendent may request information regarding any such declaration. Any distribution of surplus must be based upon an actuarial review of all outstanding obligations for all completed plan years, an audited financial statement of the group for all completed plan years and a surplus distribution worksheet for all completed plan years on a form approved by the superintendent. The group self-insurer must provide the required information within 10 days after the distribution. Any surplus declared or distributed pursuant to this paragraph is subject to adjustment after review by the superinten-

dent within 60 days of the receipt of the required information. Any deficit below the required confidence level, as determined by the superintendent, that results from a distribution under this paragraph must be funded within 45 days from the date of the notice by the superintendent.

(2) A group self-insurer may elect to fund at a higher confidence level through the use of cash, marketable securities or reinsurance. If a member of a group self-insurer terminates membership in the group for any reason, that member shall fund the member's proportionate share of the liabilities and obligations of the trust to the 95% confidence level. If for any reason the departing member fails to fund the member's proportionate share of the trust's exposure to the 95% level of confidence, the remaining members of the group shall make the additional contribution no later than the anniversary date of the program as required to fund the departing member's exposure in accordance with this provision.

(3) Subject to prior approval by the superintendent in accordance with subparagraph (5), a self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 5 or more consecutive years may fund all years, including the prospective fund year, at the 75% or higher confidence level in the aggregate and a group self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 10 or more consecutive years may fund all years, including the prospective fund year, at the 65% or higher confidence level in the aggregate.

(4) Trust assets must consist of cash or marketable securities of a type and risk character as specified in subsection 9. The trustee shall submit a report to the superintendent not less frequently than quarterly that lists the assets comprising the corpus of the trust, including a statement of their market value and the investment activity during the period covered by the report. The trust must be established and maintained subject to the condition that trust assets may not be transferred or revert in any manner to the employer except to the extent that the superintendent finds that the value of the trust assets exceeds the present value of incurred claims and claims settlement costs with an actuarially indicated margin for future loss development. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and payout, must be as approved by the superintendent, except that the value of the trust account must be actuarially calculated at least annually by a casualty actuary who is a member of the American Academy of Actuaries and adjusted to the required level of funding.

(5) In determining whether a self-insurer that maintains an actuarially determined fully funded trust qualifies for a reduction in the required confidence level pursuant to subparagraph (1) or (3) or is subject to an enhanced confidence level pursuant to subparagraph (6), the superintendent shall consider the financial condition of the self-insurer in relation to the potential workers' compensation liabilities. The factors the superintendent may consider include the self-insurer's liquidity, leverage, tangible net worth, size and net income. For group self-insurers, the superintendent's review must be based on the aggregate financial condition of the group members. At the request of the superintendent, a group self-insurer shall report relevant financial information, on a form prescribed by the superintendent, at such intervals as the superintendent directs. The superintendent may establish additional review criteria or procedures by rule. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(6) If the superintendent determines, based on an evaluation of a self-insurer's financial condition pursuant to subparagraph (5), that the confidence level at which the self-insurer has been authorized to fund its trust is not sufficient to provide adequate security for the self-insurer's reasonably anticipated potential workers' compensation liabilities, the superintendent shall make a determination of the appropriate confidence level and order the self-insurer to take prompt action to increase funding to that level within 60 days.

D. Notwithstanding any provision of this chapter, authorization to self-insure may not be conditioned on a bond or security deposit that is in excess of $50,000 for the State, the University of Maine System or any county, city or town with a state-assessed valuation equal to or in excess of $300,000,000 and either a bond rating equal to or in excess of the 2nd highest standard as set by a national bond rating agency or a net worth equal to or in excess of $35,000,000. If a county, city or town that is a self-insurer relies upon a bond rating to qualify under this paragraph, it shall value or cause to be valued its unpaid workers' compensation claims pursuant to sound accepted actuarial principles. This value must be incorporated in the annual audit of the county, city or town, together

with disclosure of funds appropriated to discharge incurred claims expenses.

E. In consideration of a self-insuring entity's application for authorization to operate a plan of self-insurance, the Superintendent of Insurance may require or permit an applicant to employ valid risk transfer by the utilization of primary reinsurance, subject to the provisions of subsection 8. Standards respecting the application of reinsurance must be contained in a rule adopted by the superintendent pursuant to the Maine Administrative Procedure Act. Reinsurance must be defined as insurance covering workers' compensation exposures in excess of risk retained by a self-insurer.

F. An employer may be eligible for approved self-insurance status pursuant to this Act if the employer submits a written guarantee of the obligations incurred pursuant to this Act, the guarantee to be issued by a United States or Canadian corporation that is a member of an affiliated group of which the employer is a member, and which corporation is solvent and demonstrates an ability to pay the compensation and benefits, and the guarantee is in a form acceptable to the Superintendent of Insurance. The guarantor shall provide audited annual financial statements and such other information as the superintendent may require, including quarterly financial statements, and the employer shall provide a cash deposit, satisfactory securities, irrevocable standby letters of credit issued by a qualified financial institution or a surety bond as otherwise required by this Act in an amount not less than $100,000. The guarantor is deemed to have submitted to the jurisdiction of the board and the courts of this State for purposes of enforcing the guarantee. The guarantor, in all respects, is bound by and subject to the orders, findings, decisions or awards rendered against the employer for payment of compensation and any penalties or forfeitures provided under this Act. The superintendent, following hearing, may revoke the self-insured status of the employer if at any time the assets of the guarantor become impaired or encumbered or are otherwise found to be inadequate to support the guarantee.

G. A subsidiary employer may be eligible for approved self-insurance status pursuant to this Act if: the subsidiary employer files an application jointly with a qualified parent corporation that has direct ownership of a majority voting interest of the subsidiary employer; the parent corporation and subsidiary employer submit an irrevocable contract of assignment, on a form approved by the Superintendent of Insurance, of the subsidiary employer's obligations incurred pursuant to this Act; the parent corporation is solvent and demonstrates an ability to pay the compensation and benefits of the subsidiary employer; and the subsidiary employer meets all other requirements for application and qualification as a self-insurer under this chapter and under any applicable rules adopted by the superintendent. If the parent corporation is not a United States corporation, the superintendent may, in the superintendent's sole discretion, establish the conditions of any approval of the foreign parent corporation or deny the application of the foreign parent corporation. As part of its application for approval, a foreign parent corporation must provide the following information to the superintendent: evidence that its country of domicile has substantially similar laws with respect to submission to the jurisdiction of the board and the courts of this State for the purposes of payment of workers' compensation claims of the subsidiary employer; audited financial statements, as otherwise required by this Act, prepared in the English language by a certified public accountant licensed in a state in the United States in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants; and security, as otherwise required by the Act, in United States currency. The irrevocable contract of assignment and application must be signed by a duly authorized officer of each corporation and the application must include a board of directors' resolution from each entity as evidence of each officer's authority to enter into the contract. The superintendent may determine the subsidiary employer's eligibility for self-insurance authority and the amount of required security based upon the parent corporation's consolidated financial statement, as long as the employer complies with paragraph H. A subsidiary employer currently authorized to self-insure need not pay the application fee required of a new applicant in order to file an application to qualify under this subsection, but the subsidiary employer and parent corporation must provide all information required under this subsection as if they were a new applicant. Once the subsidiary employer becomes authorized to self-insure under this section, the parent corporation assumes liability for all prior workers' compensation liabilities incurred by the subsidiary employer during the period of self-insurance prior to the date of authorization under this subsection, unless the subsidiary employer files an alternative plan approved by the superintendent. The parent corporation and the subsidiary employer must both be named on the certificate of authorization for self-insurance authority. Upon issuance of a certificate of authorization pursuant to this subsection, the following applies.

(1) The parent corporation is deemed to have submitted to the jurisdiction of the board and the courts of the State for the purposes of

payment of workers' compensation claims of the subsidiary employer and is deemed to have submitted to the jurisdiction of the superintendent for purposes of implementation of this Act. The parent corporation, in all respects, is bound by and subject to all orders, findings, decisions or awards rendered against the subsidiary employer for payment of compensation and any penalties or forfeitures provided under this Act.

(2) A subsidiary employer authorized under this subsection and the parent corporation are considered one employer for the purposes of membership in the Maine Self-Insurance Guarantee Association. In the event of termination, transfer, insolvency, dissolution or bankruptcy of a subsidiary employer qualifying under this subsection, the parent corporation assumes all assessment obligations of the subsidiary employer for its period of self-insurance and is not considered a new member of the association.

(3) If the subsidiary employer fails for any reason to pay compensation and benefits as required under this Act, the parent corporation stands in the place of the subsidiary employer and is deemed to be the employer, subject to all requirements and provisions of this Act. For the purposes of payment of benefits and compensation under this Act, an employee of the subsidiary employer is deemed to be concurrently employed by both corporations. Concerning notification of injury to an employee of the subsidiary employer, notice to or knowledge of the occurrence of the injury on the part of the subsidiary employer is deemed notice or knowledge on the part of the parent corporation. The transfer, insolvency, dissolution or bankruptcy of a subsidiary employer qualifying under this subsection does not relieve the parent corporation from payment of compensation for injuries or death sustained by an employee during the time the subsidiary employer was approved for self-insurance authority under this subsection and the parent corporation continues to be deemed an employer until such time as all outstanding workers' compensation claims have been discharged.

(4) The transfer, insolvency, dissolution or bankruptcy of a parent corporation causes the termination of the subsidiary employer's authorization to self-insure and a termination plan must be filed pursuant to subsection 14.

H. Each individual self-insurer shall submit with its application, and not less frequently than annually thereafter, a financial statement of current origin that has been audited by a certified public accountant. When a self-insurer qualifies on the basis of a financial guarantee or on the basis of an irrevocable contract of assignment, the Superintendent of Insurance may accept an audited financial statement of the guarantor or parent corporation in satisfaction of this requirement and may also require combining statements provided in an array that is reconciled to the consolidated report.

Sec. 2. 39-A MRSA §403, sub-§5, ¶D, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

D. If for any reason the status of a group self-insurer under this paragraph is terminated, the securities, the surety bond, the letter of credit or the deposit required by this section continues to be held by the Superintendent of Insurance or Treasurer of State and remains subject to the control of the board until all claims secured by the securities, surety bond, letter of credit or deposit have been discharged. When all such claims have been discharged or after such period as the Superintendent of Insurance determines proper, the superintendent may accept in lieu thereof, and for the additional purpose of securing such further and future contingent liability as may arise from prior injuries to workers and be incurred by reason of any change in the condition of such workers warranting the board making subsequent awards for payment of additional compensation, a policy of insurance furnished by the group self-insurer, its successor or assigns or other entity carrying on or liquidating such self-insurance group. The policy must be in a form approved by the superintendent and issued by any insurance company licensed to issue this class of insurance in the State. It may only be issued for a single complete premium payment in advance by the group self-insurer. It must be given in an amount determined by the superintendent and when issued is noncancellable for any cause during the continuance of the liability secured and so covered.

See title page for effective date.

CHAPTER 181

S.P. 336 - L.D. 1103

An Act To Speed Recovery of Amounts Due the State

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

Sec. 1. 14 MRSA §3138 is enacted to read:

§3138. Enforcement of administrative orders

An administrative order of any agency or department requiring the payment of money to that agency or department is enforceable through the Superior Court under the following procedure. A certified copy of the administrative order must be filed with the court in the county in which the administrative order was issued. The administrative order must be accompanied by an affidavit from an authorized representative of the agency or department or from an assistant attorney general acting as counsel for the agency. The affidavit must state the facts showing that the agency or department provided notice of and opportunity for a hearing to contest the claim, that all applicable time periods for appeal have run and that the administrative order is final.

The court shall then render a pro forma decision in accordance with the administrative order of the agency, which has the same effect as if it were rendered in an action in which equitable relief is sought, duly heard and determined by the court. The decision may thereafter be enforced as a money judgment pursuant to this chapter and chapter 502-A.

See title page for effective date.

CHAPTER 182

H.P. 990 - L.D. 1349

An Act To Amend the Laws Governing the Handling of Medical Examiner Cases

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

Sec. 1. 22 MRSA §3028, sub-§6, as amended by PL 2001, c. 291, §6, is further amended to read:

6. Examination of body. In all cases ~~except those requiring a report on a body already disposed of and not to be exhumed for examination~~, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall conduct a thorough examination of the body except in those cases when the body has already been disposed of and is not being exhumed or when the Chief Medical Examiner or Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

See title page for effective date.

CHAPTER 183

S.P. 89 - L.D. 300

An Act To Increase the Availability of Lead Testing for Children

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

Sec. 1. 22 MRSA §1315, sub-§4-A, as enacted by PL 1991, c. 810, §7, is repealed.

Sec. 2. 22 MRSA §1319-A, as amended by PL 2001, c. 683, §4 and affected by §10, is repealed.

Sec. 3. 22 MRSA §1319-D is enacted to read:

§1319-D. Laboratory testing

1. Laboratories. Except as provided in subsection 2, a blood sample taken from a child by a health care provider or laboratory to test for blood lead level must be sent to the Health and Environmental Testing Laboratory for analysis.

2. Facilities approved by the department. The department may approve the following facilities to test for blood lead level as long as the facility can perform in-office blood lead analyses for purposes of improving blood lead screening and the facility has demonstrated the ability to electronically submit all blood lead testing results and associated information to the department:

A. A Head Start facility; and

B. A health care provider, health care facility or clinic that dispenses benefits of the Women, Infants and Children Special Supplemental Food Program of the federal Child Nutrition Act of 1966.

3. Rules. The department shall adopt rules regarding blood lead testing conducted by:

A. The Health and Environmental Testing Laboratory;

B. Health care providers, health care facilities and clinics that dispense benefits of the Women, Infants and Children Special Supplemental Food Program of the federal Child Nutrition Act of 1966; and

C. Head Start facilities.

4. Fees; dedicated account; uses. Whenever possible when a blood lead test is performed by the Health and Environmental Testing Laboratory, the laboratory shall bill 3rd-party payors for services provided under this section and shall deposit all fees received into the Health and Environmental Testing Laboratory dedicated account. The Health and Environmental Testing Laboratory shall use the funds to:

A. Administer a child blood and environmental lead testing program that includes processing, analyzing and reporting child blood lead samples and materials that may contain lead; and

B. Gather data and report laboratory results.

See title page for effective date.

CHAPTER 184

H.P. 574 - L.D. 767

An Act To Amend and Clarify Certain Portions of the Dental Practice Laws

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

Sec. 1. 32 MRSA §1062-A, sub-§1, as amended by PL 2007, c. 620, Pt. C, §1, is further amended to read:

1. Penalties. A person who practices or falsely claims legal authority to practice dentistry, dental hygiene, independent practice dental hygiene, denturism or dental radiography in this State without first obtaining a license as required by this chapter, or after the license has expired, has been suspended or revoked or has been temporarily suspended or revoked, commits a Class E crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Sec. 2. 32 MRSA §1074, as amended by PL 2005, c. 45, §1, is further amended to read:

§1074. Affiliation with American Association of Dental Boards

The board may affiliate with the American Association of Dental ~~Examiners~~ Boards or its successor as an active member and pay regular dues to that association and may send one or more delegates to the meetings of the American Association of Dental ~~Examiners~~ Boards or its successor. These delegates are entitled to receive compensation provided for in section 1071.

Sec. 3. 32 MRSA §1081, sub-§1, as amended by PL 1993, c. 600, Pt. A, §63, is further amended to read:

1. Practicing dentistry. A person is considered to be practicing dentistry when that person performs, or attempts or professes to perform, a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other remuneration paid, or to be paid, directly or indirectly to the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed. A person who directly or indirectly, by any means or method, takes impressions of a human tooth, teeth, jaws or performs a phase of an operation incident to the replacement of a part of a tooth; or supplies artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, reproduces or repairs a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, except on the written prescription of a duly licensed dentist; or who places dental appliances or structures in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to a person other than the dentist upon whose prescription the work was performed; or who professes to the public by any method to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth, or who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure, or who extracts or attempts to extract human teeth, or corrects or attempts to correct malformations of teeth or of the jaws is also considered to be practicing dentistry. A person who repairs or fills cavities in the human teeth; or who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction; or who uses an x-ray machine for the purpose of taking dental x rays, or who gives or professes to give interpretations or readings of dental x rays; or who administers an ~~anaesthetic~~ anesthetic of any nature in connection with a dental operation; or who uses the words dentist, dental surgeon, oral surgeon or the letters D.D.S., D.M.D. or any other words, letters, title or descriptive matter that in any way represents that person as being able to diagnose, treat, prescribe or operate for a disease, pain, deformity, deficiency, injury or physical condition of the teeth or jaws or adjacent structures; or who states, or professes or permits to be stated or professed by any means or method whatsoever that the person can perform or will attempt to perform dental operations or render a diagnosis connected with dental operations is also considered to be practicing dentistry.

Sec. 4. 32 MRSA §1092, sub-§1, as amended by PL 2007, c. 620, Pt. C, §§7 and 8, is further amended to read:

1. Unlawful practice. A person may not:

A. Practice dentistry without obtaining a license;

B. Practice dentistry under a false or assumed name;

C. Practice dentistry under the license of another person of the same name;

D. Practice dentistry under the name of a corporation, company, association, parlor or trade name;

E. While manager, proprietor, operator or conductor of a place for performing dental operations, employ a person who is not a lawful practitioner of dentistry in this State to perform dental practices as described in section 1081;

F. While manager, proprietor, operator or conductor of a place for performing dental operations, permit a person to practice dentistry under a false name;

G. Assume a title or append or prefix to that person's name the letters that falsely represent the person as having a degree from a dental college;

H. Impersonate another at an examination held by the board;

I. Knowingly make a false application or false representation in connection with an examination held by the board;

J. Practice as a dental hygienist or independent practice dental hygienist without having a license to do so; ~~or~~

K. Employ a person as a dental hygienist or independent practice dental hygienist who is not licensed to practice~~.~~;

L. Practice as a denturist without having a license to do so;

M. Practice as a dental radiographer without having a license to do so;

N. Employ a person as a denturist who is not licensed to practice; or

O. Employ a person as a dental radiographer who is not licensed to practice.

See title page for effective date.

CHAPTER 185

H.P. 464 - L.D. 634

An Act To Allow a Person To Designate Information Submitted for a Hunting or Fishing License as Confidential

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

Sec. 1. 12 MRSA §10110 is enacted to read:

§10110. Hunting and fishing license; confidential

1. Indication of confidentiality. The commissioner shall allow an applicant for a hunting or fishing license to indicate that the applicant's e-mail address is confidential.

2. Confidential information. If a person indicates that the person's e-mail address submitted as part of the application process for a hunting or fishing license is confidential as provided in subsection 1, that information is confidential.

3. Exception. E-mails designated as confidential under this section are not confidential to department personnel or law enforcement officers or for purposes of court proceedings.

See title page for effective date.

CHAPTER 186

S.P. 495 - L.D. 1548

An Act To Update and Improve Maine's Laws Pertaining to the Rights of Persons with Intellectual Disabilities

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

PART A

Sec. A-1. 22 MRSA §8101, sub-§4, ¶E, as amended by PL 2007, c. 324, §13, is further amended to read:

E. A residential facility under Title 34-B, ~~sections~~ section 1431 ~~and 5601~~.

Sec. A-2. 34-B MRSA §5601, sub-§1-B is enacted to read:

1-B. Behavior management. "Behavior management" means systematic strategies to prevent the occurrence of challenging behavior or to keep the person or others safe by reducing the factors that lead to challenging behavior or otherwise limiting the person's ability to engage in challenging behavior.

Sec. A-3. 34-B MRSA §5601, sub-§1-C is enacted to read:

1-C. Behavior modification. "Behavior modification" means teaching strategies, positive support and other interventions to support a person to learn alternatives to challenging behavior.

Sec. A-4. 34-B MRSA §5601, sub-§2, as enacted by PL 1983, c. 459, §7 and amended by PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. A-5. 34-B MRSA §5601, sub-§5-A, as enacted by PL 1993, c. 326, §4, is amended to read:

5-A. Person receiving services. "Person receiving services" means a person with mental retardation

or autism receiving services from the ~~bureau~~ department or from an agency or facility licensed or funded to provide services to persons with mental retardation or autism except those presently serving sentences for crime.

Sec. A-6. 34-B MRSA §5601, sub-§5-B is enacted to read:

5-B. Provider. "Provider" means an entity, organization or individual providing services to an adult with mental retardation or autism, funded in whole or in part or licensed or certified by the department.

Sec. A-7. 34-B MRSA §5601, sub-§6, as amended by PL 1993, c. 326, §5 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. A-8. 34-B MRSA §5601, sub-§6-A is enacted to read:

6-A. Restraint. "Restraint" means a mechanism or action that limits or controls a person's voluntary movement, deprives a person of the use of all or part of the person's body or maintains a person in an area against the person's will by another person's physical presence or coercion. "Restraint" does not include a prescribed therapeutic device or intervention or a safety device or practice.

Sec. A-9. 34-B MRSA §5601, sub-§6-B is enacted to read:

6-B. Safety device or practice. "Safety device or practice" means a device or practice that has the effect of reducing or inhibiting a person's movement in any way but whose purpose is to maintain or ensure the safety of the person. "Safety device or practice" includes but is not limited to implements, garments, gates, barriers, locks or locking apparatuses, alarms, helmets, masks, gloves, straps, belts or protective gloves whose purpose is to maintain the safety of the person.

Sec. A-10. 34-B MRSA §5601, sub-§7, as amended by PL 1993, c. 326, §5, is further amended to read:

7. Seclusion. "Seclusion" means the solitary ~~placement~~, involuntary confinement for any period of time of a person receiving services in a ~~locked~~ room ~~for any period of time~~ or specific area from which egress is denied by a locking mechanism or barrier.

Sec. A-11. 34-B MRSA §5601, sub-§7-A, as enacted by PL 1993, c. 326, §6, is amended to read:

7-A. Supports. "Supports" ~~are those~~ means actions or ~~that~~ assistance that ~~permits~~ empowers a person with mental retardation or autism to carry out life activities ~~as the person desires~~, build relationships and learn the skills necessary to meet the person's needs and desires.

Sec. A-12. 34-B MRSA §5601, sub-§7-B is enacted to read:

7-B. Therapeutic device or intervention. "Therapeutic device or intervention" means an apparatus or activity prescribed by a qualified professional to achieve proper body position, balance or alignment or an action or apparatus that is designed to enhance sensory integration.

Sec. A-13. 34-B MRSA §5601, sub-§8, as amended by PL 1993, c. 326, §7, is further amended to read:

8. Treatment. "Treatment" means the prevention~~,~~ or amelioration ~~or cure~~ of physical and mental disabilities or illness of a person ~~receiving services~~ or any actions or services designed to assist the person to maximize the person's independence and potential.

Sec. A-14. 34-B MRSA §5603, as amended by PL 1993, c. 326, §8, is further amended to read:

§5603. Entitlement

Each person with mental retardation or autism is entitled to the rights enjoyed by citizens of the State and of the United States, unless some of these rights have been limited or suspended ~~as the result of court guardianship proceedings~~ by a court of competent jurisdiction.

1. Person committed to the commissioner. The rights and basic protections set out in section 5605 of a person with mental retardation or autism who is committed to the commissioner as not criminally responsible pursuant to Title 15, section 103 or as incompetent to stand trial pursuant to Title 15, section 101-D may be limited or suspended only if the commissioner submits to the applicable court a written treatment plan that specifies each limitation of a right or basic protection and the treatment plan has been approved by the court.

Sec. A-15. 34-B MRSA §5604, sub-§2, as amended by PL 2007, c. 356, §23 and affected by §31, is further amended to read:

2. Independence and productivity. Providing habilitation, education and other training to persons with mental retardation or autism that will maximize ~~their~~ each person's potential to lead an independent and productive ~~lives~~ life and that will afford opportunities for ~~outward mobility from institutions~~ full inclusion into the community where each person lives; and

Sec. A-16. 34-B MRSA §5604, sub-§4, as enacted by PL 2007, c. 356, §23 and affected by §31, is repealed.

Sec. A-17. 34-B MRSA §5604, as corrected by RR 2009, c. 1, §23, is amended by adding at the end 2 new paragraphs to read:

The rights and basic protections of a person with mental retardation or autism under section 5605 may not be restricted or waived by that person's guardian, except as permitted by rules adopted pursuant to this section.

The department has authority to adopt rules to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-18. 34-B MRSA §5605, sub-§3, as amended by PL 1993, c. 326, §9, is further amended to read:

3. Communications. A person with mental retardation or autism is entitled to private communications.

A. A person with mental retardation or autism is entitled to receive, send and mail sealed, unopened correspondence. A person who ~~owns or is employed by a day facility or a residential facility~~ is a provider may not delay, hold or censor any incoming or outgoing correspondence of any person with mental retardation or autism, nor may any such correspondence be opened without the consent of the person or the person's legal guardian.

B. A person with mental retardation or autism ~~in a residential facility~~ is entitled to reasonable opportunities for telephone and Internet communication.

C. A person with mental retardation or autism is entitled to an unrestricted right to visitations during reasonable hours~~, except that nothing in this provision may be construed to permit infringement upon others' rights to privacy~~ unless this right has been restricted pursuant to rules adopted pursuant to section 5604.

Sec. A-19. 34-B MRSA §5605, sub-§5, as amended by PL 1993, c. 326, §9, is further amended to read:

5. Vote. A person with mental retardation or autism may not be denied the right to vote ~~for reasons of mental illness, as provided in the Constitution of Maine, Article II, Section 1, unless under guardianship~~.

Sec. A-20. 34-B MRSA §5605, sub-§6, as amended by PL 1993, c. 326, §9, is further amended to read:

6. Personal property. A person with mental retardation or autism is entitled to the possession and use of that person's own clothing, personal effects and money, except ~~that,~~ when temporary custody of clothing or personal effects by a provider is necessary to protect the person or others from imminent injury~~, the chief administrator of a day facility or a residential facility may take temporary custody of clothing or personal effects, which the administrator shall immediately return when the emergency ends~~ or unless this right has been restricted pursuant to rules adopted pursuant to section 5604.

Sec. A-21. 34-B MRSA §5605, sub-§7, as amended by PL 1993, c. 326, §9, is further amended to read:

7. Nutrition. A person with mental retardation or autism ~~in a residential facility~~ is entitled to nutritious food in adequate quantities and meals may not be withheld for disciplinary reasons.

Sec. A-22. 34-B MRSA §5605, sub-§8, ¶C, as amended by PL 1993, c. 326, §9, is further amended to read:

C. Daily notation of medication received by each person with mental retardation or autism ~~in a residential facility~~ must be kept in the records of the person with mental retardation or autism.

Sec. A-23. 34-B MRSA §5605, sub-§8, ¶D, as amended by PL 1993, c. 326, §9, is further amended to read:

D. Periodically, but no less frequently than every 6 months, the drug regimen of each person with mental retardation or autism ~~in a residential facility~~ must be reviewed by ~~the attending~~ a physician or other appropriate monitoring body, consistent with appropriate standards of medical practice.

Sec. A-24. 34-B MRSA §5605, sub-§8, ¶F, as amended by PL 1993, c. 326, §9, is repealed.

Sec. A-25. 34-B MRSA §5605, sub-§10, as amended by PL 1993, c. 326, §9, is further amended to read:

10. Social activity. A person with mental retardation or autism is entitled to ~~suitable~~ opportunities for behavioral and leisure time activities that include social interaction in the community, as set out in section 5610. This right may be waived or restricted only under the rules adopted pursuant to section 5604 or pursuant to a treatment plan approved pursuant to section 5603, subsection 1.

Sec. A-26. 34-B MRSA §5605, sub-§12, as amended by PL 1993, c. 326, §9, is further amended to read:

12. Discipline. Discipline of persons with mental retardation or autism is governed as follows.

~~A. The chief administrative officer of each facility shall prepare a written statement of policies and procedures for the control and discipline of persons receiving services that is directed to the goal of maximizing the growth and development of persons receiving services.~~

~~(1) Persons receiving services are entitled to participate, as appropriate, in the formulation of the policies and procedures.~~

~~(2) Copies of the statement of policies and procedures must be given to each person receiving services and, if the person has been adjudged incompetent, to that person's parent or legal guardian.~~

~~(3) Copies of the statement of policies and procedures must be posted in each residential and day facility.~~

B. Corporal punishment or any form of inhumane discipline is not permitted.

C. Seclusion as a form of discipline is not permitted.

E. A provider of residential services may establish house rules in a residential unit owned or operated by the provider. A person receiving services who resides in the unit is entitled to participate, as appropriate, in the formulation of the house rules. A house rule must be uniformly applied to all residents of the residential unit where the rules apply. A copy of the house rules must be posted in a residential unit where the rules apply and a copy of the rules must be given to all residents who receive services and, if any resident is under guardianship, to the guardian of the person receiving services.

Sec. A-27. 34-B MRSA §5605, sub-§13, as amended by PL 2007, c. 356, §25 and affected by c. 695, Pt. D, §3, is further amended to read:

13. Behavioral support, modification and management. ~~Behavioral treatment~~ Behavior modification and behavior management of and supports for a person with mental retardation or autism ~~is~~ are governed as follows.

A. A person with mental retardation or autism may not be subjected to a ~~treatment~~ behavior modification or behavior management program to eliminate dangerous or maladaptive behavior without first being ~~examined~~ assessed by a physician to ~~rule out the possibility that the behavior is organically caused~~ determine if the proposed program is medically contraindicated and that the dangerous or maladaptive behavior could not be better treated medically.

A-1. ~~Behavioral treatment~~ Support programs may contain both behavior modification and behavior management components. ~~Behavior modification components consist of interventions designed to assist a person with mental retardation or autism to learn to replace dangerous or maladaptive behavior with safer and more adaptive behavior. Behavior management components consist of systematic strategies to prevent the occurrence of dangerous or maladaptive behaviors by minimizing or eliminating environmental or other factors that cause those behaviors.~~

A-2. The following practices are prohibited as elements of behavior modification or behavior management programs:

(1) Seclusion;

(2) Corporal punishment;

(3) Actions or language intended to humble, dehumanize or degrade the person;

(4) Restraints that do not conform to rules adopted pursuant to this section;

(5) Totally enclosed cribs or beds; and

(6) Painful stimuli.

B. ~~Treatment~~ Behavior modification and behavior management programs ~~involving the use of noxious or painful stimuli or other aversive or severely intrusive techniques, as defined in department rules,~~ may be used only to correct behavior more harmful ~~than the treatment program~~ to the person ~~with mental retardation or autism~~ than the program and only:

(1) On the recommendation of ~~a physician, psychiatrist or psychologist~~ the person's personal planning team;

(2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy; a representative ~~of~~ designated by the Office of Adults with Cognitive and Physical ~~Disabilities~~ Disability Services; and a representative ~~of~~ designated by the Maine Developmental Services Oversight and Advisory Board; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program.

~~The department may adopt rules as necessary to implement this paragraph. Rules adopted pursu-~~

~~ant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

~~C. Notwithstanding paragraph B, for a child under 18 years of age, treatment programs involving the use of seclusion or any noxious or painful stimuli, as defined in department rules, may not be approved.~~

Sec. A-28. 34-B MRSA §5605, sub-§14-A, as enacted by PL 2007, c. 573, §2, is amended to read:

14-A. Restraints. A person with mental retardation or autism is entitled to be free from ~~a physical~~ restraint unless:

A. The ~~physical~~ restraint is a short-term step to protect the person from imminent injury to that person or others; or

B. The ~~physical~~ restraint has been approved as a ~~behavioral treatment~~ behavior management program in accordance with this section.

A ~~physical~~ restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A ~~physical~~ restraint may impose only the least possible restriction consistent with its purpose and must be removed as soon as the threat of imminent injury ends. A ~~physical~~ restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety. ~~The use of totally enclosed cribs and barred enclosures is prohibited in all circumstances.~~

Daily records of the use of ~~physical~~ restraints identified in paragraph A must be kept, which may be accomplished by meeting reportable event requirements.

Daily records of the use of ~~physical~~ restraints identified in paragraph B must be kept, and a summary of the daily records pertaining to the person must be made available for review by the person's planning team, as defined in section 5461, subsection 8-C, on a schedule determined by the team. The review by the personal planning team may occur no less frequently than quarterly. The summary of the daily records must state the type of ~~physical~~ restraint used, the duration of the use and the reasons for the use. A monthly summary of all daily records pertaining to all persons must be relayed to the Office of Advocacy.

Sec. A-29. 34-B MRSA §5605, sub-§14-B, as enacted by PL 2007, c. 573, §3, is repealed.

Sec. A-30. 34-B MRSA §5605, sub-§14-C, as enacted by PL 2007, c. 573, §4, is repealed.

Sec. A-31. 34-B MRSA §5605, sub-§15, ¶B, as amended by PL 1987, c. 769, Pt. A, §129, is further amended to read:

B. The commissioner is entitled to have access to the records of a ~~day facility or a residential facility~~ provider if necessary to carry out the statutory functions of the commissioner's office.

Sec. A-32. 34-B MRSA §5605, sub-§16 is enacted to read:

16. Therapeutic devices or interventions. Therapeutic devices or interventions must be prescriptively designed by a qualified professional and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use of therapeutic devices or interventions. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-33. 34-B MRSA §5605, sub-§17 is enacted to read:

17. Safety devices and practices. A safety device or practice must be prescribed by a physician. A safety device must be designed and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use and approval of safety devices or practices. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-34. 34-B MRSA §5605, as amended by PL 2009, c. 100, §1, is further amended by adding at the end a new paragraph to read:

The department may adopt rules as necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-35. 34-B MRSA §5607, sub-§2, as amended by PL 1993, c. 326, §11, is further amended to read:

2. Posting requirement. A copy of this subchapter must be posted ~~in~~ by each ~~residential and day facility~~ provider.

Sec. A-36. 34-B MRSA §5608, as amended by PL 1993, c. 326, §12 and c. 410, Pt. CCC, §42, is further amended to read:

§5608. Residential council

Upon request of a person receiving services, ~~the chief administrative officer of~~ a residential ~~facility~~ provider shall ~~initiate and develop~~ offer an opportunity to a person receiving services from the provider to organize a ~~program of government~~ residential council to hear the views and represent the interests of ~~all~~ persons receiving services ~~at~~ from the ~~facility~~ provider.

1. Composition. The ~~government~~ residential council of the persons receiving services must be composed of residents elected by other residents ~~and staff advisors skilled in the administration of commu-~~

~~nity organizations~~. The residential council may include allies elected by the residents.

2. Duties. The ~~government of the persons receiving services~~ residential council shall work closely with the ~~division~~ Office of Adults with Cognitive and Physical Disability Services and the Office of Advocacy to promote the interests and welfare of all ~~residents in the facility~~ persons receiving services from the provider.

PART B

Sec. B-1. Develop recommendations for changes in statutory language. The Department of Health and Human Services and the Maine Developmental Disabilities Council, with the assistance of the Revisor of Statutes, shall review the Maine Revised Statutes to identify those sections that use the term "mental retardation" or the term "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 and the council shall invite the participation of the Disability Rights Center in the development of those recommendations.

Sec. B-2. Report and recommendations. By December 7, 2011, the Department of Health and Human Services and the Maine Developmental Disabilities Council shall submit a report, including proposed legislation, to the Joint Standing Committee on Health and Human Services regarding recommended changes for the Maine Revised Statutes.

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 125th Legislature to implement the recommendations.

See title page for effective date.

CHAPTER 187

S.P. 411 - L.D. 1334

An Act To Require the Department of Health and Human Services To License Families To Provide Care for Children in Foster Care

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

Sec. 1. 22 MRSA §8101, sub-§3, as amended by PL 1999, c. 392, §4 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

3. Family foster home. "Family foster home" means a children's home, other than an Indian foster family home, that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. "Family foster home" includes the home of a resource family whether the family provides foster care, kinship care, adoption or permanency guardianship services, as long as the home meets the requirements and standards for adoption of children in foster care. Family foster homes licensed by the Department of Health and Human Services or relatives' homes approved by the Department of Health and Human Services as meeting licensing standards are eligible for insurance pursuant to Title 5, section 1728-A. In any action for damages against a family foster home provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claim for and award of those damages, including costs and interest, may not exceed $300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit must be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be deemed to make the operation of a family foster home a state activity nor may it expand in any way the liability of the State or foster parent.

See title page for effective date.

CHAPTER 188

S.P. 258 - L.D. 854

An Act To Require the Treasurer of State To Publish All State Liabilities

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

Sec. 1. 5 MRSA §155 is enacted to read:

§155. State liabilities

By July 31st of each year, the Treasurer of State shall publish on the publicly accessible portion of the treasurer's website the latest information available

regarding all liabilities of the State as of June 30th of that same year. For purposes of this section, "liabilities of the State" includes all state debts, loans, bonds, unfunded liabilities and promises to pay, including issued and unissued bonds, pension liabilities, promises to provide health insurance in future years, Maine Governmental Facilities Authority bonds and any other debt or obligation that the State has guaranteed or promised to pay. "Liabilities of the State" does not include state contracts for goods and services or vendor information.

See title page for effective date.

CHAPTER 189

S.P. 431 - L.D. 1391

An Act To Improve Access to Veterinary Medicine and Improve Veterinary 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, Maine has regulated the licensure of veterinarians for the practice of veterinary medicine for decades; and

Whereas, the health and safety of Maine's agricultural and domestic animals vitally affects the agricultural and general economy of the State, and the public interest and public welfare; and

Whereas, there is a shortage of veterinarians in this State practicing veterinary medicine on large animals, and as a result Maine's large animal population is currently underserved; and

Whereas, encouraging veterinarians currently licensed in another state to practice in Maine will reduce the shortage of veterinarians; and

Whereas, Maine's veterinary licensing laws now uphold the highest standards of the profession and ensure the practice of veterinary medicine by highly qualified individuals; and

Whereas, maintaining the integrity of the veterinary licensing process is critical to protect Maine's animals and the general economy; and

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

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

Sec. 1. 32 MRSA §4861, sub-§5, as amended by PL 2007, c. 402, Pt. R, §5, is further amended to read:

5. Licensure by endorsement. The board shall grant a license by endorsement to a veterinarian who:

A. Has submitted a complete application;

B. Has paid the examination and license fee as set under section 4863-A;

C. Holds a valid license issued by another state, United States territory, province of Canada or other jurisdiction;

D-1. Has successfully passed an examination pursuant to subsection 1-A pertaining to the practice of veterinary medicine as determined by board rule. The board may require the applicant to submit to an examination covering the laws and rules pertaining to the practice of veterinary medicine in this State; and

E. Has actively practiced clinical veterinary medicine for 3,000 hours during the 3 years preceding application.

Notwithstanding this subsection, the board shall waive the requirement that a veterinarian pass an examination for veterinarians who have, during the 6 years preceding the application, actively practiced clinical veterinary medicine for at least 6,000 hours without disciplinary action relating to the practice of veterinary medicine by another state, United States territory or province of Canada.

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

Effective June 1, 2011.

CHAPTER 190

H.P. 759 - L.D. 1023

An Act To Authorize the Board of Licensure of Podiatric Medicine and the State Board of Veterinary Medicine To Establish a Podiatrist Health Program and a Veterinarian Health Program

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

Sec. 1. 24 MRSA §2502, sub-§1-A, as enacted by PL 1985, c. 804, §§3 and 22, is amended to read:

1-A. Health care practitioner. "Health care practitioner" means physicians and all others certified,

registered or licensed in the healing arts, including, but not limited to, nurses, podiatrists, optometrists, chiropractors, physical therapists, dentists, psychologists ~~and,~~ physicians' assistants and veterinarians.

Sec. 2. 24 MRSA §2502, sub-§1-C, as enacted by PL 1997, c. 697, §1, is amended to read:

1-C. Adverse professional competence review action. "Adverse professional competence review action" means an action based upon professional competence review activity to reduce, restrict, suspend, deny, revoke or fail to grant or renew a physician's or veterinarian's:

A. Membership, clinical privileges, clinical practice authority or professional certification in a hospital ~~or,~~ other health care entity or veterinary hospital; or

B. Participation on a health care entity's provider panel.

Sec. 3. 24 MRSA §2502, sub-§2, as amended by PL 1985, c. 804, §§4 and 22, is further amended to read:

2. Health care provider. "Health care provider" means any hospital, clinic, nursing home or other facility in which skilled nursing care or medical services are prescribed by or performed under the general direction of persons licensed to practice medicine, dentistry, podiatry or surgery in this State and ~~which~~ that is licensed or otherwise authorized by the laws of this State. "Health care provider" includes a veterinary hospital.

Sec. 4. 24 MRSA §2502, sub-§3, as enacted by PL 1977, c. 492, §3, is amended to read:

3. Physician. "Physician" means any natural person authorized by law to practice medicine ~~or,~~ osteopathic medicine or veterinary medicine within this State.

Sec. 5. 24 MRSA §2502, sub-§4-A, as amended by PL 2009, c. 47, §1, is further amended to read:

4-A. Professional review committee. "Professional review committee" means a committee of ~~physicians, dentists, pharmacists, nurses or a combination of members of all 4 professions~~ health care practitioners formed by a professional society for the purpose of identifying and working with ~~physicians, dentists and other licensees of the Board of Dental Examiners, physician assistants, pharmacists and pharmacy technicians and nurses~~ health professionals who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the ~~Board of Licensure in Medicine, the Board of Dental Examiners, the Board of Osteopathic Licensure, the Maine Board of Pharmacy and the State Board of Nursing~~ various licensing boards that license the health professionals the committee serves.

Sec. 6. 24 MRSA §2510, sub-§6, as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is further amended to read:

6. Disciplinary action. Disciplinary action by the Board of Licensure in Medicine ~~shall be~~ is in accordance with Title 32, chapter 48; disciplinary action by the Board of Osteopathic Licensure ~~shall be~~ is in accordance with Title 32, chapter 36; and disciplinary action by the State Board of Veterinary Medicine is in accordance with Title 32, chapter 71-A.

Sec. 7. 32 MRSA §3605-B, sub-§3, as enacted by PL 1993, c. 600, Pt. A, §239, is amended to read:

3. Rules. Adopt rules in accordance with the Maine Administrative Procedure Act, as it determines necessary to carry out the purposes of this chapter; and

Sec. 8. 32 MRSA §3605-B, sub-§7 is enacted to read:

7. Podiatrist health program. The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocol may not prohibit an impaired podiatrist from seeking alternative forms of treatment.

The board has the power to contract with other agencies, individuals, firms or associations for the conduct and operation of a podiatrist health program operated by a professional review committee.

Sec. 9. 32 MRSA §4859, sub-§3, as amended by PL 2007, c. 402, Pt. R, §4, is further amended to read:

3. After hearing, adopt, amend or repeal rules. After hearing, adopt, amend or repeal rules in accordance with Title 5, chapter 375, subchapter 2, necessary to carry into effect this chapter. These rules must be made in accordance with the purpose and intent of the law and the standards set forth in this chapter and include, but are not limited to, rules concerning misconduct, fraud, advertising, standards of competency, personal conduct, standards of sanitation for the operation of veterinary hospitals, associations with other veterinarians, unprofessional conduct and qualifications for licensure. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; ~~and~~

Sec. 10. 32 MRSA §4859, sub-§6, as amended by PL 2007, c. 402, Pt. R, §4, is further amended to read:

6. License veterinary technicians. License veterinary technicians in accordance with procedures as the board may prescribe by rule. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A~~.~~; and

Sec. 11. 32 MRSA §4859, sub-§9 is enacted to read:

9. Veterinarian health program. The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocol may not prohibit an impaired veterinarian or veterinary technician from seeking alternative forms of treatment.

The board has the power to contract with other agencies, individuals, firms or associations for the conduct and operation of a veterinarian health program operated by a professional review committee.

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Allocates dedicated revenue funds for the State Board of Veterinary Medicine and the Board of Licensure of Podiatric Medicine to contract with an agency to operate a podiatrist health program and a veterinarian health program beginning in September 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$13,983	$13,983
OTHER SPECIAL REVENUE FUNDS TOTAL	$13,983	$13,983

See title page for effective date.

CHAPTER 191

S.P. 141 - L.D. 437

An Act Relating to Inspection Requirements for New Motor Vehicles

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

Sec. 1. 29-A MRSA §1754, sub-§1-A is enacted to read:

1-A. New motor vehicles exempt from inspection. A new motor vehicle owned by a new vehicle dealer, as defined in section 851, subsection 9, with a dealer plate is exempt from motor vehicle inspection requirements under section 1751 only if the motor vehicle is operated in a manner consistent with section 1002, subsection 1, paragraphs A and E. For purposes of this subsection, "new motor vehicle" means a motor vehicle of the current model year or model year immediately preceding the current model year that has not been previously registered or titled.

This subsection does not allow the operation of unsafe motor vehicles on a public way.

Sec. 2. 29-A MRSA §1766, sub-§3, as amended by PL 2001, c. 234, §3, is further amended to read:

3. Fee. ~~Stickers~~ Except as provided in subsection 3-A, stickers are furnished by the Chief of the State Police at $2.50 each.

Sec. 3. 29-A MRSA §1766, sub-§3-A is enacted to read:

3-A. Fee for new vehicle dealers. Stickers furnished to a new vehicle dealer, as defined in section 851, subsection 9, by the Chief of the State Police are $3.50 each.

See title page for effective date.

CHAPTER 192

S.P. 296 - L.D. 950

An Act To Exempt Health Care Sharing Ministries from Insurance Requirements

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

Sec. 1. 24-A MRSA §704, sub-§1, as enacted by PL 2001, c. 79, §1, is amended to read:

1. Health insurance. For purposes of this Title, except as provided in subsection 2 and subsection 3,

"health insurance" means insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto, including provision for the mental and emotional welfare of human beings by defraying the costs of legal services only to the extent provided for in chapter 38.

Sec. 2. 24-A MRSA §704, sub-§3 is enacted to read:

3. Health care sharing ministry. As used in this Title and Title 24, the use of "health insurance" and related terms such as "accident and health insurance," "accident and sickness insurance," "carrier," "health," "health benefit plan," "health care," "health insurer" or "insurer" does not include, unless specifically provided otherwise in the law, a health care sharing ministry, and a health care sharing ministry may not be considered to be engaged in the business of insurance for the purposes of this Title. For the purposes of this section, "health care sharing ministry" means a faith-based, nonprofit organization that is exempt from taxation under the federal Internal Revenue Code and that:

A. Has been in existence continuously since December 31, 1999 and has facilitated the sharing of medical expenses of participants without interruption since December 31, 1999;

B. Limits participation in the health care sharing ministry to individuals who have a particular religious affiliation;

C. Acts as a facilitator among participants who have financial and medical needs and matches those participants with other participants with the present ability to assist those with financial and medical needs in accordance with criteria established by the health care sharing ministry;

D. Provides for the financial and medical needs of a participant through monetary contributions from one participant to another;

E. Provides amounts that participants may contribute without any assumption of risk or promise to pay among the participants and requires no assumption of risk or promise to pay by the health care sharing ministry to the participants;

F. Provides a written monthly statement to all participants that lists the total dollar amount of qualified needs submitted to the health care sharing ministry, as well as the amount actually published or assigned to participants for their contribution;

G. Conducts an annual audit that is performed by an independent certified public accountant in accordance with generally accepted accounting principles and that is made available to the public upon request; and

H. Provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the organization that reads in substance: "Notice: The organization facilitating the sharing of medical expenses is not an insurance company and neither its guidelines nor plan of operation is an insurance policy. Whether anyone chooses to assist you with your medical bills will be totally voluntary because no other participant will be compelled by law to contribute toward your medical bills. Participation in the organization or a subscription to any of its documents should never be considered to be insurance. Regardless of whether you receive payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the payment of your own medical bills."

See title page for effective date.

CHAPTER 193

H.P. 875 - L.D. 1177

An Act To Make Minor Changes to Municipal Health Inspection Activities

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

PART A

Sec. A-1. 22 MRSA §2491, sub-§1, as amended by PL 1979, c. 30, §1, is further amended to read:

1. Campground. "~~Camping area~~ Campground" means, in addition to the ~~general~~ generally accepted ~~interpretations~~ definitions, camping areas, recreational vehicle parks, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where tents ~~or~~, recreational vehicles, rental cabins and cottages are permitted ~~to be parked~~ on 5 or more sites for compensation either directly or indirectly. "Campground" includes, but is not limited to, sites intended for recreational purposes rather than permanent residency. "Campground" does not include parking lots or areas where camping is not authorized.

Sec. A-2. 22 MRSA §2491, sub-§4, as enacted by PL 1975, c. 496, §3, is amended to read:

4. Cottage. "Cottage" means a single structure where sleeping accommodations are furnished to the public as a business for a day, week or month, but not for ~~more~~ longer than ~~the~~ an entire ~~summer~~ season, for temporary occupancy for recreational purposes only and not for permanent residency.

Sec. A-3. 22 MRSA §2491, sub-§6, as enacted by PL 1975, c. 496, §3, is amended to read:

6. Eating and lodging place. "Eating and lodging place ~~or lodging place~~" means every building or structure or any part thereof kept, used as, maintained as, advertised as or held out to the public to be a place where eating and sleeping ~~or sleeping~~ accommodations are furnished to the public as a business, such as hotels, motels, guest homes and cottages.

Sec. A-4. 22 MRSA §2491, sub-§7, as amended by PL 2009, c. 211, Pt. A, §1, is further amended to read:

7. Eating establishment. "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, take-out restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, retail frozen dairy product establishments, airports, parks, theaters, recreational camps, youth camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

Sec. A-5. 22 MRSA §2491, sub-§7-E is enacted to read:

7-E. Health inspector. "Health inspector" means a person whose education and experience in the biological and sanitary sciences qualify that person to engage in the promotion and protection of the public health and who applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of those factors of the environment that affect the health, safety and well-being of others.

Sec. A-6. 22 MRSA §2491, sub-§7-F is enacted to read:

7-F. Lodging place. "Lodging place" means a building or structure, or any part of a building or structure, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes. "Lodging place" includes, but is not limited to, hotels, motels, guest homes and cottages where the owner maintains the sleeping accommodations. "Lodging place" does not include permanent residences, rooming houses, tenancies at will or rental properties with tenant and landlord relationships.

Sec. A-7. 22 MRSA §2491, sub-§10-A is enacted to read:

10-A. Public pool. "Public pool" means any constructed or prefabricated pool other than a residential pool or medical facility pool that is intended to be used for swimming, recreational bathing or wading and is operated by an owner, lessee, tenant or concessionaire or by a person licensed by the department whether or not a fee is charged for use. "Public pool" includes a pool on the premises of a child care facility that is licensed or required to be licensed under section 8301-A.

Sec. A-8. 22 MRSA §2491, sub-§10-B is enacted to read:

10-B. Public spa. "Public spa" means any constructed spa other than a residential spa or medical facility spa.

Sec. A-9. 22 MRSA §2491, sub-§11, as amended by PL 2009, c. 211, Pt. A, §2, is repealed and the following enacted in its place:

11. Recreational camp or sporting camp. "Recreational camp" or "sporting camp" means a building or group of buildings devoted primarily to the offering of primitive lodging for a fee to persons who want primitive recreation, snowmobiling, hunting, fishing and similar camps, not including summer sports programs overseen by employees or volunteers of municipalities and educational institutions when the activities generally take place at municipal or institutional properties and buildings.

Sec. A-10. 22 MRSA §2491, sub-§12, as enacted by PL 1975, c. 496, §3, is repealed.

Sec. A-11. 22 MRSA §2491, sub-§13, as enacted by PL 1975, c. 496, §3, is repealed.

Sec. A-12. 22 MRSA §2491, sub-§14, as enacted by PL 1975, c. 496, §3, is amended to read:

14. Vending machine. "Vending machine" ~~shall mean~~ means any self-service device offered for public use ~~which~~ that, upon insertion of ~~a coin, coins or token~~ money or by other similar means, dispenses unit servings of food other than in original sealed packages without the necessity of replenishing the device between vending operations.

Sec. A-13. 22 MRSA §2491, sub-§16, as enacted by PL 2009, c. 211, Pt. A, §3, is amended to read:

16. Youth camp. "Youth camp" means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual and educational objectives and operated and used for 5 or more consecutive days during one or more seasons of the year. "Youth camp" includes day camps, residential camps and trip and travel camps. "Youth camp" does not include summer sports programs overseen by employees or volunteers of municipalities and educational institutions when the activities generally take place at municipal or institutional properties and buildings.

Sec. A-14. 22 MRSA §2492, sub-§1, as amended by PL 2009, c. 211, Pt. A, §§4 to 6, is further amended to read:

1. License required. A person, corporation, firm or copartnership may not conduct, control, manage or operate the following establishments for compensation, directly or indirectly, without a license issued by the department:

A. An eating establishment;

B. An eating and lodging place;

C. A lodging place;

D. A recreational camp or sporting camp;

E. A ~~camping area~~ campground; ~~or~~

F. A youth camp~~.~~;

G. A public pool; or

H. A public spa.

Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

Sec. A-15. 22 MRSA §2492, sub-§3, as enacted by PL 2003, c. 452, Pt. K, §20 and affected by Pt. X, §2, is amended to read:

3. Campground; presumption. If a ~~camping area~~ campground consists of 5 or more tents or recreational vehicles on a commercial lot, it is presumed that the owner or renter of the lot is receiving compensation for the use of a ~~camping area~~ campground. The owner or renter may rebut the presumption if the owner or renter presents a preponderance of evidence to the contrary.

Sec. A-16. 22 MRSA §2499, sub-§4, as enacted by PL 1975, c. 496, §3, is amended to read:

4. Inspection reports. The municipalities shall furnish ~~the department~~ electronic copies of its inspection reports ~~relating to said inspections on a monthly basis~~ in a format and on a schedule determined by the department.

Sec. A-17. 22 MRSA §2499, sub-§6, as amended by PL 2003, c. 673, Pt. X, §4, is further amended to read:

6. License fee. When a license is issued to an ~~eating~~ establishment, as described in section 2492, subsection 1, located in a municipality to which authority to conduct inspection has been delegated by the department as specified in this section, the requirement for payment of a license fee by the establishment to the department as set forth in section 2494 must be waived. However, the licensee is required to pay the department a sum not to exceed ~~$60~~ $100 to support the costs of mailing and handling.

Sec. A-18. 22 MRSA §2499, sub-§9, as enacted by PL 2003, c. 673, Pt. X, §6, is amended to read:

9. Delegation renewal. Beginning January 1, 2005, and every 3 years thereafter, the department shall review the ~~restaurant~~ inspection program of the municipalities to which authority to conduct inspections has been delegated. The process for the delegation of this authority and other such provisions describing the assignment of and removal of this delegation of authority must be established by rule and must include, but not be limited to, staff competency, enforcement and compliance history, inspection practices and reporting practices. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. A-19. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 562, in the chapter headnote, the words "camping areas, recreational camps, youth camps and eating establishments" are amended to read "campgrounds, recreational camps, youth camps and eating establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 22 MRSA §2494, first ¶, as amended by PL 2009, c. 211, Pt. A, §7, is further amended to read:

Each application for, or for renewal of, a license to operate an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or ~~camping area~~ campground within the meaning of this chapter must be accompanied by a fee, appropriate to the size of the establishment, place, camp or area of the licensee, determined by the department and not to exceed the fees listed below. All fees collected by the department must be deposited into a special revenue account established for this purpose. No such fee may

be refunded. No license may be assignable or transferable. The fees may not exceed:

Sec. B-2. 22 MRSA §2494, sub-§2, as amended by PL 2003, c. 673, Pt. X, §1, is further amended to read:

2. Sixty dollars. Sixty dollars for each inspection for any ~~eating~~ establishment that is located in a municipality that requires local inspections of ~~eating~~ establishments; and

Sec. B-3. 22 MRSA §2495, first ¶, as amended by PL 2009, c. 211, Pt. A, §8, is further amended to read:

The department shall, within 30 days following receipt of application, issue an annual license to operate any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or ~~camping area~~ campground that is found to comply with this chapter and the rules adopted by the department.

Sec. B-4. 22 MRSA §2498, sub-§1, ¶A, as amended by PL 2009, c. 211, Pt. A, §10, is further amended to read:

A. The department may impose penalties for violations of this chapter, or the rules adopted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or ~~camping area~~ campground. The penalties may not be greater than $100 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

Sec. B-5. 22 MRSA §2498, sub-§1, ¶B, as amended by PL 2009, c. 211, Pt. A, §11, is further amended to read:

B. The department may direct an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or ~~camping area~~ campground to correct any violations in a manner and within a time frame that the department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

Sec. B-6. 22 MRSA §2498, sub-§1, ¶C, as amended by PL 2009, c. 211, Pt. A, §12, is further amended to read:

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp or ~~camping area~~ campground without first obtaining a license as required by this chapter must be punished, upon adjudication of unlicensed operation, by a fine of not less than $25 nor more than $200, and upon a 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of not less than $200 nor more than $500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

Sec. B-7. 22 MRSA §2499, sub-§2, as enacted by PL 1975, c. 496, §3 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

2. Qualified to make inspections. ~~No municipal~~ A municipally employed ~~sanitarians shall~~ health inspector may not make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Health and Human Services.

Sec. B-8. 22 MRSA §2499, sub-§8, as enacted by PL 1975, c. 496, §3, is amended to read:

8. Certification. Certification of municipally employed ~~sanitarians shall~~ health inspectors must be in accordance with standards set by the commissioner and ~~shall~~ be for a period of 3 years.

Sec. B-9. 22 MRSA §2499, first ¶, as enacted by PL 1975, c. 496, §3, is amended to read:

Notwithstanding any other provisions of this chapter, the department may issue a license to ~~establishments~~ an establishment as defined in section 2491 on the basis of an inspection performed by ~~an~~ a health inspector who works for and is compensated by the municipality in which such an establishment is located, but only if the following conditions have been met.

Sec. B-10. 22 MRSA §2501, as amended by PL 2007, c. 428, §1, is further amended to read:

§2501. Exceptions

Private homes are not deemed or considered lodging places and subject to a license when not more than 5 rooms are let; such private homes must post in a visible location in each rented room a card with the following statement in text that is easily readable in no less than 18-point boldface type of uniform font "This lodging place is not regulated by the State of Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention." The homes must provide guests upon check-in with a notice containing the same information. A license is not required from dormitories of charitable, educational or philanthropic institutions, fraternity and sorority houses affiliated with educational institutions, or from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating establishments and temporary lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boarding houses and camps conducted in connection with wood cutting and logging operations, nor from any boarding care facilities

or children's homes that are licensed under section 7801.

~~Cottages shall~~ Rooms and cottages are not ~~be~~ deemed or considered lodging places and subject to a license where not more than 3 rooms and cottages are let.

Stores or other establishments, where bottled soft drinks or ice cream is sold for consumption from the original containers only, and where no tables, chairs, glasses or other utensils are provided in connection with such sale, ~~shall~~ are not ~~be~~ considered eating ~~places within the meaning of this section~~ establishments. At such establishments, straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, ~~provided~~ as long as they ~~shall be~~ are supplied in original individual single service sterile packages.

Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and ~~argicultural~~ agricultural societies ~~shall be~~ are exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year.

See title page for effective date.

CHAPTER 194

S.P. 148 - L.D. 515

An Act To Review State Water Quality Standards

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

Sec. 1. 38 MRSA §420, sub-§1-B, ¶F is enacted to read:

F. The department may require mercury testing once per year for facilities that maintain at least 5 years of mercury testing data.

Sec. 2. 38 MRSA §420, sub-§2, ¶J is enacted to read:

J. Notwithstanding any other provision of law to the contrary, the department shall use a one in 10,000 risk level when calculating ambient water quality criteria for inorganic arsenic.

Sec. 3. 38 MRSA §464, sub-§4, ¶¶J and K are enacted to read:

J. For the purpose of calculating waste discharge license limits for toxic substances, the department may use any unallocated assimilative capacity that the department has set aside for future growth if the use of that unallocated assimilative capacity would avoid an exceedance of applicable ambient water quality criteria or a determination by the department of a reasonable potential to exceed applicable ambient water quality criteria.

K. Unless otherwise required by an applicable effluent limitation guideline adopted by the department, any limitations for metals in a waste discharge license may be expressed only as mass-based limits.

See title page for effective date.

CHAPTER 195

S.P. 407 - L.D. 1310

An Act To Amend the Laws Governing the Address Confidentiality Program

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

Sec. 1. 5 MRSA §90-B, sub-§1, ¶A, as enacted by PL 2001, c. 539, §1, is amended to read:

A. "Address" means a residential street, school or work address of an individual, including any geographically specific description or coordinate that identifies a residential address, as specified on the individual's application to be a program participant under this ~~chapter~~ section.

Sec. 2. 5 MRSA §90-B, sub-§7, as enacted by PL 2001, c. 539, §1, is amended to read:

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

See title page for effective date.

CHAPTER 196

H.P. 932 - L.D. 1241

An Act To Exempt Employers Subject to Federally Mandated Drug and Alcohol Programs from Maine Substance Abuse Program Laws

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

Sec. 1. 26 MRSA §681, sub-§8, as amended by PL 1995, c. 324, §2, is further amended to read:

8. Nuclear power plants; federal law. The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

~~B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by the Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers. This exception does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees as long as the agreements are consistent with federal law.~~

~~(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.~~

C. This subchapter does not apply to any employer subject to a federally mandated drug and alcohol testing program, including, but not limited to, testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V, and its employees, including independent contractors and employees of independent contractors who are working for or at the facilities of an employer who is subject to such a federally mandated drug and alcohol testing program.

Sec. 2. Report. The Department of Labor, Bureau of Labor Standards shall submit a report that includes its findings and recommendations by January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the simplification and streamlining of the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A. The report and recommendations must include, among other topics, consideration of the following:

1. Initiating substance abuse testing when an employee causes a work-related accident that results in property damage, personal injury or loss of life or a citation or summons being issued to the employee by a law enforcement officer;

2. Submitting supervisory personnel to substance abuse testing on a random or arbitrary basis when an employer requires, requests or suggests that other employees be tested; and

3. Eliminating the requirement that an employer provide an opportunity and pay for an employee to participate in an assistance program when the employee has received a confirmed positive result on a substance abuse test.

The joint standing committee is authorized to introduce a bill related to the bureau's report to the Second Regular Session of the 125th Legislature.

See title page for effective date.

CHAPTER 197
H.P. 667 - L.D. 908

An Act Regarding Gas Utilities under the Safety Jurisdiction 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, it is crucial to immediately establish a new framework for safety regulation of certain gas utilities that is not overly burdensome but adequately protects public safety; and

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

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

Sec. 1. 35-A MRSA §4702, as repealed and replaced by PL 1999, c. 718, §15, is repealed.

Sec. 2. 35-A MRSA §4702-A is enacted to read:

§4702-A. Safety jurisdiction only over certain gas utilities

The commission may regulate certain gas utilities in accordance with this section as an agent of the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 United States Code, Section 60105.

1. Jurisdiction. A gas utility owning, controlling, operating or managing a central tank system or a liquefied petroleum gas system is subject to the jurisdiction of the commission solely with respect to safety if that system serves:

A. Ten or more customers;

B. More than one customer and any portion of the central tank system or liquefied petroleum gas system is located in a public place; or

C. One customer and a portion of the central tank system or liquefied petroleum gas system is located off the customer's premises in a public place.

In regulating gas utilities under this section, the commission may not interpret "public place" to include a motel room, hotel room, rented cottage or other rented or leased living space unless the commission receives written notice from the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration that this exclusion is incompatible with the administration's interpretation of 49 Code of Federal Regulations, Section 192.1 and the commission by rule establishes a definition of "public place" consistent with that written notice. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Limitations; liquefied petroleum gas systems. Regulation of liquefied petroleum gas systems under this section is governed by this subsection. As used in this subsection, unless the context otherwise indicates, "jurisdictional system" means a liquefied petroleum gas system subject to the jurisdiction of the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration under 49 Code of Federal Regulations, Section 192.1, and "operator" means the operator of a jurisdictional system.

A. The commission may regulate liquefied petroleum gas systems only to the extent the system is subject to the jurisdiction of the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration under 49 Code of Federal Regulations, Section 192.1.

B. The commission shall regulate jurisdictional systems and operators under this section in accordance with the minimum standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration as adopted by reference by the commission by rule. Rules adopting by reference the minimum standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

C. The commission may not adopt or enforce any rule governing jurisdictional systems or operators, including but not limited to rules establishing definitions or standards, except as specifically authorized in this paragraph, paragraph B or subsection 1. The commission may by rule:

(1) Identify and certify operators;

(2) Require jurisdictional systems to be registered with the commission. The commission may not impose an administrative penalty under section 1508-A that exceeds $5,000 for failure to register a jurisdictional system;

(3) Prohibit delivery of liquefied petroleum gas to a customer if an operator has determined that piping or other equipment owned by the customer makes continued delivery unsafe. Nothing in this subparagraph permits the commission to require an operator to inspect, maintain or otherwise oversee customer-owned piping or other equipment;

(4) Require operators to participate in the underground facility damage prevention system established under Title 23, section 3360-A;

(5) Define "combustible material";

(6) Establish reasonable requirements for operators to keep on file maps or drawings of jurisdictional systems;

(7) Establish reasonable standards for the protection of jurisdictional systems from reasonably foreseeable damages that may be caused by motorized vehicles or snow, ice or other weather-related conditions;

(8) Establish reasonable requirements for the installation of warning tape and tracer wires on plastic pipes installed by operators;

(9) Establish reasonable requirements for operators to mark containers owned by the operators and located on customer property;

(10) Establish reasonable requirements for the use of directional boring by operators for the installation of piping for jurisdictional systems;

(11) Establish reasonable odor verification requirements for liquefied petroleum gas delivered to customers by operators; and

(12) Establish enforcement procedures. The enforcement procedures must provide for informal disposition of possible violations, including procedures that allow a person to correct a violation without penalty, informal conferences to resolve disputes about violations, consent agreements to resolve enforcement actions and other means of avoiding adjudicatory proceedings and the imposition of administrative penalties when informal means of enforcement are adequate to ensure public safety.

Rules adopted under this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

D. In applying the atmospheric corrosion control standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration to liquefied petroleum gas systems, the commission shall consider atmospheric corrosion to be a condition exhibiting signs of deterioration, including pitting or loss of metal. The commission may not consider surface rust or loss of paint coating to constitute atmospheric corrosion.

Sec. 3. 35-A MRSA §4710, first ¶, as enacted by PL 1999, c. 605, §2 and affected by §3, is amended to read:

Subject to the provisions of this section, a natural gas utility may take and hold by right of eminent domain lands or rights in lands necessary to the safe, economical and efficient operation of a pipeline and to the provision of adequate service to the public. For purposes of this section, the term "natural gas utility" means an intrastate natural gas pipeline utility or a gas utility other than a gas utility over which the commission's jurisdiction is limited pursuant to section ~~4702~~ 4702-A.

Sec. 4. Regulatory reform; regulation of gas safety. Until rules have been adopted by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 4702-A, the commission shall enforce the minimum standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration under 49 Code of Federal Regulations, Parts 191, 192 and 199 as in effect on the effective date of this Act.

The commission may not enforce rules adopted by the commission governing the safety and operation standards for liquefied petroleum gas systems existing on the effective date of this Act.

Until rules establishing specific enforcement procedures have been adopted by the commission pursuant to Title 35-A, section 4702-A, the commission shall use its discretion to informally resolve violations of standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration and to avoid imposing administrative penalties under Title 35-A, section 1508-A to the extent consistent with the commission's responsibility to ensure adequate public safety.

The commission shall examine in consultation with operators of liquefied petroleum gas systems what rules may be appropriate to implement Title 35-A, section 4702-A. Consistent with the results of its examination, the commission shall conduct a rulemaking proceeding to provisionally adopt rules to implement Title 35-A, section 4702-A and shall submit those rules for legislative review by January 15, 2012.

The commission shall work with the Maine Energy Marketers Association to develop a written request for the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration to provide a written interpretation of whether certain liquefied petroleum gas systems come within the scope of 49 Code of Federal Regulations, Section 192.1. The commission shall submit to the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration any jointly agreed upon request.

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

Effective June 2, 2011.

CHAPTER 198

H.P. 472 - L.D. 642

An Act To Require Insurance Companies To Reissue Qualifying Long-term Care Partnership Policies

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

Sec. 1. 24-A MRSA §5082 is enacted to read:

§5082. Long-term Care Partnership Program; availability of qualified policies

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

A. "Eligible policyholder" means:

(1) An individual who holds a qualified individual policy issued before or during the notice period by an insurer that actively markets individual partnership policies in this State on or after the effective date of this section and is not receiving benefits or in a waiting period to receive benefits; or

(2) An employer or other group policyholder that holds a qualified group policy issued before or during the notice period by an insurer that actively markets group partnership policies in this State on or after the effective date of this section.

B. "Long-term Care Partnership Program" means the Long-term Care Partnership Program established in Title 22, section 3174-GG.

C. "Notice period" means the period between July 1, 2004 and the date an insurer begins actively marketing partnership policies in this State.

D. "Partnership policy" means a long-term care insurance policy with an effective date of July 1, 2009 or later that is offered with the intent to meet the requirements of the Long-term Care Partnership Program.

E. "Qualified policy" means a long-term care insurance policy that is offered with the intent to meet the requirements of 26 United States Code, Section 7702B(b).

2. Notice. The following provisions apply to an insurer that actively markets a partnership policy in this State on or after the effective date of this section. With respect to an employer group, an insurer shall provide any notice required under this section to the employer that is the policyholder of a qualified policy.

A. An insurer that actively markets partnership policies in this State as of the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the effective date of this section.

B. An insurer that begins to actively market partnership policies in this State after the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the date the insurer begins to market partnership policies in this State.

3. Request for review. In addition to the requirements of subsection 2, at the request of an eligible policyholder of a qualified policy issued prior to the notice period, an insurer that actively markets partnership policies in this State shall review the qualified policy to identify whether the qualified policy meets the requirements of the Long-term Care Partnership Program and take an action described in subsection 4, paragraph A or B. If a request for review under this subsection is made more than 12 months after the effective date of this section, the insurer has no obligation to review the policy.

4. Exchange process. An insurer that actively markets partnership policies in this State shall identify those qualified policies issued during the notice period that currently meet all the requirements of the Long-term Care Partnership Program as specified in Bureau of Insurance Bulletin 368 dated January 22, 2010 for use with the Long-term Care Partnership Program and those that do not meet all of the requirements and:

A. For those qualified policies that currently meet all of the requirements, issue to each policyholder the Important Notice Regarding Your Policy's Long-term Care Insurance Partnership Status, as prescribed in the Appendix of Bureau of Insurance Bulletin 368 dated January 22, 2010, along with a policy amendment reflecting the effective date of the partnership status; and

B. For those qualified policies that do not meet all of the requirements, notify each policyholder that the policy may be eligible for an exchange to a partnership policy. The insurer shall also notify the policyholder that the exchange is subject to underwriting and that the premium for the new policy is based on the policyholder's attained age on the date of the exchange. The policyholder has 60 days from the date of the notice to consider this offer. If the policyholder accepts the offer after 60 days, the insurer is not obligated to process an exchange. If the policyholder requests additional coverage, the additional coverage is also subject to underwriting and the premium for the additional coverage must be based on the policyholder's attained age on the date the changes take effect.

5. Individual policyholder no longer receiving benefits. If an individual policyholder is not an eligible policyholder because the policyholder is receiving benefits or is in a waiting period to receive benefits, that individual policyholder has 12 months from the expiration of any waiting period after which the policyholder does not begin to receive benefits or from the expiration of any period when benefits have ended to request a review by an insurer as otherwise provided under subsection 3.

6. Applicability. If an insurer does not actively market both individual and group partnership policies in this State, this section applies to that insurer only with respect to the particular market in which the insurer actively markets partnership policies.

See title page for effective date.

CHAPTER 199

H.P. 802 - L.D. 1067

An Act To Improve Awareness of Smoking Policies in Maine Rental Housing

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

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

§6030-E. Smoking policy

1. Definition. For the purposes of this section, unless the context otherwise indicates, "smoking" means carrying or having in one's possession a lighted

cigarette, cigar, pipe or other object giving off tobacco smoke.

2. Smoking policy disclosure. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises that are used by a tenant or will be used by a potential tenant as a primary residence shall provide to the tenant or potential tenant a smoking policy disclosure that notifies tenants or potential tenants of the landlord's policy regarding smoking on the premises in accordance with subsection 3.

3. Notification. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises shall provide written notice to a tenant or potential tenant regarding the allowance or prohibition of smoking on the premises.

A. The notice must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas of the premises. If the landlord allows smoking in limited areas on the premises, the notice must identify the areas on the premises where smoking is allowed.

B. A landlord or other person who acts on behalf of a landlord may notify a tenant or potential tenant of a smoking policy by:

(1) Disclosing the smoking policy in a written lease agreement; or

(2) Providing a separate written notice to a tenant or potential tenant entering into a tenancy at will agreement.

C. Before a tenant or potential tenant enters into a contract or pays a deposit to rent or lease a property, the landlord or other person who acts on behalf of a landlord shall obtain a written acknowledgment of the notification of the smoking policy from the tenant or potential tenant.

4. Construction. This subsection restricts private causes of action based on violations of this section or smoking policies provided to tenants or potential tenants pursuant to this section.

A. A tenant or potential tenant may not maintain a private cause of action against a landlord or other person who acts on behalf of a landlord on the sole basis that the landlord or other person who acts on behalf of a landlord failed to provide the smoking policy disclosure required by this section.

B. A tenant or potential tenant may not use a violation of a smoking policy by another tenant as the basis for a private cause of action against a landlord or other person who acts on behalf of a landlord.

See title page for effective date.

CHAPTER 200

S.P. 463 - L.D. 1482

An Act To Provide That Private Transfer Fee Obligations on Real Property Are Void and Unenforceable

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

Sec. 1. 33 MRSA §163 is enacted to read:

§163. Private transfer fee obligations void and unenforceable

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

A. "Private transfer fee" means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price or other consideration given for the transfer. "Private transfer fee" does not include:

(1) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development or sale of the property, if such consideration is payable on a one-time basis only and the obligation to make such payment does not bind successors in title to the property;

(2) Any commission payable to a licensed real estate broker or real estate brokerage agency for the transfer of real property pursuant to an agreement between the broker or agency and the grantor or the grantee;

(3) Any interest, charges, fees or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property;

(4) Any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor

under a lease or license, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance or transfer of the lease or license;

(5) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing or not exercising the option or right upon the transfer of the property to another person;

(6) Any tax, fee, charge, assessment, fine, dues or other amount payable to or imposed by a governmental authority;

(7) Any fee, charge, assessment, fine or other amount payable to a homeowners association, condominium owners association, cooperative, mobile home owners association or property owners association pursuant to a declaration or covenant or law applicable to such an association for the maintenance, improvements, services or expenses related to real property that is owned, used or enjoyed in common by the members;

(8) Any fee, charge, assessment, dues, fine, contribution or other amount pertaining solely to the purchase or transfer of a club membership relating to real property owned by a club member, including, but not limited to, any amount determined by reference to the value, purchase price or other consideration given for the transfer of the real property;

(9) Any obligations created pursuant to affordable housing covenants under chapter 6 or working waterfront covenants under chapter 6-A; or

(10) Any fee payable, upon a transfer of real property, to a nonprofit corporation, organization or trust organized under the laws of this State, if the sole purpose of the corporation, organization or trust is to support cultural, educational, charitable, recreational, conservation, preservation or similar activities benefiting the real property being transferred and the fee is used exclusively to fund such activities.

B. "Private transfer fee obligation" means an obligation arising under a declaration or covenant recorded against the title to real property or under any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee upon a subsequent transfer of an interest in the real property.

C. "Transfer" means the sale, gift, grant, conveyance, lease, license, assignment, inheritance or other act resulting in a transfer of an ownership interest in real property located in this State.

2. Void and unenforceable. A private transfer fee obligation recorded or entered into in connection with real property located in this State on or after the effective date of this section does not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, mortgagee or holder of any interest in real property as an equitable servitude or otherwise. A private transfer fee obligation that is recorded or entered into in connection with real property located in this State on or after the effective date of this section is void and unenforceable. This subsection may not be construed to mean that a private transfer fee obligation recorded or entered into in connection with real property located in this State before the effective date of this section is presumed valid and enforceable.

3. Liability for violation. A person who records, or enters into, an agreement imposing a private transfer fee obligation in that person's favor after the effective date of this section is liable for all damages resulting from the imposition of the private transfer fee obligation on the transfer of an interest in the real property, including, but not limited to, the amount of any private transfer fee paid by a party to the transfer and all attorney's fees, expenses and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid or in connection with an action to quiet title. When an agent acts on behalf of a principal to record or secure a private transfer fee obligation, liability must be assessed to the principal rather than the agent.

4. Effect of transfer of certain interests in real property. A transfer, on or after the effective date of this section, of an interest in real property subject to a private transfer fee obligation recorded or entered into prior to the effective date of this section does not constitute the recording or entering into of a new private transfer fee obligation on or after the effective date of this section.

5. Disclosure. The following provisions govern the disclosure of private transfer fee obligations.

A. A contract for the sale of real property subject to a private transfer fee obligation must include a provision disclosing the existence of that obligation and a description of that obligation. A contract for the sale of real property that does not conform to the requirements of this paragraph is not enforceable by the seller, and the buyer is not liable to the seller for damages under such a contract and is entitled to the return of any deposits made under that contract.

B. When a private transfer fee obligation is not disclosed as required by paragraph A and a buyer subsequently discovers the existence of the private transfer fee obligation after title to the real property has passed to the buyer, the buyer has the right to recover against the seller all damages resulting from the failure to disclose the private transfer fee obligation, including, but not limited to, the amount of any private transfer fee paid by the buyer and the difference between the market value of the real property subject to the private transfer fee obligation and the market value of the real property if the real property were not subject to the private transfer fee obligation. The buyer is also entitled to recover all attorney's fees, expenses and costs incurred in seeking the remedies under this subsection.

C. Any provision in a contract for the sale of real property that purports to waive the rights of a buyer under this subsection is void.

See title page for effective date.

CHAPTER 201

H.P. 1013 - L.D. 1374

An Act To Protect Seniors and Incapacitated or Dependent Adults from Abuse

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

Sec. 1. 19-A MRSA §4005, sub-§1, as amended by PL 2007, c. 340, §4, is further amended to read:

1. Filing. An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

When an adult who is 60 years of age or older or a dependent adult, as defined in Title 22, section 3472, subsection 6, or an incapacitated adult, as defined in Title 22, section 3472, subsection 10, has been the victim of abuse as defined in section 4002, subsection 1 or Title 22, section 3472, subsection 1 by an extended family member or an unpaid care provider, the adult victim, the adult victim's legal guardian or a representative of the department may seek relief by filing a complaint alleging the abusive conduct. For the purposes of this subsection, "extended family member" includes, but is not limited to: a person who is related to the victim by blood, marriage or adoption, whether or not the person resides or has ever resided with the victim. "Unpaid care provider" includes, but is not limited to, a caretaker who voluntarily provides full, intermittent or occasional personal care to the adult victim in the victim's home similar to the way a family member would provide personal care.

See title page for effective date.

CHAPTER 202

H.P. 406 - L.D. 523

An Act To Modify the Regulation of Fireworks

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 a movement to bring historical artillery pieces to Maine to promote a unique cottage industry for Maine craftspeople that will meet the global demand for antique cannons; and

Whereas, this cottage industry employs workers in shipbuilding trades and creates jobs that help strengthen Maine's economy; and

Whereas, Maine has a proud and vibrant maritime history that includes the use of signal cannons at sunset, in celebration of our country and during times of nautical celebration; and

Whereas, ceremonial uses of signal, antique and replica cannons for public entertainment, yachting events and historical reenactment promotes tourism; and

Whereas, to promote tourism, this legislation must go into effect before tourism 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. 8 MRSA §221-A, sub-§4, as enacted by PL 1999, c. 671, §2, is amended to read:

4. Fireworks. "Fireworks" means any:

A. Combustible or explosive composition or substance;

B. Combination of explosive compositions or substances;

C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;

D. Fireworks containing any explosive or flammable compound; or

E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture ~~or~~, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

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

Effective June 2, 2011.

CHAPTER 203

H.P. 1041 - L.D. 1415

An Act To Update the Bankruptcy Laws To Incorporate Federal Changes Relating to Exemptions

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 provisions in the United States Code pertaining to exemptions in bankruptcy proceedings were amended in 2005; and

Whereas, Maine inadvertently did not update its bankruptcy laws to conform with the amended federal law; and

Whereas, it is imperative for this legislation to take effect immediately so that Maine's laws may be updated to remove potential uncertainty for Maine's citizens and judiciary; 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. 14 MRSA §4426, as amended by PL 1989, c. 286, §2, is further amended to read:

§4426. Exemptions in bankruptcy proceedings

Notwithstanding anything to the contrary in the United States Code, Title 11, Section 522(b), a debtor may exempt from property of the debtor's estate under United States Code, Title 11, only that property exempt under the United States Code, Title 11, Section ~~522(b)(2)(A)~~ 522(b)(3)(A) and (B), except that any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph B, may exempt the amount allowed in that paragraph.

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

Effective June 2, 2011.

CHAPTER 204

H.P. 935 - L.D. 1276

An Act To Increase Efficiency of the State Court Library Committee

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

Sec. 1. 4 MRSA §191, as amended by PL 2001, c. 250, §1, is further amended to read:

§191. State Court Library Committee

The State Court Library Committee, as established in Title 5, section 12004-G, subsection 23, consists of 9 voting members, 3 of whom must be members of the public, 2 of whom must be members of the judiciary and 4 of whom must be attorneys. Each attorney appointed to the committee must be actively engaged in the practice of law and have an established place of business in a county in which a law library

established pursuant to section 193 is located. One of the 4 attorney members must be chosen from a county having a census population of from 45,000 to 120,000 and one of the 4 must be chosen from a county having a census population of less than 45,000 persons. The members are appointed by and serve at the pleasure of the Chief Justice of the Supreme Judicial Court. The Chief Justice shall designate the chair. The State Law Librarian, the University of Maine School of Law Librarian and the State Court Administrator are ex officio nonvoting members. A quorum consists of 5 of the voting members. The committee shall meet ~~at least 4 times each year~~ as needed at the call of the chair. Secretarial assistance must be provided by the Administrative Office of the Courts.

Sec. 2. 4 MRSA §193, last ¶, as enacted by PL 2001, c. 250, §2, is amended to read:

All other law libraries must ~~receive equal resources and services regardless of location and~~ have access to the regional court law library centers for the resources not available locally.

See title page for effective date.

CHAPTER 205

H.P. 1020 - L.D. 1387

An Act To Restore Exemptions in the Natural Resources Protection Act

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

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 2009, c. 460, §1, is further amended to read:

2. Maintenance and repair. Maintenance and repair of a structure, other than a crossing, in, on, over or adjacent to a protected natural resource ~~and maintenance and repair of a private crossing of a river, stream or brook~~ if:

A. Erosion control measures are taken to prevent sedimentation of the water;

~~B. Crossings do not block passage for fish 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;~~

C. There is no additional intrusion into the protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 2009, c. 460, §2, is repealed.

Sec. 3. 38 MRSA §480-Q, sub-§2-D is enacted to read:

2-D. Existing crossings. A permit is not required for the repair and maintenance of an existing crossing or for the replacement of an existing crossing, including ancillary crossing installation activities such as excavation and filling, in any protected natural resource area, as long as:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block passage for fish in the protected natural resource area; and

C. For replacement crossings of a river, stream or brook:

(1) The replacement crossing is designed, installed and maintained to match the natural stream grade to avoid drops or perching; and

(2) As site conditions allow, crossing structures that are not open bottomed are embedded in the stream bottom a minimum of one foot or at least 25% of the culvert or other structure's diameter, whichever is greater, except that a crossing structure does not have to be embedded more than 2 feet.

For purposes of this subsection, "repair and maintenance" includes but is not limited to the riprapping of side slopes or culvert ends; removing debris and blockages within the crossing structure and at its inlet and outlet; and installing or replacing culvert ends if less than 50% of the crossing structure is being replaced.

Sec. 4. Statewide aquatic restoration plan for stream crossings. The Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, in con-

junction with the Executive Department, State Planning Office and other interested stakeholders, shall work collaboratively to develop a statewide aquatic conservation and restoration strategy plan, referred to in this section as "the plan," designed to maintain and restore the ecological health of the State's aquatic ecosystems and focusing on maintaining and restoring dynamic ecological processes responsible for creating and sustaining habitats over broad landscapes as opposed to individual projects or small watersheds. The plan must improve upon best management practices for public and private roads by including consideration of the Department of Transportation's Waterway and Wildlife Crossing Policy and Design Guide, the Maine Interagency Stream Connectivity Work Group's 2010 final report, Maine's Atlantic salmon recovery plan and any other technical, policy and financial information that may help the process. The plan must include, but not be limited to, using scientific data from stakeholders, establishing active restoration priorities, refining existing and proposing additional best management practices, reviewing statutory exemptions and regulatory standards to inform regulatory decision making, establishing performance measures, proposing funding alternatives for passive and active restoration, identifying gaps and overlaps with other pertinent issues such as climate change and flood management and providing for education and outreach. The Department of Environmental Protection, in cooperation with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, shall present the final draft of the plan, which may include suggested legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 31, 2013. The committee may report out a bill to the First Regular Session of the 126th Legislature.

See title page for effective date.

CHAPTER 206

H.P. 1027 - L.D. 1398

An Act To Amend the Laws Administered by the Department of Environmental Protection

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

Whereas, this legislation corrects a water quality classification that will enable the United States Army Corps of Engineers to dredge under a permit issued by the Department of Environmental Protection, and the dredging must be completed prior to the expiration of the 90-day period; 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 §12004-I, sub-§22-B, as enacted by PL 1991, c. 804, Pt. C, §1, is amended to read:

22-B.

Environment: Natural Resources	Pollution Prevention and Small Business Assistance Advisory ~~Committee~~ Panel	~~Expenses Only~~ Not Authorized	38 MRSA §343-D

Sec. 2. 32 MRSA §4174, as amended by PL 1989, c. 890, Pt. A, §§4 and 40, is further amended by adding at the end a new paragraph to read:

The Department of Environmental Protection may allow an operator to review with department staff an operator certification test that the operator has completed in order to identify subject areas for which questions were answered incorrectly and further study is advisable.

Sec. 3. 32 MRSA §10010-A, as amended by PL 1997, c. 364, §11, is repealed.

Sec. 4. 38 MRSA §342-B, sub-§4-A is enacted to read:

4-A. Exemption from liability for discharges during approved site investigation work. Notwithstanding subsection 3, paragraph A and subsection 4, paragraph A, a fiduciary or lender is exempt from liability under subsection 2 if the fiduciary or lender causes, contributes to or exacerbates a discharge, release or threat of release while undertaking investigations in accordance with a voluntary response action plan approved by the commissioner under section 343-E.

Sec. 5. 38 MRSA §343-D, as amended by PL 2009, c. 121, §2 is further amended to read:

§343-D. Pollution Prevention and Small Business Assistance Advisory Panel

The Pollution Prevention and Small Business Assistance Advisory ~~Committee~~ Panel, established by Title 5, section 12004-I, subsection 22-B and referred

to in this section as ~~the~~ "~~committee~~ the panel," serves as a review body to assess the progress in the reduction of toxics use, toxics release and hazardous waste and implementation of the provisions of chapter 26, the Office of Pollution Prevention and the Technical and Environmental Assistance Program and may render advisory opinions to the commissioner on the effectiveness of each.

1. Appointment; composition. The ~~committee~~ panel consists of 16 voting members.

A. The Governor shall appoint 2 representatives from the business community, 2 elected or appointed municipal officials who are not owners or representatives of owners of small business stationary sources, ~~and~~ 2 representatives of organized labor and 2 representatives from the department.

B. The President of the Senate shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

C. The Speaker of the House of Representatives shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

~~D. The commissioner shall appoint a designee to represent the department.~~

E. The Senate Minority Leader and the House Minority Leader shall each appoint one member who is an owner or represents an owner of a small business stationary source.

~~F. The Director of the Bureau of Air Quality Control shall appoint a designee to represent the bureau.~~

The Commissioner of Labor and the Director of the Maine Emergency Management Agency serve as ex officio members and do not vote on ~~committee~~ panel matters.

As used in this subsection, unless the context otherwise indicates, a "small business stationary source" means a source that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.

2. Terms. Except for the commissioner, who ~~shall serve~~ serves a term coincident with that person's appointment as the commissioner, all members are appointed for staggered terms of 4 years. A vacancy must be filled by the same appointing authority that made the original appointment. ~~Appointed members may not serve more than 2, 4 year terms.~~ There is no limit on the number of terms an individual may serve.

~~**3. Compensation.** Members are entitled to compensation for expenses according to Title 5, section 12004-I, subsection 22-B.~~

4. Quorum; actions. A quorum is a majority of the voting members of the ~~committee~~ panel. An affirmative vote of the majority of the members present at a meeting is required for any action. Action may not be considered unless a quorum is present.

5. Chair. The Governor shall appoint one member to serve as chair.

6. Meetings. The ~~committee~~ panel shall meet at least 4 times per year and at any time at the call of the chair or upon written request to the chair by 4 of the voting members.

7. Staff support. The commissioner shall provide the ~~committee~~ panel with staff support.

8. Duties; powers. The ~~committee~~ panel may review and may render advisory opinions to the commissioner on the operation and effectiveness of the following programs:

A. Toxics Use, Toxics Release and Hazardous Waste Reduction Program, established in chapter 26. The ~~committee~~ panel may:

(1) Review program priorities for toxics use, toxics release and hazardous waste reduction and may identify user groups as priorities for department technical assistance activities;

(2) Review the criteria for the submission of toxics use, toxics release and hazardous waste reduction plans;

(3) Study and evaluate the practicability of achieving reductions in the use or release of specific substances through the use of substitutes, alternate procedures or processes or other means of achieving toxics use, toxics release and hazardous waste reduction;

(4) Recommend revisions to the department, if appropriate, to toxics use, toxics release and hazardous waste reduction goals and to the Toxics Use, Toxics Release and Hazardous Waste Reduction Program; and

(5) Evaluate existing programs related to chemical production and use, hazardous waste generation, industrial hygiene, worker safety and public exposure to toxics and toxics releases and recommend coordination of information and program changes or development;

B. The Technical and Environmental Assistance Program established under section 343-B. In reviewing that program, the ~~committee~~ panel may:

(1) Review information developed or distributed by the Technical and Environmental As-

sistance Program to ensure that the information is understandable to the general public; and

(2) Prepare periodic reports to the Governor on the compliance status of the Technical and Environmental Assistance Program. The reports must be forwarded to the federal Environmental Protection Agency complying with the requirements of the federal Paperwork Reduction Act of 1980, Public Law 96-511, as amended; the federal Regulatory Flexibility Act, 5 United States Code, Sections 601 to 612; and the federal Equal Access to Justice Act, Public Law 96-481, as amended; and

C. The Office of Pollution Prevention established under section 342, subsection 4, paragraph B.

In conducting its review under paragraphs A to C, the ~~committee~~ panel may submit recommendations for statutory changes to the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters.

Sec. 6. 38 MRSA §343-D, as amended by PL 2009, c. 579, Pt. B, §§6 and 7 and affected by §13, is further amended to read:

§343-D. Pollution Prevention and Small Business Assistance Advisory Panel

The Pollution Prevention and Small Business Assistance Advisory ~~Committee~~ Panel, established by Title 5, section 12004-I, subsection 22-B and referred to in this section as ~~the~~ "~~committee~~ the panel," serves as a review body to assess the progress in the reduction of toxic chemicals and implementation of the provisions of chapter 27, the Office of Pollution Prevention and the Technical and Environmental Assistance Program and may render advisory opinions to the commissioner on the effectiveness of each.

1. Appointment; composition. The ~~committee~~ panel consists of 16 voting members.

A. The Governor shall appoint 2 representatives from the business community, 2 elected or appointed municipal officials who are not owners or representatives of owners of small business stationary sources, ~~and~~ 2 representatives of organized labor and 2 representatives from the department.

B. The President of the Senate shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

C. The Speaker of the House of Representatives shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

~~D. The commissioner shall appoint a designee to represent the department.~~

E. The Senate Minority Leader and the House Minority Leader shall each appoint one member who is an owner or represents an owner of a small business stationary source.

~~F. The Director of the Bureau of Air Quality Control shall appoint a designee to represent the bureau.~~

The Commissioner of Labor and the Director of the Maine Emergency Management Agency serve as ex officio members and do not vote on ~~committee~~ panel matters.

As used in this subsection, unless the context otherwise indicates, a "small business stationary source" means a source that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.

2. Terms. Except for the commissioner, who ~~shall serve~~ serves a term coincident with that person's appointment as the commissioner, all members are appointed for staggered terms of 4 years. A vacancy must be filled by the same appointing authority that made the original appointment. ~~Appointed members may not serve more than 2, 4 year terms.~~ There is no limit on the number of terms an individual may serve.

~~**3. Compensation.** Members are entitled to compensation for expenses according to Title 5, section 12004-I, subsection 22-B.~~

4. Quorum; actions. A quorum is a majority of the voting members of the ~~committee~~ panel. An affirmative vote of the majority of the members present at a meeting is required for any action. Action may not be considered unless a quorum is present.

5. Chair. The Governor shall appoint one member to serve as chair.

6. Meetings. The ~~committee~~ panel shall meet at least 4 times per year and at any time at the call of the chair or upon written request to the chair by 4 of the voting members.

7. Staff support. The commissioner shall provide the ~~committee~~ panel with staff support.

8. Duties; powers. The ~~committee~~ panel may review and may render advisory opinions to the commissioner on the operation and effectiveness of the following:

A-1. The reduction of toxic chemicals pursuant to chapter 27;

B. The Technical and Environmental Assistance Program established under section 343-B. In reviewing that program, the ~~committee~~ panel may:

(1) Review information developed or distributed by the Technical and Environmental Assistance Program to ensure that the information is understandable to the general public; and

(2) Prepare periodic reports to the Governor on the compliance status of the Technical and Environmental Assistance Program. The reports must be forwarded to the federal Environmental Protection Agency complying with the requirements of the federal Paperwork Reduction Act of 1980, Public Law 96-511, as amended; the federal Regulatory Flexibility Act, 5 United States Code, Sections 601 to 612; and the federal Equal Access to Justice Act, Public Law 96-481, as amended; and

C. The Office of Pollution Prevention established under section 342, subsection 4, paragraph B.

In conducting its review under paragraphs A-1 to C, the ~~committee~~ panel may submit recommendations for statutory changes to the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters.

Sec. 7. 38 MRSA §420-D, sub-§4, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

4. Degraded, sensitive or threatened regions or watersheds. The department shall establish by rule a list of degraded, sensitive or threatened regions or watersheds. These areas include the watersheds of surface waters that:

A. ~~Are~~ Have been degraded or are susceptible to degradation of water quality or fisheries because of the cumulative effect of past or reasonably foreseeable levels of development activity within the watershed of the affected surface waters; and

B. Are not classified as "watersheds of bodies most at risk" under subsection 3.

Sec. 8. 38 MRSA §420-D, sub-§5, as amended by PL 2005, c. 602, §2, is further amended to read:

5. Relationship to other laws. A storm water permit pursuant to this section is not required for a project requiring review by the department pursuant to any of the following provisions but the project may be required to meet standards for management of storm water adopted pursuant to this section: article 6, site location of development; article 7, performance standards for excavations for borrow, clay, topsoil or silt; article 8-A, performance standards for quarries; ~~and~~ sections 631 to 636, permits for hydropower projects; and section 1310-N, 1319-R or 1319-X, waste facility licenses. When a project requires a storm water permit and requires review pursuant to article 5-A, the department shall issue a joint order unless the permit required pursuant to article 5-A is a permit-by-rule or general permit, or separate orders are requested by the applicant and approved by the department.

A storm water permit pursuant to this section is not required for a project receiving review by a registered municipality pursuant to section 489-A if the storm water ordinances under which the project is reviewed are at least as stringent as the storm water standards adopted pursuant to section 484 or if the municipality meets the requirements of section 489-A, subsection 2-A, paragraph B.

Sec. 9. 38 MRSA §420-D, sub-§7, ¶F, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is repealed.

Sec. 10. 38 MRSA §420-D, sub-§11, as amended by PL 2007, c. 593, §1, is further amended to read:

11. Compensation project or fee. The department may establish a nonpoint source reduction program to allow an applicant to carry out a compensation project or pay a compensation fee in lieu of meeting certain requirements, as provided in this subsection.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

A. The department may allow an applicant with a project in the direct watershed of a lake to address certain on-site phosphorus reduction requirements through implementation of a compensation project or payment of a compensation fee as provided in this paragraph. The commissioner shall determine the appropriate compensation fee for each project. The compensation fee must be paid either into a compensation fund or to an organization authorized by the department and must be a condition of the permit.

(1) The department may establish a storm water compensation fund for the purpose of receiving compensation fees, grants and other related income. The fund must be a nonlapsing fund dedicated to payment of the costs and related expenses of compensation projects. Income received under this subsection must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by statute. Interest on these investments must be credited to the fund. The department may make payments from the fund consistent with the purpose of the fund.

(2) The department may enter into a written agreement with a public, quasi-public or private, nonprofit organization for purposes of receiving compensation fees and implementing compensation projects. If the authorized

agency is a state agency other than the department, it shall establish a fund meeting the requirements specified in subparagraph (1). The authorized organization shall maintain records of expenditures and provide an annual summary report to the department. If the organization does not perform in accordance with this section or with the requirements of the written agreement, the department may revoke the organization's authority to conduct activities in accordance with this paragraph. If an organization's authorization is revoked, any remaining funds must be provided to the department.

(3) The commissioner may set a fee rate of no more than $25,000 per pound of available phosphorus.

(4) Except in an urbanized part of a designated growth area, best management practices must be incorporated on site that, by design, will reduce phosphorus export by at least 50%, and a phosphorus compensation project must be carried out or a compensation fee must be paid to address the remaining phosphorus reduction required to meet the parcel's phosphorus allocation. In an urbanized part of a designated growth area, an applicant may pay a phosphorus compensation fee in lieu of part or all of the on-site phosphorus reduction requirement. The commissioner shall identify urbanized parts of designated growth areas in the direct watersheds of lakes most at risk, in consultation with the State Planning Office.

(5) Projects carried out or funded through compensation fees as provided in this paragraph must be located in the same watershed as the project with respect to which the compensation fee is paid.

~~(6) As an alternative to paying a compensation fee, the department may allow an applicant to meet a municipally required mitigation option if the department determines that the local mitigation option will provide at least as much long-term reduction in phosphorus loading to the lake as likely would have occurred under payment of the compensation fee.~~

B. The department may allow an applicant with a project within the direct watershed of a coastal wetland, river, stream or brook to address all or part of the storm water quality standards for the project through implementation of a compensation project or payment of a compensation fee as provided by rules adopted pursuant to this subsection.

Sec. 11. 38 MRSA §469, as amended by PL 2009, c. 163, §22, is further amended to read:

§469. Classifications of estuarine and marine waters

~~All estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified are Class SB waters.~~

1. Cumberland County. All estuarine and marine waters lying within the boundaries of Cumberland County and that are not otherwise classified are Class SB waters.

A. Cape Elizabeth.

(1) Tidal waters of the Spurwink River system lying north of a line at latitude 43`-33'-44" N. - Class SA.

B. Cumberland.

(1) Tidal waters located within a line beginning at a point located on the Cumberland-Portland boundary at approximately latitude 43`41'-18"N., longitude 70` - 05'-48"W. and running northeasterly to a point located on the Cumberland-Harpswell boundary at approximately latitude 43` - 42'-57"N., longitude 70` - 03'-50" W.; thence running southwesterly along the Cumberland-Harpswell boundary to a point where the Cumberland, Harpswell and Portland boundaries meet; thence running northeasterly along the Cumberland-Portland boundary to point of beginning - Class SA.

C. Falmouth.

(1) Tidal waters of the Town of Falmouth located westerly and northerly, to include the Presumpscot estuary, of a line running from the southernmost point of Mackworth Island; thence running northerly along the western shore of Mackworth Island and the Mackworth Island Causeway to a point located where the causeway joins Mackworth Point - Class SC.

D. Harpswell.

(1) Tidal waters located within a line beginning at a point located on the Cumberland-Harpswell boundary at approximately latitude 43` - 42'-57" N., longitude 70` - 03'-50" W. and running northeasterly to a point located at latitude 43` - 43'-08" N., longitude 70` - 03'-36"W.; thence running southeasterly to a point located at latitude 43` - 42'-02" N., longitude 70` - 00'-00" W.; thence running due south to the Harpswell-Portland boundary; thence running northwesterly along the Harpswell-Portland boundary to a point where the Cumberland, Harpswell and Portland boundaries meet; thence running north-

westerly along the Cumberland-Harpswell boundary to point of beginning - Class SA.

E. Portland.

(1) Tidal waters located within a line beginning at a point located on the Cumberland-Portland boundary at approximately latitude 43` - 41'-18" N., longitude 70` - 05'-48" W. and running southeasterly along the Cumberland-Portland boundary to a point where the Cumberland, Harpswell and Portland boundaries meet; thence running southeasterly along the Harpswell-Portland boundary to longitude 70` - 00'-00" W.; thence running due south to a point located at latitude 43` - 38'-21" N., longitude 70` - 00'-00" W.; thence running due west to a point located at latitude 43` - 38'-21" N., longitude 70` - 09'-06" W.; thence running northeasterly to point of beginning - Class SA.

(2) Tidal waters of the City of Portland lying northwesterly of a line beginning at Spring Point Light in South Portland to the easternmost point of Fort Gorges Island, thence running northerly to the southernmost point of Mackworth Island - Class SC.

E-1. Scarborough.

(1) Tidal waters of the Scarborough River system lying north of a line running easterly from a point where the old Boston and Maine Railroad line intersects the marsh at latitude 43`-33'-06" N., longitude 70`-20'-58" W. to a point of land north of Black Rock at latitude 43`-33'-06" N., longitude 70`-19'-25" W., excluding those tidal waters of Phillips Brook lying upstream of a point 500 feet south of U.S. Route 1 - Class SA.

(2) Tidal waters of the Spurwink River system lying north of a line extending from Higgins Beach at latitude 43`-33'-44" N. to the town line - Class SA.

F. South Portland.

(1) Tidal waters of the City of South Portland lying westerly of a line beginning at Spring Point Light to the easternmost point of Fort Gorges Island in Portland - Class SC.

2. Hancock County. All estuarine and marine waters lying within the boundaries of Hancock County and that are not otherwise classified are Class SB waters.

A. Bar Harbor.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44` - 16'-36" N., southerly of latitude 44` - 20'-27" N., and westerly of longitude 68` - 09'-28" W. - Class SA.

A-1. Brooksville.

(1) Tidal waters of the Bagaduce River lying southerly of Young's Island - Class SA.

B. Bucksport.

(1) All tidal waters - Class SC.

C. Cranberry Isles.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying within 0.5 mile of the shore of Baker Island - Class SA.

D. Mount Desert.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44` - 16'-36" N. and easterly of longitude 68` - 13'-08" W. - Class SA.

(2) Tidal waters of Somes Sound lying northerly of a line beginning at a point located at the Acadia National Park boundary at latitude 44` - 18'-18" N., longitude 68` - 18'-42" W. and running northeasterly to a point located at the Acadia National Park boundary at latitude 44` - 18'-54" N., longitude 68` - 18'-22" W., except those waters of Broad Cove lying west of a line running from the point of land immediately south of the cove northerly to Navigation Can #7 and those waters lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

(3) Tidal waters of Somes Sound lying within 500 feet of overboard discharges licensed as of January 1, 1999 - Class SA.

E. Orland.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

E-1. Penobscot.

(1) Tidal waters of the Bagaduce River lying southerly of Winslow Island and easterly of the westernmost point of Young's Island - Class SA.

E-2. Sedgewick.

(1) Tidal waters of the Bagaduce River - Class SA.

F. Southwest Harbor.

(1) Tidal waters lying northerly of latitude 44` - 12'-44` -" N., southerly of latitude 44` -

14'-13" N. and westerly of longitude 68` - 18'-27" W. - Class SA.

(2) Tidal waters of Somes Sound lying northerly of a line beginning at a point located at the Acadia National Park boundary at latitude 44` - 18'-18" N., longitude 68` - 18'-42" W. and running northeasterly to a point located at the Acadia National Park boundary at latitude 44` - 18'-54" N., longitude 68` - 18'-22" W. - Class SA.

G. Tremont.

(1) Tidal waters lying northerly of latitude 44` - 12'-44` -" N., southerly of latitude 44` - 14'-13" N. and easterly of longitude 68` - 20'-30" W. - Class SA.

H. Verona Island.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

I. Winter Harbor.

(1) Tidal waters lying south of a line running west from the northernmost tip of Frazer Point to longitude 68`-05'-00" W. and east of longitude 68`-05'-00" W. - Class SA.

3. Knox County. All estuarine and marine waters lying within the boundaries of Knox County and that are not otherwise classified are Class SB waters.

A. Isle Au Haut.

(1) Tidal waters, except those lying within 500 feet of privately owned shoreline, lying northerly of latitude 44` - 00'-00" N., southerly of latitude 44` - 03'-06" N., easterly of longitude 68` - 41'-00" W. and westerly of longitude 68` - 35'-00" W. - Class SA.

B. Owls Head.

(1) Tidal waters lying westerly of a line running between the southernmost point of land on Jameson Point and the northernmost point of land on Battery Point - Class SC.

C. Rockland.

(1) Tidal waters lying westerly of a line running between the southernmost point of land on Jameson Point and the northernmost point of land on Battery Point - Class SC.

3-A. Lincoln County. All estuarine and marine waters lying within the boundaries of Lincoln County and that are not otherwise classified are Class SB waters.

A. Boothbay.

(1) Tidal waters lying south of the northernmost point of Damariscove Island and west of longitude 69`-36'-00" W. - Class SA.

4. Penobscot County. All estuarine and marine waters lying within the boundaries of Penobscot County and that are not otherwise classified are Class SB waters.

A. Hampden.

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

B. Orrington.

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

5. Sagadahoc County. All estuarine and marine waters lying within the boundaries of Sagadahoc County and that are not otherwise classified are Class SB waters.

A. Georgetown.

(1) Tidal waters located within a line beginning at a point on the shore located at latitude 43` - 47'-16" N., longitude 69` -43'-09" W. and running due east to longitude 69` -42'-00" W.; thence running due south to latitude 43` - 42'-52" N.; thence running due west to longitude 69` -44' -25" W.; thence running due north to a point on the shore located at latitude 43` - 46'-15" N., longitude 69` -44'-25" W.; thence running northerly along the shore to point of beginning - Class SA.

B. Phippsburg.

(1) ~~Tidal~~ Offshore waters east of longitude 69`-50'-05" W. and west of longitude 69`-47'-00" W., including the tidal waters of the Morse River and the Sprague River, - Class SA.

(2) Tidal waters of The Basin, including The Narrows east of a line drawn between 69`-51'-57" W. and 43`-48'-14" N. - Class SA.

(3) Tidal waters of the Kennebec River in Phippsburg within 500 feet of shore, beginning at a point of land at the head of Atkins Bay located at longitude 69°-48'-14" W. and latitude 43°-44'-40.4" N. and extending along the southeast shore of Atkins Bay to a point 500 feet off Fort Popham located at longitude 69°-47'-00" W. and latitude 43°-45'-23.89" N. - Class SA.

6. Waldo County. All estuarine and marine waters lying within the boundaries of Waldo County and that are not otherwise classified are Class SB waters.

A. Frankfort.

(1) All tidal waters - Class SC.

B. Prospect.

(1) All tidal waters - Class SC.

C. Searsport.

(1) Tidal waters located within a line beginning at the southernmost point of land on Kidder Point and running southerly along the western shore of Sears Island to the southernmost point of Sears Island; thence running due south to latitude 44`-25'-25" N.; thence running due west to latitude 44`-25'-25" N., longitude 68`-54'-30" W.; thence running due north to the shore of Mack Point at longitude 68`-54'-30" W.; thence running along the shore in an easterly direction to point of beginning - Class SC.

D. Stockton Springs.

(1) Tidal waters lying northerly of the southernmost point of land on Verona Island - Class SC.

E. Winterport.

(1) All tidal waters - Class SC.

7. Washington County. All estuarine and marine waters lying within the boundaries of Washington County and that are not otherwise classified are Class SB waters.

A. Beals.

(1) Tidal waters lying east of the line extending from the westernmost point of Three Falls Point to the easternmost point of Crumple Island; thence south along longitude 67`-36'-47" W. - Class SA.

(2) Tidal waters lying south of a line extending from the easternmost point of the southern shore of the Mud Hole; thence extending along latitude 44`-29'-00" N. to the town line - Class SA.

B. Calais.

(1) Tidal waters of the St. Croix River and its tidal tributaries lying westerly of longitude 67`-14'-28" W. - Class SC.

C. Cutler.

(1) All tidal waters except those waters in Machias Bay and Little Machias Bay north of a line running from the town line due east to the southernmost point of Cross Island; thence running northeast to the southeasternmost point of Cape Wash Island; thence running northeast to the westernmost point of Deer Island; thence running due north to the mainland; and those waters lying northwest of a line running from the easternmost point of Western Head to the easternmost point of Eastern Knubble - Class SA.

D. Eastport.

(1) Tidal waters lying southerly of latitude 44`-54'-50" N., easterly of longitude 67`-02'-00" W. and northerly of latitude 44`-53'-15" N. - Class SC.

E. Edmunds.

(1) All tidal waters - Class SA.

F. Lubec.

(1) Tidal waters, except those lying within 500 feet of West Quoddy Head Light, south of a line beginning at a point located on the northern shore of West Quoddy Head at latitude 44`-49'-22" N., longitude 66`-59'-17" W. and running northeast to the international boundary at latitude 44`-49'-45" N., longitude 66`-57'-57" W. - Class SA.

(2) Tidal waters west of a line running from the easternmost point of Youngs Point to the easternmost point of Leighton Neck in Pembroke - Class SA.

G. Milbridge.

(1) Tidal waters south of a line running from the Steuben - Milbridge town line along latitude 44`-27'-39" N. to the northernmost point of Currant Island; thence running easterly to a point 1,000 feet from mean high tide on the northernmost point of Pond Island; thence along a line running 1,000 feet from mean high tide along the east side of Pond Island to the southernmost point of the island; thence running due south - Class SA.

H. Pembroke.

(1) Tidal waters west of a line running from the easternmost point of Leighton Neck to the easternmost point of Youngs Point in Lubec - Class SA.

I. Steuben.

(1) Tidal waters southeast of a line beginning at Yellow Birch Head at latitude 44`-25'-05" N.; thence running to longitude 67`-55'-00" W.; thence running due south along longitude 67`-55'-00" W. - Class SA.

(2) Tidal waters southwest of a line beginning at a point located south of Carrying

Place Cove at latitude 44`-26'-18" N., longitude 67`-53'-14" W.; thence running along latitude 44`-26'-18" N. east to the town line - Class SA.

J. Trescott.

(1) All tidal waters - Class SA.

K. Whiting.

(1) Tidal waters of the Orange River - Class SA.

8. York County. All estuarine and marine waters lying within the boundaries of York County and that are not otherwise classified are Class SB waters.

A. Biddeford.

(1) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70`-22'-54" W. - Class SC.

B. Kennebunk.

(1) Tidal waters of the Little River system lying north of latitude 43`-20'-10" N. - Class SA.

C. Kittery.

(1) Tidal waters of the Piscataqua River and its tidal tributaries lying westerly of longitude 70`-42'-52" W., southerly of Route 103 and easterly of Interstate Route 95 - Class SC.

(2) Tidal waters lying northeast of a line from Sisters Point; thence south along longitude 70`-40'-00" W. to the Maine-New Hampshire border; thence running southeast along the Maine-New Hampshire border to Cedar Ledge beyond the Isles of Shoals, except waters within 500 feet of the Isles of Shoals Research Station - Class SA.

D. Old Orchard Beach.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70`-23'-08" W. - Class SC.

E. Saco.

(1) Tidal waters of Goosefare Brook and its tidal tributaries lying westerly of longitude 70`-23'-08" W. - Class SC.

(2) Tidal waters of the Saco River and its tidal tributaries lying westerly of longitude 70`-22'-54" W. - Class SC.

F. Wells.

(1) Tidal waters of the Little River system lying north of latitude 43`-20'-10" N. - Class SA.

G. York.

(1) Tidal waters lying southwest of a line from Seal Head Point east along latitude 43`-07'-15" N. - Class SA.

Sec. 12. 38 MRSA §542, sub-§6, as amended by PL 1977, c. 375, §2, is further amended to read:

6. Oil. "Oil" means oil, petroleum products and their by-products of any kind and in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include liquid natural gas.

Sec. 13. 38 MRSA §562-A, sub-§15, as amended by PL 1995, c. 361, §3, is further amended to read:

15. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include liquid natural gas.

Sec. 14. 38 MRSA §563, sub-§1, ¶A, as amended by PL 2001, c. 626, §12, is further amended to read:

A. A person may not install, or cause to be installed, a new or replacement underground oil storage facility ~~without first having registered~~ unless the facility ~~with the commissioner~~ is registered in accordance with ~~the requirements of~~ subsection 2~~, and having paid the registration fee in accordance with the requirements of subsection 4,~~ at least 10 business days but no more than 2 years prior to installation and the registration fee is paid in accordance with subsection 4. If compliance with this time requirement is impossible due to an emergency situation, the owner or operator of the facility at which the new or replacement facility is to be installed shall inform the commissioner as soon as the emergency becomes known.

The owner or operator shall make available a copy of the facility's registration at that facility for inspection by the commissioner and authorized municipal officials.

Sec. 15. 38 MRSA §566-A, sub-§2, as repealed and replaced by PL 1991, c. 66, Pt. A, §27, is amended to read:

2. Notice of intent. The owner or operator of an underground oil storage facility or tank or, if the owner or operator is unknown, the current owner of the property where the facility or tank is located shall provide written notice of an intent to abandon an underground oil storage facility or tank to the commissioner and the fire department in whose jurisdiction the underground oil facility or tank is located ~~at least 30 days~~ prior to abandonment.

Sec. 16. 38 MRSA §568-A, sub-§1, ¶B-2, as enacted by PL 1997, c. 374, §4, is amended to read:

B-2. An applicant is not eligible for coverage for any discharge discovered or reported to the commissioner after October 1, 1998 if the discharge is from an underground oil storage facility or tank that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department or from an aboveground oil storage facility that has underground piping that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department. ~~An applicant who would otherwise not be eligible for coverage pursuant to this paragraph is not subject to this exclusion from coverage for such a discharge discovered or reported to the commissioner on or before October 1, 1999 if the facility or tank was not operated or used to store oil after the applicable compliance date under section 563 A and the applicant:~~ This exclusion from coverage does not apply to a discharge from an aboveground oil storage facility if the facility is used exclusively to store home heating oil, consists of tanks with a capacity of 660 gallons or less and has an aggregate tank capacity of 1,320 gallons or less.

~~(1) Can not secure financing to remove the facility or tank as evidenced by letters from 3 financial institutions; or~~

~~(2) Can not obtain the services of a certified underground oil storage tank installer or remover required pursuant to section 566 A as evidenced by letters from 3 certified underground oil storage tank installers or removers.~~

Sec. 17. 38 MRSA §568-A, sub-§2-B is enacted to read:

2-B. Failure to pay deductibles. An order issued under subsection 1, paragraph F-1 may be conditioned on payment of the applicable deductibles. If an applicant fails to pay the deductible amounts as determined under subsection 2 within 180 days of receipt of a bill from the department or within 180 days of a decision by the review board or an appellate court upholding the determination, whichever is later, the commissioner may seek reimbursement from the applicant or any other responsible party of all costs incurred by the State in the removal, abatement and remediation of the discharge for which coverage was sought.

Sec. 18. 38 MRSA §569-C is enacted to read:

§569-C. Limited exemption from liability for state or local governmental entities

1. Limited exemption from liability. Liability under section 570 does not apply to the State or any political subdivision that acquired ownership or control of an oil storage facility through tax delinquency proceedings pursuant to Title 36, or through any similar statutorily created procedure for the collection of governmental taxes, assessments, expenses or charges, or involuntarily through abandonment, or in circumstances in which the State or political subdivision involuntarily acquired ownership or control by virtue of its function as a sovereign. The exemption from liability provided under this subsection does not apply if:

A. The State or political subdivision causes, contributes to or exacerbates a discharge or threat of discharge from the facility; or

B. After acquiring ownership of the facility and upon obtaining knowledge of a release or threat of release, the State or political subdivision does not:

(1) Notify the department within a reasonable time after obtaining knowledge of a discharge or threat of discharge;

(2) Provide reasonable access to the department and its authorized representatives so that necessary response actions may be conducted; and

(3) Undertake reasonable steps to control access and prevent imminent threats to public health and the environment.

2. Reimbursement for department expenses. Notwithstanding the exemption from liability provided in subsection 1, the State or any political subdivision that acquires or has acquired ownership of property that encompasses an oil storage facility pursuant to any of the proceedings referred to in subsection 1 is liable for any costs incurred by the department pursuant to this chapter during the period in which the State or political subdivision had ownership of the property, up to the amount of the proceeds from the sale or disposition of the property minus any unpaid taxes on the property and the out-of-pocket costs of the sale or disposition.

Sec. 19. 38 MRSA §584-A, as amended by PL 2009, c. 121, §15, is repealed and the following enacted in its place:

§584-A. Ambient air quality standards

For purposes of statutory interpretation, rules, licensing determinations, policy guidance and all other actions by the department or the board, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard established pursuant to Section 109 of the federal Clean Air Act, 42 United States Code, Section 7409, as amended. The department shall implement ambient air quality standards as required by the federal Clean Air Act, 42 United States Code, Section 7409 and regulations promulgated under that section by the United States Environmental Protection Agency. Nothing in this section may be construed to limit the

authority of the department to adopt emission standards designed to achieve and maintain ambient air quality standards.

Sec. 20. 38 MRSA §1303-C, sub-§6, ¶E, as enacted by PL 1999, c. 525, §1, is repealed and the following enacted in its place:

E. A solid waste facility owned and controlled by a single entity that:

(1) Generates at least 85% of the solid waste disposed of at a facility, except that the facility may accept from other sources, on a nonprofit basis, an amount of solid waste that is no more than 15% of all solid waste accepted on an annual basis; or

(2) Is an owner of a manufacturing facility that has, since January 1, 2006, generated at least 85% of the solid waste disposed of at the solid waste facility, except that one or more integrated industrial processes of the manufacturing facility are no longer in common ownership, and those integrated industrial processes will continue to generate waste that will continue to be disposed of at the solid waste facility. This exemption only applies if the source and type of waste disposed of at the solid waste facility remains the same as that previously disposed of by the single entity.

For the purposes of this paragraph, "single entity" means an individual, partnership, corporation or limited liability corporation that is not engaged primarily in the business of treating or disposing of solid waste or special waste. This paragraph does not apply if an individual partner, shareholder, member or other ownership interest in the single entity disposes of waste in the solid waste facility. A waste facility receiving ash resulting from the combustion of municipal solid waste or refuse-derived fuel is not exempt from this subsection solely by operation of this paragraph.

For purposes of this paragraph, "integrated industrial processes" means manufacturing processes, equipment or components, including, but not limited to, energy generating facilities, that when used in combination produce one or more manufactured products for sale; or

Sec. 21. 38 MRSA §1393, sub-§1, ¶B, as enacted by PL 2007, c. 569, §6, is amended to read:

B. After September 30, 2008, a person may not install in a wellhead protection zone:

(1) An aboveground oil storage facility;

(2) An automobile graveyard as defined in Title 30-A, section 3752, subsection 1 or an automobile recycling business as defined in Title 30-A, section 3752, subsection 1-A;

(3) An automobile body shop or other ~~commercial~~ automobile maintenance and repair facility;

(4) A dry cleaning facility that uses perchloroethylene;

(5) A metal finishing or plating facility; or

(6) A commercial hazardous waste facility as defined under section 1303-C, subsection 4.

Sec. 22. 38 MRSA §1393, sub-§2, ¶A, as enacted by PL 2007, c. 569, §6, is amended to read:

A. A facility in existence ~~or under construction~~ on the effective date of the prohibition established under subsection 1~~. As used in this paragraph, "under construction" means that a substantial amount of money or effort has been expended toward completion of the facility as determined by the commissioner. The test of substantiality involves an assessment of the amount of money or effort expended in relation to the amount required to complete the facility~~;

Sec. 23. 38 MRSA §1393, sub-§2, ¶B, as enacted by PL 2007, c. 569, §6, is amended to read:

B. The replacement or expansion of an underground oil storage facility in existence on September 30, 2001 or a facility identified in subsection 1, paragraph B in existence on September 30, 2008 as long as the replacement or expansion occurs on the same property ~~and~~, the facility meets all applicable requirements of law~~;~~ and, in the case of replacement, the facility owner:

(1) Within 30 days after removal of the existing facility, notifies the commissioner and municipal code enforcement officer in writing of the owner's intent to replace the facility; and

(2) Commences construction of the replacement facility within 2 years after removal of the existing facility;

Sec. 24. 38 MRSA §1661-C, sub-§9, ¶A, as amended by PL 2009, c. 501, §22, is further amended to read:

A. After ~~June 30~~ December 31, 2011, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added button cell battery identified in this paragraph or a product that contains a mercury-added button cell battery identified in this paragraph:

(1) A zinc-air button cell battery;

(2) An alkaline manganese button cell battery; or

(3) A silver oxide button cell battery stamped with the designation 357, 364, 371, 377, 395, SR44W, SR621SW, SR626SW, SR920SW or SR927SW or a silver oxide button cell battery that is interchangeable with a battery that is stamped with one of those designations; and

Sec. 25. 38 MRSA §1661-C, sub-§11 is enacted to read:

11. Mercuric oxide batteries. A person may not sell, distribute or offer for sale in this State a consumer mercuric oxide button cell battery. The sale and use of all other types of mercuric oxide batteries is subject to the requirements of section 2165.

Sec. 26. 38 MRSA §1661-C, sub-§12 is enacted to read:

12. Alkaline manganese and zinc-carbon batteries. A person may not sell, distribute or offer for sale in this State the following batteries:

A. An alkaline manganese battery that contains any added mercury; or

B. A zinc carbon battery that contains any added mercury.

Sec. 27. 38 MRSA §1665-A, sub-§5, ¶B, as repealed and replaced by PL 2005, c. 561, §9, is amended to read:

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 or year, make and model of the source vehicle is provided. If the vehicle identification number or year, make and model of the source vehicle is not provided, no payment is required;

Sec. 28. 38 MRSA §1665-B, sub-§1, ¶D, as enacted by PL 2009, c. 277, §4, is amended to read:

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. 29. 38 MRSA §1665-B, sub-§2, ¶A, as amended by PL 2009, c. 277, §6, is further 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~~ wholesaler locations that sell thermostats and to all retailers and electrical supply wholesalers 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. 30. 38 MRSA §1665-B, sub-§2, ¶E, as enacted by PL 2005, c. 558, §1, is amended to read:

E. Within 3 months after the department develops phase one 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 contractor or service technician,~~ with or without a cover, to an established wholesaler recycling collection point;

Sec. 31. 38 MRSA §1665-B, sub-§2, ¶F, as amended by PL 2009, c. 277, §7, is further 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,~~ with or without a cover, to an established retail recycling collection point;

Sec. 32. 38 MRSA §1665-B, sub-§6, as enacted by PL 2005, c. 558, §1, is amended to read:

6. Report. By March 15, 2007 and annually thereafter, the department shall submit a report on the collection and recycling of mercury-added thermostats in the State to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report due in 2007 must include a description and discussion of the financial incentive plan established under this section and recommendations for

any statutory changes concerning the collection and recycling of mercury-added thermostats. Subsequent reports must include an evaluation of the effectiveness of the thermostat collection and recycling programs established under this section, information on actual collection rates and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats. Beginning in 2012, the department may submit this information as part of the product stewardship program report under section 1772.

Sec. 33. 38 MRSA §1771, sub-§6, as enacted by PL 2009, c. 516, §1, is amended to read:

6. Product stewardship program. "Product stewardship program" means a program financed ~~without a visible fee at purchase~~ and either managed or provided by producers ~~and~~ individually or collectively that includes, but is not limited to, the collection, transportation, reuse and recycling or disposal, or both, of unwanted products. "Product stewardship program" includes a program financed through an assessment paid by the producers to a stewardship organization.

Sec. 34. 38 MRSA §1771, sub-§8-A is enacted to read:

8-A. Stewardship organization. "Stewardship organization" means a corporation, nonprofit organization or other legal entity created by a producer or group of producers to implement a product stewardship program.

Sec. 35. 38 MRSA §2165, sub-§6, as amended by PL 2009, c. 86, §2, is repealed.

Sec. 36. 38 MRSA §2165, sub-§8, as corrected by RR 1991, c. 2, §150, is amended to read:

8. Penalty. A violation of subsection 2 is a civil violation for which a forfeiture of not more than $100 per battery disposed of improperly may be adjudged. A violation of subsection 4 is a civil violation for which a forfeiture of not more than $100 may be adjudged. ~~A violation of subsection 6 is a civil violation for which a forfeiture of not more than $100 per battery sold, distributed or offered for sale may be adjudged.~~ Each day that a violation continues or exists constitutes a separate offense.

Sec. 37. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 38, section 343-D, as amended by Public Law 2009, chapter 579, Pt. B, sections 6 and 7 and affected by section 13, takes effect July 1, 2012.

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

Effective June 3, 2011, unless otherwise indicated.

CHAPTER 207

S.P. 228 - L.D. 736

An Act To Prohibit Texting while Driving

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

Sec. 1. 29-A MRSA §2119 is enacted to read:

§2119. Text messaging while operating motor vehicle; prohibition

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

A. "Cellular telephone" means a device used to access wireless telephone service.

B. "Portable electronic device" means any portable electronic device that is not part of the operating equipment of a motor vehicle, including but not limited to an electronic game, device for sending or receiving e-mail, text messaging device, cellular telephone and computer.

C. "Text messaging" means reading or manually composing electronic communications, including text messages, instant messages and e-mails, using a portable electronic device. "Text messaging" does not include using a global positioning or navigation system.

2. Prohibition. A person may not operate a motor vehicle while engaging in text messaging.

3. Penalty. A person who violates this section commits a traffic infraction for which a fine of not less than $100 may be adjudged.

See title page for effective date.

CHAPTER 208

H.P. 94 - L.D. 112

An Act To Discourage Illegal Dumping in the State

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

Sec. 1. 12 MRSA §10157, sub-§7, ¶D, as enacted by PL 2003, c. 655, Pt. B, §36 and affected by §422, is amended to read:

D. Review and make recommendations regarding programs administered by other agencies. The commissioner shall coordinate all reviews; ~~and~~

Sec. 2. 12 MRSA §10157, sub-§7, ¶E, as enacted by PL 2003, c. 655, Pt. B, §36 and affected by §422, is amended to read:

E. Conduct an organizational review of the advisory board every 5 years. This review must be designed to provide the information necessary to ascertain whether the advisory board has the membership required by subsection 1 and the advisory board is fulfilling its duties. If the review indicates that the advisory board does not have the correct representational membership, a subcommittee of the members of the advisory board must be convened to recommend to the commissioner appropriate changes. At any time, the advisory board may recommend to the commissioner ways to improve the advisory board's membership or function, and the commissioner shall act upon those recommendations~~.~~; and

Sec. 3. 12 MRSA §10157, sub-§7, ¶F is enacted to read:

F. Establish a protocol to contact and work with the courts to identify public service opportunities for a person who has violated a litter law under Title 17, section 2264-A.

Sec. 4. 17 MRSA §2264-A, as amended by PL 2003, c. 452, Pt. I, §§34 to 37 and affected by Pt. X, §2, is further amended to read:

§2264-A. Penalties

Unless otherwise indicated, a person who disposes of litter in violation of this chapter commits a civil violation for which the following ~~forfeitures~~ fines apply.

1. Disposal of 15 pounds or less or 27 cubic feet or less of litter. A person who disposes of 15 pounds or less or 27 cubic feet or less of litter commits a civil violation for which a fine of not less than $100 and not more than $500 may be adjudged.

1-A. Disposal of 15 pounds or less or 27 cubic feet or less of litter; subsequent offenses. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not less than ~~$200~~ $500 and not more than ~~$500~~ $1,000 may be adjudged.

2. Disposal of more than 15 pounds or more than 27 cubic feet of litter. A person who disposes of more than 15 pounds or more than 27 cubic feet of litter commits a civil violation for which ~~a fine of not less than $200 and not more than $500 may be adjudged.~~ the court:

A. Shall impose a fine of not less than $500;

B. Shall require the person to pay a party sustaining damages arising out of a violation of this subsection treble the actual damages or $200, whichever amount is greater, plus the injured party's court costs and attorney's fees if action results in a civil proceeding;

C. Shall require the person to perform not less than 100 hours of public service relating to the removal of litter or to the restoration of an area polluted by litter disposed of in violation of this section. The court shall consult with the Commissioner of Inland Fisheries and Wildlife to determine if there is an opportunity for public service that may improve landowner and sportsman relations;

D. When practical, shall require the person to remove the litter dumped in violation of this subsection;

E. May suspend the person's motor vehicle operator's license for a period of not less than 30 days or more than one year, except as provided in paragraph F. Notwithstanding paragraph F, the court shall suspend all licenses and permits issued under Title 12, Part 13, subpart 4 and recreational vehicle registrations and certificates issued to that person under Title 12, Part 13, subpart 6 for a period of not less than 30 days or more than one year; and

F. May suspend any license, permit, registration or certification issued by a state agency or municipality to the person. A professional license, permit, registration or certification required for that person to operate or establish a business or necessary for the person's primary source of employment may not be suspended unless the items dumped were related to the person's profession or occupation.

2-A. Disposal of more than 15 pounds or more than 27 cubic feet of litter; subsequent offenses. A person who violates subsection 2 after having previously violated subsection 2 commits a civil violation for which the penalty provisions under subsection 2 apply except for subsection 2, paragraph A, and a fine of not less than ~~$500 and not more than $1,000 may~~ $2,000 must be adjudged.

3. Disposal of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose. A person who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose is subject to the penalties under Title 38, section 349.

Sec. 5. 17 MRSA §2264-B, first ¶, as amended by PL 2003, c. 452, Pt. I, §38 and affected by Pt. X, §2, is further amended to read:

In addition to the fines imposed in section 2264-A, subsections 1 and 1-A, the court may order a person adjudicated to have violated section 2264-A, subsection 1 or subsection 1-A to:

Sec. 6. 17 MRSA §2264-B, sub-§5, as amended by PL 2009, c. 424, §1, is further amended to read:

5. License suspension. Surrender the person's motor vehicle operator's license, a license or permit issued to that person under Title 12, Part 13, subpart 4 or a recreational vehicle registration or certificate issued to that person under Title 12, Part 13, subpart 6 for a period not exceeding 30 days. The court may suspend an operator's license for any violation of section 2264-A, subsection 1 or subsection 1-A that involves the use of a motor vehicle.

See title page for effective date.

CHAPTER 209

S.P. 191 - L.D. 611

An Act Relating to Sales Tax on Certain Rental Vehicles

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

Sec. 1. 36 MRSA §1752, sub-§11, ¶B, as repealed and replaced by PL 2009, c. 434, §22, is amended to read:

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~~ for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;

(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. 2. 36 MRSA §1752, sub-§17-B, as amended by PL 2007, c. 410, §2 and affected by §6, is further amended to read:

17-B. Taxable service. "Taxable service" means the rental of living quarters in a hotel, rooming house~~,~~ or tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile; the rental or lease of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds from a person primarily engaged in the business of renting automobiles; the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration; and the sale of prepaid calling service.

Sec. 3. 36 MRSA §1760, sub-§92 is enacted to read:

92. Certain vehicle rentals. The rental for a period of less than one year of an automobile when the rental is to the service customer of a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, pursuant to a manufacturer's or new vehicle dealer's warranty and the rental fee is paid by that new vehicle dealer or warrantor.

Sec. 4. 36 MRSA §1811, as amended by PL 2007, c. 627, §51 and affected by §96, is further amended to read:

§1811. Sales tax

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% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, ~~including~~ of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles or of a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. 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 or of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, must be added to the rates so established.

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

Sec. 5. Application. This Act applies to transactions entered into on or after October 1, 2011.

See title page for effective date.

CHAPTER 210

H.P. 482 - L.D. 652

An Act To Protect Animal Cruelty Investigations

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

Sec. 1. 16 MRSA §614, sub-§1, as amended by PL 1999, c. 155, Pt. A, §5, is further amended to read:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife; ~~or~~ the Department of Conservation, Division of Forest Protection when the reports or records pertain to arson; or the Department of Agriculture, Food and Rural Resources when the reports or records pertain to animal cruelty are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

A. Interfere with law enforcement proceedings;

B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

C. Constitute an unwarranted invasion of personal privacy;

D. Disclose the identity of a confidential source;

E. Disclose confidential information furnished only by the confidential source;

F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;

G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;

H. Endanger the life or physical safety of any individual, including law enforcement personnel;

I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;

J. Disclose information designated confidential by some other statute; or

K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

See title page for effective date.

CHAPTER 211

H.P. 1055 - L.D. 1434

An Act To Streamline the Waste Motor Oil Disposal Site Remediation 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, waste oil was discharged between 1953 and 1981 at 4 sites in Maine: Plymouth, Casco, Ellsworth and Presque Isle; and

Whereas, the 4 sites require significant cleanup, costing some $30,000,000; and

Whereas, the costs of cleanup place an intolerable financial burden on businesses, municipalities, schools and state agencies throughout the State that contributed waste oil to one or more of the sites; and

Whereas, the public health, safety and welfare require that the sites be cleaned up expeditiously; and

Whereas, it is in the public interest to ensure the continued financial viability of the businesses, municipalities, schools and state agencies that contributed waste oil to one or more of the sites; and

Whereas, the Finance Authority of Maine has issued revenue bonds to partially fund the cost of the cleanup of these sites but revenues are insufficient to support additional bonds to fully resolve the sites; and

Whereas, a stakeholder group convened by the Department of Environmental Protection at the direction of the Legislature has developed a complete resolution to this problem that uses revenues more efficiently rather than increasing existing premiums; and

Whereas, immediate changes to the waste motor oil disposal site remediation program are necessary to implement these efficiencies; and

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

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

Sec. 1. 10 MRSA §963-A, sub-§47-B, ¶C, as enacted by PL 2007, c. 464, §2, is repealed.

Sec. 2. 10 MRSA §1020, sub-§1, as amended by PL 2009, c. 213, Pt. KKK, §1, is further amended to read:

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

A. "Eligible person" means a person that is eligible, pursuant to section 1020-A, to have that person's share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter or is eligible to have that person's share of response costs paid from the fund as otherwise set forth in this subchapter.

~~A-1. "Bulk motor vehicle oil" means all motor vehicle oil other than prepackaged motor vehicle oil.~~

A-2. "Diesel engine ~~bulk motor vehicle~~ crankcase oil" means ~~diesel engine bulk~~ motor vehicle oil that is classified for use in a diesel engine crankcase by meeting the performance requirements of the American Petroleum Institute ~~CJ-4~~ beginning with CA standards and all ~~preceding~~ succeeding specifications under those standards, inclusive of all ~~viscosity grades~~ original equipment manufacturer-specific engine oils.

C. "Fund" means the Waste Motor Oil Revenue Fund established under subsection 2 to be deposited with and administered by the authority.

C-1. "Gasoline engine ~~bulk motor vehicle~~ crankcase oil" means ~~gasoline engine bulk~~ motor vehicle oil that is classified for use in a gasoline engine crankcase by meeting the performance requirements of the American Petroleum Institute ~~SM~~, beginning with SA standards through the most current standards, inclusive of original equipment manufacturer-specific engine oils, and International Lubricant Standardization and Approval Committee ~~GF-4~~ GF-1 standards ~~and all preceding specifications under those~~ through current standards, inclusive of all ~~viscosity grades~~

original equipment manufacturer-specific engine oils.

D. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42.

F. "Motor vehicle oil" means any lubricating oil or other lubricant that is reclaimable and classified for use in an internal combustion engine or the transmission, gear box, hydraulic ~~reservoir~~ system, compressor or differential for a motor vehicle, including but not limited to natural, synthetic and rerefined motor oils, whether or not in retail containers.

G. "Motor vehicle oil dealer" means any person, firm or corporation engaged in the business of producing, packaging or otherwise preparing motor vehicle oil for market, or selling or distributing motor vehicle oil.

~~H. "Prepackaged motor vehicle oil" means motor vehicle oil sold in a container with a volume not in excess of 5 gallons.~~

Sec. 3. 10 MRSA §1020, sub-§3, as enacted by PL 2007, c. 464, §6, is amended to read:

3. Application of fund. Money in the fund must be applied to the payment of principal of, interest on ~~or,~~ redemption ~~of~~ premiums on or other costs of revenue obligation securities issued pursuant to section 1020-A and may, in whole or in part, be pledged or transferred and deposited as security for those securities. Money in the fund not immediately needed to meet the obligations of the authority as provided for in this subsection may be invested in such a manner as permitted by law. Any reasonable costs incurred by the authority in administering this fund may be taken from the money in the fund.

Notwithstanding any provision of this subchapter to the contrary, money in the fund may not be transferred from the fund or otherwise applied except as expressly provided in this subsection unless:

A. All amounts required by the trust documents securing those revenue obligation securities to be transferred to the trustee or to a paying agent have been transferred during the same calendar year;

B. All costs incurred, or projected by the authority to be incurred, in administering the fund in that calendar year have been funded through the transfer of such amounts to the authority; and

C. The completion of the transfer or other application does not result in a balance in the fund of less than $600,000.

Sec. 4. 10 MRSA §1020, sub-§3-A is enacted to read:

3-A. Excess revenue; application. By April 15th annually, the authority shall determine whether, as of the immediately preceding December 31st, the fund contained more than $600,000, which is referred to in this subsection as "excess revenue." Excess revenue must be used to satisfy the following obligations in the following order each year, until the excess revenue is exhausted or the obligations have been satisfied, whichever comes first.

A. As the first obligation, an amount not to exceed $65,000 per year for payments to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement must be reported to the State Tax Assessor no later than April 15th annually.

B. As the 2nd obligation, but only until fully repaid, reimbursement of the remaining amount due to each responsible party at the waste motor oil disposal site in Plymouth pursuant to the determination made in section 1020-A, subsection 4 after application of the:

(1) Proceeds of revenue obligation securities;

(2) Amounts available from the Waste Oil Clean-up Fund pursuant to section 1023-L, as determined by the authority; and

(3) Elimination of loan balances under the Plymouth Waste Oil Loan Program pursuant to section 1023-M, as determined by the authority.

This paragraph is repealed December 31, 2012.

C. As the 3rd obligation, but only until fully repaid, reimbursement to the Maine National Guard for response costs at the waste motor oil disposal site in Plymouth in an amount not to exceed $41,778.49, notwithstanding that the Maine National Guard is not listed on the registry established by the authority pursuant to section 1020-A, subsection 7. This paragraph is repealed December 31, 2012.

D. As the 4th obligation, transfer of up to $1,000,000 per year to the Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until $6,919,681.57 has been transferred for response costs incurred by the Department of Environmental Protection at the waste motor oil disposal site.

E. As the 5th obligation, an additional reimbursement from the fund to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement under this paragraph must be reported to the State Tax Assessor no later than April 15th annually.

F. As the 6th obligation, notwithstanding the $1,000,000 annual limit specified in paragraph D, an additional transfer of any remaining excess revenues to the Uncontrolled Sites Fund estab-

lished under Title 38, section 1364, subsection 6 until the amount specified in paragraph D is paid in full.

Sec. 5. 10 MRSA §1020, sub-§6-A, as amended by PL 2009, c. 213, Pt. KKK, §2, is repealed and the following enacted in its place:

6-A. Premium. In addition to any other tax or charge imposed under state or federal law, a premium is imposed on motor vehicle oil sold or distributed in the State as provided in this subsection. A motor vehicle oil dealer that makes the first sale or distribution of motor vehicle oil in the State shall pay the premium.

The premium is calculated as follows:

A. Diesel engine crankcase oil is subject to a premium of 35¢ per gallon;

B. Gasoline engine crankcase oil sold or distributed in a container with a volume of 5 gallons or less is subject to a premium of 35¢ per gallon;

C. Gasoline engine crankcase oil sold or distributed in a container with a volume of more than 5 gallons is subject to a premium of $1.10 per gallon; and

D. All motor vehicle oil other than diesel engine crankcase oil and gasoline engine crankcase oil that is sold or distributed in a container with a volume of 16 gallons or less is subject to a premium of 35¢ per gallon.

All premiums must be paid to the State Tax Assessor and are subject to the administrative provisions of Title 36, Parts 1 and 3 as though they were a sales tax liability. By the 20th day of each month, the State Tax Assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the premium collected under this subsection in the previous month. When notified by the State Tax Assessor, the State Controller shall transfer that amount to the fund.

Sec. 6. 10 MRSA §1020, sub-§8, as enacted by PL 2007, c. 618, §13, is repealed.

Sec. 7. 10 MRSA §1020-A, sub-§1, ¶A, as enacted by PL 2007, c. 464, §6, is amended to read:

A. Pay the response costs of eligible persons, except that a revenue obligation security may not be issued after July 1, 2011 to fund the payments required by this paragraph;

Sec. 8. 10 MRSA §1020-A, sub-§2, as enacted by PL 2007, c. 464, §6, is amended to read:

2. Payment of proceeds. The authority shall pay proceeds of the revenue obligation securities to or on behalf of the responsible parties in accordance with subsection 4. ~~To the extent that any responsible party receives or is eligible to receive proceeds of the revenue obligation securities as reimbursement for expenses that party has paid through the Plymouth Waste Oil Loan Program in section 1023-M, that party's obligations to the authority must be repaid in full with the proceeds of the revenue obligation securities and the authority is authorized to receive those proceeds directly.~~

Sec. 9. 10 MRSA §1020-A, sub-§4, ¶A-1, as enacted by PL 2009, c. 304, §1, is repealed.

Sec. 10. 10 MRSA §1020-A, sub-§4, ¶B, as amended by PL 2009, c. 304, §2, is further 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. 11. 10 MRSA §1020-A, sub-§5, as amended by PL 2009, c. 304, §§3 to 5, is further amended to read:

5. Eligibility. For purposes of this section, "person" means any natural person, corporation, partnership or other entity identified as a responsible party at a waste motor oil disposal site. The following persons that contributed waste motor oil to a waste motor oil disposal site and who have been designated by the Department of Environmental Protection or the United States Environmental Protection Agency as responsible parties with respect to any of the waste motor oil disposal sites are eligible to have their share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter:

A. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are insolvent, unlocated or defunct;

B. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines have a limited ability to pay;

C. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are responsible for 110 gallons or less of waste motor oil at a waste motor oil disposal site;

D. The State and any agencies, authorities, departments, boards, commissions or instrumentalities of the State or political subdivisions of the State;

E. All franchised new car and truck dealers licensed pursuant to Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such franchised new car or truck dealers. The Secretary of State shall certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3;

F. All used car and truck dealers licensed in accordance with Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such used car and truck dealers. The Secretary of State shall certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3;

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 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;

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

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.

Notwithstanding any provision of this subsection to the contrary, at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D, eligible persons include all responsible parties except those enumerated in subsection 6.

Sec. 12. 10 MRSA §1020-A, sub-§9 is enacted to read:

9. Liability releases and covenants at certain sites. This subsection applies to the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D and referred to in this subsection as "the sites." Upon receipt by the Department of Environmental Protection of the first $3,500,000 pursuant to section 1020, subsection 3-A, paragraphs D and F:

A. The Department of Environmental Protection or any other agency or instrumentality of the State may not sue or take administrative action against any responsible party at a waste motor oil disposal site under 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 any of the sites 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;

B. The State, including all of its departments, agencies and instrumentalities, by and through the Attorney General, shall execute a release in favor of all eligible persons at the sites. The release must forever discharge and release all eligible persons from all claims, suits, actions, liabilities, causes of action, demands, costs, damages and expenses of any nature whatsoever, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment, whether known or unknown, arising out of, directly or indirectly, a release, threatened release or presence of hazardous substances at or from the sites prior to the effective date of this paragraph; and

C. The eligible persons at the sites are protected from contribution actions or claims regarding those sites.

The State shall include a covenant not to sue and contribution protection in any consent decree or other settlement agreement entered into between the State and federal agencies related to recovery of the State's response costs at the sites.

Sec. 13. 10 MRSA §1020-B, sub-§2, as enacted by PL 2009, c. 213, Pt. KKK, §3, is amended to read:

2. Funding report. By February 15, 2010 and every year thereafter, the authority and the State Tax Assessor shall report the revenue collected pursuant to section 1020, subsection 6-A for the preceding calendar year. The report may be incorporated into the biennial report required under subsection 1. The joint standing committee of the Legislature having jurisdiction over natural resources matters shall determine, beginning in 2013 and every odd-numbered year thereafter, whether the premium imposed pursuant to section 1020, subsection 6-A may be reduced or eliminated in a manner that does not adversely affect the ability of the authority to provide for the full and timely payment of the principal of, interest on, redemption premiums on or other costs of all revenue obligation securities issued pursuant to section 1020-A that remain outstanding as those costs become due or adversely affect the security for those revenue obligation securities and may submit legislation related to the determination and report required under this subsection.

Sec. 14. 10 MRSA §1020-C is enacted to read:

§1020-C. Motor vehicle oil premium reimbursement

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

A. "Eligible dealer" means a motor vehicle oil dealer that has reported and paid the motor vehicle oil premium imposed under section 1020, subsection 6-A on motor vehicle oil sales or distributions.

B. "Eligible premium" means a premium that has been reported and paid by an eligible dealer to the State Tax Assessor on motor vehicle oil that was sold or distributed by that eligible dealer outside the State during the relevant reimbursement period.

C. "Reimbursement claim" means the value of all eligible premiums reported by an eligible dealer during a reimbursement year.

D. "Unreimbursed eligible premium" means a properly filed eligible premium that has not been reimbursed to the eligible dealer for current or prior year obligations.

2. Annual application for reimbursement. An eligible dealer shall submit a claim for reimbursement of eligible premiums on a form prescribed by the State Tax Assessor no later than March 31st annually. An application filed in 2011 or 2012 may include a reimbursement request for eligible premiums paid from October 1, 2009 to December 31, 2011. Reimbursement claims submitted beginning in 2013 may be made only for eligible premiums paid in the immediately preceding calendar year. All applications for reimbursement must be made under penalties of perjury. For purposes of this subsection, an application for reimbursement is considered a return, as defined in Title 36, section 111, subsection 4.

3. Calculation of reimbursement. Reimbursement of funds available in the fund is calculated according to this subsection.

A. Annually, no later than April 30th immediately following notification by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E, the State Tax Assessor shall calculate the value of reimbursement claims. The State Tax Assessor shall provide reimbursement, as determined pursuant to paragraph B, to eligible dealers no later than the immediately following May 31st.

B. For any reimbursement year, the total amount reimbursed to an eligible dealer may not exceed that eligible dealer's unreimbursed eligible premiums. Priority is given to the oldest unreimbursed eligible premiums in succession until all eligible premiums have been reimbursed.

The amount of reimbursement for each eligible dealer is calculated as follows: The State Tax Assessor shall reimburse each eligible dealer for any reimbursement year an amount equal to a fraction, the numerator of which is the total amount of each eligible dealer's eligible premium and the denominator of which is the total amount of reimbursement claims for the same reimbursement year, multiplied by the amount determined as available by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E. Interest is not due on any reimbursement made to an eligible dealer pursuant to this subsection.

4. Payment. A reimbursement made in accordance with this section must be paid from the amount the authority reports to the State Tax Assessor pursuant to section 1020, subsection 3-A, paragraphs A and E.

Sec. 15. 10 MRSA §1023-L, as amended by PL 2007, c. 464, §§7 and 8, is repealed.

Sec. 16. 10 MRSA §1023-M, as amended by PL 2007, c. 479, §1 and affected by §2, is repealed.

Sec. 17. 36 MRSA §112, sub-§8, ¶D, as amended by PL 2009, c. 496, §2, is further amended to read:

D. Administration of the premium imposed on ~~bulk~~ motor vehicle oil ~~and prepackaged motor vehicle oil~~ under Title 10, section 1020.

Sec. 18. 36 MRSA §144, sub-§2, ¶A, as enacted by PL 1997, c. 668, §10, is amended to read:

A. Subsection 1 does not apply in the case of premiums imposed pursuant to Title 10, section 1020, subsection 6-A, sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists.

Sec. 19. 36 MRSA §191, sub-§2, ¶PP, as corrected by RR 2009, c. 2, §107, is amended to read:

PP. The disclosure to the Department of Conservation of information contained on the commercial forestry excise tax return filed pursuant to section 2726, such as the landowner name, address and acreage, to facilitate the administration of chapter 367; ~~and~~

Sec. 20. 36 MRSA §191, sub-§2, ¶QQ, as reallocated by RR 2009, c. 2, §108, is amended to read:

QQ. The disclosure of registration, reporting and payment information to the Department of Agriculture, Food and Rural Resources necessary for the administration of Title 32, chapter 28~~.~~; and

Sec. 21. 36 MRSA §191, sub-§2, ¶RR is enacted to read:

RR. The disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C.

Sec. 22. 36 MRSA §1752, sub-§14, ¶B, as amended PL 2009, c. 625, §4 and affected by §§16 and 18 and c. 652, Pt. C, §8, is further amended to read:

B. "Sale price" does not include:

(1) Discounts allowed and taken on sales;

(2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;

(3) The price of property returned by customers, when the full price is refunded either in cash or by credit;

(4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;

(5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

(6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;

(7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;

(8) The fee imposed by Title 10, section 1169, subsection 11;

(9) The fee imposed by section 4832, subsection 1;

(10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival;

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

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

Sec. 23. 38 MRSA §568-B, sub-§2, ¶E, as amended by PL 2001, c. 356, §8, is further amended to read:

E. To ~~consult with the Finance Authority of Maine at such times as are necessary, but no less than annually, to review income and disbursements from the Waste Oil Clean-up Fund under Title 10, section 1023-L. The board~~, at such times and in such amounts as it determines necessary, and in consultation with the Finance Authority of Maine, ~~shall~~ direct the transfer of funds from the Underground Oil Storage Replacement Fund to the Groundwater Oil Clean-up Fund.

Sec. 24. 38 MRSA §570-H, as amended by PL 2007, c. 292, §37, is further amended to read:

§570-H. Report; adequacy of fund

On or before February 15th of each year, the Fund Insurance Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the department's and the board's experience administering the fund, clean-up activities and 3rd-party damage claims. The report must include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. The report also must

include an assessment of the adequacy of the Underground Oil Storage Replacement Fund and the Waste Oil Clean-up Fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this section, the board may order an independent audit of disbursements from the Groundwater Oil Clean-up Fund~~,~~ and the Underground Oil Storage Replacement Fund ~~and the Waste Oil Clean-up Fund~~.

Sec. 25. Final use of funds in Waste Oil Clean-up Fund by the authority. Within 30 days of the effective date of this Act, the Finance Authority of Maine shall ascertain the balance in the Waste Oil Clean-up Fund established in the Maine Revised Statutes, Title 10, section 1023-L. After ascertaining that amount, the authority shall disburse that amount to eligible persons at the waste motor oil disposal site in Plymouth, as defined in Title 10, section 963-A, subsection 51-E, paragraph A, in accordance with the certificate of determination pursuant to Title 10, section 1020-A, subsection 4. The authority shall disburse that amount to those eligible persons on a pro rata basis.

Sec. 26. Elimination of loan balances. Notwithstanding any provision of law to the contrary, the Finance Authority of Maine, within 30 days of the effective date of this Act, shall ascertain the outstanding loan balance of each borrower under the Plymouth Waste Oil Loan Program under the Maine Revised Statutes, Title 10, section 1023-M. Each outstanding loan balance must be treated as if the loan funds were a grant to the borrower from the Finance Authority of Maine and the borrower has no further obligation to the Finance Authority of Maine related to the loan balance nor does the Finance Authority of Maine have any further obligation under the Plymouth Waste Oil Loan Program except to release and discharge any corresponding loan collateral.

Sec. 27. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 10, section 1020, subsection 1 and repeal and replace Title 10, section 1020, subsection 6-A take effect July 1, 2011. Those sections of this Act that amend Title 10, section 1020-A, subsection 2 and Title 38, section 568-B, subsection 2, paragraph E and repeal Title 10, section 963-A, subsection 47-B, paragraph C and sections 1023-L and 1023-M take effect December 31, 2012.

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

Effective June 3, 2011, unless otherwise indicated.

CHAPTER 212

H.P. 792 - L.D. 1057

An Act To Increase the Transparency of the Unemployment Compensation Fund

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

Sec. 1. 26 MRSA §1082, sub-§3, as amended by PL 1983, c. 115, §1, is further amended to read:

3. Publication. The Commissioner of Labor shall cause to be printed for distribution to the public the text of this chapter, the commission's regulations, ~~his~~ the commissioner's annual reports to the Governor and any other material the commissioner or the commission ~~deems~~ considers relevant and suitable, and shall furnish the same to any person upon application ~~therefor~~.

The commissioner shall cause to be printed a comprehensive set of Department of Labor internal rules, policies, regulations, memoranda, instructions and other forms used in determining eligibility, payment of benefits and similar issues. The compilation ~~shall~~ must be indexed conveniently to facilitate its use by the public~~, available in each local office where unemployment claims are filed~~ and easily accessible to ~~any member of~~ the public.

The commissioner shall annually publish data on the content and usage of the fund for not less than the preceding 10 years, including financing, benefit costs, experience rating and contribution rates as applicable. Legislative changes enacted after December 31, 2010 that have an impact on the content or usage of the fund must be disclosed separately for not less than the 5 years after enactment of the change.

Sec. 2. 26 MRSA §1190, sub-§2, ¶¶A and B, as enacted by PL 1999, c. 740, §1, are amended to read:

A. ~~Total~~ Projected annual change in cost to the ~~unemployment compensation trust~~ fund for the ensuing 5 years;

B. ~~Future~~ Projected impact on ~~the planned yield adjustment and~~ the experience rating records of employers, sorted by size and industry, and on employer's experience classifications, as described in section 1221, subsection 4-A, for the ensuing 5 years;

See title page for effective date.

CHAPTER 213

S.P. 173 - L.D. 581

An Act To Repeal the Laws Governing the Capital Investment Fund

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

Sec. 1. 2 MRSA §102, as amended by PL 2009, c. 194, §1, is repealed.

Sec. 2. 22 MRSA §328, sub-§3-A, as amended by PL 2011, c. 90, Pt. J, §2, is repealed.

Sec. 3. 22 MRSA §335, sub-§1, ¶E, as amended by PL 2007, c. 440, §14, is further amended to read:

E. ~~Can be funded within the capital investment fund or, in~~ In the case of a nursing facility, is consistent with the nursing facility MaineCare funding pool and other provisions of sections 333-A and 334-A.

See title page for effective date.

CHAPTER 214

H.P. 961 - L.D. 1315

An Act To Establish an Integrated Statewide System To Manage and Enforce Electronic Warrants

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

Sec. 1. 15 MRSA c. 99, as amended, is repealed.

Sec. 2. 15 MRSA c. 100 is enacted to read:

CHAPTER 100

WARRANTS

§651. Definitions

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

1. Affidavit warrant. "Affidavit warrant" means a warrant issued in response to a properly sworn charging instrument or affidavit, or both, based on probable cause to believe that an individual has committed a crime.

2. Alias name. "Alias name" means an alternative name, a pseudonym or a placeholder name.

3. Alternative name. "Alternative name" means a name used by an individual instead of or in addition to the individual's legal name.

4. Bench warrant. "Bench warrant" means an arrest warrant issued by an authorized judicial officer that directs a law enforcement officer to seize or detain an individual and includes the following types of arrest warrants:

A. An affidavit warrant;

B. A contempt warrant;

C. An FTP warrant;

D. An FTA warrant;

E. A juvenile warrant; and

F. A probation violation warrant.

5. Contempt warrant. "Contempt warrant" means a bench warrant issued by a judicial order:

A. For failure of an individual to appear for a contempt hearing pursuant to the Maine Rules of Civil Procedure, Rule 66(c)(2)(E) or Rule 66(d)(2)(E); or

B. For failure of a contemnor to comply with a contempt order pursuant to the Maine Rules of Civil Procedure, Rule 66(c)(3) or Rule 66(d)(3)(A).

6. Digital signature. "Digital signature" has the same meaning as in Title 10, section 9502, subsection 1.

7. Electronic signature. "Electronic signature" has the same meaning as in Title 10, section 9402, subsection 8.

8. FTA warrant. "FTA warrant" means a bench warrant issued for failure of an individual to appear in court as required by a criminal summons or other court order requiring an individual to appear for a court hearing.

9. FTP warrant. "FTP warrant" means a bench warrant issued for failure of an individual to pay a fine, as described in Title 14, section 3141, as ordered by the issuing court.

10. Juvenile warrant. "Juvenile warrant" means a bench warrant issued in order to detain a juvenile pursuant to section 3202.

11. Local entering agency. "Local entering agency" means a local law enforcement agency designated by the district attorney within a prosecutorial district, with the approval of the Chief Judge of the District Court.

12. Maine telecommunications and routing operations system. "Maine telecommunications and routing operations system" means the interagency

communications system maintained and operated by the Maine State Police.

13. Maine State Police wanted database. "Maine State Police wanted database" means the database of warrants and other information maintained by the Maine State Police.

14. Other judicial warrant. "Other judicial warrant" means a warrant, other than a bench warrant, issued by the Supreme Judicial Court, Superior Court, District Court or Probate Court, pursuant to statute or common law, including, but not limited to, civil orders of arrest and warrants for failure to respond to a subpoena or for jury duty.

15. Placeholder name. "Placeholder name" means a nonspecific name, such as "Unknown," that is assigned by law enforcement officials to an individual whose legal name is not known to law enforcement officials.

16. Probation violation warrant. "Probation violation warrant" means a bench warrant issued by a judicial officer in response to a motion to revoke the probation, intensive supervision or supervised release of an individual, requested by a probation officer or prosecutor.

17. Pseudonym. "Pseudonym" means a fictitious name, such as "John Doe," that is assigned by law enforcement officials to an individual whose legal name is not known to law enforcement officials.

18. Statewide warrant management system. "Statewide warrant management system" means the integrated electronic system that consists of the Maine State Police wanted database, the Maine telecommunications and routing operations system and the warrant docket management system.

19. Warrant docket management system. "Warrant docket management system" means the system maintained by the Administrative Office of the Courts to manage the generation, storage, retention and recall of electronic arrest warrants issued by the courts.

§652. Exclusions

This chapter does not apply to:

1. Extradition warrants. Warrants issued by the Governor pursuant to the United States Constitution and the Uniform Criminal Extradition Act for the extradition of fugitives from justice, except that the provisions requiring law enforcement officers to be responsible for the execution of warrants are fully applicable to a Governor's warrant;

2. Other judicial warrants. Other judicial warrants that are generated, maintained and recalled by the individual issuing court and are not maintained in the Maine State Police wanted database. Notwithstanding any provision of this chapter, other judicial warrants retain their full force and effect;

3. Civil orders of arrest. Civil orders of arrest issued pursuant to Title 14, section 3135;

4. Corrections warrants. Warrants issued by the Department of Corrections for violations of parole, probation, intensive supervision or supervised release or for escape or failure to report;

5. Nonjudicial warrants. Warrants issued by other authorities, including but not limited to federal courts and agencies and tribal courts; and

6. Search warrants. Warrants issued pursuant to section 55 and the Maine Rules of Criminal Procedure, Rule 41 and administrative inspection warrants issued pursuant to the Maine Rules of Civil Procedure, Rule 80E.

§653. Statewide warrant management system

1. Warrant docket management system. The Administrative Office of the Courts shall establish a warrant docket management system for the generation, storage, retention and recall of all electronic arrest warrants issued by the courts. When a bench warrant is issued by a court, the warrant must be electronically directed to the warrant docket management system.

2. Central warrant administration. The Maine State Police shall administer a central system for the management, enforcement and execution of warrants. The Maine State Police must have continuous electronic interface with the warrant docket management system, the Maine State Police wanted database, the Maine telecommunications and routing operations system and the National Crime Information Center. The Maine State Police shall coordinate with all law enforcement agencies to ensure the prompt communication of all warrant information through the National Crime Information Center and the Maine telecommunications and routing operations system. The Maine State Police shall post information to the warrant docket management system concerning the status and execution of all arrest warrants.

3. Validation. The Maine State Police shall manage the mandated validation process for warrants sent to the National Crime Information Center.

4. Monitor management. The Maine State Police shall monitor the management of entry and removal of warrant information in the Maine State Police wanted database, and shall exchange data with the warrant docket management system, or other pertinent databases, as required.

5. Structured plan. The Maine State Police shall develop a structured bench warrant management plan designed to maximize the execution of outstanding arrest warrants and to identify appropriate

bench warrants to be removed from pertinent databases.

§654. Warrants

1. Form of warrant. A bench warrant and a return of service must each be maintained and transmitted in electronic form unless the statewide warrant management system is unavailable or other exigent circumstances prevent such electronic maintenance or transmittal, in which case a paper warrant may be issued and entered into the warrant docket management system as soon as practicable. An electronic warrant with a digital signature or an electronic signature is of equal validity as a manually signed paper warrant issued pursuant to former chapter 99 and has the full force and effect of law.

2. Warrant electronically available. A certified electronic warrant must be maintained in the warrant docket management system and its details and status must be available at all times to the Maine State Police, which shall make that information available to local law enforcement agencies through the Maine telecommunications and routing operations system. The certified electronic warrant must include an electronic signature or digital signature, and may include a digital watermark or such other security features as the Administrative Office of the Courts determines necessary to verify the warrant's authenticity.

3. Content of warrant. A bench warrant must contain:

A. The subject's name or alias name;

B. The subject's date of birth, if known;

C. At least one identified charge;

D. An indication if any pending charge is a domestic violence crime; and

E. Available information concerning the identity and location of the subject sufficient to meet the minimum requirements established by the Maine telecommunications and routing operations system and the National Crime Information Center.

The bench warrant may contain photographs of the subject, a description of any distinguishing physical characteristics and other information that will aid in the location of the subject and the execution of the warrant. A bench warrant is not rendered invalid because of technical noncompliance with this section.

4. National Crime Information Center. A bench warrant may not be entered in the National Crime Information Center database without authorization from the Attorney General or designee of the Attorney General or a district attorney or designee of the district attorney, except that the Department of Corrections may enter a bench warrant for a violation of parole or probation or for escape. The authorizing entity shall specify appropriate geographic limitations, if any, on extradition, which are subject to change, at the time the bench warrant is executed.

5. Clerical errors. A clerical error in a bench warrant must ordinarily be corrected by the issuance of a replacement warrant by the issuing court or agency, but may be corrected by an authorized judicial officer upon an ex parte application in exigent circumstances.

6. Removal from database. When a bench warrant is recalled by the issuing court, the court shall maintain a record of the recall and the bench warrant must be immediately removed from the warrant docket management system and the Maine State Police wanted database. When a bench warrant is executed, the law enforcement agency must make an electronic return of service immediately upon verification that the served individual is the subject of the bench warrant. Once a return of service has been received, the bench warrant must be removed from the Maine State Police wanted database.

§655. Local entering agency

1. Authority. The district attorney for each prosecutorial district, with the approval of the Chief Judge of the District Court, shall designate one or more local entering agencies for each prosecutorial district.

2. Standards. Each local entering agency must have the capability and willingness to accept the burden and responsibility of warrant management as a full and equal element of its sworn public duty and must meet standards established by the Maine telecommunications and routing operations system and the National Crime Information Center.

§656. Responsibilities of law enforcement agencies

Each law enforcement agency shall adopt policies to comply with this chapter. Local policies must ensure that all bench warrants are served and returns of service entered as required by section 654.

§657. Responsibilities of courts

The courts are responsible for:

1. Complete information. Maintaining bench warrants with information that is as complete as possible and that maximizes the likelihood that the bench warrants will be successfully executed;

2. Single transmission. Transmitting only one set of data for each instance of a bench warrant's issuance and maintaining an audit record of each transmission; and

3. Recall notice. Immediately transmitting an electronic notice of recall to the Maine State Police when a bench warrant is recalled.

Sec. 3. 15 MRSA §1023, sub-§8 is enacted to read:

8. Bail commissioners in indigent cases. The Chief Judge of the District Court may adopt rules requiring a bail commissioner to appear and set bail regardless of whether the defendant is indigent and unable to pay the bail commissioner's fee. The Chief Judge of the District Court may also adopt rules governing the manner in which a bail commissioner is paid in the event an indigent person is released on bail and is unable to pay the bail commissioner's fee.

Sec. 4. Rules.

1. Electronic verification. Notwithstanding the Maine Revised Statutes, Title 10, section 9503, the Supreme Judicial Court may adopt rules to allow for the use in the judicial branch of electronic signatures, digital signatures, digital watermarks or other appropriate security devices to ensure the validity of electronically transmitted and stored warrants and to ensure that such warrants are appropriately tracked and can be validated. The court shall consult and cooperate with the Secretary of State to ensure that its rules will not interfere with the transfer of data and signatures between branches and departments of State Government. Electronic signatures and digital signatures executed or adopted by a person or entity pursuant to these rules are presumed to be valid as provided in Title 10, chapter 1051.

2. Resolution in other court. The Supreme Judicial Court may adopt rules to provide that an individual who is arrested in a county or district, other than the county or district whose court issued the warrant, for the commission of a Class D or Class E crime, for the failure to appear for a Class D or Class E crime or for a civil violation or for the failure to pay a fine for any crime or civil violation, may waive the right to a trial and any objections to venue and return to the court that issued the warrant and plead guilty and be sentenced, pay a fine or otherwise have the matter disposed of by the appropriate court in the arresting district.

3. Local entering agencies. The Commissioner of Public Safety, with the concurrence of the Attorney General, may adopt rules to provide additional requirements or standards of operation that apply to local entering agencies. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Warrant repositories in existence on effective date; construction. Nothing in this Act is intended or may be construed to affect the validity of any warrant issued by a court or other authorized entity prior to the effective date of this Act. Nothing in this Act is intended to deauthorize or otherwise affect the authority of warrant repositories established pursuant to the Maine Revised Statutes, Title 15, former chapter 99 that are in existence on the effective date of this Act.

Sec. 6. Effective date. Those sections of this Act that repeal the Maine Revised Statutes, Title 15, chapter 99, enact Title 15, chapter 100 and enact Title 15, section 1023, subsection 8 take effect February 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 215

H.P. 791 - L.D. 1056

An Act To Increase the Availability of Independent Medical Examiners under the Workers' Compensation Act of 1992

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

Whereas, there is a long waiting list of injured workers in need of independent medical examinations due to the shortage of available independent medical examiners, which has been further exacerbated by the recent and unexpected retirement of a specialist who had 12 pending cases; and

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

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

Sec. 1. 39-A MRSA §312, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Examiner system. The board shall develop and implement an independent medical examiner system consistent with the requirements of this section. As part of this system, the board shall, in the exercise of its discretion, create, maintain and periodically validate a list of not more than 50 health care providers that it finds to be the most qualified and to be highly experienced and competent in their specific fields of expertise and in the treatment of work-related injuries to serve as independent medical examiners from each of the health care specialties that the board finds most commonly used by injured employees. An independent medical examiner must be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association

or their successor organizations. The board shall establish a fee schedule for services rendered by independent medical examiners and adopt any rules considered necessary to effectuate the purposes of this section.

Sec. 2. 39-A MRSA §312, sub-§2, as amended by PL 2005, c. 24, §1, is further amended to read:

2. Duties. An independent medical examiner shall render medical findings on the medical condition of an employee and related issues as specified under this section. The independent medical examiner in a case may not be the employee's treating health care provider and may not have treated the employee with respect to the injury for which the claim is being made or the benefits are being paid. Nothing in this subsection precludes the selection of a provider authorized to receive reimbursement under section 206 to serve in the capacity of an independent medical examiner. Unless agreed upon by the parties or no other physician is reasonably available, a physician ~~who~~ is not eligible to be assigned as an independent medical examiner if the physician has examined ~~an~~ the employee at the request of an insurance company, employer or employee in accordance with section 207 or has been closely affiliated with the insurance company at any time during the previous 52 weeks ~~is not eligible to serve as an~~. An independent medical examiner selected and paid for by an employer to examine an employee in accordance with section 207 is limited to 12 such examinations per calendar year and shall notify the board of the name of the employee, the employer or the insurance company that requested the examination and the date of the examination within 10 days of the date of the examination.

Sec. 3. Report. The Workers' Compensation Board shall submit a report that includes its findings and recommendations by January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over workers' compensation matters regarding the board's review of the independent medical examiner selection process pursuant to the Maine Revised Statutes, Title 39-A, section 312 and the number of independent medical examiners who have examined employees in accordance with Title 39-A, section 207. The joint standing committee is authorized to introduce a bill related to the board's report to the First Regular Session of the 126th Legislature.

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

Effective June 3, 2011.

CHAPTER 216

H.P. 687 - L.D. 927

An Act To Change the Coyote Night Hunting Law

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

Sec. 1. 12 MRSA §12001, sub-§1, as amended by PL 2009, c. 550, §6, is further amended to read:

1. Coyote hunting. Notwithstanding the night hunting prohibitions in section ~~11206-A~~ 11206, there is an open season for hunting coyotes at night in all counties of the State from December 16th to August 31st.

Notwithstanding section 11214, subsection 1, paragraph M, the commissioner may appoint agents to hunt for coyotes at night using artificial illumination from September 1st to December 15th. The commissioner shall develop policies to make the affected public and affected law enforcement officers aware of any night hunting operations.

See title page for effective date.

CHAPTER 217

H.P. 1056 - L.D. 1435

An Act To Adopt the Interstate Prescription Monitoring Program Compact

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

Sec. 1. 22 MRSA c. 1604 is enacted to read:

CHAPTER 1604

INTERSTATE PRESCRIPTION MONITORING PROGRAM COMPACT

§7261. Purpose - Article 1

The purpose of the interstate prescription monitoring program compact, referred to in this chapter as "the compact," is to provide a mechanism for state prescription monitoring programs to securely share prescription data to improve public health and safety. The compact is intended to:

1. Enhance state prescription monitoring programs. Enhance the ability of state prescription monitoring programs, in accordance with state laws, to provide an efficient and comprehensive tool for:

A. Practitioners to monitor patients and support treatment decisions;

B. Law enforcement officials to conduct diversion investigations when authorized by state law;

C. Regulatory agencies to conduct investigations or other appropriate reviews when authorized by state law; and

D. Other uses of prescription drug data authorized by state law for purposes of curtailing drug abuse and diversion; and

2. Provide technology infrastructure. Provide a technology infrastructure to facilitate secure data transmission.

§7262. Definitions - Article 2

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

1. Authentication. "Authentication" means the process of verifying the identity and credentials of a person before authorizing access to prescription data.

2. Authorized. "Authorized" means the granting of access privileges to prescription data.

3. Bylaws. "Bylaws" means those bylaws established by the interstate commission pursuant to section 7268 for its governance or for directing or controlling its actions and conduct.

4. Commissioner. "Commissioner" means the voting representative appointed by each member state pursuant to section 7266.

5. Interstate commission or commission. "Interstate commission" or "commission" means the Interstate Prescription Monitoring Program Commission created pursuant to section 7266.

6. Member state. "Member state" means any state that has adopted a prescription monitoring program and has enacted the enabling compact legislation.

7. Practitioner. "Practitioner" means a person licensed, registered or otherwise permitted to prescribe or dispense a prescription drug.

8. Prescription data. "Prescription data" means data transmitted by a prescription monitoring program that contains patient, prescriber, dispenser and prescription drug information.

9. Prescription drug. "Prescription drug" means any drug required to be reported to a state prescription monitoring program and includes but is not limited to substances listed in the federal Controlled Substances Act.

10. Prescription monitoring program. "Prescription monitoring program" means a program that collects, manages, analyzes and provides prescription data under the auspices of a state.

11. Requestor. "Requestor" means a person authorized by a member state who has initiated a request for prescription data.

12. Rule. "Rule" means a written statement by the interstate commission promulgated pursuant to section 7267 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact; or is an organizational, procedural or practice requirement of the commission and has the force and effect of statutory law in a member state. "Rule" includes the amendment, repeal or suspension of an existing rule.

13. State. "State" means any state, commonwealth, district or territory of the United States.

14. Technology infrastructure. "Technology infrastructure" means the design, deployment and use of both individual technology-based components and the systems of such components to facilitate the transmission of information and prescription data among member states.

15. Transmission. "Transmission" means the release, transfer, provision or disclosure of information or prescription data among member states.

§7263. Authorized uses and restrictions on prescription data - Article 3

1. Authority of member state. Under the compact a member state:

A. Retains its authority and autonomy over its prescription monitoring program and prescription data in accordance with its laws, rules and policies;

B. May provide, restrict or deny prescription data to a requestor of another state in accordance with the member state's laws, rules and policies;

C. May provide, restrict or deny prescription data received from another state to a requestor within that state; and

D. Has the authority to determine which requestors are authorized.

2. Restrictions on prescription data. Prescription data obtained by a member state pursuant to this compact has the following restrictions.

A. It must be used solely for purposes of providing the prescription data to a requestor.

B. It may not be stored in the member state's prescription monitoring program database, except for stored images, nor in any other database.

3. Limit on categories of requestors. A member state may limit the categories of requestors of another member state that will receive prescription data.

4. Requestor authentication. The commission shall promulgate rules establishing standards for requestor authentication.

A. Every member state shall authenticate requestors according to the rules established by the commission.

B. A member state may authorize its requestors to request prescription data from another member state only after such requestor has been authenticated.

C. A member state that becomes aware of a requestor who violated the laws or rules governing the appropriate use of prescription data shall notify the state that transmitted the prescription data.

§7264. Technology and security - Article 4

1. Security requirements. The commission shall establish security requirements through rules for the transmission of prescription data.

2. Open standards for technology infrastructure. The commission shall foster the adoption of open standards for the technology infrastructure that are vendor-neutral and technology-neutral.

3. Acquisition and operation of technology infrastructure. The commission is responsible for acquisition and operation of the technology infrastructure.

§7265. Funding - Article 5

1. Interstate commission responsible for funding compact. The interstate commission, through its member states, is responsible for providing for the payment of the reasonable expenses for establishing, organizing and administering the operations and activities of the compact.

2. Interstate commission may collect dues from member states. The interstate commission may levy on and collect annual dues from each member state to cover the cost of operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual dues amount must be allocated in an equitable manner and may consist of a fixed fee component as well as a variable fee component based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states. Such a formula must take into account factors including but not limited to the total number of practitioners or licensees within a member state. Fees established by the interstate commission may be recalculated and assessed on an annual basis.

3. Interstate commission may accept nonstate funding. Notwithstanding subsections 1 and 2 and any other provision of law, the interstate commission may accept nonstate funding, including grants, awards and contributions to offset, in whole or in part, the costs of the annual dues required under subsection 2.

4. Interstate commission may not incur obligations prior to securing funds. The interstate commission may not incur obligations of any kind prior to securing the funds adequate to meet the same. The interstate commission may not pledge the credit of any of the member states, except by and with the authority of the member states.

5. Interstate commission to keep accurate accounts. The interstate commission shall keep accurate accounts of all receipts and disbursements 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 annually 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.

§7266. Interstate commission - Article 6

The member states hereby create the Interstate Prescription Monitoring Program Commission to govern the compact. The interstate commission is composed of the member states and not a 3rd-party group or federal agency. The activities of the commission are the formation of public policy and are a discretionary state function.

1. Body corporate. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers and duties set forth herein 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. Composition. The commission consists of one voting representative from each member state who is that member state's appointed commissioner and who is empowered to determine statewide policy related to matters governed by this compact. The commissioner must be a policy maker within the agency that houses the member state's prescription monitoring program.

3. Nonvoting advisor. In addition to the commissioner, a member state shall appoint a nonvoting advisor who is a representative of the member state's prescription monitoring program.

4. Members of interested organizations. In addition to the voting representatives and nonvoting advisor of each member state, the commission may include persons who are not voting representatives, but who are members of interested organizations as determined by the commission.

5. Each member state entitled to one vote. Each member state represented at a meeting of the commission is entitled to one vote. A majority of the

member states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws. A representative may not delegate a vote to another member state. In the event a commissioner is unable to attend a meeting of the commission, the appropriate appointing authority may delegate voting authority to another person from that member state for a specified meeting. The bylaws may provide for meetings of the commission to be conducted by electronic communication.

6. Meetings. The commission shall meet at least once each calendar year. The chair of the commission may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

7. Executive committee. The commission shall establish an executive committee, which must include officers, members and others as determined by the bylaws. The executive committee has the power to act on behalf of the commission, with the exception of rulemaking. During periods when the commission is not in session the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as determined necessary.

8. Committee structure. The commission shall maintain a committee structure for governance in areas including but not limited to policy, compliance, education and technology and shall include specific opportunities for stakeholder input.

9. Records available to public. The commission's bylaws and rules must establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

10. Public notice of meetings; meetings open to public. The commission shall provide 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 commission may close a meeting, or portion of a meeting, when it determines by a 2/3 vote of the members present that discussions at the open meeting would be likely to:

A. Relate solely to the commission's internal personnel practices and procedures;

B. Concern matters specifically exempted from disclosure by federal and state statute;

C. Concern 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. Concern information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

F. Concern investigative records compiled for law enforcement purposes; or

G. Specifically relate to the commission's participation in a civil action or other legal proceeding.

11. Requirements for meeting closed to public. For a meeting or portion of a meeting closed pursuant to subsection 10, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision. The commission shall keep minutes that must fully and clearly describe all matters discussed in a meeting and must provide a full and accurate summary of actions taken and the reasons for those 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 these minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.

§7267. Powers and duties of the interstate commission - Article 7

The commission has the following powers and duties:

1. Oversee and maintain technology infrastructure. To oversee and maintain the administration of the technology infrastructure;

2. Promulgate rules; take all necessary actions to effect goals. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact, as long as no member state is required to create an advisory committee. The rules have the force and effect of statutory law and are binding in the member states to the extent and in the manner provided in this compact;

3. Establish process for notification of changes to state law or policies. To establish a process for a member state to notify the commission of changes to that member state's prescription monitoring program statutes, regulations or policies. This subsection applies only to changes that affect the administration of the compact;

4. Issue advisory opinions. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the compact and the commission's bylaws, rules and actions;

5. Enforce compliance with compact provisions. To 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;

6. Establish and maintain offices. To establish and maintain one or more offices;

7. Purchase and maintain insurance and bonds. To purchase and maintain insurance and bonds;

8. Provide for personnel or services. To borrow, accept, hire or contract for personnel or services;

9. Establish and appoint committees. To establish and appoint committees including but not limited to an executive committee as required by section 7266, subsection 7;

10. Appoint officers, employees and agents. To elect or appoint officers, attorneys, employees, agents or consultants and to fix their compensation, define their duties and determine their qualifications and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

11. Seek and accept donations. To seek and accept donations and grants of money, equipment, supplies, materials and services and to use or dispose of them;

12. Own or lease property. To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any real, personal or mixed property;

13. Sell or exchange property. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any real, personal or mixed property;

14. Establish budget. To establish a budget and make expenditures;

15. Adopt seal and bylaws. To adopt a seal and bylaws governing the management and operation of the interstate commission;

16. Report. To report annually to the legislatures, governors and attorneys general 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 and must be made publicly available;

17. Coordinate education. To coordinate education, training and public awareness regarding the compact and its implementation and operation;

18. Maintain books and records. To maintain books and records in accordance with the bylaws;

19. Perform necessary or appropriate functions. To perform such functions as may be necessary or appropriate to achieve the purposes of the compact; and

20. Provide for dispute resolution. To provide for dispute resolution among member states.

§7268. Organization and operation of the interstate commission - Article 8

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 for governing any general or specific delegation of authority or function of the interstate commission;

C. Providing procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

D. Establishing the titles and responsibilities of the officers and staff of the interstate commission; and

E. 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.

2. Officers. The interstate commission shall, by a majority vote of the members present, 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 officers elected serve without compensation or remuneration from the interstate commission, except that, subject to the availability of budgeted funds, the officers must 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 and staff. The following provisions govern the executive committee and staff.

A. The executive committee has such authority and duties as may be set forth in the bylaws, including but not limited to:

(1) Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(2) Overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the administration of the compact; and

(3) Planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the purpose of the interstate commission.

B. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period upon terms and conditions and for 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 other persons as may be authorized by the interstate commission.

4. Liability. The interstate commission's executive director and the commission's 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 such person is not protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

A. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of that person's employment or duties for acts, errors or omissions occurring within the 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 person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

B. 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 the 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.

C. To the extent not covered by the state involved, member state or the 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 such persons 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.

§7269. Rule-making functions of the interstate commission - Article 9

1. Rule-making authority. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding this subsection, in the event the interstate commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under this compact, such an action by the interstate commission is invalid and has no force or effect. Any rules promulgated by the commission do not override the State's authority to govern prescription drugs or each member state's prescription monitoring program.

2. Rule-making procedure. Rules must be made 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 as long as the filing of such a petition does not stay or otherwise prevent the rule from becoming effective 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.

§7270. Oversight, enforcement and dispute resolution - Article 10

1. Oversight. The following provisions govern the oversight of the compact.

A. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact have standing as statutory law but do not override the State's authority to govern prescription drugs or the State's prescription monitoring program.

B. 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 this compact that may affect the powers, responsibilities or actions of the interstate commission.

C. The interstate commission is entitled to receive all service of process in any proceeding under paragraph B 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, this compact or promulgated rules.

2. Default, technical assistance, suspension and termination. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the bylaws or promulgated rules, the interstate commission shall 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. The interstate commission shall provide remedial training and specific technical assistance regarding the default.

A. 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 this compact are terminated from the effective date of termination. A cure of the default does not relieve the defaulting state of obligations or liabilities incurred during the period of the default.

B. 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 of the defaulting state, the majority and minority leaders of the defaulting state's legislature and each of the member states.

C. A defaulting state that has been suspended or terminated is responsible for all dues, 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.

D. The interstate commission may not bear 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.

E. 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.

3. Dispute resolution. The following provisions govern dispute resolution.

A. 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.

B. The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

4. Enforcement. The following provisions govern enforcement of the compact.

A. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

B. 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 must be awarded all costs of such litigation including reasonable attorney's fees.

C. The remedies 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.

§7271. Member states, effective date and amendment - Article 11

1. Eligibility for membership in compact. Any state that has enacted prescription monitoring program

legislation through statute or regulation is eligible to become a member state of this compact.

2. Effective upon enactment by at least 6 states. The compact becomes effective and binding upon legislative enactment of the compact into law by no fewer than 6 states. Thereafter it becomes effective and binding on a state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be 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 may not become effective and binding upon the interstate commission and the member states until it is enacted into law by unanimous consent of the member states.

§7272. Withdrawal and dissolution - Article 12

1. Withdrawal. The following provisions govern withdrawal from the compact.

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. Withdrawal from this compact must be by the enactment of a statute repealing the compact, but may not take effect until one year after the effective date of that statute 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 notice.

D. The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

E. Reinstatement following withdrawal of a member state occurs upon the withdrawing state's reenacting the compact or upon such later date as determined by the interstate commission.

2. Dissolution of the compact. The following provisions govern dissolution of the compact.

A. 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.

B. Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

§7273. Severability and construction - Article 13

1. Severable. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is determined unenforceable, the remaining provisions of the compact are enforceable.

2. Liberally construed. The provisions of this compact must be liberally construed to effectuate its purposes.

3. Concurrent applicability. Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

§7274. Binding effect of compact and other laws - Article 14

1. Other laws. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

2. Binding effect of compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

A. All agreements between the interstate commission and the member states are binding in accordance with their terms.

B. In the event any provision of this 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. This Act is the enactment of the interstate prescription monitoring program compact. The text and numbering of the compact 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 compact.

See title page for effective date.

CHAPTER 218

H.P. 1050 - L.D. 1429

An Act To Amend the Laws Governing Prescription Monitoring Information

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

Sec. 1. 22 MRSA §7250, sub-§4, ¶F, as corrected by RR 2009, c. 1, §15, is amended to read:

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022; ~~and~~

Sec. 2. 22 MRSA §7250, sub-§4, ¶G, as reallocated by RR 2009, c. 1, §16, is amended to read:

G. 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~~.~~; and

Sec. 3. 22 MRSA §7250, sub-§4, ¶H is enacted to read:

H. Another state pursuant to subsection 4-A.

Sec. 4. 22 MRSA §7250, sub-§4-A is enacted to read:

4-A. Information sharing with other states. The office may provide prescription monitoring information to and receive prescription monitoring information from another state that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the office. The office may enter into a prescription monitoring information sharing agreement with another state to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purpose of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

See title page for effective date.

CHAPTER 219

S.P. 211 - L.D. 722

An Act To Reduce Fines for Certain Trucking Violations

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

Sec. 1. 29-A MRSA §558, sub-§1-A, as amended by PL 2009, c. 598, §20, is further amended to read:

1-A. Maximum fine. Notwithstanding Title 17-A, section 1301, the ~~minimum~~ maximum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations~~, Parts 392, 395.3, 395.8e and 395.8k is $250~~ and that is not an out-of-service order is $250, and the maximum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations and that meets the definition of an out-of-service order as defined in 49 Code of Federal Regulations is $500. ~~If a minimum fine is provided by any rule adopted pursuant to this subchapter, the court shall impose at least the minimum fine, which may not be suspended by the court.~~

For purposes of this subsection, "out-of-service order" means a declaration by a law enforcement officer authorized to enforce the provisions of this subchapter that a driver, a commercial motor vehicle or a motor carrier operation is out of service pursuant to 49 Code of Federal Regulations, Part 386.72, 392.5, 392.9a, 395.13 or 396.9, or compatible laws, or the North American Standard Out-of-Service Criteria.

See title page for effective date.

CHAPTER 220

H.P. 1112 - L.D. 1509

An Act To Enhance Enforcement of Fish and Game Laws By Authorizing Maine To Enter into an Interstate Wildlife Violator Compact

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

Sec. 1. 12 MRSA §10103, sub-§2, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

2. Administration and enforcement. Except as provided by statute, the commissioner has general supervision of the administration and enforcement of the inland fisheries and wildlife laws and has the responsibility for the management of all inland fish and wildlife in the State. The commissioner has responsibility for investigations carried out on behalf of the State in matters related to the status and needs of any inland fisheries and wildlife species and is the representative of the State in providing information associated with the status and needs of these natural resources to municipalities, political subdivisions of the State and the Federal Government. The commissioner is authorized to enter into an interstate wildlife violator compact to promote compliance with the laws, regulations and rules that relate to the management of wildlife resources in the respective member states and may adopt rules necessary to implement certain provisions of the compact.

See title page for effective date.

CHAPTER 221

H.P. 964 - L.D. 1318

An Act To Repeal the Law Regarding DNA Collection

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

Sec. 1. 25 MRSA §1574-A, as enacted by PL 2007, c. 294, §1, is repealed.

See title page for effective date.

CHAPTER 222

H.P. 1106 - L.D. 1505

An Act To Clarify the Scope of Practice of Licensed Alcohol and Drug Counselors Regarding Tobacco 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, tobacco use continues to take a significant and yet largely preventable toll on the health of Maine residents and drains the economic resources of the State; and

Whereas, tobacco addiction affects a large proportion of Maine residents; and

Whereas, licensed alcohol and drug counselors are available to provide assistance to Maine residents, and there is evidence to suggest that providing tobacco addiction counseling services concurrently with other addiction counseling services is effective; and

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

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

Sec. 1. 32 MRSA §6203-A, sub-§3, as enacted by PL 2007, c. 402, Pt. U, §2, is amended to read:

3. Alcohol and drug counseling services. "Alcohol and drug counseling services" are those counseling services offered for a fee, monetary or otherwise, as part of the treatment and rehabilitation of persons abusing alcohol or other drugs. The purpose of alcohol and drug counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of alcohol or other drugs. Alcohol and drug counseling services are the 12 core functions defined by rule of the board. "Alcohol and drug counseling services" includes nicotine addiction counseling and treatment services.

Sec. 2. 32 MRSA §6206, sub-§6 is enacted to read:

6. Nicotine addiction counseling. Nothing in this chapter may be construed to require a person engaged in providing nicotine addiction counseling or treatment services to be licensed as an alcohol and drug counselor.

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

Effective June 3, 2011.

CHAPTER 223

H.P. 399 - L.D. 506

An Act To Prevent the Disclosure of Student Social Security Numbers

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

Sec. 1. 20-A MRSA §6005, as enacted by PL 2009, c. 448, §1, is amended 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 information 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 2009, c. 448, §2, 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 shall include the payment of the withheld subsidy in the next regularly scheduled monthly subsidy payment.

See title page for effective date.

CHAPTER 224

H.P. 398 - L.D. 505

An Act To Align State Standards Pertaining to Food and Beverages outside of the School Lunch Program to Federal Standards

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

Sec. 1. 20-A MRSA §6662, sub-§2, as enacted by PL 2005, c. 435, §1, is amended to read:

2. Food and beverages outside school lunch programs. The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school meal programs. These standards must include maximum portion sizes, except for portion sizes for milk, that are consistent with ~~single-serving standards established by the United States Food and Drug Administration~~ federal school nutrition standards. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Rules adopted pursuant to this subsection do not apply to food and beverages sold or offered at community events or fund-raisers held outside the hours of the normal school day and to products prepared in culinary arts programs provided by career and technical schools and programs.

See title page for effective date.

CHAPTER 225

H.P. 106 - L.D. 124

An Act To Eliminate Certain Restrictions on the Installation of Chimneys and Equipment

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

Sec. 1. 25 MRSA §2465, sub-§1-A, as amended by PL 2009, c. 250, §1, is repealed and the following enacted in its place:

1-A. Routine technical rules. The Commissioner of Public Safety shall adopt rules pertaining to the construction, installation, maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances. Rules adopted pursuant to this subsection may include rules pertaining to maintenance and inspections, except as provided in subsection 1-B. Rules adopted pursuant to this subsection may not prohibit:

A. The continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact; and

(3) A carbon monoxide detector is installed in the building near a bedroom; or

B. The connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use on or after February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact;

(3) A carbon monoxide detector is installed in the building near a bedroom;

(4) The solid fuel burning appliance has been listed by Underwriters Laboratories or by an independent, nationally recognized testing laboratory or other testing laboratory approved by the Maine Fuel Board, established under Title 5, section 12004-A, subsection 49; and

(5) The solid fuel burning appliance is installed in accordance with the manufacturer's installation specifications.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 32 MRSA §18107, as amended by PL 2009, c. 652, Pt. A, §46, is repealed and the following enacted in its place:

§18107. Installations to conform to standards

1. Board standards and rules. Installation of oil, solid fuel, propane and natural gas burning equipment and chimneys may not be made in this State unless the installation complies with all the standards and rules adopted by the board. These standards and rules may not prohibit:

A. The continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact; and

(3) A carbon monoxide detector is installed in the building near a bedroom; or

B. The connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use on or after February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact;

(3) A carbon monoxide detector is installed in the building near a bedroom;

(4) The solid fuel burning appliance has been listed by Underwriters Laboratories or by an independent, nationally recognized testing laboratory or other testing laboratory approved by the board; and

(5) The solid fuel burning appliance is installed in accordance with the manufacturer's installation specifications.

2. Technician responsibility for ascertaining total conformance to the standards and rules. 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.

3. Proof of license. Whenever a state fuel inspector authorized under section 18110 finds a person installing or assisting in an oil, propane, natural gas or solid fuel burning appliance installation, that person shall, on request of the state fuel inspector, provide evidence of being properly licensed when required by this chapter and, if unable to provide the evidence, shall furnish the state fuel inspector with that person's full name and address and, if applicable, the full name and address of the master oil and solid fuel burning technician or the propane and natural gas technician in charge.

Sec. 3. 32 MRSA §18123, sub-§2, as amended by PL 2009, c. 652, Pt. A, §47, is repealed and the following enacted in its place:

2. Rules. The board may adopt rules commensurate with the authority vested in it by this chapter, including, but not limited to, rules adopting technical standards for the proper installation and servicing of oil, solid fuel, propane and natural gas burning equipment. Rules adopted pursuant to this subsection may not prohibit:

A. The continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact; and

(3) A carbon monoxide detector is installed in the building near a bedroom; or

B. The connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use on or after February 2, 1998 as long as:

(1) Sufficient draft is available for each appliance;

(2) The chimney is lined and structurally intact;

(3) A carbon monoxide detector is installed in the building near a bedroom;

(4) The solid fuel burning appliance has been listed by Underwriters Laboratories or by an independent, nationally recognized testing laboratory or other testing laboratory approved by the board; and

(5) The solid fuel burning appliance is installed in accordance with the manufacturer's installation specifications.

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 subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 226

S.P. 82 - L.D. 273

An Act Regarding Penalties for Opting Out of Paperless Billing

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

Sec. 1. 10 MRSA §9420 is enacted to read:

§9420. Paperless billing

1. Prohibition of certain fees. Except as authorized by federal law and regulation, a customer of a person may not be penalized by that person for opting out of receiving from the person a billing statement by electronic record rather than in paper form. A person may offer an incentive to a customer to accept a billing statement from the person by electronic record rather than in paper form.

2. Exemption. Subsection 1 does not apply to a person that is a depository institution, as defined in Title 32, section 16102, subsection 5, an affiliate of a depository institution or a subsidiary that is owned and controlled by the depository institution and that is regulated by a state or federal banking agency.

See title page for effective date.

CHAPTER 227

H.P. 125 - L.D. 142

An Act To Improve Party Status Requirements

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

Sec. 1. 21-A MRSA §301, sub-§1, ¶A, as amended by PL 1999, c. 450, §1, is further amended to read:

A. The party held municipal caucuses as prescribed by Article ~~II~~ 2 in at least one municipality in ~~each county~~ a minimum of 14 counties in the State during the election year in which the designation was listed on the ballot and any interim election year and fulfills this same requirement during the year of the primary election;

See title page for effective date.

CHAPTER 228

H.P. 820 - L.D. 1108

An Act To Modify the Requirement To Replace Trees Cut Down in Violation of Local Laws

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

Sec. 1. 30-A MRSA §4452, sub-§3, ¶C-2, as enacted by PL 2007, c. 92, §2, is amended to read:

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree ~~of substantially similar size and species to the extent available and feasible~~ or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs.

See title page for effective date.

CHAPTER 229

H.P. 532 - L.D. 702

An Act To Prevent HIV Transmission from a Pregnant Mother to a Child

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

Sec. 1. 5 MRSA §19203-A, sub-§6 is enacted to read:

6. Protection of newborn infants. Subject to the consent and procedure requirements of subsection 1, a health care provider who is providing care for a pregnant woman shall include an HIV test in a standard set of medical tests performed on the woman. A health care provider who is providing care for a newborn infant shall test the infant for HIV and ensure that the results are available within 12 hours of birth of the infant if the health care provider does not know the HIV status of the mother or the health care provider believes that HIV testing is medically necessary unless a parent objects to the test on the grounds that it conflicts with the sincere religious or conscientious beliefs and practices of the parent. If a woman declines to be tested for HIV pursuant to this subsection and subsection 1, the health care provider shall document the woman's decision in the woman's medical record.

See title page for effective date.

CHAPTER 230

H.P. 299 - L.D. 373

An Act To Provide for Equal Rights of Appeal for the State and Defendants Concerning Post-judgment DNA Analysis

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

Sec. 1. 15 MRSA §2138, sub-§6, as enacted by PL 2001, c. 469, §1, is amended to read:

6. Appeal from court decision to grant or deny motion to order DNA analysis. An aggrieved person may not appeal as a matter of right from the denial of a motion to order DNA analysis. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule. The State may not appeal as a matter of right from a court order to grant a motion to order DNA analysis. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.

Sec. 2. 15 MRSA §2138, sub-§11, as enacted by PL 2001, c. 469, §1, is amended to read:

11. Appeal from a court decision to grant or deny a motion for new trial. ~~An aggrieved person may not appeal from the denial of a new trial as a matter of right. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.~~ The State or an aggrieved person may appeal as a matter of right from a court decision to grant or deny the person a new trial to the Supreme Judicial Court, sitting as the Law Court. The time, manner and specific conditions for taking that appeal to the Supreme Judicial Court, sitting as the Law Court, are as the Supreme Judicial Court provides by rule.

See title page for effective date.

CHAPTER 231

H.P. 435 - L.D. 552

An Act To Exclude Cupolas from the Measurement of Height for Structures in the Shoreland Zone

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

Sec. 1. 38 MRSA §436-A, sub-§7-A is enacted to read:

7-A. Height of a structure. "Height of a structure" means the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

Sec. 2. 38 MRSA §439-A, sub-§9 is enacted to read:

9. Cupolas. For the purpose of determining the height of a structure, a municipal ordinance adopted pursuant to this article may exempt a cupola, dome, widow's walk or similar feature added to a legally existing conforming structure if:

A. The legally existing conforming structure is not located in a Resource Protection District or a stream protection district as defined in guidelines adopted by the board; and

B. The cupola, dome, widow's walk or other similar feature:

(1) Does not extend beyond the exterior walls of the existing structure;

(2) Has a floor area of 53 square feet or less; and

(3) Does not increase the height of the existing structure, as determined under section 436-A, subsection 7-A, by more than 7 feet.

For purposes of this subsection, "cupola, dome, widow's walk or other similar feature" means a nonhabitable building feature mounted on a building roof for observation purposes.

See title page for effective date.

CHAPTER 232

S.P. 156 - L.D. 564

An Act Regarding Retention and Graduation Rates for Maine's Colleges and Universities

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

Sec. 1. 20-A MRSA §10011 is enacted to read:

§10011. Retention and graduation rates

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

A. "Graduation rate" means the percentage of the students who enrolled at the start of a postsecondary educational degree program who completed the program and graduated.

B. "Peer institutions" means those postsecondary institutions selected to provide a basis for comparison of retention rates and graduation rates against similar postsecondary institutions in this State. The categories of peer institutions selected for comparison include, but are not limited to:

(1) Public sector institutions that offer a bachelor's degree or other 4-year degree;

(2) Public sector institutions that offer an associate degree or other 2-year degree;

(3) Private sector institutions that offer a bachelor's degree or other 4-year degree; and

(4) Private sector institutions that offer an associate degree or other 2-year degree.

C. "Postsecondary institution" means an educational institution that offers an accredited postsecondary educational degree program. "Postsecondary institution" includes an institution that offers an accredited postsecondary educational degree program on the Internet.

D. "Retention rate" means the percentage of the students who enrolled at the start of a postsecondary educational degree program who, not having completed the program at the end of a school year, continue enrollment in that program at the start of the next school year.

2. Retention and graduation rates. Using information received annually from a postsecondary institution pursuant to federal law, the department shall annually compile the data so as to demonstrate:

A. The retention rates for the previous year for the institution, including the first-to-2nd-year retention rate and the retention rate for first-time students;

B. For a postsecondary institution that offers an associate degree program or other 2-year program, the graduation rates for students who began their studies within the past 4 years; and

C. For a postsecondary institution that offers a bachelor's degree or other 4-year degree program, the graduation rates for students who began their studies within the past 6 years.

3. Report. The department shall report the information compiled under subsection 2, including national comparisons of retention rates and graduation rates for peer institutions, annually to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and publish the report on the department's publicly accessible website.

4. Rules. The department may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 233

S.P. 164 - L.D. 572

An Act To Amend the Laws Governing the Maine Health Data Organization Relating to Retail Pharmacies

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

Sec. 1. 22 MRSA §8702, sub-§4, as amended by PL 2007, c. 466, Pt. B, §18, is further amended to read:

4. Health care facility. "Health care facility" means a public or private, proprietary or not-for-profit entity or institution providing health services, including, but not limited to, a radiological facility licensed under chapter 160, a health care facility licensed under chapter 405, an independent radiological service center, a federally qualified health center certified by the United States Department of Health and Human Services, Health Resources and Services Administration, a rural health clinic or rehabilitation agency certified or otherwise approved by the Division of Licensing and Regulatory Services within the Department of Health and Human Services, a home health care provider licensed under chapter 419, an assisted living program or a residential care facility licensed under chapter 1663, a hospice provider licensed under chapter 1681, ~~a retail store drug outlet licensed under Title 32, chapter 117,~~ a state institution as defined under Title 34-B, chapter 1 and a mental health facility licensed under Title 34-B, chapter 1. For the purposes of this chapter, "health care facility" does not include retail pharmacies.

Sec. 2. 22 MRSA §8702, sub-§9, as enacted by PL 1995, c. 653, Pt. A, §2 and affected by §7, is amended to read:

9. Provider. "Provider" means a health care facility, health care practitioner, health product manufacturer~~,~~ or health product vendor ~~or pharmacy~~ but does not include a retail pharmacy.

See title page for effective date.

CHAPTER 234
H.P. 1035 - L.D. 1409

An Act Concerning the Labeling of Maine Shellfish Products

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 legal to bring shellfish into Maine from outside the State, clean it, shuck it or just store it and then sell it as a product of Maine; and

Whereas, the State must reserve its brand for shellfish native to this State, thereby protecting the brand; and

Whereas, the assurance that only Maine shellfish are labeled as Maine shellfish is crucial to the economy of this State; and

Whereas, it is vital that this legislation take effect before the summer tourist season, when shellfish sales are at their highest; 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 §6005 is enacted to read:

§6005. Labeling shellfish

A person who is authorized to hold or possess shellfish under chapter 623 may not label shellfish sold alive using the words "product of Maine" or any other similar words or terms that misleadingly suggest the shellfish was taken from the waters of this State unless the shellfish was in fact taken from the waters of the State.

The sale of shellfish labeled in violation of this section is a deceptive business practice in violation of Title 17-A, section 901. A violation of this section that results in a conviction under Title 17-A, section 901 is considered a conviction for a violation of a marine resources law under section 6351, subsection 1, paragraph A.

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

Effective June 6, 2011.

CHAPTER 235
H.P. 1074 - L.D. 1459

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2011-12

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. 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 2011-12 is as follows:

Audit - Fiscal Administration	$201,875
Education	12,229,974
Forest Fire Protection	95,385
Human Services - General Assistance	58,000
Property Tax Assessment - Operations	837,923
Maine Land Use Regulation Commission - Operations	534,156
TOTAL STATE AGENCIES	$13,957,313
County Reimbursements for Services:	
Aroostook	$953,164
Franklin	806,073
Hancock	155,005
Kennebec	4,125

Oxford	762,168
Penobscot	931,781
Piscataquis	966,856
Somerset	1,140,379
Washington	808,442
TOTAL COUNTY SERVICES	$6,527,993
TOTAL REQUIREMENTS	$20,485,306
COMPUTATION OF ASSESSMENT	
Requirements	$20,485,306
Less Deductions:	
General -	
State Revenue Sharing	$175,000
Homestead Reimbursement	96,000
Miscellaneous Revenues	100,000
Transfer from undesignated fund balance	2,000,000
TOTAL	$2,371,000
Educational -	
Land Reserved Trust	$57,854
Tuition/Travel	193,000
Miscellaneous	5,000
Special - Teacher Retirement	218,508
TOTAL	$474,362
TOTAL DEDUCTIONS	$2,845,362
TAX ASSESSMENT	$17,639,944

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

Effective June 6, 2011.

CHAPTER 236

H.P. 164 - L.D. 187

An Act To Amend the Laws Regulating Dealers of Agricultural, Industrial, Construction and Forestry Equipment

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

Sec. 1. 10 MRSA §1285, sub-§2, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

2. Dealer. "Dealer" means a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, forestry equipment, industrial equipment, construction equipment, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. ~~"Dealer" does not include a person, corporation or partnership primarily engaged in the business of retail sales of heavy construction, industrial and utility equipment, attachments, accessories and repair parts.~~ "Dealer" does not include a person, corporation or partnership primarily engaged in the retail sale of all-terrain vehicles or motorcycles. "Dealer" does not include a single-line dealer as defined in subsection 5-A.

Sec. 2. 10 MRSA §1285, sub-§4, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

4. Inventory. "Inventory" means farm, forestry, utility or industrial equipment, construction equipment, implements, machinery, yard and garden equipment, attachments or repair parts. ~~These terms do not include heavy construction equipment.~~

Sec. 3. 10 MRSA §1285, sub-§5-A is enacted to read:

5-A. Single-line dealer. "Single-line dealer" means a person, corporation or partnership engaged in retail sales that:

A. Has purchased 75% or more of total new product inventory from a single supplier; and

B. Has a total annual average sales volume for the previous 3 years in excess of $100,000,000 for the entire territory subject to the agreement with the supplier.

Sec. 4. 10 MRSA §1286, as amended by PL 2009, c. 325, Pt. B, §1 and affected by §27, is further amended to read:

§1286. Usage of trade

The terms ~~"utility"~~ "utility," "forestry," "construction" 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 1-1303, subsection (3).

Sec. 5. 10 MRSA §1287, sub-§1, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

1. Notice of termination. Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than ~~90~~ 120 days prior to the effective date of the termination. The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events:

A. The filing of a petition for bankruptcy or for receivership either by or against the dealer;

B. The making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;

C. Any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;

~~D. Discontinuance by the dealer of more than 50% of the dealer's business related to the handling of goods provided by the supplier;~~

E. The commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;

F. A change in location of the dealer's principal place of business as provided in the agreement without the prior written approval of the supplier;

G. Withdrawal of an individual proprietor, partner~~,~~ or major shareholder or the involuntary termination of the manager of the dealership or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier; or

H. Breach by the dealer of a written obligation contained in the agreement.

Sec. 6. 10 MRSA §1287, sub-§2, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

2. Time of notice. Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than ~~90~~ 120 days prior to the effective date of the termination.

Sec. 7. 10 MRSA §1288, sub-§1, ¶A, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is repealed.

Sec. 8. 10 MRSA §1289, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

§1289. Repurchase terms

1. Examination of records. Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 1288 may examine any books or records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer all inventory, required signs, specialized repair tools, books, supplies, data processing equipment and software previously purchased from the supplier and in the possession of the dealer on the date of termination of the dealer agreement.

2. Payment terms. The supplier shall pay the dealer:

A. One hundred percent of the net cost of all new and undamaged and complete farm, utility, forestry ~~and~~, industrial and construction equipment, implements, machinery, yard and garden equipment and attachments purchased within the past 36 months from the supplier, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

B. Ninety percent of the current net prices of all new and undamaged repair parts; ~~and~~

C. Eighty-five percent of the current net prices of all new and undamaged superseded repair parts~~.~~;

D. Eighty-five percent of the latest available published net price of all new and undamaged noncurrent repair parts;

E. The fair market value of, or assume the lease responsibilities for, any specific data processing equipment and software that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment required or approved by the supplier to communicate with the supplier;

F. Seventy-five percent of the net cost of specialized repair tools, signs, books and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. Only specialized repair tools that are unique to the supplier product line, complete and in usable condition are required to be repurchased under this paragraph; and

G. Average as-is value shown in current industry guides for a dealer-owned rental fleet financed by the supplier or its finance subsidiary.

3. Return costs. The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing and loading of the inventory.

4. Payment date. Payment to the dealer required under this section must be made by the supplier not later than ~~60~~ 45 days after receipt of the inventory by the supplier. The supplier shall pay to the dealer a penalty of 1 1/2% per day on any outstanding balance over the 45 days. The supplier is entitled to apply any payment required under this section to be made to the dealer~~,~~ as a setoff against any amount owed by the dealer to the supplier.

Sec. 9. 10 MRSA §1290, sub-§1, ¶D, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is repealed.

Sec. 10. 10 MRSA §1290, sub-§1, ¶F, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

F. Any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier; or

Sec. 11. 10 MRSA §1290, sub-§1, ¶G, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

G. Any inventory that was acquired by the dealer from a source other than the supplier~~; or~~.

Sec. 12. 10 MRSA §1290, sub-§1, ¶H, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is repealed.

Sec. 13. 10 MRSA §1291, sub-§1, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

1. Transfer. A supplier may not unreasonably withhold or delay consent to any transfer of the dealer's business or transfer of the stock or other interest in the dealership, whenever the dealer to be substituted meets the material and reasonable qualifications and standards required of its dealers. If a supplier determines that a proposed transferee does not meet its qualifications and standards, it shall give the dealer written notice thereof, stating the specific reasons for withholding consent. A prospective transferee may not be disqualified from being a dealer because it is a publicly held corporation. A supplier has ~~45~~ 90 days to consider a dealer's request to make a transfer under this subsection.

Sec. 14. 10 MRSA §1291, sub-§2, as enacted by PL 1995, c. 462, Pt. A, §22 and affected by §23, is amended to read:

2. Transfer to family member or principal owner. Notwithstanding subsection 1, ~~no~~ a supplier may not withhold consent to, or in any manner retain a right of prior approval of, the transfer of the dealer's business to a member or members of the family of the dealer or the principal owner of the ~~dealer~~ dealership. As used in this subsection, "family" means and includes the spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption, of the dealer or principal owner of the ~~dealer~~ dealership.

Sec. 15. 10 MRSA §1293, sub-§1, ¶B, as enacted by PL 2005, c. 317, §1, is amended to read:

B. A dealer that performs warranty work as provided for in this section must be compensated for parts used in fulfilling such warranty work in an amount that is not less than the dealer's costs for such parts plus ~~15%~~ 20% or the supplier's suggested retail price for such parts, ~~including~~ whichever is greater, plus all freight and handling charges applicable to such parts, to reimburse the dealer's reasonable costs of doing business and providing such warranty service on behalf of the supplier. If the warranty work is provided on behalf of the supplier on a product sold by a nonservicing dealer, the compensation for parts used in fulfilling such warranty work must be at an amount that is not less than the supplier's suggested list price or dealer's cost plus 30%, whichever is greater, plus freight and handling charges applicable to such parts.

Sec. 16. 10 MRSA §1293-A is enacted to read:

§1293-A. Prohibited acts

A supplier may not:

1. Coercion involving deliveries and orders. Mandate, coerce or attempt to coerce any dealer to order or accept delivery of equipment or repair parts not required by law that have not been voluntarily ordered by the dealer, unless the equipment or repair parts are comprised of safety features required by the supplier;

2. Interference in dealer's business. Require any dealer to refrain from participation in the management or acquisition of, or investment in, any other business; or

3. Coercion involving sale of equipment. Prevent, coerce or attempt to coerce a dealer from having an investment in or holding a dealership contract for the sale of competing product lines or makes of equipment or require the dealer to provide separate facilities for competing product lines or makes of equipment.

Sec. 17. Legislative findings and intent. The Legislature finds that the distribution of equip-

ment primarily designed for or used in agriculture in the State vitally affects the general economy of the State and the public interest and public welfare and, in the exercise of the State's police power, it is necessary to regulate equipment primarily designed for or used in agriculture and related equipment suppliers, dealers and their representatives doing business in the State in order to prevent frauds, unfair business practices, unfair methods of competition, impositions and other abuses upon its citizens. The Legislature intends to protect the citizens of the State from the sudden loss of access to equipment and local parts and service for large and expensive pieces of machinery and to promote the public welfare by providing free and open trade of equipment primarily designed for or used in agriculture within the State.

Sec. 18. Application. This Act applies to all contracts and agreements in effect on the effective date of this Act that have no expiration date and are continuing contracts and all other contracts and agreements entered into, amended, renewed or extended after the effective date of this Act.

Sec. 19. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 10, chapter 208-B, in the chapter headnote, the words "farm machinery dealerships" are amended to read "farm machinery, forestry equipment, construction equipment and industrial equipment dealerships" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 237

H.P. 274 - L.D. 348

An Act To Continue Limited Entry in the Scallop Fishery

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 as soon as possible in order to clarify who is eligible to obtain a license to take scallops; 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 §6706, sub-§2, as enacted by PL 2007, c. 607, Pt. A, §4, is amended to read:

2. License eligibility in subsequent years. Except as provided in subsection 3, the commissioner may not issue a hand fishing scallop license or a scallop dragging license to any person in any year subsequent to 2009 unless that person possessed that license in the previous calendar year or is eligible to obtain a license in accordance with the limited entry system established under subsection 3.

Sec. 2. 12 MRSA §6706, sub-§3, as enacted by PL 2007, c. 607, Pt. A, §4, is amended to read:

3. Scallop license limited entry system. Notwithstanding subsection 2, the commissioner shall establish by rule a limited entry system under which a person who did not hold a hand fishing scallop license or a scallop dragging license in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the program. Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA §6706, sub-§4, as enacted by PL 2007, c. 607, Pt. A, §4, is repealed.

Sec. 4. Review. The Commissioner of Marine Resources shall review the composition of the Scallop Advisory Council under the Maine Revised Statutes, Title 12, section 6729-B. The commissioner shall compare the geographic representation of members of the Scallop Advisory Council to the geographic distribution of scallop hand fishing and scallop dragging license holders and determine whether council membership accurately represents the geographic distribution of license holders and recommend any changes necessary to ensure appropriate representation. The commissioner shall compare the number of licenses issued to scallop harvesters who hold hand fishing scallop licenses to the number of scallop harvesters who hold scallop dragging licenses, determine whether the number of members on the Scallop Advisory Council representing each type of license holder accurately represents the relative numbers of each type of license holder and recommend any changes necessary to ensure appropriate representation.

By December 7, 2011, the Commissioner of Marine Resources shall report to the Joint Standing Committee on Marine Resources on the commissioner's findings and recommendations and shall submit draft legislation necessary to implement the commissioner’s recommendations concerning the composition of the Scallop Advisory Council. The Joint Standing Committee on Marine Resources may report out a bill on the subject of the report to the Second Regular Session of the 125th Legislature.

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

Effective June 7, 2011.

CHAPTER 238

H.P. 1138 - L.D. 1551

An Act To Clarify and Update the Laws Related to Health Insurance, Insurance Producer Licensing and Surplus Lines Insurance

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

PART A

Sec. A-1. 24-A MRSA §4303, sub-§8-A is enacted to read:

8-A. Protection from balance billing by participating providers. An enrollee's responsibility for payment under a managed care plan must be limited as provided in this subsection.

A. The terms of a managed care plan must provide that the enrollee's responsibility for the cost of covered health care rendered by participating providers is limited to the cost-sharing provisions expressly disclosed in the contract, such as deductibles, copayments and coinsurance, and that if the enrollee has paid the enrollee's share of the charge as specified in the plan, the carrier shall hold the enrollee harmless from any additional amount owed to a participating provider for covered health care.

B. Every provider agreement with a participating provider must be in writing and must set forth that if the carrier fails to pay for health care services as set forth in the contract, the enrollee is not liable to the provider for any sums owed by the carrier.

C. A participating provider may not collect or attempt to collect any charge from an enrollee for covered health care beyond the amount permitted by the terms of the plan, notwithstanding the carrier's insolvency, the carrier's failure to pay the amount owed by the carrier, any other breach by the carrier of the provider agreement or the failure of the provider agreement to include the written hold harmless provision required by paragraph B.

PART B

Sec. B-1. 24-A MRSA §2813, as enacted by PL 1969, c. 132, §1 and amended by PL 1973, c. 585, §12, is further amended by adding at the end a new paragraph to read:

Policies that otherwise meet the description of group policies pursuant to section 2804, 2805, 2805-A, 2806, 2807, 2807-A or 2808-B are not blanket policies.

PART C

Sec. C-1. 24-A MRSA §2839, as amended by PL 2009, c. 14, §5, is further amended to read:

§2839. Rates filed

A policy of group or blanket health insurance may not be delivered in this State until a copy of the ~~group~~ rates to be used in calculating the premium for these policies has been filed for informational purposes with the superintendent. The filing must include the base rates and a description of any procedures to be used to adjust the base rates to reflect factors including but not limited to age, gender, health status, claims experience, group size and coverage of dependents. Notwithstanding this section, rates for group Medicare supplement, nursing home care or long-term care insurance contracts and for certain association groups and other groups specified in section 2701, subsection 2, paragraph C must be filed in accordance with section 2736. Rates for small group health insurance subject to section 2808-B are subject to the additional filing requirements specified in that section. 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 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART D

Sec. D-1. 24-A MRSA §2736-C, sub-§1, ¶C, as amended by PL 1995, c. 332, Pt. J, §2, is further amended to read:

C. "Individual health plan" means any hospital and medical expense-incurred policy or health, hospital or medical service corporation plan contract. It includes both individual contracts and certificates issued under group contracts specified in section 2701, subsection 2, paragraph C. "Individual health plan" does not include the following types of insurance:

(1) Accident;

(2) Credit;

(3) Disability;

(4) Long-term care or nursing home care;

(5) Medicare supplement;

(6) Specified disease;

(7) Dental or vision;

(8) Coverage issued as a supplement to liability insurance;

(9) Workers' compensation;

(10) Automobile medical payment; ~~or~~

(11) Insurance under which benefits are payable with or without regard to fault and that is required statutorily to be contained in any liability insurance policy or equivalent self-insurance~~.~~; or

(12) Short-term policies, as described in section 2849-B, subsection 1.

PART E

Sec. E-1. 24-A MRSA §2848, sub-§1-B, ¶A, as amended by PL 1999, c. 256, Pt. L, §2, is further amended to read:

A. "Federally creditable coverage" means health benefits or coverage provided under any of the following:

(1) An employee welfare benefit plan as defined in Section 3(1) of the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1001, or a plan that would be an employee welfare benefit plan but for the "governmental plan" or "nonelecting church plan" exceptions, if the plan provides medical care as defined in subsection 2-A, and includes items and services paid for as medical care directly or through insurance, reimbursement or otherwise;

(2) Benefits consisting of medical care provided directly, through insurance or reimbursement and including items and services paid for as medical care under a policy, contract or certificate offered by a carrier;

(3) Part A or Part B of Title XVIII of the Social Security Act, Medicare;

(4) Title XIX of the Social Security Act, Medicaid, other than coverage consisting solely of benefits under Section 1928 of the Social Security Act ~~or a state children's health insurance program under Title XXI of the Social Security Act~~;

(4-A) A state children's health insurance program under Title XXI of the Social Security Act;

(5) The Civilian Health and Medical Program for the Uniformed Services, CHAMPUS, 10 United States Code, Chapter 55;

(6) A medical care program of the federal Indian Health Care Improvement Act, 25 United States Code, Section 1601 or of a tribal organization;

(7) A state health benefits risk pool;

(8) A health plan offered under the federal Employees Health Benefits Amendments Act, 5 United States Code, Chapter 89;

(9) A public health plan as defined in federal regulations authorized by the federal Public Health Service Act, Section 2701(c)(1)(I), as amended by Public Law 104-191; or

(10) A health benefit plan under Section 5(e) of the Peace Corps Act, 22 United States Code, Section 2504(e).

PART F

Sec. F-1. 24-A MRSA §2850-B, sub-§3, ¶G, as amended by PL 2003, c. 428, Pt. A, §1, is further amended to read:

G. When the carrier ceases offering a product and meets the following requirements:

(1) In the large group market:

(a) The carrier ~~must provide~~ provides notice to the policyholder and to the ~~insureds~~ certificate holders at least 90 days before termination;

(b) The carrier ~~must offer~~ offers to each policyholder the option to purchase any other product currently being offered in the large group market; and

(c) In exercising the option to discontinue the product and in offering the option of coverage under division (b), the carrier ~~must act~~ acts uniformly without regard to the claims experience of the policyholders or the health status of the ~~insureds~~ certificate holders or their dependents or prospective ~~insureds~~ certificate holders or their dependents;

(2) In the small group market:

(a) The carrier ~~shall replace~~ replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2808-B;

(b) The superintendent ~~shall find~~ finds that the replacement is in the best interests of the policyholders; and

(c) The carrier ~~shall provide~~ provides notice of the replacement to the policyholder and to the ~~insureds~~ certificate holders at least 90 days before replacement, including notice of the policyholder's right to purchase any other product currently being offered by that carrier in the small group market pursuant to section 2808-B, subsection 4; or

(3) In the individual market:

(a) The carrier ~~shall replace~~ replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2736-C;

(b) The superintendent ~~shall find~~ finds that the replacement is in the best interests of the policyholders; and

(c) The carrier ~~shall provide~~ provides notice of the replacement to the policyholder and, if a group policy subject to section 2736-C, to ~~the insureds~~ a certificate holder at least 90 days before replacement, including notice of the policyholder's or certificate holder's right to purchase any other product currently being offered by that carrier in the individual market pursuant to section 2736-C, subsection 3;

PART G

Sec. G-1. 24-A MRSA §2803, as amended by PL 1993, c. 171, Pt. C, §2, is further amended to read:

§2803. Requirements

A policy of group health insurance may not be delivered in this State, nor may any certificate of group health insurance that derives from a policy issued in another state be delivered in this State unless the group policyholder conforms to one of the descriptions set forth in sections 2804 to ~~2809~~ 2808.

PART H

Sec. H-1. 24-A MRSA §601, sub-§5, ¶F, as amended by PL 1997, c. 592, §16, is further amended to read:

F. Issuance fee for resident agency license, $30;

Biennial fee, $30;

Biennial fee for appointment, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group, $30; and

Sec. H-2. 24-A MRSA §601, sub-§5, ¶G, as amended by PL 1997, c. 592, §16, is further amended to read:

G. Issuance fee for nonresident agency license, $70;

Biennial fee, $70;

Biennial fee for appointment, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group, $70~~; and~~.

Sec. H-3. 24-A MRSA §601, sub-§5, ¶H, as enacted by PL 1997, c. 457, §18 and affected by §55, is repealed.

Sec. H-4. 24-A MRSA §1415, sub-§1, as amended by PL 2001, c. 259, §16, is further amended to read:

1. Producer authorities. An individual resident or nonresident insurance producer may receive any of the full license authorities pursuant to section 1420-F, subsection 1, paragraphs A to F~~, in addition to independent producer authority in accordance with section 1450,~~ and surplus lines authority in accordance with chapter 19.

Sec. H-5. 24-A MRSA §1450, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Shared commissions. If an insurance producer does not have an appointment with an insurer, the insurance producer may place with that insurer, through a duly licensed and appointed producer of such insurer, an insurance coverage necessary for the adequate protection of a subject of insurance and share in the commission on that insurance, if each producer is licensed as to the kinds of insurance involved. ~~If an insurance producer does not have an appointment with an insurer, the insurance producer may place an insurance coverage with that insurer without placing through an agent of the insurer, and accept or share in the commission as long as:~~

~~A. The producer represents the insured and does not represent the insurer;~~

~~B. The producer has the authority under the license to act as an independent producer;~~

~~C. The producer does not, on a regular basis, normally place business with that insurer;~~

~~D. The producer does not also receive a fee from the insured for the service; and~~

~~E. The producer is licensed as to the kinds of insurance involved.~~

See title page for effective date.

CHAPTER 239

H.P. 229 - L.D. 285

An Act Regarding the Qualifications of Candidates for Office

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

Sec. 1. 21-A MRSA §336, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Consent. The consent must contain a statement signed by the candidate that ~~he~~ the candidate will accept the nomination of the primary election. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the primary petition.

Sec. 2. 21-A MRSA §355, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Consent. The consent must contain a statement signed by the candidate that ~~he~~ the candidate will accept the nomination of the primary election. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the nomination petition.

Sec. 3. 21-A MRSA §363, sub-§3, as amended by PL 1995, c. 459, §30, is further amended to read:

3. Acceptance filed. A person chosen under this section must file a written acceptance containing a statement that the person meets the qualifications of the office sought and declaring the person's residence and party enrollment with the Secretary of State. The Secretary of State shall provide a form on which the statement is made by the candidate that must include a list of the statutory and constitutional requirements of the office sought by the candidate.

See title page for effective date.

CHAPTER 240

H.P. 1077 - L.D. 1468

An Act Concerning Technical Changes to the Tax Laws

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

Sec. 1. 29-A MRSA §409, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Other taxes. A motor vehicle, mobile home, camp trailer or truck camper may not be registered until the excise tax or personal property tax or real estate tax has been paid in accordance with Title 36, sections 551, 602, 1482 and 1484. The Secretary of State may provide municipal excise tax collectors with a standard vehicle registration form for the collection of excise tax.

Sec. 2. 36 MRSA §191, sub-§2, ¶G, as amended by PL 1997, c. 504, §4, is further amended to read:

G. The disclosure to the Attorney General of information related to ~~any~~ a person ~~under~~ who is the subject of a criminal investigation or prosecution, and the subsequent ~~sharing of or release~~ disclosure of ~~such~~ that information by the Attorney General to a district ~~attorneys~~ attorney, an assistant district ~~attorneys~~ attorney or a state, county or local law enforcement ~~agencies~~ agency that ~~are~~ is participating in the criminal investigation or prosecution of ~~such a~~ that person. ~~Requests~~ A request from the Attorney General for information related to ~~any~~ a person ~~under~~ who is the subject of a criminal investigation or prosecution must be submitted to the State Tax Assessor in writing and must include:

(1) The name and address of the ~~taxpayer with respect~~ person to whom the requested ~~return~~ information relates;

(2) The taxable period or periods to which the ~~return~~ requested information relates;

(3) The statutory authority under which the ~~proceeding or~~ criminal investigation or prosecution is being conducted; and

(4) The specific reason ~~or reasons why~~ the ~~disclosure~~ requested information is, or may be, relevant to ~~a proceeding or~~ the criminal investigation or prosecution.

The Attorney General~~,~~ or ~~any~~ a district attorney, assistant district attorney or ~~other~~ law enforcement agency ~~with which the Attorney General has shared, or~~ to which the Attorney General has ~~released such~~ disclosed tax information ~~pursuant~~ related to a person who is the subject of a criminal investigation or prosecution shall retain physical control of ~~the~~ that information until the conclusion of the criminal investigation or ~~proceeding~~ prosecution for which the information was requested, after which the information must be returned immediately to the ~~State Tax Assessor.~~ assessor;

Sec. 3. 36 MRSA §191, sub-§2, ¶NN, as corrected by RR 2009, c. 2, §105, is amended to read:

NN. The disclosure to an authorized representative of the Wild Blueberry Commission of Maine of ~~any~~ information required for or submitted to the assessor in connection with the administration of the tax imposed under chapter 701;

Sec. 4. 36 MRSA §310, sub-§4, as repealed and replaced by PL 1973, c. 695, §6, is amended to read:

4. Level of attainment. The State Tax Assessor shall ~~determine what~~ establish by rule the level of at-

tainment on the examination ~~shall constitute a passing of the test~~ required for certification. ~~If more than one type of examination is utilized, the various portions of the examination may be weighted and if only one examination is used, various portions of it may be weighted. The weighting factor must be specified in writing in the agency's rules and regulations.~~ Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 36 MRSA §330, sub-§1, as enacted by PL 1985, c. 764, §10, is amended to read:

1. Guidelines for professional assessing firms. The State Tax Assessor shall establish ~~guidelines~~ by rule ~~in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375,~~ guidelines for professional assessing firms ~~which shall~~. The guidelines must include the following requirements:

A. Each professional assessing firm shall employ at least one certified Maine assessor; and

B. Each professional assessing firm performing revaluation services for a municipality shall ~~agree to~~ provide the municipality with papers and information necessary to conduct future revaluations.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 36 MRSA §579, as amended by PL 2007, c. 438, §17, is further amended to read:

§579. Schedule, investigation

The owner or owners of forest land subject to valuation under this subchapter shall submit a signed schedule ~~in duplicate~~, on or before April 1st of the year in which that land first becomes subject to valuation under this subchapter, to the assessor upon a form ~~to be~~ prescribed by the State Tax Assessor, identifying the land to be valued ~~hereunder~~ under this subchapter, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is used primarily for the growth of trees to be harvested for commercial use. Those schedules may be required at such other times as the assessor may designate upon ~~120 days'~~ 120 days' written notice.

The assessor shall determine whether the land is subject to valuation and taxation ~~hereunder~~ under this subchapter and shall classify ~~such~~ the land as to forest type.

The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter and may examine any information submitted by the owner or owners. A copy of the forest management and harvest plan required under section 574-B must be available to the assessor to review upon request and to the Director of the Bureau of Forestry within the Department of Conservation or the director's designee to review upon request when the assessor seeks assistance in accordance with section 575-A. For the purposes of this paragraph, "to review" means to see or possess a copy of a plan for a reasonable amount of time to verify that the plan exists or to facilitate an evaluation as to whether the plan is appropriate and is being followed. Upon completion of the review, the plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

Upon notice in writing by certified mail, return receipt requested, or by ~~such other~~ another method ~~as~~ that provides actual notice, any owner or owners shall appear before the assessor, at such reasonable time and place as the assessor may designate and answer ~~such~~ questions or interrogatories ~~as~~ the assessor ~~may deem~~ considers necessary to obtain material information about those lands.

If the owner or owners of any parcel of forest land subject to valuation under this subchapter fails to submit the schedules as provided under ~~the foregoing provisions of~~ this section or fails to provide information after notice duly received as provided under this section, such owner or owners ~~shall be~~ are deemed to have waived all rights of appeal pursuant to section 583 for that property tax year, except for the determination that the land is subject to valuation under this subchapter.

It ~~shall be~~ is the obligation of the owner or owners to report to the assessor any change of use or change of forest type of land subject to valuation ~~hereunder~~ under this subchapter.

If the owner or owners fail to report to the assessor a change of use as required by the foregoing paragraph, the assessor ~~may collect such~~ shall assess the taxes ~~as~~ that should have been paid, shall ~~collect~~ assess the penalty provided in section 581 and shall assess an additional penalty ~~of~~ equal to 25% of the ~~foregoing~~ penalty ~~amount~~ provided in section 581. The assessor may waive the additional penalty for cause.

For the purposes of this section, the acts of owners specified in this section may be taken by an authorized agent of an owner.

Sec. 7. 36 MRSA §1109, sub-§1, as amended by PL 1987, c. 728, §6, is further amended to read:

1. Schedule. The owner or owners of farmland subject to taxation under this subchapter shall submit a signed schedule ~~in duplicate~~, on or before April 1st of the year in which the owner or owners wish to first subject ~~such~~ the land to taxation under this subchapter, to the assessor upon a form ~~to be~~ prescribed by the

State Tax Assessor identifying the land to be taxed ~~hereunder~~ under this subchapter, ~~listing~~ indicating the number of acres of each farmland classification, showing the location of the land in each classification and representing that the land is farmland ~~within the meaning of~~ as defined in section 1102, subsection 4. In determining whether ~~such~~ the land is farmland, ~~there~~ the assessor shall ~~be taken~~ take into account, among other things, the acreage of ~~such~~ the land, the portion ~~thereof in actual use~~ of the land that is actually used for farming or agricultural operations, the productivity of ~~such~~ the land, the gross income derived ~~therefrom~~ from farming or agricultural operations on the land, the nature and value of the equipment used in connection ~~therewith~~ with farming or agricultural operations on the land and the extent to which the tracts comprising ~~such~~ the land are contiguous. If the assessor ~~finds~~ determines that the land ~~meets the requirements of~~ is farmland as defined in section 1102, subsection 4, the assessor shall classify it as farmland~~,~~ and apply the appropriate 100% valuations per acre for farmland and ~~it shall be~~ that land is subject to taxation under this subchapter.

The assessor shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

Sec. 8. 36 MRSA §1109, sub-§3, as amended by PL 2007, c. 627, §29, is further amended to read:

3. Open space land qualification. The owner or owners of land who believe that land ~~falls within the definition of~~ is open space land ~~contained~~ as defined in section 1102, subsection 6 shall submit a signed schedule ~~in duplicate~~ on or before April 1st of the year in which that land first becomes subject to taxation under this subchapter to the assessor on a form prescribed by the State Tax Assessor that must contain a description of the land, a general description of the use to which the land is being put and other information required by the assessor ~~may require~~ to aid the assessor in determining whether the land qualifies for classification as open space land and for which of the valuation categories set forth in section 1106-A the land is eligible. The assessor shall determine whether the land ~~falls within the definition of~~ is open space land ~~contained~~ as defined in section 1102, subsection 6 and, if so, that land must be classified as open space land and subject to taxation under this subchapter. In ~~making the determination that~~ determining whether the restriction of the use or preservation of the land ~~for which classification is sought~~ provides a public benefit~~, as required~~ in one of the areas set forth in section 1102, subsection 6, the assessor shall consider all facts and circumstances pertinent to the land and its vicinity. ~~Factors appropriate~~ A factor that is pertinent to one application may be irrelevant in determining the public benefit of another application. A single factor, whether listed below or not, may be determinative of public benefit. Among the factors to be considered are:

A. The importance of the land by virtue of its size or uniqueness in the vicinity or proximity to extensive development or comprising an entire landscape feature;

B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area;

C. The opportunity of the general public to appreciate significant scenic values of the land;

D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use;

E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;

F. The likelihood that the preservation of the land as undeveloped open space will provide economic benefit to the town by limiting municipal expenditures required to service development;

G. Whether the land is included in an area designated as open space land or resource protection land on a comprehensive plan or in a zoning ordinance or on a zoning map as finally adopted;

H. The existence of a conservation easement, other legally enforceable restriction, or ownership by a nonprofit entity committed to conservation of the property that will permanently preserve the land in its natural, scenic or open character;

I. The proximity of other private or public conservation lands protected by permanent easement or ownership by governmental or nonprofit entities committed to conservation of the property;

J. The likelihood that protection of the land will contribute to the ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area or similar protected area;

K. The existence on the land of habitat for rare, endangered or threatened species of animals, fish or plants, or of a high quality example of a terrestrial or aquatic community;

L. The consistency of the proposed open space use with public programs for scenic preservation, wildlife preservation, historic preservation, game management or recreation in the region;

M. The identification of the land or of outstanding natural resources on the land by a legislatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection, includ-

ing, but not limited to, the register of critical areas under Title 12, section 544-B; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and sections 12706 and 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21;

N. Whether the land contains historic or archeological resources listed in the National Register of Historic Places or is determined eligible for such a listing by the Maine Historic Preservation Commission, either in its own right or as contributing to the significance of an adjacent historic or archeological resource listed, or eligible to be listed, in the National Register of Historic Places; or

O. Whether there is a written management agreement between the landowner and the Department of Inland Fisheries and Wildlife or the Department of Conservation as described in section 1102, subsection 10.

If a parcel of land for which the owner or owners are seeking classification as open space contains any principal or accessory structures or any substantial improvements that are inconsistent with the preservation of the land as open space, the owner or owners in their schedule shall exclude from their application for classification as open space a parcel of land containing those buildings or improvements at least equivalent in size to the state minimum lot size as prescribed by Title 12, section 4807-A or by the zoning ordinances or zoning map pertaining to the area in which the land is located, whichever is larger. For the purposes of this section, if any of the buildings or improvements are located within shoreland areas as defined in Title 38, chapter 3, subchapter ~~I~~ 1, article 2-B, the excluded parcel must include the minimum shoreland frontage required by the applicable minimum lot standards under the minimum guidelines established pursuant to Title 38, chapter 3, subchapter ~~I~~ 1, article 2-B or by the zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived to the extent that the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public. The shoreland frontage requirement may be waived at the discretion of the legislative body of the municipality if it determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification.

Sec. 9. 36 MRSA §1137, sub-§1, as enacted by PL 2007, c. 466, Pt. A, §58, is amended to read:

1. Schedule. The owner or owners of waterfront land may apply for taxation of that land under this subchapter by submitting a signed schedule ~~in duplicate~~, on or before April 1st of the year in which the owner or owners wish to first subject ~~such~~ that land to taxation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor that must contain a description of the parcel, together with a map identifying the location and boundaries of the working waterfront land, a description of the manner in which the land is used primarily for commercial fishing activities and other information the assessor may require to aid the assessor in ~~the determination of~~ determining what portion of the land qualifies for classification as working waterfront land. The schedule must be signed and consented to by each person with an ownership interest in the land. Classification of the land as working waterfront land may not be inconsistent with the use prescribed in the comprehensive plan, growth management program or zoning ordinance of the municipality in which the land is situated.

In defining the working waterfront land area contained within a parcel, land used primarily for commercial fishing activities must be included, together with any remaining portion of the parcel that is not used for purposes inconsistent with commercial fishing activities as long as the remaining portion is not sufficient in dimension to meet the requirements for a minimum lot as provided by either the state minimum lot requirements as prescribed by Title 12, section 4807-A or Title 38, chapter 3, subchapter 1, article 2-B, as applicable, or the minimum lot size provided by the zoning ordinance or zoning map pertaining to the area in which the remaining portion is located.

Sec. 10. 36 MRSA §1482, sub-§1, as amended by PL 2007, c. 627, §31, is further amended to read:

1. Annual excise tax. An annual excise tax ~~shall be levied annually~~ is imposed with respect to each ~~calendar~~ registration year in the following cases~~:~~.

A. For the privilege of operating an aircraft within the State, each heavier-than-air aircraft or lighter-than-air aircraft operated in this State that is owned or controlled by a resident of this State is subject to an excise tax computed as follows: 9 mills on each dollar of the maker's average equipped price for the first or current year of model; 7 mills for the 2nd year; 5 mills for the 3rd year; 4 mills for the 4th year; and 3 mills for the 5th and succeeding years. The minimum tax is $10. Nonresidents of this State who operate aircraft within this State for compensation or hire and are required to register under Title 6 must pay 1/12 of the tax amount computed as required in this paragraph for each calendar month or fraction thereof that the aircraft remains in the State.

B. For the privilege of operating a mobile home upon the public ways, each mobile home to be so operated ~~shall be~~ is subject to such excise tax as follows: A sum equal to 25 mills on each dollar of the maker's list price for the first or current year of model, 20 mills for the 2nd year, 16 mills for the 3rd year and 12 mills for the 4th year and succeeding years. The minimum tax ~~shall be~~ is $15.

C. For the privilege of operating a motor vehicle or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as follows, except as specified in subparagraph (3): a sum equal to 24 mills on each dollar of the maker's list price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is $5 for a motor vehicle other than a bicycle with motor attached, $2.50 for a bicycle with motor attached, $15 for a camper trailer other than a tent trailer and $5 for a tent trailer. The excise tax on a stock race car is $5.

(1) On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.

(2) Vehicles registered under the International Registration Plan are subject to an excise tax determined on a monthly proration basis if their registration period is less than 12 months.

(3) For commercial vehicles manufactured in model year 1996 and after, the amount of excise tax due for trucks or truck tractors registered for more than 26,000 pounds and for Class A special mobile equipment, as defined in Title 29-A, section 101, subsection 70, is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

For motor vehicles being registered pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

Sec. 11. 36 MRSA §1482, sub-§2, as amended by PL 1991, c. 846, §16, is further amended to read:

2. Tax 1/2 during certain periods. The excise tax ~~levied in this section shall be~~ is 1/2 of the ~~sum named~~ amount provided in subsection 1 ~~from November 1st to the last day of February, except for~~ during the following periods:

A. ~~The excise tax levied in this section on~~ On a farm ~~motor~~ truck ~~having~~, as defined in Title 29-A, section 505, subsection 1, with 2 or 3 axles~~, when such trucks are~~ that is used primarily for transportation of agricultural produce grown by the owner on ~~his~~ the owner's farm ~~or farms, shall be the 1/2 the annual amount~~ during the last 6 months of ~~the~~ a registration year; and

B. ~~The excise tax levied in this section on automobiles, camper trailers, trucks and truck tractors is,~~ On all property subject to excise tax under subsection 1 during the last 4 months of a registration year~~, 1/2 the sum named in subsection 1, paragraph C~~.

Sec. 12. 36 MRSA §1482, sub-§3, as amended by PL 1973, c. 588, §9, is further amended to read:

3. Tax paid for previous registration year. ~~Whenever~~ If an excise tax ~~has been~~ was paid for the previous ~~calendar year or~~ registration year by the same person on the same vehicle, the excise tax for the new ~~calendar year or~~ registration year ~~shall~~ must be assessed as if the vehicle was in its next year of model.

Sec. 13. 36 MRSA §1482, sub-§5, as amended by PL 2007, c. 83, §1, is further amended to read:

5. Credits. ~~Any~~ An owner or lessee who has paid the excise or property tax for a vehicle the ownership or registration of which is transferred, or that is subsequently totally lost by fire, theft or accident or ~~that is subsequently~~ totally junked or abandoned, in the same ~~calendar year or~~ registration year, is entitled to a credit up to the maximum amount of the tax previously paid in that registration year ~~or period~~ for any one vehicle toward the tax for any number of vehicles, regardless of the number of transfers that may be required of the owner or lessee in ~~the same calendar year or~~ that registration year.

A. The credit must be given in any place in which the excise tax is payable.

B. For each transfer made in the same ~~calendar year or~~ registration year, the owner shall pay $3 to the place in which the excise tax is payable.

C. ~~From November 1st to the last day of February the credit may not exceed 1/2 the amount of the maximum tax, except that for automobiles, trucks and truck tractors, during~~ During the last 4 months of the registration year, the credit may not exceed 1/2 of the maximum amount of the tax previously paid in that registration year for any one vehicle.

D. If the credit available under this subsection exceeds the amount transferred to another vehicle, a municipality may choose, but is not required to refund the excess amount. If a municipality chooses to refund excess amounts it must do so in all instances where there is an excess amount.

E. For the purposes of this subsection, ~~the term,~~ "owner" includes the surviving spouse of the owner.

Sec. 14. 36 MRSA §1482, sub-§6, ¶E, as amended by PL 1979, c. 666, §40, is repealed.

Sec. 15. 36 MRSA §1504, sub-§1, as amended by PL 1987, c. 196, §6 and PL 2003, c. 414, Pt. B, §56 and affected by c. 614, §9, is further amended to read:

1. Payment schedule. ~~An excise tax is payable annually by the~~ The owner of ~~each~~ a watercraft located in this State~~, except those~~ that is not exempt under subsection 4~~,~~ shall pay an annual excise tax within 10 days of the first operation of the watercraft upon the waters of this State, or prior to obtaining a certificate of number pursuant to Title 12, section 13056, or prior to July 1st, whichever event first occurs, based on the following schedules. ~~For 1984, watercraft subject to the watercraft excise tax that are not required to register under Title 12, former chapter 715, are not required to pay the excise tax until June 30, 1984.~~

A. The following tax is assessed based upon the overall length of the watercraft.

Overall length of watercraft to nearest foot	Length Tax
Watercraft under 13 feet, all dories regardless of length and all canoes regardless of length	$6
13 feet	7
14 feet	8
15 feet	9
16 feet	11
17 feet	13
18 feet	16
19 feet	19
20 feet	22
21 feet	26
22 feet	30
23 feet	51
24 feet	56
25 feet	61
26 feet	68
27 feet	75
28 feet	82
29 feet	89
30 feet	96
31 feet	103
32 feet	110
33 feet	117
34 feet	125
35 feet	133
36 feet	141
37 feet	149
38 feet	149
39 feet	167
40 feet	177
41 feet	187
42 feet	198
43 feet	210
44 feet	223
45 feet	237
46 feet	252
47 feet	268
48 feet	284
49 feet	301
50 feet	318
51 feet	335
52 feet	352
53 feet	370
54 feet	388
55 feet	406
56 feet	424
57 feet	442
58 feet	460
59 feet	478
60 feet	496
61 feet	514
62 feet	532
63 feet	550
64 feet	568
65 feet	586
and over	plus $18 for each foot over 65 feet

B. In addition to the length tax, the owner of any watercraft, other than a canoe, with an overall length greater than 13 feet and less than 23 feet shall pay a tax on the total motor horsepower as shown on the watercraft's registration in accordance with the following schedule:

(1) Horsepower of 20 or less.....$2

(2) Horsepower over 20 but not over 70.....$5

(3) Horsepower over 70.....$12.

Sec. 16. 36 MRSA §1752, sub-§1-C, as enacted by PL 1987, c. 497, §15, is amended to read:

1-C. Business. "Business" includes any activity engaged in ~~by any person or caused to be engaged in by him~~ with the object of gain, benefit or advantage, either direct or indirect.

Sec. 17. 36 MRSA §1760, sub-§6, ¶E, as amended by PL 2007, c. 529, §2, is further amended to read:

E. Served by ~~colleges~~ a college to its employees ~~of the college when~~ if the meals are purchased with debit cards issued by the ~~colleges~~ college; and

Sec. 18. 36 MRSA §1760, sub-§12-A, ¶A, as enacted by PL 1995, c. 634, §1 and affected by §2, is repealed and the following enacted in its place:

A. Persons engaged in the business of:

(1) Packing or packaging tangible personal property; and

(2) Shipping or transporting that tangible personal property; or

Sec. 19. 36 MRSA §1760, sub-§62, as repealed and replaced by PL 1989, c. 502, Pt. A, §129, is amended to read:

62. Charitable suppliers of medical equipment. Sales to local branches of incorporated international nonprofit charitable organizations ~~which provide, on a loan basis and free of charge,~~ that lend medical supplies and equipment to persons free of charge.

Sec. 20. 36 MRSA §1862, as amended by PL 1987, c. 772, §24, is further amended to read:

§1862. Sales or use tax paid to another jurisdiction

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~~ tangible personal property or taxable services purchased outside the State ~~where~~ upon which the purchaser has paid a sales or use tax imposed by another taxing jurisdiction that is equal to or greater than the ~~amount~~ tax imposed by ~~chapters 211 to 225 in another taxing jurisdiction, the proof of payment of the tax to be according to rules made by the State Tax Assessor~~ this Part. If the amount of sales or use tax paid ~~in~~ to another taxing jurisdiction is ~~not equal to or greater~~ less 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 sales and use tax paid ~~in~~ to the other taxing jurisdiction and ~~in~~ this State equal to the amount imposed by ~~chapters 211 to 225~~ this Part.

Sec. 21. 36 MRSA §1955-B, as amended by PL 1995, c. 65, Pt. A, §145 and affected by §153 and Pt. C, §15, is further amended to read:

§1955-B. Payment of tax on vehicles resulting in protest

~~Whenever the~~ If a payment of the tax due for a vehicle results in a protest or is returned by the bank upon which it was drawn because of "Insufficient Funds," "Account Closed," "No Account" or a similar reason, the State Tax Assessor shall promptly mail a notice ~~of dishonor, as defined in Title 11, section 3-508,~~ to the person liable for the payment of the tax ~~and warn~~ warning that person that if payment is not made as demanded within 10 days after the mailing of the notice, ~~suspension of~~ the registration ~~certificate and plates~~ issued for the vehicle may ~~result~~ be suspended in accordance with Title 29-A, section 154, subsection 5. If that person fails to pay the amount due within 10 days after the mailing of the notice, the ~~State Tax Assessor~~ assessor, in addition to enforcing collection by any method authorized by Part 1 or this Part, may ~~immediately~~ notify the Secretary of State who, in accordance with Title 29-A, section 154, subsection 5, shall proceed to mail the required 10-day notice and shall suspend ~~any~~ the registration ~~certificate and plates~~ issued for the vehicle ~~for which~~ if the tax remains unpaid at the expiration of the 10-day period.

Sec. 22. 36 MRSA §2727, as enacted by PL 1985, c. 514, §2, is repealed.

Sec. 23. 36 MRSA §2860, as amended by PL 1989, c. 502, Pt. A, §132, is repealed.

Sec. 24. 36 MRSA §2903, sub-§1, as amended by PL 2009, c. 413, Pt. W, §1 and affected by §6, is further amended to read:

1. Excise tax imposed. Beginning July 1, 2008 and ending June 30, 2009, an excise tax is imposed on internal combustion engine fuel used or sold ~~within~~ in this State, including sales to the State or a political subdivision of the State, at the rate of 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~~ in 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~~ subsection except ~~with respect to~~ the rate of tax imposed ~~upon~~ on fuel bought or used for the purpose of propelling jet engine aircraft is subject to an annual

inflation adjustment pursuant to section 3321. Any fuel containing at least 10% internal combustion engine fuel is subject to the ~~rate of~~ tax imposed by this section.

Sec. 25. 36 MRSA §3203, sub-§1-B, ¶B, as enacted by PL 2007, c. 650, §2, is amended to read:

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~~ Liquefied Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

Sec. 26. 36 MRSA §3213, as enacted by PL 1983, c. 94, Pt. D, §6 and amended by PL 1985, c. 127, §1, is further amended to read:

§3213. Refunds of taxes erroneously or illegally collected

~~In the event it shall appear to~~ If the State Tax Assessor determines that ~~any taxes of penalties~~ a tax or penalty imposed by this chapter ~~have~~ has been erroneously or illegally collected from ~~any~~ a user, ~~the State Tax Assessor shall certify the amount thereof to the State Controller, who shall thereupon draw his warrant for that certified amount on the Treasurer of State to~~ that user is entitled to a refund of the amount that was erroneously or illegally collected. The refund ~~shall~~ must be paid ~~by the Treasurer of State~~ to that user ~~forthwith~~ from the Highway Fund.

~~No refunds~~ A refund may not be made under this section unless a written claim ~~therefor setting forth the circumstances by reason of~~ stating the grounds upon which the refund ~~shall be allowed, which claim shall be~~ is claimed in ~~such~~ a form ~~as the State Tax Assessor shall prescribe and shall be~~ prescribed by the assessor is filed with the ~~State Tax Assessor~~ assessor within 3 years from the date of the payment of the ~~taxes~~ amount that was erroneously or illegally collected.

Sec. 27. 36 MRSA §4069-A, sub-§3, as enacted by PL 1999, c. 414, §36, is amended to read:

3. Interest and penalties. The ~~amount of~~ Maine estate tax deferred under this section is subject to interest pursuant to section 186 until it is paid. Interest ~~payable~~ on the unpaid tax attributable to a ~~5-year~~ deferral period ~~pursuant to Section 6166 of the Code~~ under this section must be paid annually. Interest ~~payable~~ on ~~any~~ the unpaid tax attributable to ~~any~~ a period after the ~~5-year~~ end of the deferral period must be paid ~~annually~~ at the same time as, and as part of, each installment payment of the tax. ~~If any~~ A payment of principal or interest under this section that is not made on or before the due date~~,~~ is subject to the ~~penalities~~ penalties provided by section 187-B ~~apply~~.

Sec. 28. 36 MRSA §4716, as repealed and replaced by PL 1987, c. 816, Pt. KK, §24, is repealed.

Sec. 29. 36 MRSA §4717, as enacted by PL 1987, c. 551 and amended by PL 1997, c. 526, §14, is repealed.

Sec. 30. 36 MRSA §5122, sub-§1, ¶G, as amended by PL 1997, c. 557, Pt. B, §4 and affected by Pt. G, §1 and amended by PL 2007, c. 58, §3, is further amended to read:

G. Pick-up contributions, as defined in Title 5, section 17001, subsection 28-A, paid by the taxpayer's employer on the taxpayer's behalf to the Maine Public Employees Retirement System ~~as defined in Title 5, section 17001, subsection 28-A~~;

Sec. 31. 36 MRSA §5122, sub-§2, ¶BB, as amended by PL 2009, c. 213, Pt. BBBB, §7 and c. 434, §68, is further 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. 32. 36 MRSA §5142, sub-§1, as amended by PL 2009, c. 434, §71 and affected by §85, 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 amounts:

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. 33. 36 MRSA §5200-A, sub-§1, ¶U, as amended by PL 2009, c. 213, Pt. ZZZ, §7 and Pt. BBBB, §11, is further amended to read:

U. For tax years beginning in 2008, 10% of the absolute value in excess of $100,000 of any net operating loss that, pursuant to the Code, Section 172, is being carried over for federal income tax purposes to the taxable year by the taxpayer; ~~and~~

Sec. 34. 36 MRSA §5200-A, sub-§2, ¶H, as amended by PL 2009, c. 213, Pt. ZZZ, §9, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002, for which federal ~~adjusted gross~~ taxable income was increased under subsection 1, paragraph H and that, pursuant to the Code, Section 172, was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection 1, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carry-over;

(3) The amount has not been previously used as a modification pursuant to this subsection;

(4) For taxable years beginning in 2008, the amount does not exceed $100,000. In the case of an affiliated group of corporations engaged in a unitary business, the $100,000 threshold applies with respect to the entire affiliated group of corporations; and

(5) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carryover plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011;

Sec. 35. 36 MRSA §5200-A, sub-§2, ¶S, as amended by PL 2009, c. 213, Pt. ZZZ, §12 and Pt. BBBB, §14, is further amended to read:

S. An amount equal to the value of any prior year addition modification under subsection 1, paragraph U, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carryover of the net operating loss plus one year; and

(3) The amount has not been previously used as a modification pursuant to this subsection; ~~and~~

Sec. 36. 36 MRSA §5219-H, as repealed and replaced by PL 2003, c. 673, Pt. F, §1 and affected by §2, is amended to read:

§5219-H. Application of credits against taxes

1. Meaning of tax. Whenever a credit provision in this chapter ~~822~~, other than section 5219-W, allows for a credit "against the tax otherwise due under this Part," "against the tax imposed by this Part" or similar language, "tax" means all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

2. Meaning of tax liability. Whenever a credit provided for in this chapter ~~822~~ is limited by reference to tax liability, "tax liability" means the ~~tax~~ taxpayer's liability for all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

Sec. 37. 36 MRSA §5219-Y, sub-§1, as repealed and replaced by PL 2009, c. 470, §5, is amended to read:

1. Credit allowed. A visual media production company, as defined in Title 5, section 13090-L, subsection 2-A, paragraph E, is allowed a credit against the taxes imposed by this Part in an amount equal to 5% of ~~the~~ its nonwage visual media production expenses~~, as defined in Title 5, section 13090-L, subsection 2-A, paragraph F~~ incurred with respect to a certi-

fied visual media production as defined in section 6901, subsection 1, if the visual media production company has visual media production expenses of $75,000 or more with respect to that certified visual media production. For purposes of this section, "nonwage visual media production expenses" ~~does not include wages, salaries, commissions or any other form of compensation or remuneration paid to employees for personal services~~ means visual media production expenses as defined in Title 5, section 13090-L, subsection 2-A, paragraph F, except that "nonwage visual media production expenses" does not include certified production wages as defined in section 6901, subsection 2 or any amount that would be included in certified production wages but for the $50,000 limit provided by section 6901, subsection 2.

Sec. 38. 36 MRSA §5219-BB, sub-§2, ¶B, as amended by PL 2009, c. 361, §28 and affected by §37, is further amended to read:

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~~ a credit under the Code, Section 47 with regard to those expenditures. If the certified historic structure is a condominium, as defined in Title 33, section 1601-103, subsection 7, the dollar limitations of this paragraph apply to the total aggregate amount of certified qualified rehabilitation expenditures incurred by the unit owners' association and all of the unit owners in the rehabilitation of that certified historic structure. The credit may be claimed for the taxable year in which the certified historic structure is placed in service.

Sec. 39. 36 MRSA §5250, sub-§1, as amended by PL 1987, c. 504, §37, is further amended to read:

1. General. Every employer maintaining an office or transacting business ~~within~~ in this State ~~and making~~ that makes payment ~~of any wages taxable under this part~~ to a resident individual or a nonresident individual of wages subject to tax under this Part shall, if required to withhold federal income tax from ~~such~~ those wages, deduct and withhold from ~~such~~ those wages for each payroll period a tax so computed ~~in such manner~~ as to result~~, so far as practicable,~~ in ~~withholding~~ an amount being withheld from the employee's wages during each calendar year ~~an amount~~ that is substantially equivalent to the tax reasonably estimated to be due from the employee under this ~~part~~ Part with respect to the amount of ~~such~~ those wages included in ~~his~~ the employee's adjusted gross income during ~~the~~ that calendar year. The State Tax Assessor shall establish by rule the method of determining the amount to be withheld ~~shall be prescribed by regulations of the assessor~~. This section ~~shall~~ does not apply to shares of a lobster boat's catch that are apportioned by a lobster boat operator to a sternman. This section does not apply to wages from which a tax is required to be deducted and withheld under the Code, Sections 1441 and 1442. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 40. 36 MRSA §5253, as repealed and replaced by PL 2003, c. 20, Pt. AA, §3 and affected by §6, is amended to read:

§5253. Return and payment of tax withheld

Every person that is required to deduct and withhold tax under ~~this Part~~ section 5250, 5250-B or 5255-B shall, for each calendar quarter~~, on or before the last day of the month following the close of the calendar quarter~~ or ~~such~~ other reporting period ~~as~~ required by the ~~assessor may require~~ State Tax Assessor, file a ~~withholding~~ return on or before the last day of the month following the end of the reporting period and remit payment as prescribed by the assessor. The assessor shall prescribe the voucher required to be filed with the payments.

Sec. 41. 36 MRSA §6208, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

§6208. Benefit calculation for elderly households

If a claimant representing an elderly household ~~would qualify~~ qualifies for a larger benefit under section 6207 than ~~he would receive~~ under section 6206, then that ~~claimant may choose to receive the~~ claimant's benefit must be calculated under section 6207.

Sec. 42. 36 MRSA §6213, as amended by PL 1995, c. 639, §33, is further amended to read:

§6213. Appeal

A denial in whole or in part of relief claimed under this chapter may be appealed in accordance with section 151 ~~and the Maine Administrative Procedure Act~~.

Sec. 43. 36 MRSA §6652, sub-§1-B, as amended by PL 2009, c. 571, Pt. II, §§2 to 4 and affected by §5, is further amended to read:

1-B. Certain property excluded. Notwithstanding any other provision of law, reimbursement pursuant to this chapter may not be made with respect to the following property:

A. Office furniture, including, without limitation, tables, chairs, desks, bookcases, filing cabinets and modular office partitions;

B. Lamps and lighting fixtures;

C. Gambling machines or devices, including any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any

gambling activity as that term is defined in Title 8, section 1001, subsection 15, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. "Gambling machines or devices" includes, without limitation:

(1) Associated equipment as defined in Title 8, section 1001, subsection 2;

(2) Computer equipment used directly and primarily in the operation of a slot machine as defined in Title 8, section 1001, subsection 39;

(3) An electronic video machine as defined in Title 17, section 1831, subsection 4;

(4) Equipment used in the playing phases of lottery schemes; and

(5) Repair and replacement parts of a gambling machine or device; or

D. Personal property that would otherwise be entitled to reimbursement under this chapter used primarily to support a telecommunications antenna used by a telecommunications business subject to the tax imposed by section 457.

~~This subsection applies to property tax years beginning after April 1, 1996.~~ Property affected by this subsection that was eligible for reimbursement pursuant to this chapter ~~915~~ of property taxes paid for the 1996 property tax year is grandfathered into the program and continues to be eligible for reimbursements unless it subsequently becomes ineligible.

Sec. 44. 36 MRSA §6754, sub-§1, ¶D, as repealed and replaced by PL 2009, c. 496, §29, is 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 Maine income tax withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years for a tier 1 ~~locations~~ location as defined in Title 30-A, section 5250-I, subsection 21-A and no more than 5 years for a tier 2 ~~locations~~ location as defined in Title 30-A, section 5250-I, subsection 21-B. Reimbursement under this paragraph may not be paid for years beginning after December 31, 2028.

Sec. 45. 36 MRSA §6901, sub-§2, as amended by PL 2009, c. 470, §6, is further amended to read:

2. Certified production wages. "Certified production wages" means wages subject to withholding under section 5250, subsection 1 that are paid by a visual media production company for work on a certified visual media production ~~and that are subject to withholding pursuant to chapter 827~~. "Certified production wages" includes ~~payments~~ an amount paid to a temporary employee-leasing company for personal services rendered in this State by a leased employee in connection with a certified visual media production and ~~payments~~ an amount paid for the services of a performing ~~artists~~ artist working in the State in connection with a certified visual media production and other contractual payments for the services of individuals working in the State. "Certified production wages" ~~does not include any wages in excess of~~ includes only the first $50,000 paid to or with respect to a ~~single~~ particular individual for personal services rendered in connection with a particular certified visual media production.

Sec. 46. 36 MRSA §6902, sub-§1, as amended by PL 2009, c. 470, §7, is further amended to read:

1. Generally. A visual media production company ~~certified pursuant to Title 5, section 13090-L~~ is allowed a reimbursement equal to 12% of certified production wages paid to ~~employees who are residents~~ or with respect to an individual who is a resident of Maine and 10% of certified production wages paid to ~~other employees~~ or with respect to an individual who is not a resident of Maine.

Sec. 47. Application. That section of this Act that amends the Maine Revised Statutes, Title 36, section 6901, subsection 2 applies to tax reimbursement applications filed on or after January 1, 2011.

See title page for effective date.

CHAPTER 241

H.P. 594 - L.D. 787

An Act To Establish an Elder Victims Restitution Fund

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

Sec. 1. 18-A MRSA §2-105, as enacted by PL 1979, c. 540, §1, is amended to read:

§2-105. No taker

If there is no taker under the provisions of this Article, the intestate estate passes to the State, except that an amount of funds included in the estate up to the

total amount of restitution paid to the decedent pursuant to a court order for a crime of which the decedent was the victim passes to the Elder Victims Restitution Fund established in Title 34-A, section 1214-A.

Sec. 2. 18-A MRSA §2-806 is enacted to read:

§2-806. Effect of criminal conviction on intestate succession, wills, joint assets, beneficiary designations and other property acquisition when restitution is owed to the decedent

A person who has been convicted of a crime of which the decedent was a victim is not entitled to the following benefits to the extent that the benefits do not exceed the amount of restitution the person owes to the decedent as a result of the sentence for the crime:

(a). Any benefits under the decedent's will or under this Article;

(b). Any property owned jointly with the decedent;

(c). Any benefit as a beneficiary of a bond, life insurance policy or other contractual arrangement in which the principal obligee or the person upon whose life the policy is issued is the decedent; and

(d). Any benefit from any acquisition of property in which the decedent had an interest.

Sec. 3. 34-A MRSA §1214-A is enacted to read:

§1214-A. Elder Victims Restitution Fund

The Elder Victims Restitution Fund, referred to in this section as "the fund," is established for the purpose of compensating elder victims of financial crimes.

1. Definition. As used in this section, unless the context otherwise indicates, the term "elder victim" means a victim of a crime who is 65 years of age or older.

2. Administration. The Victim Services Coordinator under section 1214 shall administer the fund. All administrative costs of the fund must be absorbed by the department.

3. Funding. Money collected pursuant to Title 18-A, section 2-105 must be deposited into the fund.

4. Use. The fund may be used for the payment of claims of elder victims of financial crimes who are entitled to receive restitution from offenders as a result of the sentences for the crimes in cases in which those offenders are not meeting their restitution obligations.

5. Rules. The commissioner may adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to carry out the purposes of this section.

See title page for effective date.

CHAPTER 242

H.P. 997 - L.D. 1358

An Act To Amend the Requirements Concerning Small Restaurants That Serve Alcoholic Beverages

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

Whereas, smaller eating establishments are a vital part of Maine's summer tourism business and the summer tourism season will have passed before the completion of the 90-day period; 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 §1686-A, as enacted by PL 1987, c. 769, Pt. A, §74, is amended to read:

§1686-A. Eating establishments that permit consumption of alcoholic beverages

Any eating establishment regardless of the number of seats that permits ~~on premise~~ on-premises consumption of alcoholic beverages ~~shall be~~ is bound by section 1686, regarding the provision of a toilet facility. An eating establishment that has a seating capacity of 40 or fewer persons is required to have at least one toilet facility but may not be required to have more than one toilet facility.

Sec. 2. 28-A MRSA §1051, sub-§7 is enacted to read:

7. Toilet facilities. An eating establishment licensed in accordance with this chapter is required to have toilet facilities as prescribed by rule, except that an eating establishment that has a seating capacity of 40 or fewer persons is required to have at least one toilet facility but may not be required to have more than one toilet facility.

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

Effective June 7, 2011.

CHAPTER 243

H.P. 501 - L.D. 671

An Act To Amend the Laws Governing the Ground Water Oil Clean-up Fund

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

Sec. 1. 38 MRSA §568-A, sub-§2, as amended by PL 2009, c. 501, §9, is further amended to read:

2. Deductibles. Except as provided in subsection 2-A, applicants eligible for coverage by the fund under subsection 1 shall pay on a per occurrence basis the applicable standard deductible amount specified in paragraph A. In addition to the applicable standard deductible amount required under paragraph A, the applicant shall pay on a per occurrence basis one or more of the conditional deductible amounts specified in paragraphs B and C to the extent applicable.

A. Standard deductibles are calculated under this paragraph based on the number of underground storage facilities or the capacity of gallons owned by the aboveground storage facility owner at the time the covered discharge is discovered. Standard deductibles are as follows.

(1) For expenses related to a leaking underground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Number of underground storage facilities owned by the facility owner	Deductible
1	$2,500
2 to 5	5,000
6 to 10	10,000
11 to 20	25,000
21 to 30	40,000
over 30	62,500

(2) For expenses related to a leaking aboveground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Total aboveground oil storage capacity in gallons owned by the facility owner	Deductible
Less than 1,320	$500
1,321 to 50,000	2,500
50,001 to 250,000	5,000
250,001 to 500,000	10,000
500,001 to 1,000,000	25,000
1,000,001 to 1,500,000	40,000
greater than 1,500,000	62,500

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

B. Conditional deductibles for underground facilities and tanks are as follows.

(1) For nonconforming facilities and tanks, the deductible is $10,000 for failure to meet the compliance schedule in section 563-A, except that those facilities or tanks required to be removed by October 1, 1989 have until October 1, 1990 to be removed before they are considered out of compliance.

(2) For failure to pay registration fees under section 563, subsection 4, the deductible is the total of all past due fees.

(3) For motor fuel storage and marketing and retail facilities, the deductibles are:

(a) Five thousand dollars for failure to comply with applicable design and installation requirements in effect at the time of the installation or retrofitting requirements for leak detection pursuant to section 564, subsections 1 and 1-A;

(b) Five thousand dollars for failure to comply with section 564, subsection 1-B and any rules adopted pursuant to that subsection;

(c) Five thousand dollars for failure to comply with section 564, subsection 2-A, paragraphs B to F and I, and any rules adopted pursuant to that subsection; and

(d) Ten thousand dollars for failure to comply with section 564, subsection 2-A, paragraph H, and any rules adopted pursuant to that subsection.

(4) For consumptive use heating oil facilities with an aggregate storage capacity of less than 2,000 gallons, the deductibles are:

(a) Two thousand dollars for failure to comply with section 565, subsection 1, if applicable;

(b) Two thousand dollars for failure to comply with section 565, subsection 2, regarding monitoring; and

(c) Two thousand dollars for failure to comply with section 565, subsection 2, regarding any requirement to report evidence of a possible leak or discharge.

(5) For consumptive use heating oil facilities with an aggregate storage capacity of 2,000 gallons or greater, the deductibles are:

(a) Five thousand dollars for failure to comply with section 565, subsection 1, if applicable;

(b) Five thousand dollars for failure to comply with section 565, subsection 2, regarding monitoring; and

(c) Ten thousand dollars for failure to comply with section 565, subsection 2, regarding any requirement to report evidence of a possible leak or discharge.

(6) For waste oil and heavy oil and airport hydrant facilities with discharges that are not contaminated with hazardous constituents, the deductibles for failure to comply with rules adopted by the board are:

(a) Five thousand dollars for rules regarding design and installation requirements in effect at the time of the installation;

(b) Five thousand dollars for rules regarding retrofitting of leak detection and corrosion protection, if applicable;

(c) Five thousand dollars for rules regarding overfill and spill prevention;

(d) Five thousand dollars for rules regarding the monitoring of cathodic protection systems;

(e) Five thousand dollars for rules regarding testing requirements for tanks and piping on evidence of a leak;

(f) Five thousand dollars for rules regarding maintenance of a leak detection system; and

(g) Ten thousand dollars for rules regarding the reporting of leaks.

C. Conditional deductibles for aboveground facilities and tanks are as follows.

(1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal pursuant to 16-219 CMR, chapter 34, the deductibles are:

(a) Five thousand dollars for failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, chapter 318 and 16-219 CMR, chapter 34 or under prior applicable law;

(b) Five thousand dollars for failure to design and install piping in accordance with section 570-K and rules adopted by the department;

(c) Five thousand dollars for failure to comply with an existing consent decree, court order or outstanding deficiency statement regarding violations at the aboveground facility;

(d) Five thousand dollars for failure to implement a certified spill prevention control and countermeasure plan, if required;

(e) Five thousand dollars for failure to install any required spill control measures, such as dikes;

(f) Five thousand dollars for failure to install any required overfill equipment;

(g) Five thousand dollars if the tank is not approved for aboveground use; and

(h) Ten thousand dollars for failure to report any leaks at the facility.

(2) For aboveground tanks subject to the jurisdiction of the Oil and Solid Fuel Board, the deductibles are:

(a) One hundred and fifty dollars for failure to install the facility in accordance with rules adopted by the Oil and Solid Fuel Board and in effect at the time of installation;

(b) Two hundred and fifty dollars for failure to comply with the rules of the Oil and Solid Fuel Board;

(c) Two hundred and fifty dollars for failure to make a good faith effort to properly maintain the facility; and

(d) Five hundred dollars for failure to notify the department of a spill.

The commissioner shall make written findings of fact when making a determination of deductible amounts

under this subsection. The commissioner's findings may be appealed to the Fund Insurance Review Board, as provided in section 568-B, subsection ~~3-A~~ 2-C. On appeal, the burden of proof is on the commissioner as to which deductibles apply.

After determining the deductible amount to be paid by the applicant, the commissioner shall pay from the fund any additional eligible clean-up costs and 3rd-party damage claims up to $1,000,000 associated with activities under section 569-A, subsection 8, paragraphs B, D and J. The commissioner shall pay the expenses directly, unless the applicant chooses to pay the expenses and seek reimbursement from the fund. The commissioner may pay from the fund any eligible costs above $1,000,000, but the commissioner shall recover these expenditures from the responsible party pursuant to section 569-A.

An applicant found ineligible for fund coverage for failure to achieve substantial compliance under former subsection 1, paragraph B or failure to apply within 180 days of reporting the discharge may, on or before July 1, 1996, make a new application for fund coverage of any discharge discovered after April 1, 1990, if the applicant agrees to pay all applicable deductible amounts in this subsection and the commissioner waives the 180-day filing requirement pursuant to subsection 1.

Sec. 2. 38 MRSA §568-A, sub-§3-A, as amended by PL 1995, c. 361, §7, is repealed.

Sec. 3. 38 MRSA §568-B, as amended by PL 2009, c. 319, §13, is further amended to read:

§568-B. Fund Insurance Review Board created

1. Fund Insurance Review Board. The Fund Insurance Review Board, as established by Title 5, section 12004-G, subsection 11-A, is created ~~for the purposes of hearing and deciding~~ to hear and decide appeals from insurance claims-related decisions ~~of the commissioner as well as adopting rules and guidelines necessary to the furtherance of its duties and responsibilities under this subchapter~~ under section 568-A and monitor income and disbursements from the Ground Water Oil Clean-up Fund under section 569-A. The review board consists of 10 members appointed for 3-year terms as follows:

A. ~~Three~~ Two persons representing the petroleum industry, appointed by the Governor, one of whom is ~~nominated by the Maine Oil Dealers Association, one of whom is a retailer who owns fewer than 5 retail outlets, as defined in Title 10, section 1672, subsection 6, and one of whom is a retailer who owns 5 or more retail outlets, as defined in Title 10, section 1672~~ a representative of a statewide association of energy dealers;

A-1. Two persons, appointed by the Governor, who have expertise in oil storage facility design and installation, oil spill remediation or environmental engineering;

B. ~~Five~~ Four members of the public ~~who are not employed in the petroleum industry and who do not~~, appointed by the Governor, 2 of whom have expertise in biological science, earth science, engineering, insurance or law. The 4 members may not be employed in or have a direct and substantial financial interest in the petroleum industry ~~to be appointed by the Governor~~;

C. The commissioner or the commissioner's designee; and

D. The State Fire Marshal or the fire marshal's designee.

Members described in paragraphs A, A-1 and B are entitled to reimbursement for direct expenses of attendance at meetings of the review board or the appeals panel.

2. Powers and duties of review board. The Fund Insurance Review Board has the following powers and duties:

A. To hear appeals from insurance claims-related decisions of the commissioner ~~pursuant to~~ and the State Fire Marshal under section 568-A~~, subsection 3-A~~;

B. To adopt rules in accordance with Title 5, chapter 375, subchapter ~~II establishing criteria for determining substantial compliance for above-ground oil storage facilities~~ 2 and guidelines necessary for the furtherance of the review board's duties and responsibilities under this subchapter;

C. To contract with the Finance Authority of Maine for such assistance in fulfilling the review board's duties as the review board may require;

D. To monitor income and disbursements from the Ground Water Oil Clean-up Fund under section 569-A and adjust fees pursuant to section 569-A, subsection 5, paragraph E, as required to avoid a shortfall in the fund; ~~and~~

E. To consult with the Finance Authority of Maine at such times as are necessary, but no less than annually, to review income and disbursements from the Waste Oil Clean-up Fund under Title 10, section 1023-L. The review board, at such times and in such amounts as it determines necessary, and in consultation with the Finance Authority of Maine, shall direct the transfer of funds from the Underground Oil Storage Replacement Fund to the ~~Groundwater~~ Ground Water Oil Clean-up Fund~~.~~; and

F. To review department priorities for disbursements from the Ground Water Oil Clean-up Fund and make recommendations to the commissioner on how the fund should be allocated.

2-A. Meetings. The Fund Insurance Review Board shall meet 6 times per year unless the review board votes not to hold a meeting. Action may not be taken unless a quorum is present. A quorum is 6 members.

2-B. Chair. The review board shall annually choose a member to serve as chair of the review board.

2-C. Appeals to review board. An applicant aggrieved by an insurance claims-related decision under section 568-A, including but not limited to decisions on eligibility for coverage, eligibility of costs and waiver and amount of deductible, may appeal that decision to the Fund Insurance Review Board. The appeals panel is composed of the public members appointed under subsection 1, paragraph B. The appeals panel shall hear and decide the appeal. Except as provided in review board rules, the appeal must be filed within 30 days after the applicant receives the decision made under section 568-A. The appeals panel must hear an appeal at its next meeting following receipt of the appeal unless the appeal petition is received less than 30 days before the meeting or unless the appeals panel and the aggrieved applicant agree to meet at a different time. If the appeals panel overturns the decision made under section 568-A, reasonable costs, including reasonable attorney's fees, incurred by the aggrieved applicant in pursuing the appeal to the review board must be paid from the fund. Reasonable attorney's fees include only those fees incurred from the time of an insurance claims-related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter 7.

2-D. Report; adequacy of fund. On or before February 15th of each year, the Fund Insurance Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the department's and the review board's experience administering the Ground Water Oil Clean-up Fund, clean-up activities and 3rd-party damage claims. The report must include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. The report also must include an assessment of the adequacy of the Underground Oil Storage Replacement Fund and the Waste Oil Clean-up Fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this subsection, the review board may order an independent audit of disbursements from the Ground Water Oil Clean-up Fund, the Underground Oil Storage Replacement Fund and the Waste Oil Clean-up Fund.

3. Repeal date. This section is repealed December 31, 2015.

Sec. 4. 38 MRSA §570-H, as amended by PL 2007, c. 292, §37, is repealed.

Sec. 5. Transition provision. Members of the Fund Insurance Review Board created under the Maine Revised Statutes, Title 38, section 568-B, subsection 1 serving on the effective date of this Act may continue to serve on the board for the remainder of their terms. When the term of a member expires, that member's successor is appointed in accordance with this Act. At no time may fewer than 4 public members be appointed.

See title page for effective date.

CHAPTER 244

H.P. 837 - L.D. 1125

An Act To Implement the Recommendations of the Joint Standing Committee on State and Local Government To Make Necessary Changes to the Maine Administrative Procedure Act

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

Sec. 1. 5 MRSA §8054, sub-§2, as amended by PL 2007, c. 581, §4, is further amended to read:

2. Agency findings. Any emergency rule must include, with specificity, the agency's findings with respect to the existence of an emergency, including any modifications of procedures, and such findings are subject to judicial review under section 8058. Such findings must be included in the basis statement for any adopted emergency rule in a section labeled "findings of emergency." No emergency may be found to exist when the primary cause of the emergency is delay caused by the agency involved.

Sec. 2. 5 MRSA §8054, sub-§4 is enacted to read:

4. Fiscal impact; curtailment orders. An emergency rule adopted in whole or in part to satisfy the requirements of a temporary curtailment order by the Governor under section 1668 must include a specification of the dollar amount of curtailed funds attributable to each change adopted in the rule.

Sec. 3. 5 MRSA §8071-A is enacted to read:

§8071-A. Definitions

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

1. Legislative review session. "Legislative review session" means the regular session of the Legislature convening after the beginning of the legislative rule acceptance period.

2. Legislative rule acceptance period. "Legislative rule acceptance period" means the period beginning on the July 1st preceding the convening of a regular session of the Legislature and ending at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session of the Legislature.

Sec. 4. 5 MRSA §8072, sub-§3, as amended by PL 1995, c. 574, §2, is further amended to read:

3. Legislative review; legislative instrument prepared. ~~Upon receipt of~~ If the required copies of the provisionally adopted rule and related information~~,~~ are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall ~~immediately forward the materials to~~ notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House ~~for placement~~ shall place the legislative instrument on the Advance Journal and Calendar ~~and distribution to a committee as provided in this subsection~~. The secretary and clerk shall jointly suggest reference of the legislative instrument to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the ~~rule~~ legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

Sec. 5. 5 MRSA §8072, sub-§5, as enacted by PL 1995, c. 463, §2, is amended to read:

5. Committee recommendation. After reviewing ~~the~~ a rule referred to it by the Legislature, the committee shall recommend:

A. That the Legislature authorize the final adoption of the rule;

B. That the Legislature authorize the final adoption of a specified part of the rule;

C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or

D. That the final adoption of the rule be disapproved by the Legislature.

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.

Sec. 6. 5 MRSA §8072, sub-§6, as enacted by PL 1995, c. 463, §2, is repealed.

Sec. 7. 5 MRSA §8072, sub-§7, as amended by PL 2005, c. 586, §1, is further amended to read:

7. Report to the Legislature. ~~No~~ Unless otherwise provided by the Legislature, each joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the ~~Legislature~~ legislative review session as provided in Title 3, section 2 ~~each joint standing committee of the Legislature shall submit to the Secretary of the Senate and the Clerk of the House of Representatives the committee's report on agency rules the committee has reviewed as provided in this section~~. ~~The report must include a copy of the rule or rules reviewed, the committee's recommendation concerning final adoption of the rule or rules, a statement of the reasons for a recommendation to withdraw or modify the rule or rules and draft legislation for introduction in that session that is necessary to implement the committee's recommendation. A committee may decline to include in its report recommendations covering any rules submitted to it later than 5:00 p.m. on the 2nd Friday in January of the year in which the rules are to be considered by the committee. If, before adjournment of the session at which a rule is reviewed, the Legislature fails to act on all or part of any rule submitted to it for review in accordance with this section, an agency may proceed with final adoption and implementation of the rule or part of the rule that was not acted on.~~

Sec. 8. 5 MRSA §8072, sub-§8, as enacted by PL 1995, c. 463, §2, is amended to read:

8. Final adoption; effective date. Unless otherwise provided by law, final adoption of a rule or part of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or part of that rule or of the adjournment of the session ~~at which that rule is reviewed if no legislation is enacted~~ in which the Legislature failed to act on the rule or part of the rule as specified in subsection 11. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be published as provided in section 8056, subsection 1, paragraph D. ~~An agency rule authorized by the Legislature becomes~~ Except as otherwise specified by law, the rules become effective

30 days after filing with the Secretary of State or at a later date specified by the agency.

Sec. 9. 5 MRSA §8072, sub-§10 is enacted to read:

10. Rules submitted outside legislative rule acceptance period. The Legislature may act or decline to act upon any rules submitted outside the legislative rule acceptance period.

Sec. 10. 5 MRSA §8072, sub-§11 is enacted to read:

11. Prohibited final adoption. A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:

A. Legislation authorizing adoption of the rule or part of the rule is enacted into law; or

B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule.

For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.

See title page for effective date.

CHAPTER 245

S.P. 447 - L.D. 1460

An Act Concerning the Recording of Plans for Subdivisions

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

Sec. 1. 30-A MRSA §4408 is enacted to read:

§4408. Recording upon approval

Upon approval of a subdivision plan, plat or document under section 4403, subsection 5, a municipality may not require less than 90 days for the subdivision plan, plat or document to be recorded in the registry of deeds.

See title page for effective date.

CHAPTER 246

H.P. 1123 - L.D. 1529

An Act Honoring Gold Star Families through Special Registration Plates

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 recognize that the families who have borne the solemn burden of losing a loved one in the cause of freedom rightfully hold a special place among us; and

Whereas, the gold star family registration plates established in this legislation will help to show the gratitude and sympathy of the people of the State of Maine as the families continue to live their lives in quiet dignity; and

Whereas, recognizing the service of men and women in defense of their nation is long overdue; 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 §524-B is enacted to read:

§524-B. Gold star family registration plates

1. Eligibility. Notwithstanding the requirements in section 468-A, the Secretary of State, upon application and upon evidence of payment of the excise tax required by Title 36, section 1482 and the annual motor vehicle registration fee required by section 501, shall issue a registration certificate and a set of gold star family registration plates, to be used in lieu of regular registration plates, to:

A. A person who is eligible to receive a gold star lapel button under 10 United States Code, Section 1126 (2010); and

B. A grandparent of a member of the United States Armed Forces, if that member dies after March 28, 1973 as a result of:

(1) An international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the United States Secretary of Defense; or

(2) Military operations while serving outside the United States, including the commonwealths, territories and possessions of the United States, as a part of a peacekeeping force.

2. Application. An application for gold star family registration plates must be accompanied by proof that the applicant is eligible for the gold star lapel button. The Secretary of State, in consultation with the Department of Defense, Veterans and Emergency Management, shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may issue gold star family registration plates for display only on an automobile or pickup truck. An applicant may be issued gold star family registration plates for no more than one vehicle.

3. Design. The Secretary of State shall determine the design of the gold star family registration plate.

A person who does not operate a motor vehicle or register a motor vehicle and who otherwise qualifies for the issuance of gold star family registration plates may apply to the Secretary of State for a special single plate recognizing that award. The Secretary of State shall design and identify these special single plates for recognition purposes only. Special single plates may not be attached to a motor vehicle. Only one special single plate may be issued to each recipient at no fee.

The Secretary of State shall begin issuing gold star family registration plates in accordance with this section no later than October 1, 2011.

Sec. 2. Donations for gold star family registration plates. Any donations from any public or private source received by the Department of the Secretary of State for gold star family registration plates must be deposited into the Specialty License Plate Fund established in the Maine Revised Statutes, Title 29-A, section 469.

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

Effective June 7, 2011.

CHAPTER 247

S.P. 494 - L.D. 1547

An Act To Allow Certain Wholesale Seafood Dealers To Process Imported Lobsters

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 lobster processing season begins on or about May 1st; and

Whereas, that Maine wholesale seafood licensees with lobster permits are currently not allowed to perform certain activities puts them at a competitive disadvantage in relation to Canadian lobster processors and impairs their ability to open new markets for Maine lobster and to create new job opportunities for Maine workers; and

Whereas, this legislation eliminates the restrictions and it is important that this legislation take effect immediately so that business in this State is improved in the upcoming lobster 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 §6431, sub-§6, as repealed and replaced by PL 1987, c. 513, §4, is amended to read:

6. Exception; wholesale seafood dealer with lobster permit; rules. This section ~~shall~~ does not apply to live lobsters imported ~~intact in the original crates~~ by a holder of a wholesale seafood license with a lobster permit to another wholesale seafood license holder with a lobster permit if the ~~crates~~ containers are sealed in accordance with ~~regulations~~ rules adopted by the commissioner; or to imported lobsters being shipped or transported out-of-state if they are in containers sealed in accordance with ~~regulations~~ rules adopted by the commissioner. The commissioner may adopt or amend ~~regulations~~ rules to prescribe the time, manner and method of sealing ~~crates or~~ containers for the effective operation of this subsection. The ~~regulations~~ rules may contain a requirement for a special permit and provisions for inspection of the ~~crates,~~ containers, contents and seals. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. 12 MRSA §6431, sub-§6-B is enacted to read:

6-B. Exception; lobster processing; rules. A person who holds both a wholesale seafood license with a lobster permit and a lobster processor license and who possesses lobster in accordance with subsection 6 may process those imported lobsters in accordance with rules adopted by the commissioner, as long as the following criteria are met:

A. The lobsters are not harvested or landed in this State;

B. The lobsters are legal in the waters from which they were harvested; and

C. The lobsters are not less than the minimum size established in this section.

Lobster tails processed under this subsection may not be offered for sale within this State in the wholesale or retail trade. Lobster meat processed from the claws and knuckles may be sold within this State in the wholesale or retail trade.

This subsection takes effect November 1, 2011 and is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

Sec. 3. 12 MRSA §6851-B, sub-§2, ¶C, as enacted by PL 2009, c. 523, §9, is amended to read:

C. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster processor license number of the packer; ~~and~~

Sec. 4. 12 MRSA §6851-B, sub-§2, ¶D, as enacted by PL 2009, c. 523, §9, is amended to read:

D. Records must be maintained at the fixed place of business named on the license~~.~~; and

Sec. 5. 12 MRSA §6851-B, sub-§2, ¶E is enacted to read:

E. Notwithstanding paragraph B, the lobster meat or lobster parts may come from lobsters that are not legal-sized as provided in section 6431, subsection 6-B.

This paragraph takes effect November 1, 2011 and is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

Sec. 6. Rules. The Commissioner of Marine Resources shall adopt or amend rules to prescribe the time, manner and method of sealing containers for the effective operation of the Maine Revised Statutes, Title 12, section 6431, subsection 6-B. The rules may include a requirement for a permit and provisions for inspection that establish a chain of custody that ensures that the lobsters were not harvested or landed in this State. The commissioner shall also adopt or amend rules to establish the method by which the department collects from a holder of a lobster processor license landings records of the amount of oversized lobsters harvested outside this State received by that lobster processor. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective June 7, 2011.

CHAPTER 248

H.P. 207 - L.D. 254

An Act To Amend the Standards by Which Law Enforcement Officers May Stop an All-terrain Vehicle Operating on Private Property

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

Sec. 1. 12 MRSA §10353, sub-§2, as amended by PL 2009, c. 389, §1, is further amended to read:

2. Powers. In addition to other powers granted in this Part, a game warden or other official described in section 10401 may:

A. Arrest, summons and prosecute a violator of the following:

(1) This Part;

(2) Rules adopted by the commissioner; and

(3) The federal Migratory Bird Treaty Act, 16 United States Code, Chapter 7, subchapter II, section 703 and all rules and regulations promulgated in pursuance of that Act.

A game warden or other official described in section 10401 shall, without unnecessary delay, take any person so arrested before the District Court nearest the place of violation;

B. Serve criminal processes on offenders of the law and serve all processes pertaining to the enforcement of this Part;

C. Accept personal recognizances in accordance with the following procedures:

(1) A game warden or other official described in section 10401 making an arrest for any violation of this Part and Title 38, chapter 3, subchapter 1, article 5-A, at a point more than 50 miles distant from the nearest District Court having jurisdiction, may accept the personal recognizance of the prisoner in an amount not to exceed $1,000 for the prisoner's appearance before the nearest District Court on a specified date and a deposit in money to the amount of that recognizance; and

(2) The warden or other official described in section 10401 shall report all those recognizances and forward all those deposits to the court to which the recognizance is returnable.

Recognizances and deposits must be handled by the court in accordance with sections 10202 and 10203;

D. If the warden or other official described in section 10401 is in uniform and has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, stop a motor vehicle or watercraft for the purpose of:

(1) Arresting the operator for a criminal violation;

(2) Issuing the appropriate written process for a criminal or civil violation or a traffic infraction; or

(3) Questioning the operator or occupants;

E. In order to protect fish and wildlife:

(1) If the warden or other official described in section 10401 is in uniform, stop a person for the purpose of determining compliance with license, permit, equipment or other requirements or restrictions if the person, at the time of the stop, is:

(a) Engaged in hunting, fishing or trapping; and

(b) Not in or on a motor vehicle; and

(2) Pursuant to policy established by the commissioner, establish checkpoints to stop any type of vehicle and conduct checks to gather statistics concerning hunting, fishing and trapping and to determine compliance with fish and wildlife laws;

F. Stop any watercraft to inspect the craft, its equipment and its documents or certificates; board a watercraft when necessary to enforce chapter 935 or any other provision of this Part regarding watercraft; and order any watercraft ashore to correct a violation or to protect the safety of its occupants, if in the opinion of the warden or other official described in section 10401 their safety is in jeopardy;

G. ~~If the warden has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, stop~~ 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~~;

H. Stop and examine any snowmobile to ascertain whether it is being operated in compliance with chapter 937 or any other provision of this Part regulating snowmobiles; demand and inspect the operator's certificate of registration; and examine the identification numbers of the snowmobile and any marks on it; and

I. Do anything otherwise prohibited by this Part if necessary to carry out the ~~warden's~~ duties and powers of the warden or other official described in section 10401. This paragraph does not authorize a warden or other official described in section 10401 enforcing this Part to stop any person, motor vehicle or watercraft except as specifically provided in this section.

See title page for effective date.

CHAPTER 249

H.P. 322 - L.D. 404

An Act To Assist School Administrative Units in Providing Health Insurance to Their Employees

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

Sec. 1. 20-A MRSA §1001, sub-§14, ¶D is enacted to read:

D. In order to facilitate the competitive bidding process in procuring health insurance for a school administrative unit's employees under this subsection, the administrator for an individual school plan or for a group plan for a multiple-school group shall seek and obtain competitive bids through a request for proposal process from qualified insurers at least once every 5 years commencing July 1, 2012. The administrator for any such group plan shall make the request for proposal responses available to requesting school administrative units, excluding any portions of the request for proposal responses considered to be confidential proprietary information by the submitting insurers. If any such individual school plan or group plan is subsequently self-insured, in whole or in part, the school board shall compare the overall cost of such a self-insured plan, including projected claims, all administrative expenses and reinsurance expenses, to the cost of insured products at least once every 5 years commencing July 1, 2012.

Sec. 2. Voluntary employee benefits trust; low-cost plan. The voluntary employee benefits trust established pursuant to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) by a statewide education association shall review and consider creating a new benefits option with a lower premium rate for the plan year starting July 1, 2012 or a subsequent plan year.

Sec. 3. Voluntary employee benefits trust; board of trustees appointment. The voluntary employee benefits trust established pursuant to the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) by a statewide education association shall include a representative appointed by the Maine School Boards Association to serve as a member of the trust's board of trustees no later than January 1, 2012.

See title page for effective date.

CHAPTER 250

H.P. 725 - L.D. 981

An Act To Increase Recycling Jobs in Maine and Lower Costs for Maine Businesses Concerning Recycled Electronics

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 increases the functions electronics demanufacturing facilities may undertake, which will enable such facilities to expand and it is important that the legislation take effect as soon as possible due to Maine's economy and the need for job expansion; and

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

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

Sec. 1. 38 MRSA §1319-R, sub-§1, ¶D is enacted to read:

D. If the commissioner determines based on documentation received from an electronics demanufacturing facility licensed by the department that the facility meets the provisions of this paragraph, the commissioner may allow the facility to undertake the controlled breakage of cathode ray tubes. If the commissioner does not approve or deny the facility's request to undertake controlled breakage of cathode ray tubes within 30 calendar days of receiving the documentation, the facility may undertake controlled breakage of cathode ray tubes in accordance with the provisions of this paragraph.

(1) The facility shall ensure that no crushing or treatment of universal waste or hazardous subcomponents occurs other than dismantling except that controlled breakage of cathode ray tubes may be performed in a manner protective of public health and safety and the environment. Controlled breakage of cathode ray tubes may occur only in a dedicated space with ventilation equipment that prevents the release of fugitive emissions to adjacent areas. Lead and cadmium concentrations immediately outside the dedicated space may not significantly exceed background levels of lead and cadmium concentrations or current ambient air quality standards for the State. The facility shall determine background levels through monitoring. The facility shall meet the conditions listed in 40 Code of Federal Regulations, Section 261.39 (2010). As used in this subparagraph, "fugitive emissions" has the same meaning as in section 582, subsection 7-C.

(2) The facility shall obtain certification from an environmental and safety program approved by the department and submit proof of certification to the department, except that if a facility has not completed certification, controlled breakage of cathode ray tubes may begin prior to certification if:

(a) The facility provides information to the department on its process of achieving certification, including a detailed gap analysis; and

(b) The controlled breakage is monitored by an environmental professional to ensure environmental and safety standards are met.

(3) The facility shall develop a written operating manual specifying how to safely break cathode ray tubes. The operating manual must be available to all employees at the facility and include:

(a) Operating and maintenance procedures developed in accordance with any related manufacturer's specifications;

(b) Procedures for testing and monitoring of equipment;

(c) Procedures to address emergency situations, including, but not limited to, procedures to address lead and cadmium hazards, waste handling and equipment failure;

(d) Procedures to assess whether surrounding areas will be negatively affected either by physical proximity to or

air exchange with a heating, ventilation and air conditioning system;

(e) Procedures for proper waste management practices; and

(f) Procedures for employee training to ensure employees have been trained in operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate hazardous waste releases and personal protective equipment use.

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

Sec. 2. 38 MRSA §1610, sub-§2, ¶B, as amended by PL 2007, c. 292, §40, is further amended to read:

B. "Consolidation facility" means a facility where electronic wastes are consolidated and temporarily stored while awaiting shipment of at least a 40-foot trailer full of covered electronic devices to a recycling, treatment or disposal facility. "Consolidation facility" includes a transport vehicle owned or leased by a consolidator and used to collect covered electronic devices at ~~municipal~~ collection sites in this State at a cost no greater than the per pound transportation rate for a full 40-foot trailer as approved by the department for each consolidator pursuant to the rules governing reasonable operational costs adopted under subsection 5, paragraph D, subparagraph ~~1~~ (1).

Sec. 3. 38 MRSA §1610, sub-§2, ¶B-2 is enacted to read:

B-2. "Covered entity" means a household in this State, a business or nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) that employs 100 or fewer individuals, a primary school or a secondary school.

Sec. 4. 38 MRSA §1610, sub-§2, ¶F, as reallocated by RR 2003, c. 2, §119, is repealed.

Sec. 5. 38 MRSA §1610, sub-§5, ¶A, as amended by PL 2009, c. 397, §7, is further amended to read:

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors, televisions, desktop printers and video game consoles generated as waste from ~~households~~ covered entities 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.

Sec. 6. 38 MRSA §1610, sub-§5, ¶A-1 is enacted to read:

A-1. A covered entity may deliver no more than 7 covered electronic devices at one time to a municipal collection site or consolidator collection event, unless the municipal collection site or consolidator is willing to accept additional covered electronic devices.

Sec. 7. 38 MRSA §1610, sub-§5, ¶B, as amended by PL 2009, c. 397, §7, is further amended to read:

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~~ covered entity 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~~ covered entity 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 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 in-

voice 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 computer monitors, 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.

Sec. 8. 38 MRSA §1610, sub-§5, ¶D, as amended by PL 2009, c. 397, §7, is further amended to read:

D. Computer monitor, television, desktop printer and video game console manufacturers are subject to the requirements of this paragraph.

(1) 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~~ covered entities 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~~ covered entities in this State and received at consolidation facilities. The manufacturers shall pay the reasonable operational costs of the consolidator attributable to the handling of all computer monitors, televisions, desktop printers and video game consoles ~~generated as waste by households~~ received at consolidation facilities 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 determine that market share de minimus. A television manufacturer whose market share is 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 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 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, 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.

Sec. 9. 38 MRSA §1610, sub-§6-A, as enacted by PL 2009, c. 397, §9 and affected by §14, is amended to read:

6-A. Manufacturer registration. ~~By~~ Prior to offering a covered electronic device and by July 1st annually, a manufacturer that offers or has offered a computer monitor~~, television,~~ or desktop printer, or offers or has offered within the preceding calendar year a television or video game console, for sale in or into this State shall submit a registration to the de-

partment ~~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 national sales data on the weight, 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~~.~~; and

H. A registration fee paid by a manufacturer as follows:

(1) Seven hundred and fifty dollars for manufacturers with less than 0.1% national market share as determined by the department based on the most recent readily available national market share data; and

(2) Three thousand dollars for all other manufacturers, except that computer monitor and desktop printer manufacturers that have not marketed any covered electronic device in the current calendar year and have had less than 50 units managed by approved consolidators in the preceding 3 years are exempted from paying the fee.

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-§8, as reallocated by RR 2003, c. 2, §119, is amended to read:

8. Reports to Legislature. The department shall submit a report on the recycling of electronic waste in the State to the joint standing committee of the Legislature having jurisdiction over natural resources matters ~~by January 15, 2008 and every 2 years thereafter until January 15, 2014~~ as part of each product stewardship report submitted in accordance with section 1772. The report ~~must~~ may include an evaluation of the recycling rates in the State for covered electronic devices~~, a discussion of compliance and enforcement related to the requirements of this section~~ and recommendations for any changes to the system of collection and recycling of electronic devices in the State.

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

Effective June 8, 2011.

CHAPTER 251

H.P. 311 - L.D. 385

An Act To Amend the School Administrative Unit Consolidation Laws

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

Sec. 1. 20-A MRSA §1461, sub-§3, ¶C, as enacted by PL 2009, c. 580, §4, is amended to read:

C. Notwithstanding paragraph B, subparagraph (1), the commissioner may approve:

(1) A regional school unit to serve fewer than 1,200 students but not less than 1,000 students in an isolated rural community, including, for purposes of this paragraph, students attending from the unorganized territory, if the proposed regional school unit meets at least one of the following criteria:

(a) The proposed regional school unit comprises 3 or more school administrative units in existence prior to July 1, 2008;

(b) The member municipalities of the proposed regional school unit are surrounded by approved regional school units or alternative organizational structures and there are no other school administrative units available to join the proposed regional school unit; or

(c) The member municipalities of the proposed regional school unit include 2 or more isolated small schools that are eligible for an isolated small school adjustment pursuant to section 15683, subsection 1, paragraph F; and

(2) The formation of a regional school unit if the governing body or bodies of the proposed regional school unit demonstrate, in the notice of intent under subsection 1, that all reasonable and practical means of satisfying the requirements of subparagraph (1) and paragraph B, subparagraph (1) have been exhausted, and that approval is warranted based on the unique or particular circumstances of the unit or units.

In considering a request under this paragraph, the commissioner's decision must be based on, but is not limited to, the specific facts presented in the notice of intent and is applicable only to the specific school administrative units the decision concerns. ~~If the commissioner denies approval of a regional school unit under this paragraph, the commissioner's decision constitutes final agency action and is not subject to appeal to the state board.~~

Sec. 2. 20-A MRSA §1461-B, sub-§6, ¶A, as enacted by PL 2009, c. 580, §5, is repealed.

Sec. 3. 20-A MRSA §1461-B, sub-§6, ¶B, as enacted by PL 2009, c. 580, §5, is repealed.

Sec. 4. 20-A MRSA §1461-B, sub-§6, ¶C, as enacted by PL 2009, c. 580, §5, is repealed.

Sec. 5. 20-A MRSA §1465, sub-§3, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

3. Referendum for a school administrative unit to join an existing regional school unit. The municipal officers of each municipality in a proposed reorganized school administrative unit shall place a warrant article substantially as follows on the ballot of a municipal referendum in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

~~The following statement must accompany the article:~~

~~"Explanation:~~

~~A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school unit. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the existing school administrative unit will no longer apply to the proposed regional school unit."~~

Sec. 6. 20-A MRSA §1465, sub-§4, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

4. Referendum on the admission of an additional school administrative unit to an existing regional school unit. If the vote to join a regional school unit under subsection 3 was in the affirmative, the existing regional school unit shall call a regional school unit referendum to vote on the following article.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

~~The following statement must accompany the article:~~

~~"Explanation:~~

~~A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school unit. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the existing school administrative unit will no longer apply to the proposed regional school unit."~~

Sec. 7. 20-A MRSA §1466, sub-§20, as enacted by PL 2009, c. 580, §9, is repealed.

Sec. 8. 20-A MRSA §15696, as amended by PL 2009, c. 455, §1, is repealed.

Sec. 9. PL 2007, c. 240, Pt. XXXX, §36, sub-§11, as amended by PL 2009, c. 571, Pt. VVV, §1, is further amended to read:

11. Result of disapproval at January 2008 referendum or subsequent referendum on or before January 30, 2009. A school administrative unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before January 30, 2009 may restart the process to

form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, 2009 reorganization date.

~~B. The penalties set forth in Title 20-A, section 15696 apply to any school administrative unit that fails to approve a reorganization plan on or before January 30, 2009 and to implement that plan by July 1, 2009, including those school administrative districts that are reformulated under subsection 12. These penalties do not apply to any school administrative unit that implements a reorganization plan by July 1, 2011 in accordance with subsection 11-A.~~

Sec. 10. PL 2007, c. 240, Pt. XXXX, §36, sub-§11-A, as amended by PL 2009, c. 571, Pt. VVV, §2, is further amended to read:

11-A. Result for school administrative unit that approves plan at referendum on or before January 30, 2010 but is unable to implement plan. A school administrative unit that approves a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before January 30, 2010 but is unable to implement the plan because the plan was rejected at referendum by one or more of its proposed partner school administrative units under the plan may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, 2011 reorganization date.

~~B. The penalties set forth in Title 20-A, section 15696 apply, as of July 1, 2011, to any school administrative unit that fails to approve a reorganization plan on or before January 30, 2011 and to implement that plan by July 1, 2011.~~

Sec. 11. PL 2007, c. 240, Pt. XXXX, §44 is repealed.

Sec. 12. Effective date. This Act takes effect July 1, 2012.

Effective July 1, 2012.

CHAPTER 252

H.P. 630 - L.D. 833

An Act To Restrict Permits Available to the Holder of a Super Pack License

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

Sec. 1. 12 MRSA §11109-A, sub-§2, as amended by PL 2009, c. 132, §1, is further amended to read:

2. Antlerless deer permit. A super pack license includes:

A. ~~The~~ Except as provided in paragraph B, the opportunity to enter an antlerless deer permit lottery pursuant to section 11152 as afforded by a license contained within the super pack license subject to the conditions and restrictions placed on that license; and

B. An antlerless deer permit as provided under section 11152, except that it is valid only for antlerless deer in wildlife management districts in which at least 3,500 antlerless deer permits are issued. No more than 2.5% of those antlerless deer permits may be in the form of a super pack license. The commissioner shall implement a system for issuing antlerless deer permits under this subsection. If a super pack licensee obtains an antlerless deer permit under this paragraph, that person is not eligible to obtain an antlerless deer permit under paragraph A.

Sec. 2. Effective date. This Act takes effect January 1, 2012.

Effective January 1, 2012.

CHAPTER 253

S.P. 317 - L.D. 1084

An Act To Amend Certain Provisions of Maine Fish and Wildlife 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, the Department of Inland Fisheries and Wildlife has recently conducted a moose survey that indicates the State's moose population has been increasing and could sustain additional hunting opportunities; and

Whereas, the lottery drawing for the 2011 moose permits takes place in June and the authoriza-

tion to issue more moose permits needs to take effect before the drawing; 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 §10052, as amended by PL 2009, c. 340, §2, is further amended to read:

§10052. Division of Licensing and Registration

The Division of Licensing~~,~~ and Registration ~~and Engineering~~ is established within the Department of Inland Fisheries and Wildlife. The division is equal in organizational level and status with other major organizational units within the department or its successors. The 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 division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the division include, but are not limited to:

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.~~

Sec. 2. 12 MRSA §10052-A is enacted to read:

§10052-A. Division of Engineering

The Division of Engineering is established within the Department of Inland Fisheries and Wildlife. The division is equal in organizational level and status with other major organizational units within the department or its successors. The 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 division, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the division include the design, maintenance and repair of department-owned facilities, including the preparation of a capital improvement plan to be printed in the budget document.

Sec. 3. 12 MRSA §10155, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Membership. Members of the board must be residents of the State. The board consists of the following ~~5~~ 4 members:

A. Two employees of the department, appointed by the commissioner one of whom may be a retired employee who has experience in taxidermy;

B. ~~Two~~ One licensed ~~taxidermists~~ taxidermist with expertise in the art of taxidermy, appointed by the Governor; and

C. One member of the general public with no affiliation to the art of taxidermy, appointed by the Governor.

Sec. 4. 12 MRSA §10502, sub-§1, 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:

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of this Part, and all currency used in violation of this Part and equipment, including but not limited to firearms, possessed or used in violation of this Part are contraband and subject to seizure by any officer authorized to enforce this Part. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 10503.

Sec. 5. 12 MRSA §10503, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Notice and hearing of libel. The judge shall fix a time for the hearing of the libel and issue a notice of the libel to all persons interested, citing them to appear at the time and place appointed and show cause why the fish, wildlife, currency or equipment possessed should not be declared forfeited. A true and attested copy of the libel and notice must be posted in 2 conspicuous places in the town or place where the fish, wildlife, currency or equipment possessed was seized, or in such place or places as is ordered by the court, at least 10 days before the day on which the libel is returnable. Copies must be served on common carriers;

Sec. 6. 12 MRSA §10503, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Return of articles or proceeds to claimant. If the court is, upon the hearing, satisfied that the fish, wildlife, currency or equipment possessed was not possessed in violation of this Part and that the claimant

is entitled to the custody of any part of the articles, the court shall give the claimant an order in writing, directed to the officer having the articles in custody, commanding delivery to the claimant of the articles or proceeds derived from the sale of the articles, to which the claimant is found to be entitled, within 48 hours after demand;

Sec. 7. 12 MRSA §10652, sub-§1, ¶B, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §68 and affected by §422, is amended to read:

B. A person may not while hunting any wild animal or wild bird:

(1) Damage or destroy a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand unless the person has the permission of the landowner;

(2) Except as provided in this paragraph, erect or use either a portable or permanent ~~tree~~ ladder or observation stand ~~attached to a tree~~ on the land of another person unless:

(a) That person has obtained oral or written authorization to erect and use a ~~tree~~ ladder or observation stand from the landowner or the landowner's representative; and

(b) The ~~tree~~ ladder or observation stand is plainly labeled with a 2-inch by 4-inch tag identifying the name and address of the person or persons authorized by the landowner to use the ~~tree~~ stand or observation ladder.

This subparagraph does not apply to a portable ~~tree~~ ladder or observation stand that is located on land within the jurisdiction of the Maine Land Use Regulation Commission and attended by the person who owns the ladder or observation stand. For purposes of this subparagraph, "observation stand" does not include a portable blind utilized at ground level that remains in the physical possession of the hunter;

(3) Tear down or destroy any fence or wall on another person's land;

(4) Leave open any gate or bars on another person's land; or

(5) Trample or destroy any crop on another person's land.

Sec. 8. 12 MRSA §10703, sub-§11, as amended by PL 2009, c. 447, §15, is further 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~~ has resulted in a serious injury or in the death of any person must submit to and complete chemical tests to determine that person's 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 alcohol level.

Sec. 9. 12 MRSA §10751, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 10. 12 MRSA §10757, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

§10757. Fraudulently obtaining or possessing license or permit

A person may not obtain or possess a license or permit authorized in this Part through fraud, misstatement or misrepresentation. A person who violates this section commits a Class E crime.

Sec. 11. 12 MRSA §10801, sub-§6, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one ~~calendar~~ year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

Sec. 12. 12 MRSA §10851, sub-§1, ¶D, as amended by PL 2007, c. 651, §9, is further amended to read:

D. For a resident 70 years of age or older. ~~A~~ For a person who holds a valid senior lifetime license under this section ~~upon turning~~ at any time during the calendar year that person turns 70 years of age ~~may obtain at no cost~~, that lifetime license includes 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.

Sec. 13. 12 MRSA §10902, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Hunting license revocation or suspension for endangerment or harm to another. The commissioner may bring a complaint in the District Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person whom the commissioner reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting in this State or another jurisdiction. The District Court shall revoke or suspend the person's license or privilege for a period of at least 5 years if the court finds that the person, while hunting, has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of that license or privilege. For the purpose of this subsection, "recklessly" has the same meaning as that set out in Title 17-A, section 35, subsection 3.

A. A person whose hunting license has been revoked or suspended or whose right to hunt or the right to obtain a hunting license has been denied under this subsection, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of the person's privilege to procure such a license.

B. The commissioner, after hearing, may restore the petitioner's privilege if the commissioner determines that the public safety will not be endangered by restoring that privilege.

C. If the commissioner disallows the petition and thereby refuses to grant the restoration of the privilege, the petitioner may appeal to the commissioner's advisory council, which, after hearing on the petition, may allow it and restore the privilege.

Sec. 14. 12 MRSA §10902, sub-§6, ¶C, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §99 and affected by §422, is further amended to read:

C. Night hunting, in violation of section ~~11206-A~~ 11206;

Sec. 15. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

E. Buying or selling bear, hunting or trapping bear after having killed one or exceeding the bag limit on bear, in violation of section 11217 ~~or,~~ 11351 or 12260;

Sec. 16. 12 MRSA §10902, sub-§6, ¶G, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §99 and affected by §422, is further amended to read:

G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing moose, in violation of section 11154, 11217, 11601, 11651-A, 11652, 12302-A, 12304-A, 12305 or 12403; or

Sec. 17. 12 MRSA §10902, sub-§10, ¶E, as enacted by PL 2005, c. 626, §2, is amended to read:

E. Failure or refusal to stop an ATV or attempting to elude an officer, as prohibited under section 10651, subsection 1, paragraphs ~~C and~~ D and E.

Sec. 18. 12 MRSA §11152, sub-§1-A, as enacted by PL 2007, c. 463, §4, is amended to read:

1-A. Antlerless deer in wildlife management districts with no permits issued. Except as otherwise provided in this Part, a person may not hunt or possess an antlerless deer in ~~Washington County~~ a wildlife management district that does not have permits issued. A person may possess in one of those districts an antlerless deer ~~in Washington County~~ that has been lawfully registered in another ~~county~~ district where permits have been issued.

A person that violates this subsection commits a Class D crime for which a minimum fine of $1,000 must be imposed, and the court shall impose a sentencing alternative involving a term of imprisonment of at least 3 days, none of which may be suspended.

Sec. 19. 12 MRSA §11301, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §§156 and 157 and affected by §422, is further amended to read:

§11301. Placing of bear bait

1. Bear baiting. A person may not ~~use~~ place bait to entice, hunt or trap black bear, unless:

A. The bait is placed at least 50 yards from a travel way that is accessible by a conventional 2-wheel-drive or 4-wheel-drive vehicle;

B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the name and address of the baiter;

C. The bait is placed more than 500 yards from a site permitted or licensed for the disposal of solid waste or a campground;

D. The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or lessee;

E. The bait is placed not more than 30 days before the opening day of the season and not after October 31st;

F. The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and

G. The person hunting from a stand or blind of another person has permission of the owner of that stand or blind.

2. Penalty. A person who violates this section commits a Class E crime.

Sec. 20. 12 MRSA §11605 is enacted to read:

§11605. Baiting moose

1. Prohibitions. A person may not, during open hunting season on moose:

A. Place salt or any other bait or food in a place to entice moose to that place; or

B. Hunt from an observation stand or blind overlooking salt, grain, fruit, nuts or other foods known to be attractive to moose. This prohibition does not apply to hunting from an observation stand or blind overlooking:

(1) Standing crops;

(2) Foods that are left as a result of normal agricultural operations or as a result of a natural occurrence; or

(3) Bear bait that is placed at a bear hunting stand or blind in accordance with section 11301, subsection 1.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

Sec. 21. 12 MRSA §12051, sub-§1, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. A person may train dogs on foxes, ~~rabbits~~ snowshoe hare and raccoons from July 1st through the following March 31st, including Sundays.

Sec. 22. 12 MRSA §12051, sub-§3, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §191 and affected by §422, is amended to read:

3. Possessing firearm while training dogs. A person may not possess a firearm while training a dog outside of the open training season on foxes, ~~rabbits~~ snowshoe hare and raccoons as set out in subsection 1.

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 §12159, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §§207 and 208 and affected by §422, is further amended to read:

§12159. Taking reptiles and amphibians from the wild

1. Prohibition; penalties. Except as provided in this section, a person may not take and possess ~~snakes or turtles~~ reptiles or amphibians from the wild for export, sale or commercial purposes.

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.

2. Commercial amphibian permit. Persons harvesting ~~snapping turtles~~ amphibians for purposes of ~~resale~~ sale are required to obtain a permit from the commissioner.

3. Rules. The commissioner shall adopt rules pertaining to harvest methods, confinement and disposal of ~~snapping turtles~~ amphibians. The commissioner may by rule:

A. Require reporting of ~~commercial~~ harvest activities;

B. Establish a season, including daily and season possession limits;

C. Establish ~~size limits~~ requirements for humane harvest, confinement and disposal methods; and

D. Establish a fee schedule to implement a permit system under this section.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 24. 12 MRSA §12161 is enacted to read:

§12161. Taking of certain nonmarine invertebrates from the wild for commercial purposes

1. Prohibition; penalties. Except as provided in this section, a person may not take and possess certain nonmarine invertebrates, specifically freshwater mussels, butterflies, moths, dragonflies or beetles, from the wild for export, sale or commercial purposes.

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.

2. Commercial nonmarine invertebrate permit. Persons harvesting freshwater mussels, butterflies, moths, dragonflies or beetles for export, sale or

commercial purposes are required to obtain a permit from the commissioner.

3. Rules. The commissioner may by rule:

A. Require reporting of commercial harvest activities, including at a minimum dates, locations and numbers collected by species;

B. Establish daily and season possession limits;

C. Establish a fee schedule to implement a permit system under this section; and

D. Require humane harvest, confinement and disposal methods.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 25. 12 MRSA §12259, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §221 and affected by §422, is further amended to read:

3. Nonresident trapping beaver. A nonresident may not trap beaver in this State unless that nonresident's state or province of residency allows Maine residents to trap beaver in that state or province.

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

Sec. 26. 12 MRSA §12260, sub-§3, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. A person may not set a bear trap other than a cable trap~~, unless it conforms to the following specifications~~ or a cage-type trap as authorized by the commissioner.

~~(1) The trap must be enclosed by at least 2 strands of wire, one strand 2 feet from the ground and one strand 4 feet from the ground.~~

~~(2) The wire must be securely held in position.~~

~~(3) The wire must be not less than 5 yards nor more than 10 yards at any point from the enclosed trap.~~

~~(4) The trap enclosure must be marked by substantial signs with the words "BEAR TRAP" in letters not less than 3 inches in height.~~

~~(5) The signs must be spaced around each enclosure at intervals of not more than 20 feet.~~

~~(6) Each sign must be securely fastened to the top strand of wire.~~

Sec. 27. 12 MRSA §12457, sub-§1, as amended by PL 2009, c. 550, §8, is further amended to read:

1. Closed waters. Except as the commissioner may by rule provide and as provided in subsection 2, the following waters are closed to fishing:

A. The area within 150 feet of any operational fishway, except:

(1) At the following places, the fishway and the area within 75 feet of any part of the fishway are closed to fishing at all times:

(a) Grand Falls Powerhouse Dam on the St. Croix River in Baileyville; and

(b) Woodland Dam on the St. Croix River in Baileyville;

(2) At the following places, the area within the fishway and within 75 feet of the downstream mouth of the fishway is closed to fishing at all times:

(a) East Grand Lake Dam in Forest City Township, T9 R4 NBPP, except that fishing upstream from the dam at the top of the fishway is lawful;

(2-A) At the following places, the area within 75 feet of the mouth of the fishway is closed to fishing at all times:

(a) Spednic Lake Dam in Vanceboro;

(3) At the so-called ice control dam on the Narraguagus River in the Town of Cherryfield, the area within 100 feet of the dam must be closed to fishing at all times;

(4) At East Outlet Dam in Sapling Township, T1R7, in Somerset County and in Big Moose Township, T2R6, in Piscataquis County at the outlet of Moosehead Lake, the fishway and the area within 50 feet of any part of the fishway must be closed to fishing at all times; and

(5) There is no fishing in or from the fishway at the Sheepscot Lake Dam in the Town of Palermo in Waldo County, Chain of Ponds Dam in Chain of Ponds Township in Franklin County ~~or,~~ Long Pond Dam in Seven Ponds Township in Franklin County, Beaver Pond Dam in Seven Ponds Township in Franklin County and Little Island Pond Dam in Seven Ponds Township in Franklin County;

B. All waters within 200 feet of any fish hatchery or rearing station; and

C. The property owned by the Unity Utilities District located on Route 139 and Prairie Road in the municipality of Unity in Waldo County.

For purposes of this subsection, "operational" means a fishway capable of fish passage whether or not it is allowing the passage of fish at any given time.

Sec. 28. 12 MRSA §12501, sub-§4, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. A nonresident who possesses a 15-day nonresident fishing license may exchange it for an annual nonresident license upon the ~~additional~~ payment of ~~$12,~~ the difference between the fee for the 15-day license and the fee for the annual license~~,~~ and $2 to the clerk or issuing agent.

Sec. 29. 12 MRSA §12506, sub-§5-A, ¶A, as amended by PL 2007, c. 463, §6 and affected by §9, is further amended to read:

A. A person may fish for alewives by use of a dip net or single hook and line for consumption by that person or members of that person's family, ~~provided that~~ as long as the person takes or possesses no more than ~~one bushel~~ 25 fish in any day and ~~provided also that~~ as long as the alewives are taken downstream from any location where a municipality or other person has been granted exclusive rights under section 6131; and

Sec. 30. 12 MRSA §12551-A, sub-§9-A is enacted to read:

9-A. Record inspection. Records retained as required in this section must be open for inspection by the commissioner or the commissioner's agent.

Sec. 31. 12 MRSA §12661, sub-§2, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §284 and affected by §422, is repealed.

Sec. 32. 12 MRSA §12661, sub-§3, as amended by PL 2005, c. 397, Pt. A, §9, is further amended to read:

3. Removal of abandoned ice fishing shacks. A person may not leave a structure on another person's land without permission from the landowner. Notwithstanding the provisions of Title 33, chapter 41, a landowner on whose property an ice fishing shack is left in violation of this section and Title 17, section 2263-A may remove or destroy the shack. The landowner may recover any costs of removing or destroying the shack from the owner of the shack in a civil action.

Sec. 33. 12 MRSA §12661, sub-§4 is enacted to read:

4. Penalty. 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 $100 nor more than $500 may be adjudged.

B. A person who violates this section 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. 34. 12 MRSA §12708, sub-§1, ¶B, as amended by PL 2007, c. 463, §7, is further amended to read:

B. The following areas are classified as state-owned wildlife management areas, or "WMAs":

(1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS - Piscataquis County;

(2) Brownfield WMA - Brownfield, Denmark, Fryeburg - Oxford County;

(3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec County;

(4) Caesar Pond WMA - Bowdoin - Sagadahoc County;

(5) Chesterville WMA - Chesterville - Franklin County;

(6) Coast of Maine WMA - all state-owned coastal islands that are owned or managed by the Department of Inland Fisheries and Wildlife;

(7) Dickwood Lake WMA - Eagle Lake - Aroostook County;

(8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot County;

(9) Fahi Pond WMA - Embden - Somerset County;

(10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock County;

(11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor, Vassalboro, China - Kennebec County;

(12) Great Works WMA - Edmunds Township - Washington County;

(13) Jamies Pond WMA - Manchester, Farmingdale, Hallowell - Kennebec County;

(14) Jonesboro WMA - Jonesboro - Washington County;

(15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;

(16) Kennebunk Plains WMA - Kennebunk - York County;

(17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft, Garland - Penobscot County and Piscataquis County;

(18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill - Waldo County;

(19) Long Lake WMA - St. Agatha - Aroostook County (all of Long Lake within the Town of St. Agatha);

(20) Madawaska WMA - Palmyra - Somerset County;

(20-A) Maine Youth Conservation WMA - T32MD - Hancock County;

(21) Mainstream WMA - Cambridge, Rip ley - Somerset County;

(22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus - Aroostook County;

(23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York County;

(24) Mercer Bog WMA - Mercer - Somerset County;

(25) Merrymeeting Bay WMA - Dresden, Bowdoinham, Woolwich, Bath, Topsham - Lincoln County and Sagadahoc County;

(26) Morgan Meadow WMA - Raymond - Cumberland County;

(27) Mt. Agamenticus WMA - York, South Berwick - York County;

(28) Muddy River WMA - Topsham - Sagadahoc County;

(29) Narraguagus Junction WMA - Cherryfield - Washington County;

(30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;

(31) Orange River WMA - Whiting - Washington County;

(32) Peaks Island WMA - Portland - Cumberland County;

(33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;

(34) Steve Powell WMA – Perkins Township - Sagadahoc County (being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island, formerly known as Alexander Islands);

(35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;

(36) James Dorso Ruffingham Meadow WMA - Montville, Searsmont - Waldo County;

(37) St. Albans WMA - St. Albans - Somerset County;

(38) Sandy Point WMA - Stockton Springs - Waldo County;

(39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland County and York County;

(40) Steep Falls WMA - Standish, Baldwin - Cumberland County;

(41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;

(42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;

(43) R. Waldo Tyler Weskeag Marsh WMA - South Thomaston, Thomaston, Rockland, Owl's Head, Friendship - Knox County;

(43-A) Kennebec River Estuary WMA - Arrowsic, Bath, Georgetown, Phippsburg, West Bath, Woolwich - Sagadahoc County;

(43-B) Tolla Wolla WMA - Livermore - Androscoggin County;

(43-C) Green Point WMA - Dresden - Lincoln County;

(43-D) Hurds Pond WMA - Swanville - Waldo County;

(43-E) Sherman Lake WMA - Newcastle, Damariscotta - Lincoln County;

(43-F) Ducktrap River WMA - Belmont, Lincolnville - Waldo County; and

~~(44) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas.~~

(45) Stump Pond WMA - New Vineyard - Franklin County;

(46) Bog Brook WMA - Beddington, Deblois - Washington County;

(47) Cobscook Bay WMA - Lubec, Pembroke, Perry, Trescott Township - Washington County;

(48) Mattawamkeag River System WMA - Drew Plantation, Kingman Township, Prentiss Township, Webster Township - Penobscot County;

(49) Booming Ground WMA - Forest City - Washington County;

(50) Butler Island WMA - Ashland - Aroostook County;

(51) Pollard Flat WMA - Masardis - Aroostook County;

(52) Caribou Bog WMA - Old Town, Orono - Penobscot County;

(53) Delano WMA - Monson - Piscataquis County;

(54) Egypt Bay WMA - Hancock - Hancock County;

(55) Spring Brook WMA - Hancock - Hancock County;

(56) Strong WMA - Strong - Franklin County;

(57) Plymouth Bog WMA - Plymouth - Penobscot County; and

(58) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas.

Sec. 35. 12 MRSA §12904, as amended by PL 2009, c. 211, Pt. B, §13, is further amended to read:

§12904. Exceptions

This chapter does not apply to the operation of canoes or kayaks. This chapter does not apply to guides or youth camp trip leaders licensed under chapter 927 or motorboat operators licensed under chapter 935, unless those persons are in the business of conducting commercial ~~white-collar~~ whitewater trips.

Sec. 36. 12 MRSA §13154-A, sub-§3, as enacted by PL 2003, c. 655, Pt. B, §404 and affected by §422 and enacted by c. 695, Pt. B, §12 and affected by Pt. C, §1, is further amended to read:

3. Unlawfully operating ATV by person 10 to under 16 years of age. Except as provided in subsection 6, a person 10 years of age or older but under 16 years of age may not operate an ATV unless that person has successfully completed a training course approved by the department pursuant to section 13152 and is accompanied by an adult. Proof of having completed a training course must be presented for inspection upon request of a law enforcement officer.

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. 37. 36 MRSA §191, sub-§2, ¶GG, as amended by PL 2009, c. 340, §27, is further amended to read:

GG. The disclosure to the Department of Inland Fisheries and Wildlife, Division of Licensing~~,~~ and 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. 38. Issuance of additional moose permits for the 2011 moose hunting season. The Commissioner of Inland Fisheries and Wildlife is authorized to increase the number of moose hunting permits available for the 2011 moose hunting season as long as that increase is based on the most recent moose population data and will not jeopardize the viability of the moose population in this State.

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

Effective June 8, 2011.

CHAPTER 254

H.P. 365 - L.D. 472

An Act To Enhance the Security of Hospital Patients, Visitors and Employees

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

Sec. 1. 22 MRSA §1832 is enacted to read:

§1832. Safety and security in hospitals

A hospital licensed under this chapter shall, on an annual basis, adopt a safety and security plan to protect the patients, visitors and employees of the hospital from aggressive and violent behavior. The safety and security plan must include a process for hospitals to receive and record incidents and threats of violent behavior occurring at or arising out of employment at the hospital. The safety and security plan must prohibit a representative or employee of the hospital from interfering with a person making a report as provided in the plan.

Sec. 2. Application. The provisions of this Act apply to critical access hospitals as defined in the Maine Revised Statutes, Title 22, section 7932, subsection 10 beginning on July 1, 2012 and to all other hospitals beginning on January 1, 2012.

See title page for effective date.

CHAPTER 255

S.P. 343 - L.D. 1134

An Act To Make Municipal Recounts Consistent with State Recounts

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

Sec. 1. 30-A MRSA §2102, sub-§4, ¶C, as amended by PL 1993, c. 608, §4, is further amended to read:

C. When an original or supplementary petition has been certified insufficient, the committee, within 2 days after receiving the copy of the clerk's certificate, may file a request with the municipal officers for review.

The municipal officers shall inspect the petitions in substantially the same form~~,~~ and manner ~~and time~~ as a recount ~~hearing~~ under section ~~2531-A~~ 2531-B and shall make due certificate of that inspection. The municipal officers shall file a copy of that certificate with the municipal clerk and mail a copy to the committee. The certificate of the municipal officers is a final determination of the sufficiency of the petitions.

Sec. 2. 30-A MRSA §2354, sub-§5, as amended by PL 1993, c. 608, §5, is further amended to read:

5. Recount. Upon written application of 10% of the persons, or 100 persons, whichever is less, whose names were checked on the voting lists at any quasi-municipal corporation or district referendum held under this chapter, ~~a ballot inspection or~~ a recount ~~hearing~~ must be granted. The time limits, rules and all other matters applying to candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally to applicants for ~~either the inspection or~~ recount.

Sec. 3. 30-A MRSA §2530-A, first and 2nd ¶¶, as enacted by PL 1993, c. 608, §11, are amended to read:

This section ~~governs all inspections~~ provides for the preliminary inspection of ballots and incoming voting lists cast in any election for municipal office. Inspection procedures for other offices do not apply to elections for municipal office.

If a candidate other than a declared winner in an election applies in writing to the municipal clerk within 5 days after the result of a city election or an election under section 2528 has been declared, the municipal clerk shall permit the candidate or the candidate's agent, after payment of any ~~deposit~~ fee required under subsection ~~2~~ 9, to inspect the ballots and incoming voting lists under proper protective regulations for the purpose of determining whether or not to request a recount under section 2531-B. The final day of the 5-day period ends at the close of regular business hours in the office of the municipal clerk. The candidate requesting the inspection may request a random or complete inspection of the ballots and incoming voting lists.

Sec. 4. 30-A MRSA §2530-A, sub-§§2, 3 and 4, as enacted by PL 1993, c. 608, §11, are repealed.

Sec. 5. 30-A MRSA §2530-A, sub-§9 is enacted to read:

9. Municipal clerk may assess fee. The municipal clerk may assess a fee for the inspection of ballots as provided in this section. The fee may not exceed the actual costs to administer the inspection of ballots conducted in accordance with this section.

Sec. 6. 30-A MRSA §2531-A, as amended by PL 1999, c. 712, §1, is repealed.

Sec. 7. 30-A MRSA §2531-B is enacted to read:

§2531-B. Recount of an election for office

A recount for an election for municipal office must be performed by a municipal clerk or the clerk's designee pursuant to the provisions of Title 21-A, section 737-A and the rules adopted pursuant to Title 21-A, section 737-A, except that the provisions of Title 21-A, section 737-A, subsections 1, 5 and 12 and the duties of the State Police do not apply to this section. Except for the municipal clerk or the municipal clerk's designee, an election official as defined in Title 21-A, section 1, subsection 14 or an official of a municipal police department performing an official duty in a recount, an employee or elected official of the municipality or a candidate in an election may not participate in a recount of that election under this section.

1. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

2. Amount of deposit. The amount of the deposit is determined by the clerk of the municipality

and must be 50% of the reasonable estimate of the cost to the municipality performing the recount.

3. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a recount is requested by a losing candidate or an undeclared write-in candidate. This deposit, made by the candidate requesting the recount, is forfeited to the municipality if a subsequent recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 1 may not be charged for the recount regardless of whether the procedure changes the result of the election.

Sec. 8. 30-A MRSA §2532, as amended by PL 1993, c. 608, §14, is further amended to read:

§2532. Referendum recount procedure

In the case of a referendum, ~~a ballot inspection or~~ a recount ~~hearing~~ must be granted upon written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any town referendum or ballot question under section 2105 or 2528, or any city referendum. The time limits, rules and all other matters applying to candidates under ~~sections 2530-A and 2531-A~~ section 2531-B apply equally to applicants for ~~either~~ the ~~inspection or~~ recount. Except as otherwise provided in this section, the method of conducting a referendum recount is governed by Title 21-A, section 737-A.

Sec. 9. 30-A MRSA §2556, as amended by PL 1993, c. 608, §16, is further amended to read:

§2556. Recount; challenge for office

Sections ~~2530-A~~ 2531-B to 2533 apply in a city and govern ~~ballot inspections,~~ recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office.

Sec. 10. 30-A MRSA §5404, sub-§1, ¶A, as amended by PL 1993, c. 608, §17, is further amended to read:

A. Revenue bonds of a town, as distinguished from a city, may not be issued until the general purpose for which the bonds are to be issued and the maximum principal amount of the bonds to be authorized have been approved by ballot by a majority of the votes cast on the question. The total number of votes cast must be equal to at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election. The ballot submitted to the voters of a town to authorize the issuance of revenue bonds must state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued. The voting at meetings held in towns must be held and conducted in accordance with sections 2528 to ~~2531-A~~ 2531-B, even if the town has not accepted the provisions of section 2528.

See title page for effective date.

CHAPTER 256

S.P. 479 - L.D. 1517

An Act To Amend the Uniform Principal and Income Act

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

Sec. 1. 18-A MRSA §7-749, as enacted by PL 2001, c. 544, §2, is amended to read:

§7-749. Deferred compensation, annuities and similar payments

(a). In this section~~, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. The term includes a payment made in money or property from the payor's general assets or from a separate fund created by the payor, including a private or commercial annuity, an individual retirement account and a pension, profit-sharing, stock-bonus or stock-ownership plan.~~:

(1). "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. The term includes a payment made in money or property from the payor's general assets or from a separate fund created by the payor. For the purposes of subsections (d), (d-1), (d-2) and (d-3), "payment" also includes any payment from any separate fund, regardless of the reason for the payment; and

(2). "Separate fund" includes a private or commercial annuity, an individual retirement account and a pension, profit-sharing, stock-bonus or stock-ownership plan.

(b). To the extent that a payment is characterized as interest ~~or,~~ a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate ~~it~~ the

payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend or an equivalent payment.

(c). If no part of a payment is characterized as interest, a dividend or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10% of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d). ~~If, to obtain an estate tax marital deduction for~~ Except as otherwise provided in subsection (d-1), subsections (d-2) and (d-3) apply and subsections (b) and (c) do not apply in determining the allocation of a payment made from a separate fund to a trust~~, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.~~:

(1). That qualifies for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(7) (2010), as amended, and for which either such an election has been made for federal purposes or for which an election under the pertinent provisions of the laws of the State to qualify as Maine qualified terminable interest property has been made; or

(2). That qualifies for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(5) (2010), as amended.

(d-1). Subsections (d), (d-2) and (d-3) do not apply if and to the extent that the series of payments would, without the application of subsection (d), qualify for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(7)(C) (2010), as amended.

(d-2). A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this Part. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(d-3). If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal 4% of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under the federal Internal Revenue Code, 26 United States Code, Section 7520 (2010), as amended, for the month preceding the accounting period for which the computation is made.

(e). This section does not apply to ~~payments~~ a payment to which section 7-750 applies.

Sec. 2. 18-A MRSA §7-765, as enacted by PL 2001, c. 544, §2, is amended to read:

§7-765. Income taxes

(a). A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(b). A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c). A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid ~~proportionately~~:

(1). From income to the extent that receipts from the entity are allocated only to income; ~~and~~

(2). From principal to the extent that~~:~~ receipts from the entity are allocated only to principal;

~~(i) Receipts from the entity are allocated to principal; and~~

~~(ii) The trust's share of the entity's taxable income exceeds the total receipts described in paragraph (1) and subparagraph (i).~~

(3). Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4). From principal to the extent that the tax exceeds the total receipts from the entity.

~~(d). For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.~~

(e). After applying subsections (a) to (c), the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.

Sec. 3. 18-A MRSA §7-774 is enacted to read:

§7-774. Transitional matters

Section 7-749 applies to a trust described in section 7-749, subsection (d) on and after the following dates:

(1). If the trust is not funded as of January 1, 2012, the date of the decedent's death;

(2). If the trust is initially funded in the calendar year beginning January 1, 2012, the date of the decedent's death; or

(3). If the trust is not described in subsection (1) or (2), January 1, 2012.

Sec. 4. Effective date. This Act takes effect January 1, 2012.

Effective January 1, 2012.

CHAPTER 257

H.P. 1129 - L.D. 1537

An Act To Amend Licensing and Certification Laws Administered by the Department of Health and Human Services

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

Sec. 1. 22 MRSA §1717, sub-§3, ¶A, as enacted by PL 2003, c. 634, §1, is amended to read:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants and Direct Care Workers;

Sec. 2. 22 MRSA §1812-G, as amended by PL 2009, c. 590, §2, is further amended to read:

§1812-G. Maine Registry of Certified Nursing Assistants and Direct Care Workers

1. Established. The Maine Registry of Certified Nursing Assistants and Direct Care Workers is established in compliance with federal and state requirements. The Department of Health and Human Services shall maintain the registry.

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

A. "Certified nursing assistant" means an individual who has successfully completed an approved nursing assistant training program, holds a certificate of training and meets the eligibility requirements established by the State Board of Nursing for listing on the registry.

B. "Registry" means the Maine Registry of Certified Nursing Assistants and Direct Care Workers established in subsection 1, which is a list of certified nursing assistants, with notations if applicable, and a list of unlicensed assistive persons with notations.

C. "Unlicensed assistive person" or "direct care worker" means an individual employed to provide hands-on assistance with activities of daily living or other services to individuals in homes, assisted living programs, residential care facilities, hospitals and other health care and direct care settings. "Unlicensed assistive person" and "direct care worker" include but are not limited to a direct support professional, residential care specialist, personal support specialist, mental health support specialist, mental health rehabilitation technician, behavior specialist, other qualified mental health professional, certified residential medication aide and registered medical assistant and other direct care workers as described in rules adopted by the department. "Unlicensed assistive person" ~~does~~ and "direct care worker" do not include a certified nursing assistant employed in the capacity of a certified nursing assistant.

2. Contents. The registry must contain a listing of certified nursing assistants. The listing must include, for any certified nursing assistant listed, a notation of:

A. Any criminal convictions, except for Class D and Class E convictions over 10 years old that did not involve as a victim of the act a patient, client or resident of a health care entity; and

B. Any specific documented findings by the state survey agency of abuse, neglect or misappropriation of property of a resident, client or patient. For purposes of this section, "state survey agency" means the agency specified under 42 United States Code, Sections 1395aa and 1396 responsible for determining whether institutions and agencies meet requirements for participation in the State's Medicare and Medicaid programs.

The registry must also contain a listing of any unlicensed assistive persons who have notations pursuant to section 1812-J.

3. Eligibility requirements for listing. The State Board of Nursing shall adopt rules pursuant to the Maine Administrative Procedure Act defining eligibility requirements for listing on the registry, including rules regarding temporary listing of nursing assistants who have received training in another jurisdiction. The rules must permit nursing assistants to work under the supervision of a registered professional nurse in a facility providing assisted living services as defined in chapter 1664 and must recognize work in those facilities for the purpose of qualifying for and continuing listing on the registry. Rules adopted regarding the work of nursing assistants in facilities providing assisted living services are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

4. Verification of credentials and training. The department shall verify the credentials and training of all certified nursing assistant applicants to the registry.

4-A. Provider verification fee. The department may establish a provider verification fee not to exceed $25 annually per provider for verification of a certified nursing assistant's credentials and training. Providers may not pass the cost on to the individual certified nursing assistant. Provider verification fees collected by the department must be placed in a special revenue account to be used by the department to operate the registry, including but not limited to the cost of criminal history record checks. The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Verifying certified nursing assistant listing. A health care institution, facility or organization that employs a certified nursing assistant shall, before hiring a certified nursing assistant, verify with the registry that the certified nursing assistant is listed on the registry.

6. Registry notations. Except as otherwise provided in this section:

A. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; and

B. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual:

(1) Has been the subject of a complaint involving abuse or neglect that was substantiated by the department pursuant to its responsibility to license hospitals, nursing facilities, home health agencies and assisted housing programs and that was entered on the registry; or

(2) Has been the subject of a complaint involving the misappropriation of property in a health care setting that was substantiated by the department and entered on the registry.

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

8. Exception. The restrictions on employment under subsections 6 and 7 do not apply to an individual listed and active on the registry prior to the effective date of this subsection, as long as the individual meets other state and federal requirements for certified nursing assistants and continues to maintain an active status by timely reregistration as required by the rules.

9. Notification. A nursing assistant training program must notify applicants to that program of the restrictions under subsections 6 and 7 prior to the acceptance of any applicant.

Sec. 3. 22 MRSA §1812-J, sub-§1, as enacted by PL 2009, c. 215, §2, is amended to read:

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

A. "Certified nursing assistant" means an individual who has successfully completed an approved nursing assistant training program, holds a certificate of training and meets the eligibility requirements established by the State Board of Nursing for listing on the registry.

A-1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

A-2. "Disqualifying criminal conviction" means a criminal conviction identified in rules adopted by the department that prohibit employment as an unlicensed assistive person.

A-3. "Health care and direct care settings" means settings in which a certified nursing assistant or unlicensed assistive person is providing direct care in that assistant's or person's capacity as a certified nursing assistant or an unlicensed assistive person.

A-4. "High severity" means the level, as established by the department by rule, of abuse, neglect or misappropriation of property of a client, patient or resident that forms the basis for a substantiated finding after investigation of a complaint against an unlicensed assistive person of abuse, neglect or misappropriation of property of a client, patient or resident.

A-5. "Indicated finding" means an administrative determination made by the department, after investigation of a complaint against an unlicensed assistive person of abuse, neglect or misappropriation of property of a client, patient or resident, that the abuse, neglect or misappropriation of property of a client, patient or resident was of low to moderate severity based on criteria established by the department by rule and that the person is not prohibited from employment as an unlicensed assistive person.

A-6. "Low to moderate severity" means the level, as established by the department by rule, of abuse, neglect or misappropriation of property of a client, patient or resident that forms the basis for an indicated finding after investigation of a complaint against an unlicensed assistive person of abuse, neglect or misappropriation of property of a client, patient or resident.

A-7. "Nondisqualifying criminal conviction" means a criminal conviction identified in rules adopted by the department that is included as a notation on the registry but does not prohibit employment as an unlicensed assistive person.

B. "Registry" means the Maine Registry of Certified Nursing Assistants and Direct Care Workers, which is a list of certified nursing assistants, with notations if applicable, and a list of unlicensed assistive persons with notations and is established under section 1812-G.

C. "State survey agency" ~~has the same meaning as in section 1812-G, subsection 2, paragraph B~~ means the agency specified in 42 United States Code, Sections 1395aa and 1396 responsible for determining whether institutions and agencies meet requirements for participation in the State's Medicare and Medicaid programs and authorized to investigate and substantiate complaints against certified nursing assistants.

C-1. "Substantiated finding" means an administrative determination made by the department, after investigation of a complaint against an unlicensed assistive person of abuse, neglect or misappropriation of property of a client, patient or resident, that the abuse, neglect or misappropriation of property of a client, patient or resident was of high severity based on criteria established by the department by rule.

D. "Unlicensed assistive person" or "direct care worker" means an individual employed to provide hands-on assistance with activities of daily living or other services to individuals in homes, assisted living programs, residential care facilities, hospitals and other health care and direct care settings. "Unlicensed assistive person" and "direct care worker" include but are not limited to a direct support professional, residential care specialist, personal support specialist, mental health support specialist, mental health rehabilitation technician, behavior specialist, other qualified mental health professional, certified residential medication aide and registered medical assistant and other direct care workers as described in rules adopted by the department. "Unlicensed assistive person" ~~does~~ and "direct care worker" do not include a certified nursing assistant employed in the capacity of a certified nursing assistant.

E. "Unsubstantiated finding" means an administrative determination made by the department, after investigation of a complaint against an unlicensed assistive person of abuse, neglect or misappropriation of property of a client, patient or resident, that no abuse, neglect or misappropriation of property of a client, patient or resident was found to support an indicated finding or a substantiated finding of abuse, neglect or misappropriation of property of a client, patient or resident.

Sec. 4. 22 MRSA §1812-J, sub-§2-A is enacted to read:

2-A. Department decision after investigation of complaint. Based on criteria established by rule, the department, after investigation of a complaint of abuse, neglect or misappropriation of property of a client, patient or resident, shall:

A. Make a substantiated finding;

B. Make an indicated finding; or

C. Make an unsubstantiated finding.

Sec. 5. 22 MRSA §1812-J, sub-§3, as enacted by PL 2009, c. 215, §2, is amended to read:

3. Substantiated finding of complaint; registry listing. When a complaint against an unlicensed assistive person is substantiated by the department and the unlicensed assistive person ~~must be~~ is listed on the registry pursuant to subsection 4, the department's decision becomes final agency action as defined in Title 5, section 8002, subsection 4. The department shall notify the employer of the unlicensed assistive

person that a substantiated finding of a complaint has been listed as a notation on the registry.

Sec. 6. 22 MRSA §1812-J, sub-§3-A is enacted to read:

3-A. Indicated finding of complaint; no registry listing. An indicated finding by the department of a complaint against an unlicensed assistive person does not prohibit employment and is not listed as a notation on the registry. The department's complaint investigation decision becomes final agency action as defined in Title 5, section 8002, subsection 4.

Sec. 7. 22 MRSA §1812-J, sub-§6, as enacted by PL 2009, c. 215, §2, is amended to read:

6. Petition for removal of a substantiated finding of abuse, neglect or misappropriation of property. No sooner than 12 months after the date ~~a~~ an abuse, neglect or misappropriation of property substantiated finding is placed on the registry, an unlicensed assistive person may petition the department to remove a notation from the registry if the substantiated complaint of abuse, neglect or misappropriation of property is a one-time occurrence and there is no pattern of abuse ~~or,~~ neglect or misappropriation of property.

Sec. 8. 22 MRSA §1812-J, sub-§7, as enacted by PL 2009, c. 215, §2, is amended to read:

7. Prohibited employment based on substantiated complaint. The following unlicensed assistive persons may not be employed or placed by a licensed, certified or registered agency or facility:

A. An unlicensed assistive person listed on the registry with a notation for a substantiated finding; or

B. An unlicensed assistive person who, while working as a certified nursing assistant, had a notation on the registry for a ~~complaint that was~~ substantiated finding of a complaint by the state survey agency for abuse ~~or,~~ neglect~~;~~ or misappropriation of property of a client, patient or resident.

~~C. An unlicensed assistive person who, while working as a certified nursing assistant, had a notation on the registry for a complaint that was substantiated by the state survey agency for misappropriation of property in a health care setting.~~

An employment ban based on a substantiated finding of a complaint is a lifetime employment ban.

Sec. 9. 22 MRSA §1815, as amended by PL 2003, c. 507, Pt. C, §1 and affected by §4, is further amended to read:

§1815. Fees

Each application for a license to operate a hospital, convalescent home or nursing home must be accompanied by a nonrefundable fee. Hospitals shall pay $40 for each bed contained within the facility. Nursing and convalescent homes shall pay $26 for each bed contained within the facility. Each application for a license to operate an ambulatory surgical facility must be accompanied by the fee established by the department. The department shall establish the fee for an ambulatory surgical facility, not to exceed $500, on the basis of a sliding scale representing size, number of employees and scope of operations. All licenses ~~issued~~ must be renewed annually, or for a term of years, as required by law upon payment of ~~a like fee~~ a renewal fee. Hospitals shall pay a $40 renewal fee for each bed contained within the facility. Nursing and convalescent homes shall pay a $26 renewal fee for each bed contained within the facility. In the case of a license renewal that is valid for more than one year, the renewal fee must be multiplied by the number of years in the term of the license. The State's share of all fees received by the department under this chapter must be deposited in the General Fund. A license granted may not be assignable or transferable. State hospitals are not required to pay licensing fees.

Sec. 10. 22 MRSA §2041, sub-§5, as enacted by PL 1997, c. 658, §1, is amended to read:

5. ESRD facility. "ESRD facility" ~~includes a renal transplantation center,~~ means a renal dialysis center ~~or,~~ a renal dialysis facility, a self-dialysis unit or a special-purpose renal dialysis facility.

Sec. 11. 22 MRSA §2041, sub-§6, as enacted by PL 1997, c. 658, §1, is repealed.

Sec. 12. 22 MRSA §2041, sub-§9, as enacted by PL 1997, c. 658, §1, is amended to read:

9. Self-dialysis unit. "Self-dialysis unit" means a unit that is part of an approved ~~renal transplantation center,~~ renal dialysis center or renal dialysis facility and furnishes self-dialysis services.

Sec. 13. 22 MRSA §2042, sub-§7, as enacted by PL 1997, c. 658, §1, is amended to read:

7. Minimum survey requirement. An ESRD facility is not eligible for licensure or renewal of licensure unless the ESRD facility has had a Medicare survey or a state licensure survey within the previous ~~year~~ 36 months.

Sec. 14. 22 MRSA §2131, sub-§1-A, as enacted by PL 2001, c. 494, §1, is amended to read:

1-A. Verifying certified nursing assistant eligibility. A health care institution, facility or organization, including a temporary nurse agency employing a certified nursing assistant, shall, before hiring a certified nursing assistant, verify that the certified nursing assistant is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers established under section 1812-G with no annotations to prohibit the hiring of that individual according to state and federal regulations.

Sec. 15. 22 MRSA §2131, sub-§4, ¶A, as enacted by PL 2009, c. 621, §3, is amended to read:

A. A person who operates a temporary nurse agency without registering or who fails to verify the inclusion of a certified nursing assistant on the Maine Registry of Certified Nursing Assistants and Direct Care Workers established under section 1812-G before hiring that certified nursing assistant pursuant to subsection 1-A commits a civil violation for which a fine of not less than $500 per day but not more than $10,000 per day may be adjudged. Each day constitutes a separate violation.

Sec. 16. 22 MRSA §2138, sub-§1, as enacted by PL 2009, c. 621, §5, is amended to read:

1. Subject of notation. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants and Direct Care Workers established under section 1812-G;

Sec. 17. 22 MRSA §2149-A, sub-§2, ¶A, as enacted by PL 2003, c. 634, §4, is amended to read:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants and Direct Care Workers;

Sec. 18. 22 MRSA §8606, sub-§1, ¶A, as enacted by PL 2003, c. 634, §10, is amended to read:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants and Direct Care Workers;

Sec. 19. 32 MRSA §2102, sub-§8, ¶A, as amended by PL 1993, c. 600, Pt. A, §112, is further amended to read:

A. Has successfully completed a training program or course with a curriculum prescribed by the board, holds a certificate of training from that program or course and is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers; or

Sec. 20. 32 MRSA §2102, sub-§8, ¶B, as enacted by PL 1991, c. 421, §2, is amended to read:

B. Was certified before September 29, 1987 and is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers.

Sec. 21. 32 MRSA §2102, sub-§9, as corrected by RR 2001, c. 2, Pt. A, §42, is amended to read:

9. Maine Registry of Certified Nursing Assistants and Direct Care Workers. "Maine Registry of Certified Nursing Assistants and Direct Care Workers" has the same meaning as in Title 22, section 1812-G.

Sec. 22. 32 MRSA §2104, sub-§4, as amended by PL 2009, c. 628, §3, is further amended to read:

4. Approval and monitoring of nursing assistant training curriculum and faculty. An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants and Direct Care Workers must apply to the Department of Health and Human Services and submit evidence:

A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board;

B. That it is prepared to meet those standards established by the board;

C. That it is prepared to meet those standards for educational programming and faculty as established by the Department of Health and Human Services; and

D. With respect to an application by a health care facility, that an educational institution cannot provide a nursing assistant training program within 30 days of the application date.

The Department of Health and Human Services shall issue a notice of approval to an educational institution or health care facility that meets the requirements of this subsection.

See title page for effective date.

CHAPTER 258

H.P. 225 - L.D. 277

An Act To Make Disputed Ballots in State Elections Public

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

Sec. 1. 21-A MRSA §739, as amended by PL 1993, c. 473, §33 and affected by §46, is further amended to read:

§739. Ballots and incoming voting lists available for inspection

On request, a municipal clerk or the Secretary of State, or both, shall produce any ballots or incoming voting lists in their custody before the Governor, either branch of the Legislature, any legislative committee or a court of competent jurisdiction. If there is an unresolved disputed ballot for an election to the State House of Representatives or the State Senate arising from a recount conducted pursuant to section 737-A, the Secretary of State shall make a copy of that ballot available for inspection by the public. A copy of a ballot that is made available for public inspection pursuant to this section must be made available in a manner that preserves the voter's anonymity. Copies of disputed ballots made available for public inspection under this section must be retained by the Secretary of State for a period of 2 years after the outcome of the election is finally determined.

After the time for completion of recounts following any election has elapsed, and on request of any person, the clerk of any municipality or the Secretary of State, or both, shall produce any incoming voting lists in ~~his~~ the clerk's or Secretary of State's custody.

See title page for effective date.

CHAPTER 259

H.P. 479 - L.D. 649

An Act To Establish a Special Food and Beverage Industry Taste-testing Event License

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 economy of the State is greatly benefitted from the promotion of tourism and the superior hospitality services available in this State; and

Whereas, the Legislature should take advantage of any opportunity to support Maine's economy; and

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

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

Sec. 1. 28-A MRSA §709, sub-§2, ¶E, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

E. Those licensed under ~~section~~ sections 1052-B, 1052-C, 1205, 1207 and 1402 offering free ~~wine~~ samples or tastings;

Sec. 2. 28-A MRSA §1052-C is enacted to read:

§1052-C. Special food and beverage industry taste-tasting event license

1. Special food and beverage industry taste-tasting event license. Malt liquor and wine wholesalers licensed under section 1401 and manufacturers licensed under section 1355 may apply jointly for a special food and beverage industry taste-tasting event license to participate in a special food and beverage industry taste-testing event under this section. This license authorizes taste testing of malt liquor, wine, fortified wine and spirits at an event designed to promote the food and beverage or hospitality industry where more than 50% of the participants in the event represent an industry or business that holds a license to manufacture, sell or serve alcoholic beverages.

2. Fee. The license fee for the special food and beverage industry event taste-testing license is $20 for each wholesaler or manufacturer.

3. Application. The wholesaler and manufacturer licensees must apply jointly for a special food and beverage industry taste-testing event license by filing a written application with the bureau at least 30 days before the special food and beverage industry taste-testing event. The application must include the following:

A. The name and address of each licensee;

B. The title and purpose of the event;

C. The date, time and duration of the event;

D. The location of the event; and

E. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality where the proposed special food and beverage industry taste-testing event will be located. Notwithstanding section 653, the approval may be granted without public notice.

4. Up to 5 licensed events per year; one event per license. A manufacturer or wholesaler may obtain up to 5 licenses under this section per calendar year. Each license permits an event lasting up to 3 consecutive days.

5. Ruling on application. Upon receipt of an application under subsection 3, the bureau shall immediately approve or deny the application. The bureau shall advise the applicants that the license may be revoked or suspended under chapter 33.

6. Conditions. The following conditions apply to special food and beverage industry taste-testing events under this section.

A. A sales representative licensed in accordance with section 1502 of a manufacturer that has been issued a license under this section may pour or provide a taste-testing sample of any product the manufacturer is licensed to manufacture under this Title.

B. A certificate of approval holder may pour or provide a taste-testing sample of any malt liquor, wine or fortified wine product the certificate of approval holder is licensed to distribute under this Title.

C. A minor is prohibited from attending the event unless accompanied by a parent or guardian or the alcohol served at the event is confined to a segregated area where minors are prohibited.

D. Taste-testing must be conducted within the hours of retail sale established in this Title.

E. A person who is visibly intoxicated may not be served.

7. Additional provision for wine. A sales representative licensed in accordance with section 1502 may provide wine that is not registered with the bureau but has been registered with the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau to a caterer licensed to serve alcoholic beverages at the food and beverage industry taste-testing event for the purpose of promoting that wine for distribution and sale in the State.

8. Excise taxes; premiums. A licensee under this section must pay the appropriate excise taxes and premiums under sections 1652 and 1703 before the scheduled date of the special food and beverage industry taste-testing event.

Sec. 3. Waiver. Notwithstanding the Maine Revised Statutes, Title 28-A, section 1052-C, subsection 3, until August 1, 2011, the bureau may issue a special food and beverage industry taste-testing event license regardless of whether or not the application for the event license was submitted 30 days before the event.

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

Effective June 8, 2011.

CHAPTER 260

S.P. 189 - L.D. 609

An Act To Declare Certain Records of the Maine Commission on Indigent Legal Services Confidential

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

Sec. 1. 4 MRSA §1806 is enacted to read:

§1806. Information not public record

Disclosure of information and records in the possession of the commission 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. "Individual client information" means name, date of birth, social security number, gender, ethnicity, home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number and any information protected under the attorney-client relationship.

B. "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, personal pager number, date of birth and social security number.

C. "Request for funds for expert or investigative assistance" means a request submitted to the commission by an indigent party or by an attorney on behalf of an indigent client seeking authorization to expend funds for expert or investigative assistance, which includes, but is not limited to, the assistance of a private investigator, interpreter or translator, psychiatrist, psychologist or other mental health expert, medical expert and scientific expert.

2. Confidential information. The following information and records in the possession of the commission are not open to public inspection and do not constitute public records as defined in Title 1, section 402, subsection 3.

A. Individual client information that is submitted by a commission-rostered attorney or a court is confidential, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

B. Information subject to the lawyer-client privilege set forth in the Maine Rules of Evidence, Rule 502 or that constitutes a confidence or secret under the Maine Rules of Professional Conduct, Rule 1.6 is confidential.

C. Personal contact information of a commission-rostered attorney is confidential.

D. Personal contact information of a member of the commission or a commission staff member is confidential.

E. A request for funds for expert or investigative assistance that is submitted by an indigent party or by an attorney on behalf of an indigent client is confidential. The decision of the executive director of the commission hired pursuant to section 1804, subsection 1, or the executive director's designee, to grant or deny such a request is not confidential after a case has been completed. A case is completed when the judgment is affirmed on appeal or the period for appeal has expired.

F. Any information obtained or gathered by the commission when performing an evaluation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated.

See title page for effective date.

CHAPTER 261

S.P. 324 - L.D. 1091

An Act To Expand the Availability of Natural Gas to the Citizens of Maine

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

Sec. 1. 10 MRSA §963-A, sub-§12, as enacted by PL 1985, c. 344, §7, is amended to read:

12. Energy distribution system project. "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and ~~which~~ that uses biomass, peat, solar, waste, water and related dams, wind, wood, coal or natural gas or that distributes or transmits natural gas.

Sec. 2. 10 MRSA §1043, sub-§2, ¶M, as amended by PL 2009, c. 517, §8, is further amended to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97; ~~and~~

Sec. 3. 10 MRSA §1043, sub-§2, ¶N, as enacted by PL 2009, c. 517, §9, is amended to read:

N. In the case of recovery zone facility bonds, the project will benefit the county or counties in which it is located~~.~~; and

Sec. 4. 10 MRSA §1043, sub-§2, ¶O is enacted to read:

O. In the case of an energy distribution system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

(1) The energy distribution system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's Office of Energy Independence and Security and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a reasonable likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of reve-

nues and collateral pledged to the repayment of those securities. In order to make these determinations, 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 and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

(a) 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 reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;

(b) Whether the applicant demonstrates a reasonable 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;

(c) 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;

(d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(e) 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;

(f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(g) Whether the proposed project enhances the opportunities for economic development;

(h) The effect that the proposed project financing has on the authority's financial resources;

(i) The financial performance of similar projects;

(j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Office of Energy Independence and Security, other public officials and members of the public;

(k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes or transmits; and

(l) The cost advantages to end users of the fuel or energy to be distributed or transmitted by the project, to the extent those advantages may affect market penetration by the project.

Sec. 5. 10 MRSA §1043, sub-§5 is enacted to read:

5. Assistance. In considering any request for financial assistance from an applicant for a project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires for construction or operation authorization or certification from the commission, the commission, upon request of the authority, shall provide assistance in analyzing financial, economic or technical issues on which the commission has expertise. At the request of the commission, the authority shall assess the applicant a fee to be paid to the commission to reimburse the commission for any costs incurred by the commission that cannot be absorbed within its existing resources.

Sec. 6. 10 MRSA §1053, sub-§6, ¶A, as repealed and replaced by PL 1999, c. 531, Pt. G, §1, is amended to read:

A. The sum of $330,000,000 consisting of not more than $275,000,000 for loans and up to $55,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects or loans for energy distribution system projects, except that the authority's maximum financial liability for any energy distribution system project may not exceed the limits established annually by the authority;

See title page for effective date.

CHAPTER 262

S.P. 239 - L.D. 795

An Act To Expand Net Energy Billing

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

Sec. 1. 35-A MRSA §3209-A is enacted to read:

§3209-A. Net energy billing

The commission may adopt or amend rules governing net energy billing. Rules adopted or amended under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. "Net energy billing" means a billing and metering practice under which a customer is billed on the basis of net energy over the billing period taking into account accumulated unused kilowatt-hour credits from the previous billing period.

Sec. 2. Amendment of rules. The Public Utilities Commission shall amend its Rule Chapter 313 governing net energy billing to direct transmission and distribution utilities to develop term lengths for contracts for net energy billing and interconnection agreements for a length of time not to exceed 10 years that will not prevent owners or operators of eligible facilities with an installed capacity of at least 100 kilowatts but no greater than 660 kilowatts from securing reasonable financing, as determined by the commission, for the construction, renovation or upgrade of the eligible facility.

See title page for effective date.

CHAPTER 263

H.P. 772 - L.D. 1038

An Act Regarding Property Deposited with Museums and Historical Societies

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

Sec. 1. 27 MRSA §601, as amended by PL 2003, c. 20, Pt. T, §16, is further amended to read:

§601. Property deposited with museums

1. Property to be considered abandoned; definition. Any tangible property held by a museum ~~or historical society~~ within the State that is held for ~~25~~ 3 years or more without a written gift or loan agreement, or after expiration of a written loan agreement, and to which ~~no~~ a person has not made claim is ~~deemed~~ considered to be abandoned and, notwithstanding Title 33, chapter 41, becomes the property of the museum ~~or society~~, ~~provided that~~ as long as the estimated market value of the material is less than $100 or the museum ~~or society~~ has complied with subsection 2. The estimated market value must be determined by a qualified appraiser, and a written copy of the determination must be retained in the museum's permanent records. As used in this section, "museum" means an organization that is operated by a nonprofit corporation, public agency or educational institution primarily for educational, scientific, historic preservation, cultural or aesthetic purposes and that owns, cares for, exhibits, studies, archives and catalogues tangible property and includes, but is not limited to, historical societies, archives and art, history, science and natural history organizations.

2. Notice. ~~The~~ With respect to property under subsection 1 with a value of $100 or greater, for the property to become the property of the museum, the museum ~~or society~~ shall first exercise due diligence in attempting to notify the owner via certified mail, return receipt requested, to the owner's last known address and via electronic communication if appropriate. If an address is unavailable or these attempts fail, the museum shall cause to be published in at least one newspaper of general circulation in the county in which the museum ~~or society~~ is located at least once a week for 2 consecutive weeks a notice and listing of the property. The notice must contain:

A. The name and last known address, if any, of the last known owner of the property;

B. A description of the property; ~~and~~

C. A statement that if proof of claim is not presented by the current owner to the museum ~~or society~~ and if the owner's right to receive the property is not established to the museum's ~~or society's~~ satisfaction within 65 days from the date of the 2nd published notice, the property ~~will be deemed~~ is considered abandoned and ~~become~~ becomes the property of the museum ~~or society.~~;

D. The date of the loan of the property, if known, or the approximate date the property came into the custody of the museum;

E. The name of the museum; and

F. The name, address and contact information of the appropriate museum official or office to be contacted regarding the property.

3. Title to property. If property is abandoned under subsection 1, including property with respect to which notice under subsection 2 is required if no claim has been made to the property within 65 days from the date of the 2nd published notice, title to the property ~~shall vest~~ vests in the museum ~~or society~~, free from all claims of the previous owner and of all persons claiming through or under ~~him~~ the previous owner.

4. Emergency conservation measures. Unless a written loan agreement provides otherwise, a museum may apply conservation measures to, or dispose of, undocumented property or property on loan to the museum without the owner's permission if:

A. Immediate action is required to protect the undocumented property or property on loan; or

B. The undocumented property or the property on loan has become a hazard to the health or safety of the public or to the museum's staff and at least one of the following applies:

(1) The property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum may dispose of the property without delay and shall notify the owner of the action taken within 30 days;

(2) The museum is unable to reach the owner through available means of communication and action with respect to the property is necessary within 30 days; and

(3) The museum contacts the owner and the owner does not agree to the protective measures the museum recommends and does not, or is unable to, terminate the loan and collect the property within the time the museum determines the action is necessary.

5. Protection for reasonable actions. Unless a written loan agreement provides otherwise, a museum that applies conservation measures to or disposes of loaned property in accordance with subsection 4:

A. Shall acquire and may enforce a lien on the loaned property in the amount of the costs incurred by the museum;

B. Is not liable to the owner for damage to, or loss of, the loaned property as long as the museum had a reasonable belief at the time the action was taken that the action was necessary; and

C. Is not liable to the owner for damage to, or loss of, the loaned property due to conservation measures applied, as long as the museum exercised reasonable care in choosing and applying the conservation measures.

See title page for effective date.

CHAPTER 264

H.P. 817 - L.D. 1082

An Act Concerning the Protection of Personal Information in Communications with Elected Officials

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

Sec. 1. 1 MRSA §402, sub-§3, ¶C-1 is enacted to read:

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(e) An individual's social security number; or

(2) Would be confidential if it were in the possession of another public agency or official;

Sec. 2. Right To Know Advisory Committee. The Right To Know Advisory Committee, as established in the Maine Revised Statutes, Title 1, section 411, subsection 1, shall examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and any recommendations must be included in its 2012 annual report pursuant to Title 1, section 411, subsection 10.

See title page for effective date.

CHAPTER 265

H.P. 1004 - L.D. 1365

An Act Regarding Protection Orders

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

Sec. 1. 19-A MRSA §4012, sub-§11 is enacted to read:

11. Service of protection from abuse order. Every municipal, county and state law enforcement agency shall adopt a written policy on the service of protection from abuse orders that directs that every order issued under this chapter is served on the subject of the order as quickly as possible. Service of a protection from abuse order that is not in compliance with

a policy adopted under this subsection does not affect the validity of the service or the order.

Sec. 2. 25 MRSA §2803-B, sub-§1, ¶D, as amended by PL 2003, c. 361, §1, is further amended to read:

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; and

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible;

Sec. 3. 25 MRSA §2803-B, sub-§2, as repealed and replaced by PL 2009, c. 652, Pt. A, §37, 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)~~ (4) must be established no later than January 1, ~~2003~~ 2012; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

Sec. 4. 25 MRSA §2803-B, sub-§3, as repealed and replaced by PL 2009, c. 652, Pt. A, §38, 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)~~ (4) must be made to the board no later than June 1, ~~2003~~ 2012; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; certification for orientation and training with respect to policies regarding the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the board no later than January 1, 2011; and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary com-

mitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

See title page for effective date.

CHAPTER 266

S.P. 483 - L.D. 1522

An Act To Make Technical Changes to Marine Resources Laws

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

PART A

Sec. A-1. 12 MRSA §6022, sub-§18 is enacted to read:

18. Commissioner's authority. The State assents to the provisions of the Federal Aid in Sport Fish Restoration Act, 16 United States Code, Chapter 10B, as amended. The commissioner may perform all acts necessary for the establishment and implementation of cooperative fish restoration and management projects as defined by that Act and the implementing regulations promulgated under that Act.

Sec. A-2. 12 MRSA §6302-A, sub-§1, as amended by PL 2011, c. 137, §1, is further amended to read:

1. Tribal exemption; commercial harvesting licenses. A member of the Passamaquoddy Tribe or Penobscot Nation who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6502-A, 6505-A, 6505-C, 6535, 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 or nation to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe or Penobscot Nation 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 or nation:

A. May utilize lobster traps tagged with trap tags issued by the tribe or nation in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe or nation is not required to pay trap tag fees under section 6431-B if the tribe or nation issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe or nation in a manner consistent with tags issued pursuant to section 6505-B. A member of the tribe or nation is not required to pay elver fishing gear fees under section 6505-B if the tribe or nation 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. A-3. 12 MRSA §6310, sub-§1, as enacted by PL 1999, c. 643, §1, is amended to read:

1. Appeal of license denial. A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A ~~or;~~ a person who is denied a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license because that person does not meet the eligibility requirements of section 6749-O, subsection 2-A; or a person who is denied a hand fishing scallop license or a scallop dragging license because that person does not meet the eligibility requirements of section 6706, subsection 2 may appeal to the commissioner under this section for a review of that license denial.

Sec. A-4. 12 MRSA §6310, sub-§2, ¶C is enacted to read:

C. A hand fishing scallop license or a scallop dragging license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition; or

(2) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the scallop fishery and meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to entering the service. The person may not have served for more than 6 consecutive years since the most recent year in which the person held a license, and the person must have been honorably discharged from service. A person must request an appeal under this subparagraph within one year of discharge from service.

Sec. A-5. 12 MRSA §6421, sub-§5-D, ¶B, as enacted by PL 2007, c. 201, §7, is amended to read:

B. Possesses a valid federal lobster permit or a valid lobster fishing license from a state other than this State; and

Sec. A-6. 12 MRSA §6421, sub-§5-D, ¶C, as enacted by PL 2007, c. 201, §7, is amended to read:

C. Except as authorized under subsection 5-E, does not operate a lobster and crab fishing vessel with an established base of operations in this State~~; and~~.

Sec. A-7. 12 MRSA §6421, sub-§5-D, ¶D, as enacted by PL 2007, c. 201, §7, is repealed.

Sec. A-8. 12 MRSA §6421, sub-§5-E, as enacted by PL 2007, c. 201, §8, is amended to read:

5-E. Exception; nonresident lobster and crab landing permit with an established base of operations in State. An individual may be excepted from subsection 5-D, paragraph C as long as the individual submits documentation to the commissioner by December 31, ~~2007~~ 2011 that the individual operated a lobster and crab fishing vessel with an established base of operations in the State as a nonresident in calendar years ~~2006~~ 2010 and ~~2007~~ 2011. Documentation must include at a minimum proof of lobster landings at a Maine dealer, proof of utilization of a mooring or dock in a Maine harbor for a sufficient time to meet the requirements to be an established base of operations in this State pursuant to ~~Title 12,~~ section 6001, subsection 13-I, proof that the individual possessed a valid federal lobster permit or a valid lobster fishing license from a state other than this State and proof that the individual did not meet the resident provisions under section 6301, subsection 1.

Sec. A-9. 12 MRSA §6431, sub-§1, as amended by PL 2005, c. 6, §1, is further amended to read:

1. Minimum and maximum length. A person may not buy, sell, give away, transport, ship or possess any lobster that is less than the minimum size established in this subsection or more than 5 inches in length, as determined by the ~~state double gauge~~ lobster measure certified in accordance with subsection 3. Except as provided in subsection 1-A, the minimum lobster size is 3 8/32 inches.

Sec. A-10. 12 MRSA §6431, sub-§3, as repealed and replaced by PL 1995, c. 491, §1, is amended to read:

3. Certified lobster measure. The department shall use a ~~double gauge~~ lobster measure that is certified for accuracy by the Department of Agriculture, Food and Rural Resources, Office of Sealer of Weights and Measures. The measure must ~~have one gauge that conforms to the minimum legal lobster size in effect and another gauge 5 inches in length~~ conform to the legal lobster sizes in effect at the time. Any measurement used to substantiate a violation of this section must be made with a certified ~~double gauge~~ lobster measure.

Sec. A-11. 12 MRSA §6432, sub-§2, as amended by PL 2007, c. 201, §14, is further amended to read:

2. Marking. It is unlawful to set, raise, lift or transfer any lobster trap or buoy unless it is clearly marked with the owner's lobster and crab fishing license number or the owner's nonresident lobster and crab landing permit number. A lobster or crab trap or trawl must be marked by a lobster buoy as described in subsections 3 and 4. The buoy must be visible at the surface.

Sec. A-12. 12 MRSA §6432, sub-§3, as enacted by PL 1977, c. 661, §5, is amended to read:

3. Color design. It ~~shall be~~ is unlawful to set, raise, lift or transfer any lobster trap unless the color design of the attached buoy is the same as the color design that is on file with the license application and is displayed on the boat, or unless the person is duly licensed and possesses written permission from the rightful owner of the lobster trap or buoy. Prior notification of changes in buoy color design ~~shall~~ must be provided to the commissioner. The Bureau of Marine Patrol may require the alteration of an individual's lobster and crab fishing buoy color design if a marine patrol officer has determined that the buoy color design is not distinct and distinguishable from the buoy color designs of the individual's family members as defined by section 6431-E.

Sec. A-13. 12 MRSA §6434, sub-§2, as amended by PL 2003, c. 520, §5, is further amended to read:

2. Adoption of rules required. The commissioner shall adopt rules, no later than January 1, 1990, authorizing the removal of traps, warps, buoys or cars that are washed up above the mean low tide mark or are otherwise abandoned or lost. Notwithstanding Title 25, sections 3502 and 3503, the commissioner may dispose of such traps, warps, buoys or cars, or authorize their disposal, if the owner cannot be identified or if the owner has been notified and fails to respond within 30 days.

Sec. A-14. 12 MRSA §6501, sub-§3, ¶B, as amended by PL 2001, c. 421, Pt. B, §25 and affected by Pt. C, §1, is further amended to read:

B. A person may fish for, take, possess or transport halibut if they have been taken by tub trawl or by hook and line and are only for personal use.

Sec. A-15. 12 MRSA §6501, sub-§3, ¶C, as amended by PL 2001, c. 421, Pt. B, §25 and affected by Pt. C, §1, is repealed.

Sec. A-16. 12 MRSA §6501, sub-§6, as amended by PL 2001, c. 272, §7, is further amended to read:

6. Definition. For the purposes of this chapter, "fish" means all marine finfish ~~and~~ except Atlantic herring, Atlantic menhaden, whiting, spiny dogfish, alewife, Atlantic mackerel, blueback herring, squid ~~or~~, butterfish, scup, black sea bass, smelt and shad. For the purposes of this chapter, "fish" also means all other marine organisms, except lobsters, crabs, sea urchins, shellfish, scallops, marine worms, elvers, sea cucumbers, eels, shrimp or seaweed.

Sec. A-17. 12 MRSA §6505-D, sub-§2, as amended by PL 1999, c. 309, §2, is further amended to read:

2. Permissible uses. The commissioner may use the fund ~~in accordance with a plan required under subsection 3~~ to research and manage the State's eel and elver resources, to enforce the laws related to eels and elvers and to cover the costs associated with determining eligibility for elver fishing licenses.

Sec. A-18. 12 MRSA §6505-D, sub-§3, as enacted by PL 1995, c. 536, Pt. A, §8, is repealed.

Sec. A-19. 12 MRSA §6706, sub-§1, ¶A, as enacted by PL 2007, c. 607, Pt. A, §4, is amended to read:

A. The 2005, 2006~~,~~ or 2007 ~~or 2008~~ license year; or

Sec. A-20. 12 MRSA §6851, sub-§§2-B and 2-C, as enacted by PL 1993, c. 740, §4, are amended to read:

2-B. Wholesale seafood license with a sea urchin buyer's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin buyer's permit. A person holding a wholesale seafood license with a sea urchin buyer's permit may engage in all the activities in subsection 2 and may buy, sell, ship or transport whole sea urchins or sea urchin parts. A license under this subsection does not authorize a person to engage in the processing of sea urchins ~~or to buy, sell, ship or transport sea urchin parts~~.

2-C. Wholesale seafood license with a sea urchin processor's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin processor's permit. A person holding a wholesale seafood license with a sea urchin processor's permit may engage in all the activities in subsection 2 and may buy, sell, process, ship or transport whole sea urchins or sea urchin parts processed under that license.

Sec. A-21. 12 MRSA §6952-A, sub-§1, as enacted by PL 2003, c. 452, Pt. F, §36 and affected by Pt. X, §2, is amended to read:

1. Trawling, seining or netting for lobsters prohibited. A person may not:

A. Fish for or take lobsters by use of ~~an otter or beam~~ a trawl, ~~a scallop~~ drag ~~or trawl~~, dredge, seine or net; or

B. Possess any lobsters, regardless of their source, on board any boat rigged for ~~otter or beam trawling, scallop~~ dragging ~~or~~, trawling, dredging, seining or netting.

Sec. A-22. 12 MRSA §6952-A, sub-§3, ¶A, as enacted by PL 2003, c. 452, Pt. F, §36 and affected by Pt. X, §2, is amended to read:

A. A boat rigged for ~~otter or beam trawling, scallop~~ dragging ~~or~~, trawling, dredging or seining if all nets ~~and scallop~~, drags and dredges are removed from the boat; or

PART B

Sec. B-1. 5 MRSA §6201, sub-§1-A is enacted to read:

1-A. Commercial fisheries business. "Commercial fisheries business" means an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives;

B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives.

Sec. B-2. 5 MRSA §6201, sub-§5 is enacted to read:

5. Working waterfront or working waterfront property. "Working waterfront" or "working waterfront property" means land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business.

Sec. B-3. 5 MRSA §6203-B is enacted to read:

§6203-B. Maine Working Waterfront Access Protection Fund

1. Fund established. The Maine Working Waterfront Access Protection Fund, referred to in this section as "the fund," is established and is adminis-

tered by the board in cooperation with the Commissioner of Marine Resources under the provisions of this chapter and Title 12, section 6031-A. The fund consists of the proceeds from the sale of bonds authorized for the purposes set forth in subsection 3 and funds received as contributions from private and public sources for those purposes. The fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of a fiscal year must be carried forward for the next fiscal year.

2. Grants. The board may make grants to state agencies and designated cooperating entities for the purposes identified in subsection 3. Grants are made according to rules adopted by the board. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Fund proceeds. The proceeds of the fund may be applied and expended to acquire property or interests in property that are designed to protect access to working waterfront property consistent with the provisions of Title 12, section 6042. The board shall include as a condition of an acquisition or grant made under this section the requirement that the protected property may not be used, altered or developed in a manner that precludes its use by a commercial fisheries business consistent with the provisions of Title 33, chapter 6-A. Consistent with the provisions of Title 12, section 6042, working waterfront covenants obtained through expenditures of these funds are held by the Commissioner of Marine Resources.

4. Matching funds. For each grant made under this section, the board shall require the grant recipient to provide matching funds at least equal to the amount of the grant.

Sec. B-4. 12 MRSA §6001, sub-§6-A is enacted to read:

6-A. Commercial fisheries business. "Commercial fisheries business" means an enterprise directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives;

B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and

C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives.

Sec. B-5. 12 MRSA §6001, sub-§56 is enacted to read:

56. Working waterfront or working waterfront property. "Working waterfront" or "working waterfront property" means land, legally filled lands and piers and wharves and other improvements to land adjacent to the navigable coastal waters of the State and used by a commercial fisheries business.

Sec. B-6. 12 MRSA §6042 is enacted to read:

§6042. Maine Working Waterfront Access Protection Program

1. Program established; administration. The Maine Working Waterfront Access Protection Program, referred to in this section as "the program," is established to provide protection to strategically significant working waterfront property whose continued availability to commercial fisheries businesses is essential to the long-term future of the economic sector. The department shall administer the program either directly or by contract with a suitable organization.

2. Review panel. The department shall organize a review panel to advise the commissioner in the operation of the program, including, but not limited to, evaluating applications and recommending to the department applicants for participation in the program.

3. Selection criteria. The selection criteria with which to evaluate applications for protection of working waterfront property must include, but are not limited to:

A. The economic significance of the property to the commercial fisheries industry in the immediate vicinity and in the State as a whole;

B. The availability of alternative working waterfront property in the same vicinity;

C. The degree of community support for the proposed protection;

D. The probability of conversion of the working waterfront property to uses incompatible with commercial fisheries businesses; and

E. The utility of the working waterfront property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure.

4. Grant agreements. The commissioner shall enter into grant agreements with state agencies and designated cooperating entities for the purpose of receiving grants from the Maine Working Waterfront Access Protection Fund under Title 5, section 6203-B.

5. Right of first refusal. The commissioner shall retain a permanent right of first refusal on any working waterfront property acquired in fee or protected by working waterfront covenant or other less-than-fee interests under Title 5, section 6203-B. Exercise of the right of first refusal must be at a price determined by an independent professional appraiser based on the value of the working waterfront property to a commercial fisheries business at the time of the exercise of the right. The commissioner may assign this right to a commercial fisheries business or to a local government if, in the commissioner's judgment, such an assignment is consistent with the purposes of this section.

6. Termination. If the commissioner determines that the public purposes of a grant made under subsection 4 are no longer served, the commissioner may, consistent with the provisions of Title 33, chapter 6-A, terminate a grant agreement made under subsection 4 conditional on repayment of the original grant amount or an amount equal to that proportion of the then-current value of the protected property that represents the ratio of the original grant amount to the original fee interest value at the time of the grant. Any funds recovered under this subsection must be deposited into the Maine Working Waterfront Access Protection Fund under Title 5, section 6203-B and may be expended only for the purposes of this section.

Sec. B-7. 12 MRSA §6173-A, sub-§1, as enacted by PL 2005, c. 683, Pt. F, §1, is amended to read:

1. Confidential information. Information submitted to the department under the provisions of the Maine Working Waterfront Access ~~Pilot~~ Protection Program established by ~~Public Law 2005, chapter 462~~ section 6042 may be designated by the submittor as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit 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 submittor 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 proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all 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 under this subsection may appeal to the Superior Court.

Sec. B-8. Holder of covenant. The Commissioner of Marine Resources may hold working waterfront covenants under the Maine Revised Statutes, Title 33, chapter 6-A on behalf of the Department of Marine Resources. All working waterfront covenants obtained with funding under the provisions of Public Law 2005, chapter 462; Public Law 2007, chapter 39; and Public Law 2009, chapter 414 as amended by Public Law 2009, chapter 645 are deemed to be held by the commissioner on behalf of the department.

See title page for effective date.

CHAPTER 267

H.P. 918 - L.D. 1227

An Act Concerning the Disposal of Unclaimed, Lost or Stolen Personal Property by Law Enforcement Agencies

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

Sec. 1. 25 MRSA §3502, as enacted by PL 1975, c. 558, is amended to read:

§3502. Custody and return of property believed to be abandoned, lost or stolen

Such property believed to be abandoned, lost or stolen or otherwise illegally possessed, as is covered by this chapter, ~~shall~~ must be retained in custody by the chief of police or the principal official of the law enforcement agency, who shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession ~~thereof~~ of the property and shall return the property after such person provides reasonable and satisfactory proof of ~~his~~ that person's ownership or right to possession and reimburses the agency and others authorized to incur expenses by the agency for all reasonable expenses of such custody. If the owner of such property or any other person entitled to possession ~~thereof~~ of the property has not been identified ~~within~~ after at least 30 days from the initial date of custody of such property by a law enforcement agency, the principal official of such agency shall cause to be published, at least once in a newspaper of general circulation in the county ~~wherein~~ in which such official has authority or in ~~the state paper~~ a newspaper of general circulation in the county in which the property was taken into custody in the case of a state law enforcement agency, a notice of ~~his~~ the law enforcement agency's ~~posesession~~ posses-

sion of such property and its inability to ascertain the owner ~~thereof~~ of the property. Such notice ~~shall~~ must also contain a brief description of the property and a statement to the effect that, if the owner of such property or any other person entitled to possession ~~thereof~~ of the property has not claimed such property within 5 months of the date of such published notice, such property will ~~either~~ be surrendered to the person who found it, if any, ~~or be~~ sold to the highest bidder at public auction, donated to a nonprofit organization or charity or disposed of as waste.

Sec. 2. 25 MRSA §3503, as enacted by PL 1975, c. 558, is amended to read:

§3503. Sale of unclaimed property

If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the law enforcement agency obtains such possession, or said identity has been determined and such person does not claim possession within this 6-month period, and the finder of such property, if any, has not claimed it pursuant to the provisions of section 3507 within 15 days after the expiration of said 6-month period, the principal official thereof shall effectuate the sale of the property for cash to the highest bidder at a public auction, notice of which, including time, place and a brief description of such property, shall be published at least once in a newspaper of general circulation in the county wherein such official has authority at least 10 days prior to such auction or in the state paper in the case of a state law enforcement agency. Property offered but not sold at such public auction may be offered and sold at a subsequent public auction without further notice, donated to a nonprofit organization or charity or disposed of as waste.

A law enforcement agency shall appropriately and properly dispose of as waste any property that poses a possible health risk.

At no time may any property that has been disposed of by a law enforcement agency as waste be owned or personally used by any member of a law enforcement agency or by any immediate family member of any member of a law enforcement agency.

See title page for effective date.

CHAPTER 268

H.P. 90 - L.D. 108

An Act To Amend the Fees for Infant Lifetime Licenses

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

Sec. 1. 12 MRSA §10851, sub-§1, ¶A, as amended by PL 2009, c. 404, §1, is further amended to read:

A. For a person who is less than 6 years of age:

(1) An infant lifetime fishing license. The fee for an infant lifetime fishing license is $150 for a resident and $450 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $200;

(2) An infant lifetime hunting license. The fee for an infant lifetime hunting license is $150 for a resident and $450 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $200;

(3) An infant lifetime archery hunting license. The fee for an infant lifetime archery hunting license is $150 for a resident and $450 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $200;

(3-A) An infant lifetime trapping license. The fee for an infant lifetime trapping license is $150 for a resident and $450 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $200;

(4) An infant combination of any 2 lifetime licenses. The fee for an infant combination of any 2 lifetime licenses is $250 for a resident and $750 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $425; and

(5) An infant combination of any 3 lifetime licenses. The fee for an infant combination of any 3 lifetime licenses is $400 for a resident and $1,200 for a nonresident, except that, from December 1, 2011 until March 1, 2015, the fee for a nonresident is $660;

Sec. 2. Report. The Commissioner of Inland Fisheries and Wildlife shall report on the fiscal impact of reducing the fees for the nonresident infant lifetime licenses under this Act by January 5, 2015 to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters.

See title page for effective date.

CHAPTER 269

H.P. 999 - L.D. 1360

An Act To Provide Prevailing Mortgagors Attorney's Fees in the Foreclosure Process

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

Sec. 1. 14 MRSA §6101, as amended by PL 1981, c. 429, §1, is further amended to read:

§6101. Attorney's fees

For the foreclosure of a mortgage by any method authorized by this chapter, if the mortgagee prevails, the mortgagee or the person claiming under ~~him~~ the mortgagee may charge a reasonable attorney's fee which ~~shall be~~ is a lien on the mortgaged estate, and ~~shall~~ must be included with the expense of publication, service and recording in making up the sum to be tendered by the mortgagor or the person claiming under ~~him~~ the mortgagor in order to be entitled to redeem, provided the sum has actually been paid in full or partial discharge of an attorney's fee. If the mortgagee does not prevail, or upon evidence that the action was not brought in good faith, the court may order the mortgagee to pay the mortgagor's reasonable court costs and attorney's fees incurred in defending against the foreclosure or any proceeding within the foreclosure action and deny in full or in part the award of attorney's fees and costs to the mortgagee. For purposes of this section, "does not prevail" does not mean a stipulation of dismissal entered into by the parties, an agreed-upon motion to dismiss without prejudice to facilitate settlement or successful mediation of the foreclosure action pursuant to section 6321-A.

See title page for effective date.

CHAPTER 270

H.P. 423 - L.D. 540

An Act To Implement the Insurance Payment Reform Recommendations of the Advisory Council on Health Systems Development

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

Sec. 1. 24-A MRSA §4303, sub-§3-B, as amended by PL 2007, c. 199, Pt. B, §8, is further amended to read:

3-B. Prohibition on financial incentives. A carrier offering or renewing a managed care plan may not offer or pay any type of material inducement, bonus or other financial incentive to a participating provider to deny, reduce, withhold, limit or delay specific medically necessary health care services covered under the plan to an enrollee. This subsection may not be construed to prohibit pilot projects authorized pursuant to section 4319 or to prohibit contracts that contain incentive plans that involve general payments such as capitation payments or risk-sharing agreements that are made with respect to providers or groups of providers or that are made with respect to groups of enrollees.

Sec. 2. 24-A MRSA §4320 is enacted to read:

§4320. Payment reform pilot projects

1. Pilot projects. Beginning March 1, 2012, the superintendent may authorize pilot projects in accordance with this subsection that allow a health insurance carrier that offers health plans in this State to implement payment reform strategies with providers through an accountable care organization to reduce costs and improve the quality of patient care. For purposes of this section, "accountable care organization" means a group of health care providers operating under a payment agreement to provide health care services to a defined set of individuals with established benchmarks for the quality and cost of those health care services consistent with federal law and regulation.

A. The superintendent may approve a pilot project between a carrier and an accountable care organization that utilizes payment methodologies and purchasing strategies, including, but not limited to: alternatives to fee-for-service models, such as blended capitation rates, episodes-of-care payments, medical home models and global budgets; pay-for-performance programs; tiering of providers; and evidence-based purchasing strategies.

B. Prior to approving a pilot project, the superintendent shall consider whether the proposed pilot project is consistent with the principles for payment reform developed by the Advisory Council on Health Systems Development established under former Title 2, section 104.

2. Rulemaking. The superintendent shall establish by rule procedures and policies that facilitate the implementation of a pilot project pursuant to this section, including, but not limited to, a process for a health insurance carrier's submitting a pilot project proposal and minimum requirements for approval of a pilot project. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must be adopted no later than December 1, 2011.

3. Report. Beginning in 2013, the superintendent shall report by March 1st annually to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the status of any pilot project approved by the superintendent pursuant to this section. The report must include an analysis of the cost and benefits of any approved pilot project in reducing health care costs, including any impact on premiums, and in improving the quality of care.

4. Evaluation. During the First Regular Session of the 129th Legislature, the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters shall conduct an evaluation of the effectiveness of any pilot project approved by the superintendent pursuant to this section and make a determination whether to continue, amend or repeal the authorization for the pilot project. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on the evaluation to the First Regular Session of the 129th Legislature.

5. Construction. This section may not be construed to restrict or limit the right of a carrier to engage in activities expressly permitted by this Title or to require a carrier to obtain prior approval as a pilot project to engage in those activities.

Sec. 3. Department of Health and Human Services payment reform demonstration project authorized. Beginning July 1, 2012 and until June 30, 2016, the Department of Health and Human Services may establish a demonstration project to implement payment reform strategies to achieve cost savings within the MaineCare program. The demonstration project must be consistent with the principles for payment reform adopted by the Advisory Council on Health Systems Development in the Maine Revised Statutes, Title 2, section 104, subsection 11. The demonstration project must also include measurable goals consistent with those principles and include methods for monitoring and reporting. The department 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. 4. Superintendent of Insurance to submit rules. The Superintendent of Insurance shall submit copies of the rules adopted pursuant to the Maine Revised Statutes, Title 24-A, section 4320, subsection 2 to the Joint Standing Committee on Insurance and Financial Services no later than December 1, 2011.

See title page for effective date.

CHAPTER 271

S.P. 467 - L.D. 1489

An Act Regarding Regulation of Emergency Medical Services

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

Sec. 1. 32 MRSA §83, sub-§2, as amended by PL 1985, c. 730, §§5 and 16, is further amended to read:

2. Advanced emergency medical treatment. "Advanced emergency medical treatment" means those portions of emergency medical treatment~~, as defined by the board, which may be performed by persons licensed under this chapter only when they are acting under the supervision of an appropriate physician and within a system of emergency care approved by the board.~~:

A. Defined by the board to be advanced; and

B. That the board determines may be performed by persons licensed under this chapter within a system of emergency care approved by the board when acting under the supervision of:

(1) An appropriate physician; or

(2) A physician assistant or nurse practitioner, licensed by the State, and authorized by a hospital to supervise and direct the actions of an emergency medical services person.

Sec. 2. 32 MRSA §83, sub-§3-A, as amended by PL 1999, c. 182, §4, is repealed.

Sec. 3. 32 MRSA §83, sub-§6, as amended by PL 2007, c. 274, §4, is further amended to read:

6. Basic emergency medical services person. "Basic emergency medical services person" means a person licensed to perform basic emergency medical treatment. Licensed first responders~~, ambulance attendants~~ and basic emergency medical technicians are basic emergency medical services persons.

Sec. 4. 32 MRSA §83, sub-§8, as amended by PL 1989, c. 857, §63, is further amended to read:

8. Basic emergency medical treatment. "Basic emergency medical treatment" means those portions of emergency medical treatment~~, as defined by the board, that may be exercised by licensed emergency medical services personnel acting under the supervision of an appropriate physician and within a system of emergency medical care approved by the board.~~:

A. Defined by the board to be basic; and

B. That the board determines may be performed by persons licensed under this chapter within a system of emergency care approved by the board when acting under the supervision of:

(1) An appropriate physician; or

(2) A physician assistant or nurse practitioner, licensed by the State, and authorized by a hospital to supervise and direct the actions of an emergency medical services person.

Sec. 5. 32 MRSA §83, sub-§16-B, as enacted by PL 1999, c. 182, §6, is amended to read:

16-B. Medical Direction and Practices Board. "Medical Direction and Practices Board" means the ~~subcommittee of the~~ board consisting of each regional medical director, a representative of the Maine Chapter of the American College of Emergency Medicine Physicians and the statewide emergency medical services medical director. The Medical Direction and Practices Board is responsible for creation, adoption and maintenance of Maine Emergency Medical Services protocols.

Sec. 6. 32 MRSA §84, sub-§1, ¶C, as amended by PL 2007, c. 274, §8, is further amended to read:

C. The board shall appoint a licensed physician as statewide emergency medical services medical director and may appoint a licensed physician as statewide assistant emergency medical services medical director. ~~The physician~~ These physicians shall advise Maine Emergency Medical Services and shall carry out the duties assigned to the medical director pursuant to this chapter, or as specified by contract. A person appointed and serving as the statewide emergency medical services medical director or statewide assistant emergency medical services medical director is immune from any civil liability, as are employees of governmental entities under the Maine Tort Claims Act, for acts performed within the scope of the medical director's duties.

Sec. 7. 32 MRSA §84, sub-§1, ¶D, as amended by PL 2007, c. 274, §9, is further amended to read:

D. Rules adopted pursuant to this chapter must include, but are not limited to, the following:

(1) The composition of regional councils and the process by which they come to be recognized;

(2) The manner in which regional councils must report their activities and finances and the manner in which those activities must be carried out under this chapter;

~~(3) The designation of regions within the State;~~

(4) The requirements for licensure for all vehicles, persons and services subject to this chapter, including training and testing of personnel; and

(5) Fees to be charged for licenses under this section.

Sec. 8. 32 MRSA §85, sub-§3, as amended by PL 2007, c. 274, §§12 and 13, is further amended to read:

3. Minimum requirements for licensing. In setting rules for the ~~initial~~ licensure of emergency medical services persons, the board shall ensure that a person is not licensed to care for patients unless that person's qualifications are at least those specified in this subsection. Any person who meets these conditions is considered to have the credentials and skill demonstrations necessary for licensure to provide emergency medical treatment.

A. The person must have completed successfully the training specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act.

C. The person must have successfully completed a state ~~written~~ cognitive test for basic emergency medical treatment and a board-approved practical evaluation of emergency medical treatment skills.

The board shall obtain criminal history record information containing a record of conviction data ~~from the Maine Criminal Justice Information System~~ for an applicant seeking ~~initial~~ licensure under this subsection. Information obtained pursuant to this subsection is confidential and may be used only to determine suitability for ~~initial~~ issuance of a license to provide emergency medical services. The results of criminal history record checks received by the board are for official use only and may not be disseminated outside the board. The applicant for ~~initial~~ licensure shall pay the expense of obtaining the information required by this subsection.

Sec. 9. 32 MRSA §85, sub-§4, as amended by PL 2007, c. 274, §14, is further amended to read:

4. Minimum requirements for relicensing. The board shall set by rule the license and relicensing requirements and the relicensing interval for emergency medical services persons. A person who is duly licensed in Maine as an emergency medical services person must be issued a renewal license if the following requirements are met:

A. The person must have satisfactorily completed relicensure training as defined in the rules; and

B. The person must have satisfactorily demonstrated competence in the skills required for the license level. Skill competence may be satisfied by a combination of run report reviews and continuing education training programs conducted in accordance with the rules or by satisfactorily completing the state ~~written~~ cognitive test and a board-approved practical evaluation of emergency medical treatment skills.

If the person is not duly licensed at the time of application, the person must demonstrate skill and knowledge as defined in the rules.

To maintain a valid license, an emergency medical services person must meet the criteria set out in this section. If those criteria are not met, a person does not hold a valid license and must reapply for licensure.

~~A criminal history record check for information containing a record of conviction data from the Maine Criminal Justice Information System is not required for the relicensing of emergency medical services personnel.~~

Sec. 10. 32 MRSA §85, sub-§5, as enacted by PL 1997, c. 26, §1 and affected by §2, is repealed.

Sec. 11. 32 MRSA §85-A, sub-§2-A, as enacted by PL 2007, c. 42, §1, is amended to read:

2-A. Requirement to provide emergency medical dispatch services. A public safety answering point or other licensed emergency medical dispatch center must provide emergency medical dispatch services on all medical E-9-1-1 calls directly or by transferring the call to another licensed emergency medical dispatch ~~service~~ center.

Sec. 12. 32 MRSA §85-A, sub-§4, as amended by PL 2007, c. 42, §1, is further amended to read:

4. Licensing actions. A license issued pursuant to this section is subject to the provisions of sections 90-A and 91-A. Before the board or its subcommittee or staff takes any final action to suspend or revoke ~~a~~ an emergency medical dispatch center license or to refuse to reissue ~~a~~ an emergency medical dispatch center license, the board shall contact the bureau for input on the effect of such an action on the E-9-1-1 system and, notwithstanding section ~~92~~ 91-B, may, to the extent necessary for this purpose, disclose to the bureau information that is designated as confidential under section ~~92~~ 91-B.

Sec. 13. 32 MRSA §87-B, sub-§3, as enacted by PL 1993, c. 738, Pt. C, §8, is repealed.

Sec. 14. 32 MRSA §88, sub-§2, ¶D, as amended by PL 1999, c. 182, §12, is further amended to read:

D. The board shall specify in rules the criteria that must be met as a precondition to offering an emergency medical services course, refresher course or continuing education course. The board shall work toward developing consistent educational programming in terms of course content, course requirements and quality of instruction. The board shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~II-A~~ 2-A, regarding the requirements for certification~~, recertification and decertification~~ and licensing of persons engaged in emergency medical services education and training.

Sec. 15. 32 MRSA §88, sub-§3, ¶D, as enacted by PL 2001, c. 229, §4, is amended to read:

D. Impose conditions of probation upon an applicant or licensee. Probation may run for that time period as the board, its subcommittee or staff determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; and other conditions as the board, its subcommittee or staff determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee; ~~or~~

Sec. 16. 32 MRSA §88, sub-§3, ¶E, as enacted by PL 2001, c. 229, §4, is amended to read:

E. Execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee, the board, its subcommittee or staff and the Department of the Attorney General. Any remedy, penalty or fine or cost recovery that is otherwise available by law, even if only in the jurisdiction of the District Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court~~.~~; or

Sec. 17. 32 MRSA §88, sub-§3, ¶F is enacted to read:

F. Assess a licensee the costs of investigation and adjudicatory hearings relating to that licensee.

Sec. 18. 32 MRSA §90-B is enacted to read:

§90-B. Address of applicant

Beginning on January 1, 2012, an applicant for a license or renewal of a license under this chapter shall provide the board with:

1. Public record address. A contact address, telephone number and e-mail address that the applicant is willing to have treated as a public record, such as a business address, business telephone number and business e-mail address; and

2. Personal address. The applicant's personal residence address, personal telephone number and personal e-mail address.

If the applicant is willing to have the applicant's personal residence address and telephone number and personal e-mail address treated as public records, the applicant shall indicate that in the application and is not required to submit a different address under subsection 1.

Sec. 19. 32 MRSA §91-B is enacted to read:

§91-B. Confidentiality exceptions

1. Confidentiality. Except as otherwise provided in this chapter, all proceedings and records of proceedings concerning the quality assurance activities of an emergency medical services quality assurance committee approved by the board and all reports, information and records provided to the committee are confidential and may not be disclosed or obtained by discovery from the committee, the board or its staff. Quality assurance information may be disclosed to a licensee as part of any board-approved educational or corrective process. All complaints and investigative records of the board or any committee or subcommittee of the board are confidential during the pendency of an investigation and may not be disclosed by the committee, the board or its staff. Information or records that identify or permit identification of any patient that appears in any reports, information or records provided to the board or department for the purposes of investigation are confidential and may not be disclosed by the committee, the board or its staff.

A. A personal residence address, personal telephone number or personal e-mail address submitted to the board as part of any application under this chapter is confidential and may not be disclosed except as permitted under this section or as otherwise required by law unless the applicant who submitted the information indicated pursuant to section 90-B that the applicant is willing to have the applicant's personal residence address, personal telephone number or personal e-mail address treated as a public record. Personal health information submitted to the board as part of any application under this chapter is confidential and may not be disclosed except as otherwise permitted under this section or otherwise required by law.

The board and its committees and staff may disclose personal health information about and the personal residence address and personal telephone number of a licensee or an applicant for a license under this chapter to a government licensing or disciplinary authority or to a health care provider located within or outside this State that requests the information for the purposes of granting, limiting or denying a license or employment to the applicant or licensee.

B. Any materials or information submitted to the board in support of an application that are designated as confidential by any other provision of law remain confidential in the possession of the board. Information in any report or record provided to the board pursuant to this chapter that permits identification of a person receiving emergency medical treatment is confidential.

C. Information provided to the board under section 87-B is confidential if the information identifies or permits the identification of a trauma patient or a member of that patient's family.

D. Examination questions used by the board to fulfill the cognitive testing requirements of this chapter are confidential.

2. Exceptions. Information designated confidential under subsection 1 becomes a public record or may be released as provided in this subsection.

A. Confidential information may be released in an adjudicatory hearing or informal conference before the board or in any subsequent formal proceeding to which the confidential information is relevant.

B. Confidential information may be released in a consent agreement or other written settlement when the confidential information constitutes or pertains to the basis of board action.

C. Investigative records and complaints become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this paragraph, an investigation is concluded when:

(1) Notice of an adjudicatory proceeding, as defined under Title 5, chapter 375, subchapter 1, has been issued;

(2) A consent agreement has been executed; or

(3) A letter of dismissal has been issued or the investigation has otherwise been closed.

D. During the pendency of an investigation, a complaint or investigative record may be disclosed:

(1) To Maine Emergency Medical Services employees designated by the director;

(2) To designated complaint officers of the board;

(3) By a Maine Emergency Medical Services employee or complaint officer designated by the board to the extent considered necessary to facilitate the investigation;

(4) To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies;

(5) By the director, to the extent the director determines such disclosure necessary to avoid imminent and serious harm. The authority of the director to make such a disclosure may not be delegated;

(6) When it is determined, in accordance with rules adopted by the department, that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; or

(7) To the person investigated on request of that person. The director may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the director determines that disclosure would prejudice the investigation. The authority of the director to make such a determination may not be delegated.

E. Data collected by Maine Emergency Medical Services that allows identification of persons receiving emergency medical treatment may be released for purposes of research, public health surveillance and linkage with patient electronic medical records if the release is approved by the board, the Medical Direction and Practices Board and the director. Information that specifically identifies individuals must be removed from the information disclosed pursuant to this paragraph, unless the board, the Medical Direction and Practices Board and the director determine that the release of such information is necessary for the purposes of the research.

F. Confidential information may be released in accordance with an order issued on a finding of good cause by a court of competent jurisdiction.

G. Confidential information may be released to the Office of the Chief Medical Examiner within the Office of the Attorney General.

3. Violation. A person who intentionally violates this section commits a civil violation for which a fine of not more than $1,000 may be adjudged.

Sec. 20. 32 MRSA §92, as amended by PL 2003, c. 559, §§4 and 5, is repealed.

Sec. 21. 32 MRSA §92-A, sub-§2, as amended by PL 2003, c. 559, §6, is repealed.

Sec. 22. 32 MRSA §92-B, sub-§4, as enacted by PL 2007, c. 274, §28, is amended to read:

4. Confidentiality at conclusion of investigation. ~~Notwithstanding section 92~~ Except as provided in section 91-B, information received pursuant to this section remains confidential at the conclusion of an investigation.

Sec. 23. 32 MRSA §95, as enacted by PL 2007, c. 274, §29, is amended to read:

§95. Authorize to participate

Notwithstanding section ~~92~~ 91-B, Maine Emergency Medical Services is authorized to participate in and share information with the National Emergency Medical Services Information System.

See title page for effective date.

CHAPTER 272

H.P. 591 - L.D. 784

An Act To Exempt Persons Performing Simple Electrical Repairs from Licensing Requirements

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

Sec. 1. 32 MRSA §1102-A, sub-§10, as amended by PL 2003, c. 551, §1, is further amended to read:

10. Pump installers. A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller; ~~or~~

Sec. 2. 32 MRSA §1102-A, sub-§11, as enacted by PL 2003, c. 551, §2, is amended to read:

11. Wastewater treatment plants. Wastewater treatment plants, as defined in section 4171, and regular employees of wastewater treatment plants making electrical installations in or about wastewater treatment plants~~.~~; or

Sec. 3. 32 MRSA §1102-A, sub-§12 is enacted to read:

12. Incidental work. Regular employees of an owner or a lessee of real property doing incidental electrical work on that property or incidental electrical work by a person whose occupation involves miscellaneous jobs of manual labor. For purposes of this subsection, "incidental electrical work" means minor electrical work, limited to light fixtures and switches, that occurs by chance and that does not require electrical installation calculations.

See title page for effective date.

CHAPTER 273

S.P. 218 - L.D. 729

An Act To Ensure Ratepayer Benefits from Long-term Contracts for Renewable Energy Credits

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

Sec. 1. 35-A MRSA §3210-C, sub-§3, ¶C, as enacted by PL 2009, c. 518, §3, is amended to read:

C. Any available renewable energy credits associated with capacity resources contracted under paragraph A ~~to the extent the cost of the renewable energy credits is below market value or the purchase of renewable energy credits adds value to the transaction~~. The price paid by the investor-owned transmission and distribution utility for the renewable energy credits must be lower than the price received for those renewable energy credits at the time they are sold by the transmission and distribution utility.

Sec. 2. 35-A MRSA §3210-C, sub-§10, as amended by PL 2007, c. 575, §5 and c. 656, Pt. B, §5, is further amended to read:

10. Rules. The commission shall adopt rules to implement this section. In adopting rules, the commission shall consider the financial implications of this section ~~on~~ for investor-owned transmission and distribution utilities. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. ~~The commission may not enter into or direct any investor-owned transmission and distribution utility to enter into any contract pursuant to this section until rules are finally adopted under this subsection.~~

Sec. 3. Application. The sections of this Act that amend the Maine Revised Statutes, Title 35-A, section 3210-C do not apply to contracts entered into pursuant to Public Law 2009, chapter 615, Part A, section 6.

See title page for effective date.

CHAPTER 274

H.P. 1103 - L.D. 1502

An Act To Amend the Maine Business Corporation Act

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

Sec. 1. 13-C MRSA §102, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Conspicuous. "Conspicuous" means so written, displayed or presented that a reasonable person against whom the writing is to operate should have noticed it. Words that are printed in italics ~~or~~, boldface ~~or~~, contrasting color or ~~typed in~~ capitals or that are underlined are conspicuous.

Sec. 2. 13-C MRSA §102, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Deliver; delivery. "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and, if authorized in accordance with section 103-A, by electronic transmission.

Sec. 3. 13-C MRSA §102, sub-§6-A is enacted to read:

6-A. Document. "Document" means:

A. A tangible medium on which information is inscribed and includes any writing or any written instrument; or

B. An electronic record.

Sec. 4. 13-C MRSA §102, sub-§8, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

8. Effective date of notice. "Effective date of notice" has the meaning set forth in section ~~103~~ 103-A.

Sec. 5. 13-C MRSA §102, sub-§8-A is enacted to read:

8-A. Electronic. "Electronic" means relating to technology that has electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

Sec. 6. 13-C MRSA §102, sub-§8-B is enacted to read:

8-B. Electronic record. "Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 103-A, subsection 10.

Sec. 7. 13-C MRSA §102, sub-§9, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

9. Electronic transmission; electronically transmitted. "Electronic transmission" or "electronically transmitted" means any form or process of communication, not directly involving the physical transfer of paper or other tangible medium, that:

A. Is suitable for the retention, retrieval and reproduction of information by the recipient; and

B. Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 103-A, subsection 10.

Sec. 8. 13-C MRSA §102, sub-§24, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

24. Notice. "Notice" has the meaning set forth in section ~~103~~ 103-A.

Sec. 9. 13-C MRSA §102, sub-§36, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

36. Sign; signature. "Sign" or "signature" means, with present intent to authenticate or adopt the document:

A. To execute or adopt a tangible symbol to a document and includes any manual, facsimile or conformed signature; or

B. To attach or logically associate with an electronic transmission an electronic sound, symbol or process and includes an electronic signature in an electronic transmission.

Sec. 10. 13-C MRSA §102, sub-§43 is enacted to read:

43. Writing; written. "Writing" or "written" means any information in the form of a document.

Sec. 11. 13-C MRSA §103, as amended by PL 2007, c. 323, Pt. C, §§1 and 2 and affected by Pt. G, §4, is repealed.

Sec. 12. 13-C MRSA §103-A is enacted to read:

§103-A. Notice or other communication

1. Written notice required unless oral notice reasonable; English. Notice under this Act must be in writing unless oral notice is reasonable under the circumstances. Unless otherwise agreed by the sender and the recipient, words in a notice or other communication under this Act must be in English.

2. Methods of communicating notice. A notice or other communication may be given or sent by any method of delivery, except that electronic transmissions must be in accordance with this section. If these methods of delivery are impracticable, a notice or other communication may be communicated by a newspaper of general circulation in the area where published or by radio, television or other form of public broadcast communication.

3. Written notice to corporation. Written notice to a domestic or foreign corporation authorized to transact business in this State is governed by Title 5, section 113.

4. Communication by electronic transmission. Notice or other communication may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection 11.

5. Revocation of consent to electronic transmission. Any consent under subsection 4 may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if:

A. The corporation is unable to deliver 2 consecutive electronic transmissions given by the corporation in accordance with such consent; and

B. Such inability becomes known to the clerk, the secretary or an assistant secretary of the corporation or to the transfer agent or other person responsible for the giving of notice or other communication. The inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action.

6. Receipt of electronic transmission. Unless otherwise agreed between the sender and the recipient, an electronic transmission is deemed received when:

A. It enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent and from which the recipient is able to retrieve the electronic transmission; and

B. It is in a form capable of being processed by the information processing system described in paragraph A.

7. Receipt from information processing system. Receipt of an electronic acknowledgment from an information processing system described in subsection 6, paragraph A establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

8. No individual aware of receipt. An electronic transmission is received under this section even if no individual is aware of its receipt.

9. Notice or communication; when effective. Notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

A. If in physical form, the earliest of when it is actually received and when it is left at:

(1) A shareholder's address shown on the corporation's record of shareholders main-

tained by the corporation under section 1601, subsection 3;

(2) A director's residence or usual place of business; or

(3) The corporation's principal place of business;

B. If mailed by United States mail postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail;

C. If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received and:

(1) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(2) Five days after it is deposited in the United States mail;

D. If an electronic transmission, when it is received as provided in subsection 6; or

E. If oral, when communicated.

10. Electronic transmission that cannot be directly reproduced in paper. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

A. The electronic transmission is otherwise retrievable in perceivable form; and

B. The sender and the recipient have consented in writing to the use of such form of electronic transmission.

11. Specific notice requirements govern. If this Act prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications not inconsistent with this section or other provisions of this Act, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

12. Computation of time for notice purposes. In computing the time for the giving of any notice required or permitted under this Act, or under the articles or bylaws of a corporation, or a resolution of its shareholders or directors, the day on which the notice is given is excluded in the computation of time and the day when the act for which notice is given is to be done is included in the computation of time, unless the instrument calling for notice specifically provides otherwise.

Sec. 13. 13-C MRSA §132 is enacted to read:

§132. Unsworn falsification

The execution of a certificate or articles containing one or more false statements constitutes unsworn falsification under Title 17-A, section 453.

Sec. 14. 13-C MRSA §206, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

§206. Bylaws

1. Adoption of bylaws. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

2. Contents of bylaws. The bylaws of a corporation may contain any provision ~~for managing the business and regulating the affairs of the corporation~~ that is not inconsistent with law or its articles of incorporation.

3. Provisions for solicitation of proxies or consents. The bylaws may contain one or both of the following provisions:

A. A requirement that if the corporation solicits proxies or consents with respect to an election of directors, the corporation include in its proxy statement and any form of its proxy or consent, to the extent and subject to such procedures or conditions as are provided in the bylaws, one or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors; and

B. A requirement that the corporation reimburse the expenses incurred by a shareholder in soliciting proxies or consents in connection with an election of directors, to the extent and subject to such procedures or conditions as are provided in the bylaws, as long as no bylaw so adopted applies to elections for which any record date precedes its adoption.

4. Reasonable, practicable and orderly process. Notwithstanding section 1020, subsection 2, paragraph B, the shareholders in amending, repealing or adopting a bylaw described in subsection 3 may not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in or to add any procedure or condition to such a bylaw in order to provide for a reasonable, practicable and orderly process.

Sec. 15. 13-C MRSA §621, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Default; rescission. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other

debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than 20 days after the corporation sends a written demand for payment to the subscriber.

Sec. 16. 13-C MRSA §625, sub-§3 is enacted to read:

3. Authorized officers. The board of directors may authorize one or more officers to:

A. Designate the recipients of rights, options, warrants or other equity compensation awards that involve the issuance of shares; and

B. Determine, within an amount and subject to any other limitations established by the board and, if applicable, the stockholders, the number of such rights, options, warrants or other equity compensation awards and the terms thereof to be received by the recipients, except that an officer or officers may not use such authority to designate themselves or such other persons as the board of directors may specify as a recipient or recipients of such rights, options, warrants or other equity compensation awards.

Sec. 17. 13-C MRSA §703, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Court may prescribe specifics. The Superior Court may fix the time and place of a meeting ordered pursuant to this section, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting or direct that the votes represented at the meeting constitute a quorum for action on those matters and enter other orders necessary to accomplish the purpose or purposes of the meeting.

Sec. 18. 13-C MRSA §704, sub-§7, as enacted by PL 2007, c. 289, §7, is repealed.

Sec. 19. 13-C MRSA §704, sub-§8, as enacted by PL 2007, c. 289, §7, is repealed.

Sec. 20. 13-C MRSA §705, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Notification to shareholders. A corporation shall notify shareholders of the date, time and place of each annual or special shareholders' meeting no fewer than 10 days, or 3 days for close corporations, nor more than 60 days before the meeting date. The notice must include the record date for determining the shareholders entitled to vote at the meeting, if such date is different than the record date for determining shareholders entitled to notice of the meeting. If the board of directors has authorized participation by means of remote communication pursuant to section 709 for any class or series of shareholders, the notice to such class or series of shareholders must describe the means of remote communication to be used. Unless this Act or the corporation's articles of incorporation require otherwise, the corporation is required only to give notice to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

Sec. 21. 13-C MRSA §705, sub-§5, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

5. Adjournment to new date, time or place. Unless a corporation's bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 707, however, notice of the adjourned meeting must be given under this section to ~~persons who are~~ shareholders ~~as of the new record date~~ entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned date.

Sec. 22. 13-C MRSA §707, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Establishment of record date. A corporation's bylaws may fix or provide the manner of fixing the record date or dates for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote~~,~~ or to take any other action. If the bylaws do not fix or provide for fixing a record date or dates, the board of directors of the corporation may fix a future date as the record date or dates.

Sec. 23. 13-C MRSA §707, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Determination effective. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date or dates, which it must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

Sec. 24. 13-C MRSA §707, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Court-ordered meeting. If a court orders a ~~shareholders'~~ meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date ~~continues~~

or dates continue in effect or it may fix a new record date or dates.

Sec. 25. 13-C MRSA §707, sub-§5 is enacted to read:

5. Determining shareholder entitlements. The record date for a shareholders' meeting fixed by or in the manner provided in the bylaws or by the board of directors is the record date for determining shareholders entitled both to notice of and to vote at the shareholders' meeting, unless in the case of a record date fixed by the board of directors and to the extent not prohibited by the bylaws, the board, at the time it fixes the record date for shareholders entitled to notice of the meeting, fixes a later record date on or before the date of the meeting to determine the shareholders entitled to vote at the meeting.

Sec. 26. 13-C MRSA §709 is enacted to read:

§709. Remote participation in annual and special meetings

1. Participation by means of remote communication. Shareholders of any class or series may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes participation for the class or series. Participation by means of remote communication is subject to guidelines and procedures adopted by the board of directors and must be in conformity with subsection 2.

2. Shareholder presence and voting. Shareholders participating in a shareholders' meeting by means of remote communication are deemed present and may vote at the meeting if the corporation has implemented reasonable measures:

A. To verify that each person participating remotely is a shareholder; and

B. To provide the shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings.

Sec. 27. 13-C MRSA §721, as amended by PL 2007, c. 323, Pt. C, §13 and affected by Pt. G, §4, is further amended to read:

§721. Shareholders lists for meeting

1. Lists of shareholders' names. After fixing a record date for a shareholders' meeting ~~called pursuant to subchapter I~~, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. ~~The~~ If the board of directors fixes a different record date under section 707, subsection 5 to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list must be classified by voting group, and within each voting group by class or series of shares, and must show the address of and number of shares held by each shareholder. In the case of a close corporation, the requirement of a shareholders list may be satisfied by a stock transfer book or records, which need not be maintained in alphabetized order and need not contain the addresses of shareholders so long as the address of each shareholder is otherwise maintained in the records of the corporation.

2. Available for inspection. The shareholders list for notice must be available for inspection by any shareholder, beginning 2 business days after notice of the meeting for which the list was prepared is given, or the next business day in the case of a close corporation that has provided fewer than 10 days' notice of such meeting, and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholders list for voting must be similarly available for inspection promptly after the record date for voting. A shareholder or the shareholder's agent or attorney is entitled on written demand to inspect and, subject to the requirements of section 1602, subsection 4, to copy ~~the~~ a list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

3. Inspection of list. The corporation shall make the ~~shareholders~~ list of shareholders entitled to vote available at the meeting, and a shareholder or the shareholder's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

4. Refusal by corporation. If the corporation refuses to allow a shareholder or the shareholder's agent or attorney to inspect ~~the~~ a shareholders list before or at the meeting or copy ~~the~~ a list as permitted by subsection 2, the Superior Court of the county where a corporation's principal office is located, or, if there is no principal office located in this State, of Kennebec County, on application of the shareholder may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

5. Effect of unavailability of shareholders list. Refusal or failure to prepare or make available ~~the~~ a shareholders list does not affect the validity of action taken at the meeting.

Sec. 28. 13-C MRSA §723, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Appointment of proxy. A shareholder or the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form or by an electronic

transmission. An electronic transmission must contain or be accompanied by information from which ~~one~~ the recipient can determine ~~that the shareholder, the shareholder's~~ the date of the transmission and that the transmission was authorized by the sender or the sender's agent or ~~the shareholder's~~ attorney-in-fact ~~authorized the transmission~~.

Sec. 29. 13-C MRSA §727, sub-§7 is enacted to read:

7. Classes or series voting together as a single group. Whenever a provision of this Act provides for voting of classes or series as separate voting groups, section 1004, subsection 3 applies to that provision.

Sec. 30. 13-C MRSA §753, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Expiration of 90 days. Ninety days have expired from the date delivery of the demand was made, unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

Sec. 31. 13-C MRSA c. 7, sub-c. 5 is enacted to read:

SUBCHAPTER 5

PROCEEDINGS TO APPOINT CUSTODIAN OR RECEIVER

§781. Shareholder action to appoint custodian or receiver

1. Court may appoint. The Superior Court may appoint one or more persons to be custodians or, if the corporation is insolvent, to be receivers of and for a corporation in a proceeding by a shareholder when it is established that:

A. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock and irreparable injury to the corporation is threatened or being suffered; or

B. The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

2. Remedies; procedures. The Superior Court:

A. May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets, wherever located, and carry on the business of the corporation until a full hearing is held;

B. Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

C. Has jurisdiction over the corporation and all of its property, wherever located.

3. Appointments; bonds. The Superior Court may appoint an individual, a domestic corporation or a foreign corporation authorized to transact business in this State as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

4. Powers and duties. The Superior Court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. The powers include but are not limited to the following.

A. A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation.

B. A receiver:

(1) May dispose of all or any part of the assets of the corporation, wherever located, at a public or private sale, if authorized by the court; and

(2) May sue and defend in the receiver's own name as receiver in all courts of this State.

5. Redesignations. The Superior Court during a custodianship may redesignate the custodian as a receiver and during a receivership may redesignate the receiver as a custodian, if doing so is in the best interests of the corporation.

6. Compensation and expenses. The Superior Court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

Sec. 32. 13-C MRSA §827 is enacted to read:

§827. Submission of matters for shareholder vote

A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter.

Sec. 33. 13-C MRSA §854, sub-§1, as amended by PL 2007, c. 289, §23, is further amended to read:

1. Conditions. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a member of the

board of directors, if the individual delivers to the corporation:

A. A signed written affirmation of the individual's good faith belief that the individual has met the relevant standard of conduct described in section 852, subsection 1 or that the proceeding involves conduct for which liability has been eliminated under a provision of the corporation's articles of incorporation as authorized by section 202, subsection 2, paragraph D; and

B. The individual's signed written undertaking to repay any funds advanced if the individual is not entitled to mandatory indemnification under section 853 and it is ultimately determined under section 855 or 856 that the individual has not met the relevant standard of conduct described in section 852.

Sec. 34. 13-C MRSA §859, sub-§1-A is enacted to read:

1-A. Right to indemnification or to advances for expenses. A right to indemnification or to advances for expenses created by this subchapter or under subsection 1 and in effect at the time of an act or omission giving rise to the right to indemnification or advances may not be eliminated or impaired with respect to that act or omission by an amendment of the articles of incorporation or bylaws or a resolution of the board of directors or shareholders, adopted after the occurrence of the act or omission, unless, in the case of a right to indemnification or to advances for expenses created under subsection 1, the provision creating the right and in effect at the time of the act or omission explicitly authorizes the elimination or impairment after the act or omission has occurred.

Sec. 35. 13-C MRSA §859, sub-§3, as amended by PL 2003, c. 344, Pt. B, §68, is further amended to read:

3. Limits. ~~A~~ Subject to subsection 1-A, a corporation may, by a provision in its articles of incorporation, limit the ~~rights~~ right to indemnification or to an advance for expenses created by or pursuant to this subchapter.

Sec. 36. 13-C MRSA §874, sub-§1, as amended by PL 2007, c. 289, §30, is further amended to read:

1. Shareholders' action. Shareholders' action regarding a director's conflicting-interest transaction is effective for purposes of section 872, subsection 2, paragraph B if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after:

A. Notice to shareholders describing the action to be taken regarding the transaction;

B. Provision to the corporation of the information referred to in subsection 4; and

C. Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

In the case of shareholders' action at a meeting, the shareholders entitled to vote are determined as of the record date for notice of the meeting.

Sec. 37. 13-C MRSA §921, sub-§5, as amended by PL 2003, c. 344, Pt. B, §74, is further amended to read:

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or ~~executed~~ signed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until the provision is amended.

Sec. 38. 13-C MRSA §922, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Shareholders' approval. After adopting the plan of domestication, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

Sec. 39. 13-C MRSA §922, sub-§6, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

6. Voting groups. ~~Separate~~ Subject to subsection 6-A, separate voting by voting groups is required by each class or series of shares that:

A. Is to be reclassified under the plan of domestication into other securities, obligations, rights to acquire shares or other securities, cash, other property or any combination thereof;

B. ~~Would be~~ Is entitled to vote as a separate group on a provision of the plan of domestication that~~, if contained in~~ constitutes a proposed

amendment to the corporation's articles of incorporation~~, would require~~ following its domestication that requires action by separate voting groups under section 1004; or

C. Is entitled under the corporation's articles of incorporation to vote as a voting group to approve an amendment of the articles; ~~and~~

Sec. 40. 13-C MRSA §922, sub-§6-A is enacted to read:

6-A. Separate voting. The corporation's articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 6, paragraph A;

Sec. 41. 13-C MRSA §922, sub-§7, as amended by PL 2003, c. 344, Pt. B, §76, is further amended to read:

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision is deemed to apply to a domestication of the corporation until the provision is amended~~.~~; and

Sec. 42. 13-C MRSA §931, sub-§5, as amended by PL 2003, c. 344, Pt. B, §79, is further amended to read:

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or ~~executed~~ signed by a domestic business corporation before July 1, 2003 contains a provision applying to a merger of the domestic business corporation and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until the provision is amended.

Sec. 43. 13-C MRSA §932, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Shareholders' approval. After adopting the plan of nonprofit conversion, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

Sec. 44. 13-C MRSA §932, sub-§7, as amended by PL 2003, c. 344, Pt. B, §81, is further amended to read:

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders are parties, adopted or entered into before July 1, 2003, other than a provision that eliminates or limits voting or appraisal rights, applies to a merger ~~of the domestic business corporation~~ and the document does not refer to a nonprofit conversion of the domestic business corporation, the provision is deemed to apply to a nonprofit conversion of the domestic business corporation until the provision is amended.

Sec. 45. 13-C MRSA §952, sub-§5, as amended by PL 2003, c. 344, Pt. B, §86, is further amended to read:

5. Transitional rule. If any debt security, note or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind issued, incurred or ~~executed~~ signed by a domestic business corporation before July 1, 2003, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until the provision is amended.

Sec. 46. 13-C MRSA §954, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Shareholders' approval. After adopting the plan of entity conversion, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

Sec. 47. 13-C MRSA §954, sub-§7, as amended by PL 2003, c. 344, Pt. B, §88, is further amended to read:

7. Transitional rule. If any provision of the corporation's articles of incorporation or bylaws or of an agreement to which any of the directors or shareholders

ers are parties, adopted or entered into before July 1, 2003, other than a provision that eliminates or limits voting or appraisal rights, applies to a merger ~~of the corporation~~ and the document does not refer to an entity conversion of the corporation, the provision is deemed to apply to an entity conversion of the corporation until the provision is amended;

Sec. 48. 13-C MRSA §1003, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Approval by shareholders. Except as provided in sections 1005, 1007 and 1008, after adopting the proposed amendment the corporation's board of directors shall submit the amendment to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding.

Sec. 49. 13-C MRSA §1004, sub-§1, ¶E, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

E. Create a new class of shares having rights or preferences with respect to distributions ~~or to dissolution~~ that are prior or superior to the shares of the class;

Sec. 50. 13-C MRSA §1004, sub-§1, ¶F, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

F. Increase the rights, preferences or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions ~~or to dissolution~~ that are prior or superior to the shares of the class;

Sec. 51. 13-C MRSA §1020, sub-§2, ¶B, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

B. ~~The~~ Except as provided in section 206, subsection 4, the shareholders in amending, repealing or adopting a bylaw expressly provide that the board of directors may not amend, repeal or reinstate that bylaw.

Sec. 52. 13-C MRSA §1104, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Shareholders approve plan. Except as provided in subsection 7 and in section 1105, after adopting the plan of merger or share exchange, the corporation's board of directors shall submit the plan to the shareholders for their approval. The board of directors also shall transmit to the shareholders a recommendation that the shareholders approve the plan, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make that recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding;

Sec. 53. 13-C MRSA §1104, sub-§6, as amended by PL 2003, c. 344, Pt. B, §99, is further amended to read:

6. Voting groups. ~~Separate~~ Subject to subsection 6-A, separate voting by voting group is required:

A. On a plan of merger by each class or series of shares that:

(1) Are to be converted under the plan of merger into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash or other property or any combination thereof; or

(2) ~~Would be~~ Is entitled to vote as a separate group on a provision in the plan that~~, if contained in~~ constitutes a proposed amendment to articles of incorporation~~, would require~~ of a surviving corporation that requires action by separate voting groups under section 1004;

B. On a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group; and

C. On a plan of merger or share exchange if a voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange;

Sec. 54. 13-C MRSA §1104, sub-§6-A is enacted to read:

6-A. Limitations on separate voting groups. The corporation's articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection 6, paragraph A, subparagraph (1) and subsection 6, paragraph B as to any class or series of shares, except for a transaction that:

A. Includes what is or would be, if the corporation were the surviving corporation, an amendment subject to subsection 6, paragraph A, subparagraph (2); and

B. Will effect no significant change in the assets of the resulting entity, including all parents and subsidiaries on a consolidated basis.

Sec. 55. 13-C MRSA §1106, sub-§1, as amended by PL 2003, c. 344, Pt. B, §101, is further amended to read:

1. Signing of plan of merger or share exchange. After a plan of merger or share exchange has been adopted and approved as required by this Act, articles of merger or share exchange must be ~~executed~~ signed on behalf of each party to the merger or share exchange by an officer or other duly authorized representative. The articles must set forth:

A. The names, types of entity and jurisdictions of the parties to the merger or share exchange and the date on which the merger or share exchange occurred or is to be effective;

B. If the articles of incorporation of the survivor of a merger are amended or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;

C. If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each separate voting group in the manner required by this Act and the corporation's articles of incorporation;

D. If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

E. For each foreign corporation and eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

Sec. 56. 13-C MRSA §1108, sub-§2, as amended by PL 2003, c. 344, Pt. B, §103, is further amended to read:

2. Abandoned merger or share exchange after articles of merger or share exchange are filed. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been filed with the Secretary of State under section 1106, subsection 2 but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, ~~executed~~ signed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, must be delivered to the Secretary of State for filing prior to the effective date of the merger or share exchange. The statement must also include the names, types of entity and the jurisdictions of the parties to the merger or share exchange. Upon filing, the statement takes effect and the merger or share exchange is considered abandoned and does not become effective.

Sec. 57. 13-C MRSA §1202, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

2. Resolution authorizing disposition. A disposition that requires approval of the shareholders under subsection 1 must be initiated by a resolution by the corporation's board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless:

A. The board of directors makes a determination that because of conflicts of interest or other special circumstances the board of directors should not make such a recommendation; or

B. Section 827 applies.

If paragraph A or B applies, the board of directors shall transmit to the shareholders the basis for so proceeding.

Sec. 58. 13-C MRSA §1301, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Affiliate. "Affiliate" means:

A. A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person; or

B. A senior executive of a person described in paragraph A.

For purposes of section 1303, subsection 3, ~~paragraphs~~ paragraph B ~~and C~~, a person is deemed to be an affiliate of its senior executives.

Sec. 59. 13-C MRSA §1301, sub-§5-A is enacted to read:

5-A. Interested transaction. "Interested transaction" means a corporate action described in section 1302, subsection 1, other than a merger pursuant to section 1105, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. For the purposes of this subsection:

A. "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement or understanding, other than a revoca-

ble proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not considered to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When 2 or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is considered to have acquired beneficial ownership, as of the date of the agreement, of all voting shares of the corporation beneficially owned by any member of the group;

B. "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one year prior to the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action; and

C. "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action:

(1) Was the beneficial owner of 20% or more of the voting power of the corporation, other than as owner of excluded shares;

(2) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of 25% or more of the directors to the board of directors of the corporation; or

(3) Was a senior executive or director of the corporation or a senior executive of any affiliate thereof and will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(a) Employment, consulting, retirement or similar benefits established separately and not as part of or in contemplation of the corporate action;

(b) Employment, consulting, retirement or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 873; or

(c) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of the entity or the affiliate.

Sec. 60. 13-C MRSA §1302, sub-§1, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. Shareholder approval is required for the merger by section 1104 ~~and the shareholder is entitled to vote on the merger~~, except that appraisal rights are not available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

Sec. 61. 13-C MRSA §1302, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Share exchange to which corporation is party. Consummation of a share exchange to which the corporation is a party as the corporation whose shares will be acquired ~~if the shareholder is entitled to vote on the exchange~~, except that appraisal rights are not available to any shareholder of the corporation with respect to any class or series of shares of the corporation that are not exchanged;

Sec. 62. 13-C MRSA §1302, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

3. Disposition of assets. Consummation of a disposition of assets pursuant to section 1202, except that appraisal rights are not available to a shareholder of the corporation with respect to shares of a class or series if:

A. Under the terms of the corporate action approved by the shareholders, there is to be distributed to shareholders in cash the corporation's net assets, in excess of a reasonable amount reserved to meet claims of the type described in sections 1407 and 1408:

(1) Within one year after the shareholders' approval of the action; and

(2) In accordance with the shareholders' respective interests determined at the time of distribution; and

B. The disposition of assets is not an interested transaction;

Sec. 63. 13-C MRSA §1303, sub-§2, ¶A, as amended by PL 2005, c. 302, §4, is further amended to read:

A. The record date fixed to determine the shareholders entitled to receive notice of ~~and to vote at~~ the meeting of shareholders to act upon a corporate action requiring appraisal rights; or

Sec. 64. 13-C MRSA §1303, sub-§3, as amended by PL 2005, c. 302, §5, is repealed and the following enacted in its place:

3. Exception. Notwithstanding subsection 1, appraisal rights are available pursuant to section 1302 for the shareholders of any class or series of shares:

A. Who are required by the terms of a corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of a corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective;

B. In the case of the consummation of a disposition of assets pursuant to section 1202, the cash, shares or proprietary interests under paragraph A are, under the terms of the corporate action approved by the shareholders, to be distributed to the shareholders as part of the distribution to shareholders of the net assets of the corporation in excess of a reasonable amount to meet claims of the type described in sections 1407 and 1408:

(1) Within one year after the shareholders' approval of the action; and

(2) In accordance with their respective interests determined at the time of the distribution; or

C. When any of the shares or assets of a corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to a corporate action that is an interested transaction.

Sec. 65. 13-C MRSA §1304, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

§1304. Limitation or elimination of appraisal rights in articles of incorporation

Notwithstanding section 1302 or 1303, the articles of incorporation of a corporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, except that:

1. Class or series. No such limitation or elimination is effective if the class or series does not have the right to vote separately as a voting group, alone or as part of a group, on the action or if the action is a nonprofit conversion under chapter 9, subchapter 2, a conversion to an unincorporated entity under chapter 9, subchapter 4 or a merger having a similar effect; and

2. Appraisal rights. Any limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of those shares that are outstanding immediately prior to the effective date of that amendment or that the corporation is or may be required to issue or sell after the effective date of the amendment pursuant to any conversion, exchange or other right existing immediately before the effective date of that amendment does not apply to any corporate action that becomes effective within one year of that date if that action would otherwise afford appraisal rights.

Sec. 66. 13-C MRSA §1305, as amended by PL 2003, c. 344, Pt. B, §107, is repealed.

Sec. 67. 13-C MRSA §1321, sub-§3, ¶A, as enacted by PL 2007, c. 289, §33, is amended to read:

A. Written notice that appraisal rights are, are not or may be available must be ~~given~~ sent to each record shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this chapter; and

Sec. 68. 13-C MRSA §1322-A, sub-§2, as enacted by PL 2007, c. 289, §35, is amended to read:

2. Preservation of appraisal rights if action taken by consent. If a corporate action specified in section 1302 is to be approved by less than unanimous written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares may not ~~execute~~ sign a consent in favor of the proposed action with respect to that class or series of shares.

Sec. 69. 13-C MRSA §1323, sub-§1, as amended by PL 2007, c. 289, §36, is further amended to read:

1. Written appraisal notice; form. If a proposed corporate action requiring appraisal rights under section 1302 becomes effective, a corporation must ~~deliver~~ send a written appraisal notice and the form required by subsection 2, paragraph A to all shareholders who satisfied the requirements of section 1322-A. In the case of a merger under section 1105, the parent shall ~~deliver a written~~ send an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

Sec. 70. 13-C MRSA §1323, sub-§2, as amended by PL 2007, c. 289, §37, is further amended to read:

2. Appraisal notice. The appraisal notice required by subsection 1 must be ~~sent~~ delivered no ear-

lier than the date a corporate action became effective and no later than 10 days after that date and must:

A. Supply a form that specifies the first date of any announcement to shareholders, made prior to the date the corporate action became effective, of the principal terms of the proposed corporate action, if any. If such announcement was made the form must:

(1) Require the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date; and

(2) Require the shareholder asserting appraisal rights to certify that the shareholder did not vote for or consent to the transaction;

B. Include the following information:

(1) Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date may not be earlier than the date for receiving the required form under subparagraph (2);

(2) A date by which the corporation must receive the form, which date may not be fewer than 40 nor more than 60 days after the date the appraisal notice ~~and form are~~ is sent, and a statement that the shareholder has waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by the specified date;

(3) A corporation's estimate of the fair value of the shares;

(4) That, if requested in writing, a corporation will provide, to the shareholder so requesting, within 10 days after the date specified in subparagraph (2) the number of shareholders who return the forms by the specified date and the total number of shares owned by those shareholders; and

(5) The date by which the notice to withdraw under section 1324 must be received, which date must be within 20 days after the date specified in subparagraph (2); and

C. Be accompanied by a copy of this chapter.

Sec. 71. 13-C MRSA c. 13, sub-c. 4 is enacted to read:

SUBCHAPTER 4

OTHER REMEDIES

§1341. Other remedies limited

1. Limitation on proposed or completed corporate actions. The legality of a proposed or completed corporate action described in section 1302 may not be contested nor may the corporate action be enjoined, set aside or rescinded in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

2. Exceptions. Subsection 1 does not apply to a corporate action that:

A. Was not authorized and approved in accordance with the applicable provisions of:

(1) Chapter 9, 10, 11 or 12;

(2) The articles of incorporation or bylaws; or

(3) The resolution of the board of directors authorizing the corporate action;

B. Was procured as a result of fraud, a material misrepresentation or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading;

C. Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in section 873 and has been approved by the shareholders in the same manner as is provided in section 874 as if the interested transaction were a director's conflicting-interest transaction; or

D. Is approved by less than unanimous consent of the voting shareholders pursuant to section 704 if:

(1) The challenge to the corporate action is brought by a shareholder who did not consent and as to whom notice of the approval of the corporate action was not effective at least 10 days before the corporate action was effected; and

(2) The proceeding challenging the corporate action is commenced within 10 days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

Sec. 72. 13-C MRSA §1402, sub-§2, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is repealed and the following enacted in its place:

A. A corporation's board of directors must recommend dissolution to the shareholders unless:

(1) The board of directors determines that because of conflict of interest or other special circumstances the board of directors should make no recommendation; or

(2) Section 827 applies.

If subparagraph (1) or (2) applies, the board of directors must transmit to the shareholders the basis for so proceeding; and

Sec. 73. 13-C MRSA §1524, sub-§1, as amended by PL 2003, c. 344, Pt. B, §129, is further amended to read:

1. Application for transfer of authority; contents. A foreign business corporation authorized to transact business in this State that converts to a foreign nonprofit corporation or to any form of foreign other entity that is required to file an application for authority or make a similar type of filing with the Secretary of State if it transacts business in this State shall file with the Secretary of State an application for transfer of authority ~~executed~~ signed by any officer or other duly authorized representative. The application must set forth:

A. The name of the foreign corporation, the current state or country under whose laws it is incorporated as it appears on the records of the Secretary of State and the date on which the corporation was authorized to transact business in this State;

B. The type of entity to which it has been converted and the jurisdiction whose laws govern its internal affairs; and

C. Any other information that would be required in a filing under the laws of this State by an entity of the type the corporation has become seeking authority to transact business in this State.

Sec. 74. 13-C MRSA §1601, sub-§4, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

4. Records; written, electronic. A corporation shall maintain its records in ~~written form~~ the form of a document, including an electronic record, or in another form capable of conversion into ~~written~~ paper form within a reasonable time.

Sec. 75. 13-C MRSA §1602, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Inspect; copy records. A shareholder of a corporation is entitled to inspect and copy during regular business hours at the corporation's principal office or its registered office, if the corporation keeps such records at its registered office, any of the records of the corporation described in section 1601, subsection 5 if the shareholder gives the corporation a signed written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy, except that a shareholder's rights under this subsection are subject to any reasonable restrictions on the disclosure of financial information about the corporation that are set forth in the corporation's articles of incorporation or bylaws.

Sec. 76. 13-C MRSA §1602, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Certain documents inspected; copied. A shareholder of a corporation is entitled to inspect and copy during regular business hours at a reasonable location specified by the corporation any of the following records of the corporation if the shareholder meets the requirements of subsection 4 and gives the corporation a signed written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy:

A. Excerpts from minutes of any meeting of the board of directors~~, records of any action of~~ or a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders~~,~~ and records of action taken by the shareholders ~~or~~, the board of directors or a committee of the board without a meeting, to the extent not subject to inspection under subsection 2;

B. Accounting records of the corporation; and

C. The record of shareholders.

Sec. 77. 13-C MRSA §1602, sub-§7 is enacted to read:

7. Notice and information to new shareholders. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, a person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its publicly accessible website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of an action taken at the meeting.

Sec. 78. 13-C MRSA §1606, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Notice. Whenever notice ~~is~~ would otherwise be required to be given under any provision of this Act to ~~any~~ a shareholder, that notice ~~is~~ need not ~~required to~~ be given if:

A. ~~Notice~~ Notices to the shareholders of 2 consecutive annual meetings and all notices of meetings during the period between such 2 consecutive annual meetings have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered; or

B. All, but not less than 2, payments of dividends on securities during a 12-month period, or 2 consecutive payments of dividends on securities during a period of more than 12 months, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered.

Sec. 79. 13-C MRSA §1620, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Financial statements. No later than 5 months after the close of each fiscal year, each corporation that is not a close corporation shall ~~prepare~~ deliver to its shareholders annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year~~,~~ and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis. A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements or otherwise making them available in any manner permitted by the applicable rules and regulations of the United States Securities and Exchange Commission.

Sec. 80. 13-C MRSA §1620, sub-§2, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

2. Written demand for copy of financial statement. Upon written demand of any shareholder of a corporation, the corporation shall ~~mail~~ deliver to that shareholder a copy of the most recent annual financial statement prepared in accordance with subsection 1. If the annual financial statement is reported upon by a public accountant, the accountant's report must accompany it. If the annual financial statement is not reported upon by a public accountant, the statement must be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

A. Stating the reporter's reasonable belief whether the statement was prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

B. Describing any respects in which the statement was not prepared on a basis of accounting consistent with the statement prepared for the preceding year.

Sec. 81. 13-C MRSA §1701, sub-§4 is enacted to read:

4. Electronic Signatures in Global and National Commerce Act. In the event that any provisions of this Act are deemed to modify, limit or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., the provisions of this Act shall control to the maximum extent permitted by Section 102(a)(2) of that federal Act.

See title page for effective date.

CHAPTER 275

S.P. 145 - L.D. 512

An Act Regarding the Disposition of Mercury-added Lamps

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

Sec. 1. 38 MRSA §1672, sub-§4, ¶A, as enacted by PL 2009, c. 272, §1, is amended to read:

A. The recycling program required under this subsection must include:

(1) Convenient collection locations located throughout the State where residents can drop off their household lamps without cost, including but not limited to municipal collection sites and participating retail establishments;

(2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F, with subsection 6 if a crushing device is used and with all other applicable requirements;

(3) Effective education and outreach, including, but not limited to, point-of-purchase signs and other materials provided to retail establishments without cost; and

(4) An annual report to the department on the number of mercury-added lamps recycled under the manufacturer's program, the estimated percentage of mercury-added lamps available for recycling that were recycled under the program and the methodology for estimating the number of mercury-added lamps available for recycling, an evaluation of the effectiveness of the recycling program, recommendations for increasing the number of lamps recycled under the recycling program and an accounting of the costs associated with administering and implementing the recycling program.

Sec. 2. 38 MRSA §1672, sub-§6 is enacted to read:

6. Lamp crushing. A recycling program required under subsection 4 may include the use of crushing devices in accordance with the provisions of this subsection.

A. The owner of the crushing device shall:

(1) Register the device with the department. The registration must include:

(a) The owner's name and contact information;

(b) The brand of device used;

(c) Anticipated usage of the device; and

(d) A statement that the operating manual required pursuant to subparagraph (2) is in place;

(2) Develop an operating manual specifying how to safely crush mercury-added lamps. The operating manual must be available to all operators of the device and must include:

(a) Procedures for operation and maintenance of the device in accordance with written procedures developed by the manufacturer of the device;

(b) Testing and monitoring procedures;

(c) Information concerning mercury hazards, crushing procedures, waste handling and emergency procedures;

(d) An assessment of whether surrounding areas will be negatively affected, either by physical proximity or air exchange with a heating, ventilation and air conditioning system;

(e) Proper waste management practices;

(f) Procedures for operator training to ensure operators have been trained in the operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate mercury releases and personal protective equipment use; and

(g) Procedures to address emergency situations, including, but not limited to, procedures to address mercury hazards, waste handling and equipment failure;

(3) Document maintenance activities, retain maintenance logs, test data from the manufacturer and any additional test data acquired and make available a copy of these records to the department at its request;

(4) Meet all federal Occupational Safety and Health Administration requirements;

(5) Dispose of all material crushed in the device;

(6) Maintain on file an annual report for review by the department, at the discretion of the department, indicating the:

(a) Total volume of mercury-added lamps crushed;

(b) Volume and disposition of any carbon or other filter from the device; and

(c) Names of the destination facilities to which all crushed material was shipped; and

(7) Maintain testing and monitoring data.

B. The crushing device may be operated only in a closed system and in such a manner that any emission of mercury from the crushing device does not exceed 0.3 micrograms per cubic meter when measured on the basis of a time-weighted average over an 8-hour period.

C. The crushing device may be operated only in a secure, ventilated area and may not be operated in an area accessible to the general public.

See title page for effective date.

CHAPTER 276

S.P. 210 - L.D. 721

An Act To Extend the Use of Underground Storage Tanks

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

Sec. 1. 38 MRSA §564, sub-§5, as amended by PL 1997, c. 624, §3, is repealed and the following enacted in its place:

5. Mandatory facility replacement. Upon the expiration date of a manufacturer's warranty for a tank, the tank and its associated piping must be removed from service and properly abandoned in accordance with section 566-A, except that a double-walled tank may continue in service up to 10 years beyond the expiration of the warranty if:

A. During the year the warranty expires but on a date before the warranty expires, a precision test is conducted to determine the integrity of the tank. Results of the test conducted must be submitted to the commissioner by the facility owner; and

B. During the 5th to 10th years after the expiration of the warranty, a precision test is conducted annually to determine the integrity of the tank. Results of each test must be submitted to the commissioner by the facility owner.

This subsection does not apply until January 1, 2008 to a tank installed before December 31, 1985 that has been retrofitted to meet the requirements of subsections 1-A and 1-B.

Sec. 2. 38 MRSA §566-A, sub-§1, as amended by PL 2009, c. 501, §7, is further amended to read:

1. Abandonment. All underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than ~~12~~ 24 months must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

A. Located beneath a building or other permanent structure;

B. Of a size and type of construction that it cannot be removed;

C. Otherwise inaccessible to heavy equipment necessary for removal; or

D. Positioned in such a manner that removal will endanger the structural integrity of nearby tanks.

Sec. 3. 38 MRSA §566-A, sub-§1-A, as amended by PL 2009, c. 501, §8, is further amended to read:

1-A. Abandoned tanks brought back into service. Underground oil storage tanks and facilities that have been out of service for a period of more than ~~12~~ 24 months may not be brought back into service without the written approval of the commissioner. The commissioner may approve the return to service if the owner demonstrates to the commissioner's satisfaction that:

A. The facility is in compliance with this subchapter and rules adopted pursuant to this subchapter;

B. The underground oil storage tanks and piping have successfully passed testing as directed by the commissioner;

C. The underground oil storage tanks and piping are constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the commissioner;

D. The facility has conforming suction or double-walled pressurized piping; and

E. The return of the facility to service does not pose an unacceptable risk to groundwater resources. In determining if the facility poses an unacceptable risk to groundwater resources, the commissioner may consider the age and maintenance history of the storage tanks and piping, the number and consequences of past oil discharges from the tanks and piping, the proximity of the facility to drinking water supplies and the proximity of the facility to sensitive geologic areas.

The commissioner may not approve the return to service of a single-walled underground oil storage tank that has been out of service for more than ~~12~~ 24 consecutive months.

Sec. 4. Report to the Fund Insurance Review Board. By October 1, 2015, the Department of Environmental Protection shall report to the Fund Insurance Review Board, under the Maine Revised Statutes, Title 38, section 568-B, data and associated information related to all incidents of leaks or spills resulting from the exception to the required replacement of underground oil storage tanks upon the expiration of a manufacturer's warranty for double-walled underground oil storage tanks pursuant to Title 38, section 564, subsection 5.

Sec. 5. Rulemaking. The Department of Environmental Protection shall amend its rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to allow the retrofitting of single-walled underground storage tanks with secondary containment systems prior to the expiration of the tank manufacturer's warranty and to allow the upgrading of related piping. 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 277

S.P. 231 - L.D. 793

An Act To Protect Ratepayers While Enhancing Energy Independence and Security

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

Sec. 1. 38 MRSA §580-A, sub-§18-B is enacted to read:

18-B. Other independent system operator participating states. "Other independent system operator participating states" means the following states participating in the regional greenhouse gas initiative as of January 1, 2011 that are located within the New England independent system operator control area: Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont.

Sec. 2. 38 MRSA §580-B, sub-§2-A is enacted to read:

2-A. Condition for withdrawal. The State shall withdraw from the regional greenhouse gas initiative when a sufficient number of other independent system operator participating states have withdrawn such that the total carbon dioxide emissions budget for the calendar year 2009, as specified in the Memorandum of Understanding, of the remaining other independent system operator participating states is less than 35,000,000 tons. If the condition is met for withdrawal from the regional greenhouse gas initiative, the department shall:

A. Immediately take all necessary steps to withdraw the State from all memoranda of understanding and contracts with states participating in the regional greenhouse gas initiative relating to the regional greenhouse gas initiative; and

B. Submit legislation to the Legislature to make the necessary changes in law to reflect the State's withdrawal from the regional greenhouse gas initiative.

See title page for effective date.

CHAPTER 278

S.P. 147 - L.D. 514

An Act Regarding Conveyance of Easements across Railroad Rights-of-way

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

Sec. 1. 5 MRSA §6209, sub-§6, as amended by PL 1993, c. 728, §13, is further amended to read:

6. Legislative approval. ~~Land~~ Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

Sec. 2. 5 MRSA §6209, sub-§7 is enacted to read:

7. Conveyance of an access easement across a rail trail. Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Conservation, with the approval of the Governor and the Commissioner of Conservation, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Conservation holds an ownership interest and that is:

A. No longer used for rail service; and

B. Managed by the Department of Conservation for use as a recreational trail.

Sec. 3. 12 MRSA §598, sub-§4, as enacted by PL 1993, c. 639, §1, is amended to read:

4. Reduced. "Reduced" means a reduction in the acreage of an individual parcel or lot of designated land under section 598-A. "Reduced" does not mean a reduction in the value of the property. "Reduced" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 4. 12 MRSA §598, sub-§5, as amended by PL 1997, c. 678, §7, is further amended to read:

5. Substantially altered. "Substantially altered," ~~,~~ in the use of designated lands, means changed so as to significantly alter physical characteristics in a way that frustrates the essential purposes for which that land is held by the State. The essential purposes of state parks, historic sites, public access sites, facilities for boats and the Allagash Wilderness Waterway are the protection, management and improvement of these properties for public recreation, conservation, scenic values, nature appreciation, historic preservation and interpretation, public access and related purposes. The essential purposes of public reserved and nonreserved lands are the protection, management and improvement of these properties for the multiple use objectives established in section 1847. The essential purposes of lands acquired through the Land for Maine's Future Board that are not held by the Department of Inland Fisheries and Wildlife or by the Department of Conservation are the protection, management and improvement of those lands for recreation, conservation, farming, open space, plant and animal habitat, scenic values, public access and related purposes. The essential purposes of state-owned wildlife management areas and game farms are the protection, management and improvement of those properties for fish and wildlife habitat and propagation, hunting, trapping, fishing, recreation, propagation and harvesting of forest and other natural products and related purposes. "Substantially altered" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

Sec. 5. 12 MRSA §1814-A is enacted to read:

§1814-A. Easements across rail trails

To the extent permitted by the deed or other instrument of ownership, the director, with the consent of the Governor and the commissioner, may sell or otherwise convey a right of access by easement across a rail trail as provided in this section. For the purposes of this section, "rail trail" means a former railroad right-of-way that is no longer used for rail service, in which the department has an ownership interest and that is managed by the department for use as a recreational trail.

1. Notice. At least 30 days prior to conveying a right of access by easement under this section, the director shall notify interested parties of the proposed conveyance, providing the location and purpose of the access easement and the anticipated date of conveyance. The notice must provide a name and contact information for a person at the bureau to whom inquiries may be made and comments submitted. For the purposes of this section, "interested parties" means owners of property abutting the parcel on which the proposed right of access is located, local trail clubs, statewide trail associations, the municipality in which the proposed easement is located, the Land for Maine's Future Board, each Legislator and other persons with a known interest in the use of the segment of the rail trail affected by the proposed conveyance.

2. Terms of conveyance. The access easement must include terms that ensure the transaction does not unreasonably interfere with the safety, maintenance and continuity of the rail trail. The access easement must ensure that public investment in the rail trail is protected by a negotiated exchange of value. The exchange of value may include, but is not limited to, negotiated improvements to the rail trail or payment of survey, title and appraisal expenses associated with the conveyance of the right of access by easement.

3. Proceeds from sale of an access easement. Proceeds from the sale of a right of access by easement under this section must be deposited in the Maine State Parks and Recreational Facilities Development Fund established under section 1825.

4. Opportunity for review by legislative committee. A Legislator receiving notification under subsection 1 may notify the director of concerns and may in writing request review of the proposed access easement by the joint standing committee of the Legislature having jurisdiction over parks and lands matters. A Legislator requesting a review under this subsection shall notify the chairs of the joint standing committee of the request.

When a request for legislative review is received under this subsection, the director may not finalize the transfer until the legislative committee has met and reviewed the proposed transaction.

See title page for effective date.

CHAPTER 279

H.P. 583 - L.D. 776

An Act To Create a Fair Process for Energy Service Companies Contracting with Maine Schools

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

Sec. 1. 20-A MRSA §15915, sub-§1, as amended by PL 2005, c. 499, §1, is repealed and the following enacted in its place:

1. Initial agreement for energy conservation improvements. A school administrative unit may enter into an agreement of up to 20 years with an energy services company. For the purposes of this section, "energy services company" means a company or 3rd-party financing company that provides design, installation, operation, maintenance and financing of energy conservation or combined energy conservation and related air quality improvements at existing school administrative unit facilities. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;

B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and

C. Has a total contract cost, excluding private or federal grant funds, interest and operating and maintenance costs, of less than $2,500,000 for any school building.

A school administrative unit may select an energy services company on the basis of a request for qualifications or a request for proposals, and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The deadline for receipt of requests for qualifications or requests for proposals may not be less than 15 days from the last day the advertisement was published. The school administrative unit shall establish an interview committee, which must include the superintendent of the school administrative unit and at least one school board member. The interview committee shall interview not fewer than 3 energy services companies unless a smaller number of energy services companies responds to the request for qualifications or request for proposals. A request for qualifications or a request for proposals may not contain terms that re-

quire an energy services company to have more than 3 years of experience in the energy conservation field, a minimum number of prior projects or project references or membership in or accreditation from a regional, national or international association of energy services companies or to use equipment that is not generally available to energy services companies or terms that are otherwise included for the purpose of bias or favoritism toward a particular energy services company.

Objections to the terms of a request for qualifications or a request for proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 7 days of the last publication of the newspaper advertisement. If an objection is received, the school board shall conduct a hearing on the objection within 14 days of its receipt. The school board shall allow interested energy services companies to speak at the hearing and shall issue a decision to either validate or invalidate the request for qualifications or the request for proposals within 7 days of the close of the hearing. A decision by the school board in response to an objection is a final government action subject to appeal to the Superior Court.

Sec. 2. 20-A MRSA §15915, sub-§1-A is enacted to read:

1-A. Performance criteria. An agreement under this section between a school administrative unit and an energy services company must include performance criteria that guarantee:

A. Energy savings;

B. A maximum price, including operation, maintenance and financing costs;

C. That the project will meet local, state and federal codes;

D. That measurement and verification of energy savings are determined using the international performance measurement and verification protocol published by the United States Department of Energy, Office of Scientific and Technical Information; and

E. An annual reconciliation of energy savings based on the measurement and verification process under this section.

Prior to entering into an agreement, a school administrative unit may request that the Department of Administrative and Financial Services, Bureau of General Services review the performance criteria in the agreement for conformance with this subsection. The Bureau of General Services shall review and advise school administrative units to the extent resources allow.

Sec. 3. Guidance for procuring energy conservation and air quality improvement services. The Department of Administrative and Financial Services, Bureau of General Services and the Department of Education, in consultation with representatives of energy services companies and representatives of school management, shall develop guidance for school administrative units procuring energy conservation and related air quality improvement services under the Maine Revised Statutes, Title 20-A, section 15915. No later than January 1, 2012, the agencies shall make accessible:

1. Guidance for preparing a request for qualifications and a request for proposals, including a sample of each type of request and a sample of a notice to be given;

2. A list of performance criteria recommended for inclusion in an energy services agreement; and

3. Guidelines for obtaining independent 3rd-party verification of energy savings by a qualified professional.

See title page for effective date.

CHAPTER 280

H.P. 570 - L.D. 763

An Act To Allow the Sale of Locally Produced Beer and Wine at Farmers' Markets

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

Sec. 1. 7 MRSA §415, sub-§1, ¶B, as amended by PL 2009, c. 547, §1, is further amended to read:

B. "Farm and food products" means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, malt liquor, wine, ornamental or vegetable plants, nursery products, fiber or fiber products, firewood and Christmas trees.

Sec. 2. 28-A MRSA §1355, sub-§10 is enacted to read:

10. Farmers' market. A licensee under subsection 2 or 3 may sell wine or malt liquor pursuant to the provisions of section 1366.

Sec. 3. 28-A MRSA §1366 is enacted to read:

§1366. Retail sales at farmers' market

1. Retail sales at farmers' market. A licensee under section 1355, subsection 2 or 3 or an employee of the licensee who is at least 21 years of age may sell wine or malt liquor manufactured in the State by the licensee at a farmers' market pursuant to this section.

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

A. "Farmer" means a natural person who sells, with or without processing, agricultural products raised by the person on land in the State owned or leased by the person.

B. "Farmers' market" has the same meaning as in Title 7, section 415, subsection 1, paragraph B.

3. Conditions. A licensee under subsection 1 may sell wine or malt liquor at a farmers' market under the following conditions:

A. The licensee shall apply for and must have received authorization to sell at farmers' markets from the bureau and paid an annual fee of $75. The application pursuant to this paragraph must be in a form determined by the bureau. The licensee shall submit the application at least 30 days prior to the date when wine or malt liquor is to be sold at a farmers' market;

B. Prior to each month during which the licensee wishes to sell at a farmers' market, the licensee shall provide to the bureau a list of the date, time and location of each farmers' market at which the licensee intends to sell and must receive approval from the bureau for that month;

C. The farmers' market must consist of at least 6 separate stalls or booths that sell farm or food products, not including alcoholic beverages, and must be authorized by the bureau under subsection 4;

D. The stall or booth operated by the licensee at the farmers' market is considered part of the licensed premises of the licensee for purposes of this chapter;

E. All wine and malt liquor must be prepackaged and sold by the bottle or case; and

F. Taste testing or sampling of wine and malt liquor is not permitted at the farmers' market.

4. Farmers' market authorization. At least 30 days prior to the sale of wine or malt liquor, a farmers' market must obtain municipal approval to sell wine and malt liquor under this section and apply for and receive authorization from the bureau for a licensee authorized under subsection 3, paragraph A to sell wine or malt liquor at the farmers' market. If the farmers' market is held on private property, the application must include a written statement signed by the owner of the property permitting the sale of wine or malt liquor in accordance with this section. The bureau may request a diagram of the layout of the farmers' market. An application required by this subsection must be in a form determined by the bureau.

5. Rules. The bureau may adopt rules to carry out the purposes of this section. 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 281

S.P. 246 - L.D. 802

An Act To Amend the Requirements for Electric Transmission Lines

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

Sec. 1. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 615, Pt. A, §1 and c. 655, Pt. A, §4, is repealed and the following enacted in its place:

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. Except as provided in subsection 6-A for a high-impact electric transmission line, if the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, state renewable energy generation goals, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A;

and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

See title page for effective date.

CHAPTER 282

H.P. 1039 - L.D. 1413

An Act To Amend the Maine Juvenile Code To Address the Issue of Competency

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

Whereas, there are currently juveniles in the juvenile justice system for whom the determination of competency is urgent; and

Whereas, adapting the adult model of competency determination to fit juveniles does not recognize the important differences between adults and juveniles; and

Whereas, the sooner that adoption of a method to determine juvenile competency is in place, the sooner judges, attorneys, state agencies and juveniles and their families will have a uniform method and shared expectations for determining juvenile competency; and

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

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

Sec. 1. 15 MRSA §3309-A, last ¶, as repealed and replaced by PL 1985, c. 213, is amended to read:

Nothing in this section may be construed to limit court-ordered examinations pursuant to ~~section 3318~~ sections 3318-A and 3318-B.

Sec. 2. 15 MRSA §3310, sub-§3, as amended by PL 2001, c. 471, Pt. F, §2, is repealed.

Sec. 3. 15 MRSA §3318, as amended by PL 2009, c. 268, §§6 and 7, is repealed.

Sec. 4. 15 MRSA §3318-A is enacted to read:

§3318-A. Determination of competency of a juvenile to proceed in a juvenile proceeding

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

A. "Chronological immaturity" means a condition based on a juvenile's chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or mental retardation.

B. "Mental illness" means any diagnosable mental impairment supported by the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

C. "Mental retardation" means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social and practical adaptive skills.

2. Competency to proceed in a juvenile proceeding. A juvenile is competent to proceed in a juvenile proceeding if the juvenile has:

A. A rational as well as a factual understanding of the proceedings against the juvenile; and

B. A sufficient present ability to consult with legal counsel with a reasonable degree of rational understanding.

3. Determination of competency. The issue as to a juvenile's competency to proceed may be raised by the juvenile, by the State or sua sponte by the Juvenile Court at any point in the juvenile proceeding after a finding of probable cause and prior to the imposition of a final order of disposition. A competency determination is necessary only when the Juvenile Court has a reasonable doubt as to a juvenile's competency to proceed.

4. Competency examination. If the Juvenile Court determines that a competency determination is

necessary, it shall order that a juvenile be examined by the State Forensic Service to evaluate the juvenile's competency to proceed. The examination must take place within 21 days of the court's order.

5. Suspension of juvenile proceedings. Pending a competency examination, the Juvenile Court shall suspend the proceeding on the petition. The suspension remains in effect pending the outcome of a competency determination hearing pursuant to subsection 7. Suspension of the proceeding does not affect the Juvenile Court's ability to detain or release the juvenile pursuant to section 3203-A, subsection 5.

6. Criteria for State Forensic Service examiner's report. The following provisions govern criteria for the State Forensic Service examiner's report.

A. To assist the court's determination of competency, the State Forensic Service examiner's report must address the juvenile's capacity and ability to:

(1) Appreciate the allegations of the petition;

(2) Appreciate the nature of the adversarial process including:

(a) Having a factual understanding of the participants in the juvenile's proceeding, including the judge, defense counsel, attorney for the State and mental health expert; and

(b) Having a rational understanding of the role of each participant in the juvenile's proceeding;

(3) Appreciate the range of possible dispositions that may be imposed in the proceedings against the juvenile and recognize how possible dispositions imposed in the proceedings will affect the juvenile;

(4) Appreciate the impact of the juvenile's actions on others;

(5) Disclose to counsel facts pertinent to the proceedings at issue including:

(a) Ability to articulate thoughts;

(b) Ability to articulate emotions; and

(c) Ability to accurately and reliably relate to a sequence of events;

(6) Display logical and autonomous decision making;

(7) Display appropriate courtroom behavior;

(8) Testify relevantly at proceedings; and

(9) Demonstrate any other capacity or ability either separately sought by the Juvenile Court or determined by the examiner to be relevant to the Juvenile Court's determination.

B. In assessing the juvenile's competency, the State Forensic Service examiner shall compare the juvenile being examined to juvenile norms that are broadly defined as those skills typically possessed by the average juvenile defendant adjudicated in the juvenile justice system.

C. The State Forensic Service examiner shall determine and report if the juvenile suffers from mental illness, mental retardation or chronological immaturity.

D. If the juvenile suffers from mental illness, mental retardation or chronological immaturity, the State Forensic Service examiner shall report the severity of the impairment and its potential effect on the juvenile's competency to proceed.

E. If the State Forensic Service examiner determines that the juvenile suffers from chronological immaturity, the examiner shall report a comparison of the juvenile to the average juvenile defendant.

F. If the State Forensic Service examiner determines that the juvenile suffers from a mental illness, the examiner shall provide the following information:

(1) The prognosis of the mental illness; and

(2) Whether the juvenile is taking any medication and, if so, what medication.

G. The State Forensic Service examiner's report must state an opinion whether there exists a substantial probability that the deficiencies related to competence identified in the report, if any, can be ameliorated in the foreseeable future.

7. Post-examination report and hearing. Following receipt of the competency examination report from the State Forensic Service examiner, the Juvenile Court shall provide copies of the report to the parties and hold a competency determination hearing. If the Juvenile Court finds that the juvenile is competent to proceed based upon the burden and standard of proof pursuant to subsection 8, the Juvenile Court shall set a time for the resumption of the proceedings. If the Juvenile Court is not satisfied that the juvenile is competent to proceed, the Juvenile Court shall determine how to proceed pursuant to section 3318-B.

The court may consider the report of the State Forensic Service examiner, together with all other evidence relevant to the issue of competency, in its determination whether the juvenile is competent to proceed. No single criterion set forth in subsection 6 may be binding on the court's determination.

8. Allocation of the burden of proof; standard of proof. The burden of proof of competence is on the State if the juvenile is less than 14 years of age at the time the issue of competence is raised. If the juvenile

is at least 14 years of age at the time the issue of competence is raised, the burden of proof is on the juvenile. In the event the State has the burden of proof, it must show by a preponderance of the evidence that the juvenile is competent to proceed. In the event the juvenile has the burden of proof, the juvenile must show by a preponderance of the evidence that the juvenile is not competent to proceed.

9. Statements made in the course of competency examination. Statements made by the juvenile in the course of a competency examination may not be admitted as evidence in the adjudicatory stage for the purpose of proving any juvenile crime alleged.

10. Competency to proceed after bind over. Notwithstanding a finding by the Juvenile Court that the juvenile is competent to proceed in a juvenile proceeding, if the juvenile is subsequently bound over for prosecution in the Superior Court or a court with a unified criminal docket pursuant to section 3101, subsection 4, the issue of the juvenile's competency may be revisited.

Sec. 5. 15 MRSA §3318-B is enacted to read:

§3318-B. Disposition of a juvenile found incompetent to proceed

1. Substantial probability that juvenile will be competent in the foreseeable future. If, following the competency determination hearing pursuant to section 3318-A, subsection 7, the Juvenile Court finds that the juvenile is not competent to proceed but additionally finds that there exists a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall continue the suspension of the proceedings and refer the juvenile to the Commissioner of Health and Human Services for evaluation and treatment of the mental health and behavioral needs identified in the report of the State Forensic Service examiner under section 3318-A.

A. At the end of 60 days or sooner, at the end of 180 days and at the end of one year following referral, the State Forensic Service shall examine the juvenile and forward a report of the examination to the Juvenile Court relating to the juvenile's competency to proceed and its reasons. Upon receipt of the report the Juvenile Court shall forward the report to the parties and without delay set a date for a conference of counsel or, upon a motion of any party, set a hearing on the question of the juvenile's competency to proceed. If the Juvenile Court finds that the juvenile is not yet competent to proceed, but there exists a substantial probability that the juvenile will be competent to proceed in the foreseeable future, the proceedings must remain suspended pending further review or hearing.

B. If more than one year has elapsed since the suspension of the proceedings, the Juvenile Court shall promptly hold a hearing to determine whether based on clear and convincing evidence there exists a substantial probability that the juvenile will be competent in the foreseeable future. Notwithstanding section 3318-A, subsection 8, the burden of proof is on the State in any hearing under this paragraph. If the Juvenile Court finds that there does not exist a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall further determine whether or not the court should:

(1) Order the Commissioner of Health and Human Services to evaluate the appropriateness of providing mental health and behavioral support services to the juvenile; or

(2) Order the juvenile into the custody of the Commissioner of Health and Human Services utilizing the procedures set forth in section 3314, subsection 1, paragraph C-1 for purposes of placement and treatment.

At the conclusion of the hearing the Juvenile Court shall dismiss the petition or, if post-adjudication, vacate the adjudication order and dismiss the petition.

C. If during the suspension of the proceedings the juvenile reaches 18 years of age, the Juvenile Court may evaluate the appropriateness of placing the juvenile in an appropriate institution for the care and treatment of adults with mental illness or mental retardation for observation, care and treatment.

D. The Juvenile Court shall set a time for resumption of the proceedings if at any point it finds, based upon the burden and standard of proof pursuant to section 3318-A, subsection 8, that the juvenile is now competent to proceed.

2. No substantial probability that juvenile will be competent in the foreseeable future. If, following the competency determination hearing provided in section 3318-A, subsection 8, the Juvenile Court finds that the juvenile is incompetent to proceed and that there does not exist a substantial probability that the juvenile will be competent in the foreseeable future, the Juvenile Court shall promptly hold a hearing to determine whether or not the Juvenile Court should:

A. Order the Commissioner of Health and Human Services to evaluate the appropriateness of providing mental health and behavioral support services to the juvenile; or

B. Order the juvenile into the custody of the Commissioner of Health and Human Services utilizing the procedures set forth in section 3314, subsection 1, paragraph C-1 for purposes of placement and treatment.

At the conclusion of the hearing the Juvenile Court shall dismiss the petition or, if post-adjudication, vacate the adjudication order and dismiss the petition.

Sec. 6. 34-A MRSA §3802, sub-§1, ¶B, as amended by PL 1995, c. 502, Pt. F, §27, is further amended to read:

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section ~~3318~~ 3318-A;

Sec. 7. 34-A MRSA §4102-A, sub-§1, ¶B, as enacted by PL 2005, c. 328, §22, is amended to read:

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section ~~3318~~ 3318-A;

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

Effective June 9, 2011.

CHAPTER 283

H.P. 735 - L.D. 999

An Act Regarding the Public Utilities Commission's Ability To Use Certain Funds

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

Sec. 1. 35-A MRSA §3210, sub-§7, as amended by PL 2009, c. 329, Pt. B, §1, is further amended to read:

7. Information. ~~The~~ To the extent that funding is available, 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 Patent 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. 2. Authorized expenditures. During the 2-year period of calendar years 2011 and 2012, the Public Utilities Commission may expend an amount not to exceed $100,000 from the conservation program fund established under the Maine Revised Statutes, Title 35-A, section 10110 for the purposes of Title 35-A, section 3210, subsection 7.

See title page for effective date.

CHAPTER 284

H.P. 1113 - L.D. 1510

An Act Regarding Information Provided to Consumers by Competitive Electricity Providers

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

Sec. 1. 35-A MRSA §3203, sub-§3, as enacted by PL 1997, c. 316, §3, is amended to read:

3. Informational filings; public information. The commission shall establish by rule information disclosure and filing requirements for competitive electricity providers. The rules must require generation providers to file their generally available rates, terms and conditions with the commission. The commission, subject to appropriate protective orders, may require the submission of individual service contracts or any other confidential information from a competitive electricity provider.

The commission by rule shall establish standards for ~~publishing and disseminating~~ making available, through any means considered appropriate, information that enhances consumers' ability to effectively make choices in a competitive electricity market.

Rules adopted under this subsection are ~~major substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter ~~II-A and must be provisionally adopted by March 1, 1999~~ 2-A.

Sec. 2. 35-A MRSA §3203, sub-§4, ¶E, as amended by PL 2003, c. 558, §2, is further amended to read:

E. Must provide to the consumer within 30 days of contracting for retail service a disclosure of information provided to the commission pursuant to rules adopted under subsection 3 in a standard written format established by the commission; and

Sec. 3. 35-A MRSA §3203, sub-§4, ¶F, as amended by PL 2003, c. 558, §2, is further amended to read:

F. Must comply with any other applicable standards or requirements adopted by the commission by rule or order~~; and~~.

Sec. 4. 35-A MRSA §3203, sub-§4, ¶G, as enacted by PL 2003, c. 558, §3, is repealed.

See title page for effective date.

CHAPTER 285
H.P. 971 - L.D. 1325

An Act To Amend the Tax Laws

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

Sec. 1. 5 MRSA §13090-L, sub-§4, as amended by PL 2009, c. 470, §1, is further amended to read:

4. Certified visual media production report. No later than 4 weeks after completion of a certified visual media production, the visual media production company shall report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office ~~and the State Tax Assessor~~.

Sec. 2. 36 MRSA §1753, as repealed and replaced by PL 1987, c. 497, §26, is amended to read:

§1753. Tax is a levy on consumer

The ~~liability for, or the incidence of, the~~ tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements ~~which~~ that advertise or indicate the sale price of that property or those services. If the retailer does not state the amount of the tax separately from the sale price of tangible personal property or taxable services, the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax.

Sec. 3. 36 MRSA §1760, sub-§25, ¶B, as enacted by PL 2009, c. 620, §1 and affected by §2, is repealed and the following enacted in its place:

B. The purchase of a watercraft outside this State is exempt if the watercraft is registered outside the State by the purchaser and used outside the State by the purchaser and the watercraft is present in the State not more than 30 days, not including any time spent in this State for temporary storage, during the 12 months following its purchase. For purposes of this paragraph, "used outside the State" does not include storage but means actual use of the watercraft for a purpose consistent with its design.

Sec. 4. 36 MRSA §1760, sub-§45, ¶A-1, as amended by PL 2007, c. 438, §45, is repealed.

Sec. 5. 36 MRSA §1760, sub-§87, as amended by PL 2009, c. 627, §6 and affected by §12, is further amended to read:

87. Sales of tangible personal property and transmission and distribution of electricity to qualified development zone businesses. Beginning July 1, 2005, sales of tangible personal property, and of the transmission and distribution of electricity, to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, 2028, whichever occurs first. As used in this subsection, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

Sec. 6. 36 MRSA §1760-D, as enacted by PL 2009, c. 632, §2, is amended to read:

§1760-D. Exemptions of certain products; information posted on publicly accessible website

1. List of products. The assessor shall post on the bureau's publicly accessible website, and update quarterly, a list of products used in commercial agricultural or silvicultural crop production or in animal ~~agriculture for~~ agricultural production with respect to which the assessor has made a written ~~definitive~~ de-

termination on the applicability of a sales tax exemption under section 1760, subsection 7-B or 7-C ~~has been made on the bureau's publicly accessible website~~ and of items of depreciable machinery and equipment that the assessor has determined may be eligible for a refund of sales tax under section 2013. ~~The~~ In the case of products exempt from tax under section 1760, subsection 7-B or 7-C, the list must include the name of the product~~,~~ and any other information necessary to identify the product at the point of sale ~~and the determination of whether or not that product is exempt from sales tax under section 1760, subsection 7-B or 7-C~~.

When the assessor receives a request in writing for ~~an interpretation on~~ a determination as to whether or not a product used in commercial agricultural or silvicultural crop production or in animal ~~agriculture~~ agricultural production is exempt from sales tax under section 1760, subsection 7-B or 7-C, the assessor shall respond in writing. ~~When the information in the request is sufficient to make a definitive determination on the applicability of the sales tax exemption, the assessor shall within 3 weeks of making the determination add the appropriate information to the list maintained under this section.~~

2. Information on procedures for appeals and refunds. The assessor shall provide information on the bureau's publicly accessible website ~~on~~ regarding the ~~process to appeal a determination on the applicability of an exemption to a product under section 1760, subsection 7-B or 7-C and to request a refund for sales tax paid on an exempt product.~~ procedures for:

A. Requesting a refund of sales tax paid on an exempt product;

B. Appealing an assessment of tax liability; and

C. Appealing the denial of an exemption certificate or refund request under section 2013.

Sec. 7. 36 MRSA §1951-A, as amended by PL 2007, c. 539, Pt. KKK, §1, is further amended to read:

§1951-A. Collection of tax; report to State Tax Assessor

1. Monthly report and payment. Every retailer shall file with the State Tax Assessor, on or before the 15th day of each month, a return made under the penalties of perjury on a form prescribed by the assessor. The return must report the total sale price of all sales made during the preceding calendar month and such other information as the assessor requires. The assessor may permit the filing of returns other than monthly. The assessor, by rule, may waive reporting nontaxable sales. ~~Upon application of a retailer, the assessor shall issue a classified permit establishing the percentage of exempt sales. The classified permit may be amended or revoked if the assessor determines that the percentage of exempt sales is inaccurate.~~ The assessor may for good cause extend for not more than 30 days the time for filing returns required under this Part. Every person subject to the use tax shall file similar returns, at similar dates, and pay the tax or furnish a receipt for the ~~same~~ tax from a registered retailer.

3. Reporting tax on casual rentals on individual income tax returns. ~~A person~~ An individual whose only sales tax collection responsibility under this Title is the collection of sales tax on casual rentals of living quarters pursuant to section 1764 and whose sales tax liability in connection with those rentals during the period of the individual's income tax return is expected to be less than $2,000 may report and pay that sales tax on the ~~person's~~ individual's Maine ~~individual~~ income tax return for that year in lieu of filing ~~reports~~ returns under subsection 1. If the ~~person's~~ individual's actual sales tax liability ~~for the year~~ in connection with those rentals is $2,000 or more for that year, the ~~person~~ individual must file ~~reports~~ returns as required under subsection 1 during the succeeding year.

Sec. 8. 36 MRSA §2013, sub-§4, as enacted by PL 2009, c. 632, §3, is amended to read:

4. Information on processes for refunds and appeals. The assessor shall post information describing the process for requesting a refund under this section on the bureau's publicly accessible website along with a description of the process to appeal a ~~decision by the assessor under section 2011~~ denial of refund request.

Sec. 9. 36 MRSA §4361, sub-§1-B is enacted to read:

1-B. Delivery sale. "Delivery sale" means a sale of cigarettes to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or

B. The cigarettes are delivered by use of a delivery service.

Sec. 10. 36 MRSA §4361, sub-§2, as amended by PL 1997, c. 458, §1, is further amended to read:

2. Distributor. "Distributor" means any person engaged in this State in the business of producing or manufacturing cigarettes in this State, importing cigarettes into this State, making delivery sales or making wholesale purchases or sales of cigarettes in this State on which the tax imposed by this chapter has not been paid.

Sec. 11. 36 MRSA §4401, sub-§1-A is enacted to read:

1-A. Delivery sale. "Delivery sale" means a sale of tobacco products to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or

B. The tobacco products are delivered by use of a delivery service.

Sec. 12. 36 MRSA §4401, sub-§2, as amended by PL 2005, c. 627, §1, is further amended to read:

2. Distributor. "Distributor" means ~~any~~ a person engaged in the business of producing or manufacturing tobacco products in this State for sale in this State, ~~any~~ a person engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State any tobacco products for sale to a retailer ~~or any~~, a person engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in this State ~~or any~~, a retailer who imports, receives or acquires, from a person other than a licensed distributor, tobacco products for sale within the State or a person who makes delivery sales.

Sec. 13. 36 MRSA §5333, sub-§1, as enacted by PL 2003, c. 452, Pt. U, §18 and affected by Pt. X, §2, is amended to read:

1. False tax return or other document. A person who knowingly ~~makes and subscribes any~~ files a return, statement or other document that contains or is verified by a ~~written~~ declaration that it is made under the penalties of perjury that the person does not believe to be true and correct ~~as to~~ in every material ~~matter~~ respect or who knowingly aids or procures the preparation or presentation in a matter arising under this Part of a return, affidavit, claim or other document that is fraudulent or is false ~~as to~~ in any material ~~matter~~ respect commits a Class D crime.

Sec. 14. Certain classified permits grandfathered. A classified permit issued by the State Tax Assessor pursuant to the Maine Revised Statutes, Title 36, section 1951-A that is valid on the effective date of this Act remains in force until it is relinquished or revoked under the laws and rules that existed on the day preceding the effective date of this Act.

Sec. 15. Retroactivity. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 36, section 1760, subsection 25, paragraph B applies retroactively to August 1, 2010. That section of this Act that repeals Title 36, section 1760, subsection 45, paragraph A-1 applies retroactively to August 1, 2010. That section of this Act that amends Title 36, section 1760-D applies retroactively to July 12, 2010. That section of this Act that amends Title 36, section 2013, subsection 4 applies retroactively to July 12, 2010.

See title page for effective date.

CHAPTER 286

H.P. 1145 - L.D. 1560

An Act To Update Professional and Occupational Licensing Statutes

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

PART A

Sec. A-1. 9 MRSA §5003, sub-§3, as amended by PL 2007, c. 402, Pt. A, §2, is further amended to read:

3. Commercial co-venturer. "Commercial co-venturer" means any person or entity who, for profit, is regularly and primarily engaged in trade or commerce in this State, other than in connection with the raising of funds for charitable organizations or purposes, and who conducts a sale, performance, event or collection and sale of donated goods that is advertised in conjunction with the name of any charitable organization. Any such person or entity who will benefit in good will only may not be considered a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event, or the collection and sale of donated goods, are supervised and controlled by the benefiting charitable organization. Any such person or entity whose annual contributions to charitable organizations do not exceed $10,000 is exempt from the licensure requirement under section 5002.

Sec. A-2. 9 MRSA §5003, sub-§9, as amended by PL 2003, c. 541, §4, is further amended to read:

9. Professional fund-raising counsel. "Professional fund-raising counsel" means any person or entity who is retained, for compensation, by a charitable organization to plan, manage, advise or provide consultation services with respect to the solicitation in this State of contributions, but who does not solicit contributions, has neither custody nor control of contributions and does not directly or indirectly employ, procure or engage any person or entity compensated to solicit contributions. A bona fide nontemporary salaried officer or employee of a charitable organization is not considered to be a professional fund-raising counsel. An attorney, investment counselor or banker who advises any person to make a contribution to a charitable organization is not, as the result of such advice, a professional fund-raising counsel.

Sec. A-3. 9 MRSA §5004, sub-§3, ¶N, as amended by PL 2007, c. 402, Pt. A, §3, is further amended to read:

N. The total amount of money received as contributions during the organization's preceding fiscal year and the dates of the fiscal year; ~~and~~

Sec. A-4. 9 MRSA §5004, sub-§3, ¶P, as enacted by PL 2003, c. 541, §7, is amended to read:

P. A determination letter from the federal Internal Revenue Service, confirming the tax-exempt status of the charitable organization~~.~~; and

Sec. A-5. 9 MRSA §5004, sub-§3, ¶Q is enacted to read:

Q. Disclosure of, and the final disposition document pertaining to, any disciplinary action taken against the applicant by a licensing, registration or regulatory authority in any jurisdiction.

Sec. A-6. 9 MRSA §5004, sub-§4, ¶D, as amended by PL 2007, c. 402, Pt. A, §3, is repealed and the following enacted in its place:

D. The complete packet for renewal of license application must include all the requirements identified in subsection 3 as well as the following:

(1) The organization's most recent federal Internal Revenue Service Form 990 and Schedule A, federal Internal Revenue Service Form 990-EZ or federal Internal Revenue Service Form 990-N, as required by the federal Internal Revenue Service; and

(2) An audited financial statement of the organization's most recent audited fiscal year, if one has been prepared in order to comply with the requirements of another jurisdiction or otherwise exists. If an audited financial statement does not exist, a balance sheet identifying assets and liabilities and an income statement identifying revenues and expenditures may be substituted.

Sec. A-7. 9 MRSA §5005-B, sub-§4 is enacted to read:

4. Application subsequent to lapse of licensure. An applicant whose prior license was not renewed or was terminated must file, along with the application, an annual fund-raising activity report for the most recent calendar year in which the applicant conducted charitable solicitation activity within the United States.

Sec. A-8. 9 MRSA §5008, as amended by PL 2007, c. 402, Pt. A, §6, is further amended to read:

§5008. Licensure, license renewal, record retention and reporting by professional solicitors, professional fund-raising counsel and commercial co-venturers

1. Licensure. A person or entity may not act as a professional solicitor, a professional fund-raising counsel or a commercial co-venturer before that person or entity has received a license from the office. Applications for initial or renewal licensure must be in writing, under oath, in the form prescribed by the office and accompanied by an application fee and a license fee as set under section 5015-A. An applicant for initial or renewal licensure shall disclose as part of the license application any disciplinary action taken against the applicant or licensee by a licensing, registration or regulatory authority in any jurisdiction and shall include the final disposition document pertaining to any such disciplinary action with the application. The applicant, except for applicants that are licensed as professional fund-raising counsel, shall, at the time of making application for initial or renewal licensure, file with and must have approved by the office a bond, in which the applicant must be the principal obligor and the State the obligee, in the sum of $25,000, with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Licensure is for a period of one year.

1-A. Renewal of license as professional solicitor, professional fund-raising counsel or commercial co-venturer. The following provisions govern application and qualification for renewal licensure as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

A. An entity that holds a valid license must submit a completed application for renewal before the date of expiration of the license.

B. An application may not be considered for approval until complete. If the application is incomplete, the applicant must include a letter documenting the specific reasons the application is incomplete. If no such letter is included, the incomplete application may be returned for completion.

C. The complete application packet must include:

(1) All forms required in this section;

(2) Except for professional fund-raising counsel, a bond approved by the department in the sum of $25,000 with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond must expire on the stated date

of expiration and be kept on file in the office for 3 years; and

(3) A license renewal fee as set under section 5015-A.

D. A professional solicitor or commercial co-venturer who submits a license renewal application must submit:

(1) A bond in the sum of $25,000 that expires on the stated date of expiration;

(2) A license renewal fee as set under section 5015-A; and

(3) The completed application.

G. A professional fund-raising counsel who is applying for license renewal must submit:

(1) A license renewal fee as set under section 5015-A; and

(2) A completed renewal application.

2. Records. A professional solicitor, professional fund-raising counsel or commercial co-venturer shall maintain accurate and complete books and records of fund-raising activities and telephone solicitation scripts and shall keep those books and records available for inspection by the Attorney General or the office for a period of 3 years after the conclusion of each specific instance in which that person acts as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

3-A. Annual fund-raising activity reports to be filed by professional solicitors, professional fund-raising counsel and commercial co-venturers. Filing of annual fund-raising activity reports by professional solicitors, professional fund-raisers and commercial co-venturers is governed by this subsection.

A. Each professional solicitor, professional fund-raising counsel or commercial co-venturer shall file with the office an annual fund-raising activity report on a form prescribed by the office at least 60 days prior to the license expiration date that reflects data from the preceding calendar year. The report must state, at a minimum, the following:

(1) The name, mailing address, telephone number and license number of the professional solicitor, professional fund-raising counsel or commercial co-venturer making the report;

(2) The name, mailing address, telephone number and license number of each charitable organization with which the professional solicitor, professional fund-raising counsel or commercial co-venturer has contracted;

(3) The date of any fund-raising campaign in which the professional solicitor, professional fund-raising counsel or commercial co-venturer was involved;

(4) The total dollar amount raised during each fund-raising campaign;

(5) The total dollar amount remitted to the charitable organization from each fund-raising campaign and for the year;

(6) The total dollar amount retained by the professional solicitor from each fund-raising campaign and for the year;

(7) The total dollar amount received by the professional fund-raising counsel from each fund-raising campaign and for the year; and

(8) The total dollar amount remitted by the commercial co-venturer from each fund-raising campaign and for the year.

B. Failure to file the annual fund-raising activity report or disagreement between that report and the report submitted by the charitable organization with which the professional solicitor, professional fund-raising counsel or commercial co-venturer has contracted may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A.

C. Contracting with an unlicensed entity is prohibited and may result in disciplinary action as provided under Title 10, section 8003, subsection 5-A.

D. An applicant whose prior license was not renewed or was terminated must file, along with the application, an annual fund-raising activity report for the most recent calendar year in which the applicant conducted charitable solicitation activity within the United States.

4. Exemption. This section does not apply to a national bank, a federal savings bank, a subsidiary of a national bank or federal savings bank or any other financial institution or credit union chartered under the laws of the United States or any state and subject to supervision and regulation by a federal financial regulatory agency.

Sec. A-9. 9 MRSA §5012-A, as amended by PL 2003, c. 541, §17, is further amended to read:

§5012-A. Commercial co-venturer disclosure

A commercial co-venturer who is engaged in the solicitation of goods or services is guilty of a deceptive and prohibited practice if that commercial co-venturer charges a charitable organization a sum of money for the goods or services and the co-venturer's services in the collection of those goods or services that far exceeds the fair market value of those goods or services and the co-venturer's services. Such an action

constitutes a fraud against the charity and its donors. Fair market value may be established in any commercially acceptable fashion including a comparison of the amount paid for similar goods and services by a similar charity. Any promotional materials used by a commercial co-venturer to disclose that a component of the purchase price of the goods or services will accrue to the benefit of a charitable organization must also state either the percentage of the purchase price or the dollar amount to be remitted. This section does not apply to a national bank, a federal savings bank, a subsidiary of a national bank or federal savings bank or any other financial institution or credit union chartered under the laws of the United States or any state and subject to supervision and regulation by a federal financial regulatory agency.

Sec. A-10. 9 MRSA §5013, sub-§1, as enacted by PL 1977, c. 488, §1, is amended to read:

1. Use of name; written consent. ~~No~~ A person ~~shall~~ or entity may not, for the purpose of soliciting contributions from persons or entities in this State, use the name of any other person~~, without the specific written consent of the other person~~ or entity in a misleading manner. This prohibition includes, but is not limited to, the publication of endorsements purported to have been made by public or private individuals who have not, in fact, provided written authorization for the use of their names for this purpose.

Sec. A-11. 9 MRSA §5017, as amended by PL 2007, c. 695, Pt. A, §10, is further amended to read:

§5017. Denial or refusal to renew license; disciplinary action

The commissioner or the commissioner's designee may deny the license application, refuse to renew the license or suspend or revoke the license of a person or an entity that has been, or whose principals, officers, directors, employees or fundraisers have been, convicted of, found guilty of, pled guilty or nolo contendere to or have been incarcerated by any federal or state court for any felony or for any misdemeanor involving dishonesty, including, but not limited to, fraud, theft, larceny, embezzlement or any crime arising from the conduct of a solicitation for a charitable organization.

The commissioner or the commissioner's designee may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized under Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

PART B

Sec. B-1. 10 MRSA §8001, sub-§38, as amended by PL 2009, c. 344, Pt. B, §§1 to 5 and affected by Pt. E, §2 and amended by c. 369, Pt. A, §22, is further amended to read:

38. Office of Professional and Occupational Regulation. Office of ~~Licensing and Registration~~ Professional and Occupational Regulation. The Office of ~~Licensing and Registration~~ Professional and Occupational Regulation 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;

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;

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;

JJ. Real Estate Commission;

KK. Board of ~~Boiler Rules~~ Boilers and Pressure Vessels;

LL. Board of Elevator and Tramway Safety;

MM. Board of ~~Speech language Pathology~~ Speech, Audiology and Hearing ~~Aid Dealing and Fitting~~; and

NN. Maine Fuel Board.

The Office of ~~Licensing and Registration~~ Professional and Occupational Regulation 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; 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. B-2. 10 MRSA §8003, sub-§5-A, as amended by PL 2009, c. 112, Pt. B, §4, is further amended to read:

5-A. Authority of Office of Professional and Occupational Regulation. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of ~~Licensing and Registration~~ Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

(1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;

(2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;

(3) Conviction of a crime to the extent permitted by Title 5, chapter 341;

(4) Any violation of the governing law of an office, board or commission;

(5) Any violation of the rules of an office, board or commission;

(6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;

(7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;

(8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;

(9) Noncompliance with an order or consent agreement of an office, board or commission;

(10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or

(11) Any violation of a requirement imposed pursuant to section 8003-G.

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

(1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;

(2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;

(3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;

(4) Revocation of a license;

(5) Imposition of civil penalties of up to $1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational

supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee.

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

D. The office, board or commission may:

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of ~~Licensing and Registration~~ Professional and Occupational Regulation if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement.

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21.

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The jurisdiction to impose discipline against occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

In the event of appeal to Superior Court from any form of discipline imposed pursuant to this subsection, including denial or nonrenewal of a license, the office, board or commission may assess the licensed person or entity for the costs of transcribing and reproducing the administrative record.

Sec. B-3. 10 MRSA §8003-C, sub-§4, as amended by PL 2009, c. 465, §5, is further amended to read:

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

Sec. B-4. 10 MRSA §8003-D, as amended by PL 2009, c. 465, §6, is further amended to read:

§8003-D. Investigations; enforcement duties; assessments

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

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

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

Sec. B-5. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Office of Licensing and Registration" appear or reference is made to that entity or those words, they are amended to read "Office of Professional and Occupational Regulation" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART C

Sec. C-1. 32 MRSA §286, sub-§7, as enacted by PL 1999, c. 146, §5, is amended to read:

7. Assistants. This chapter does not apply to a person assisting the auctioneer in conducting the auction sale ~~provided~~ if the auctioneer is physically present and assumes full responsibility for the auction sale. The assistant may not be a person who has had an auctioneer license denied, suspended or revoked in this State or in any other state.

Sec. C-2. 32 MRSA §291-A, sub-§2, as enacted by PL 2007, c. 402, Pt. G, §7, is amended to read:

2. Record-keeping violations. Failure to comply with or properly maintain records required by Title 30-A, section 3971; ~~or~~

Sec. C-3. 32 MRSA §291-A, sub-§3, as enacted by PL 2007, c. 402, Pt. G, §7, is amended to read:

3. Improper advertising. Advertising an auction without including the name and license number of the auctioneer~~.~~; or

Sec. C-4. 32 MRSA §291-A, sub-§4 is enacted to read:

4. Unqualified assistants. Allowing a person to act as an assistant who has had an auctioneer license denied, suspended or revoked in this State or in any other state.

PART D

Sec. D-1. 32 MRSA §64-B, as enacted by PL 2007, c. 402, Pt. E, §4, is amended to read:

§64-B. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

1. Habitual substance abuse. Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing assigned services in a manner that endangers the health or safety of patients;

2. Mental or physical condition. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing assigned services in a manner that endangers the health or safety of patients; or

3. False advertising. Engaging in false, misleading or deceptive advertising.

~~If the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.~~

PART E

Sec. E-1. 32 MRSA §503-B, as enacted by PL 2007, c. 402, Pt. H, §7, is amended to read:

§503-B. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

1. Habitual substance abuse. Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

2. Mental or physical condition. A professional diagnosis of a mental or physical condition that has resulted or may result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

3. False advertising. Engaging in false, misleading or deceptive advertising;

4. Nonchiropractic practice. Offering health services outside the field of chiropractic; or

5. Fee-splitting. Splitting or dividing a fee with an individual who is not an associate licensed as a chiropractor.

~~If the factual basis of a complaint that has been filed is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the applicant or licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the applicant or licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.~~

PART F

Sec. F-1. 32 MRSA §1101, sub-§1-A, as enacted by PL 1995, c. 325, §1, is amended to read:

1-A. Electrical company. "Electrical company" means a person, firm, corporation or partnership employing licensees engaged in the business of doing electrical installations. ~~A company license must be validated by an employee or officer of the company holding a current master or limited electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the death of or the severance from the company of the validating licensee.~~

Sec. F-2. 32 MRSA §1101, sub-§3-A, as amended by PL 1995, c. 325, §3, is further amended to read:

3-A. Journeyman-in-training electrician. "Journeyman-in-training electrician" means a person making electrical installations in the employment of a master electrician, limited electrician or electrical company and under the indirect supervision of a ~~journeyman,~~ limited or master electrician.

Sec. F-3. 32 MRSA §1101, sub-§4, as amended by PL 1995, c. 325, §4, is further amended to read:

4. Journeyman electrician. "Journeyman electrician" means a person making electrical installations in the employment and under the indirect supervision of a master electrician, limited electrician or electrical company.

Sec. F-4. 32 MRSA §1101, sub-§4-A, as amended by PL 2007, c. 402, Pt. I, §2, is further amended to read:

4-A. Supervision. One apprentice electrician or one helper electrician may work with and under the direct supervision of each master electrician, limited electrician or journeyman electrician. A master electrician who teaches an electrical course at a Maine career and technical education center, a Maine career and technical education region, a Maine community college or an apprenticeship program registered by the Department of Labor may have a maximum of 12 helper or apprentice electricians under direct supervision while making electrical installations that are a part of the instructional program of the school or apprenticeship program, as long as the total value of each installation does not exceed $5,000. An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school or apprenticeship program at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

A. School administrative units; and

B. Nonprofit organizations.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There must be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

Sec. F-5. 32 MRSA §1102-A, as amended by PL 2009, c. 344, Pt. D, §§7 and 8 and affected by Pt. E, §2, is repealed.

Sec. F-6. 32 MRSA §1102-B, sub-§1, as enacted by PL 1981, c. 432, §2, is amended to read:

1. Permits required. Except as otherwise provided in this section, no electrical equipment may be installed or altered unless the person making the installation first obtains a permit from the ~~Electrician's Examining Board~~ board.

Sec. F-7. 32 MRSA §1102-B, sub-§2, as amended by PL 2001, c. 323, §17, is further amended to read:

2. Application procedure. An application for a permit must be made in a form ~~prescribed~~ provided by the board together with any plans, specifications or schedules the board may require. If the board determines that the installation or alteration planned is in compliance with all applicable statutes, ordinances and rules, it shall issue a permit~~, provided that~~ if the fee required under subsection 4 has been paid.

Sec. F-8. 32 MRSA §1102-B, sub-§3, as amended by PL 1999, c. 386, Pt. F, §9, is further amended to read:

3. Inspection required. ~~When the installation or alteration is completed, the person~~ An inspection is required before the electrical wiring is enclosed by the building construction. The electrician making the installation or alteration shall notify the state electrical inspector when the installation is ready for inspection. The inspector shall inspect the installation within a reasonable time so as not to cause undue delay in the progress of the construction contract or installation. The inspector shall determine whether the installation complies with all applicable statutes, ordinances and rules. If the inspector determines that the installation does not so comply, the procedures set forth in section 1104 apply. Any utility corporation must require proof of permit prior to connecting power to the installation.

Sec. F-9. 32 MRSA §1104-A, as amended by PL 1991, c. 531, §8, is further amended to read:

§1104-A. Failure to comply with order of inspector

If the owner or occupant of any building or the electrician who performed the work neglects or refuses without justification for more than 10 days to comply with any order of a state electrical inspector concerning electrical installations as provided in this chapter, that person commits a civil violation for which a ~~forfeiture~~ fine of not less than $100 for each day's neglect may be adjudged.

Sec. F-10. 32 MRSA §1105, sub-§4, as enacted by PL 2003, c. 452, Pt. R, §3 and affected by Pt. X, §2, is amended to read:

4. Exception. Subsection 1 does not apply to a person, firm or corporation or work excepted under section 1102 or ~~1102-A~~ 1201-A.

Sec. F-11. 32 MRSA §1201, as amended by PL 1995, c. 325, §11, is further amended to read:

§1201. License required

~~No~~ An electrical ~~installations~~ installation may not be made unless by an electrician or other person licensed by the board except as provided in this chapter. ~~No~~ A person may not perform any electrical installations on behalf of an electrical company unless the company is licensed as provided in ~~this chapter~~ section 1202, subsection 5.

Sec. F-12. 32 MRSA §1201-A is enacted to read:

§1201-A. Exceptions to licensing requirements

All electrical installations must comply with the National Electrical Code that is in effect at the time of the installation. The licensing provisions of this chapter do not apply to the entities, persons and licensees enumerated in this section:

1. Industrial plants. Industrial plants and regular employees of industrial plants making electrical installations in or about the industrial plant;

2. Other properties of industrial and manufacturing plants. Other properties of industrial and manufacturing plants and regular employees of other properties of industrial or manufacturing plants making electrical installations in, on or about other properties, equipment or buildings, residential or of any other kind, owned or controlled by the operators of industrial or manufacturing plants, as long as such work is done under the supervision of an electrical engineer in the employ of the operator;

3. Manufacturing plants. Manufacturing plants and regular employees of manufacturing plants making electrical installations in the manufacture, testing or repair of electrical equipment in the manufacturing plant;

4. Low-energy installers. Individuals or employees installing telephone, telegraph, cable and closed-circuit television, data communication and sound equipment;

5. Certain laboratories. A person making an installation in a suitable laboratory of exposed electrical wiring for experimental purposes only;

6. Elevator mechanics. A person licensed under chapter 133 subject to the restrictions of the license as issued;

7. Oil burner technicians. A person licensed under chapter 139 subject to the restrictions of the license as issued;

8. Propane and natural gas installers. A person licensed under chapter 139, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

9. Plumbers. A person licensed under chapter 49, except that this exemption applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties;

10. Pump installers. A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller; or

11. Wastewater treatment plants. Wastewater treatment plants, as defined in section 4171, and regular employees of wastewater treatment plants making electrical installations in or about wastewater treatment plants.

Sec. F-13. 32 MRSA §1202, sub-§2, as amended by PL 2007, c. 402, Pt. I, §13, is further amended to read:

2. Apprentice or helper. The board may issue a license upon payment of the fee as set under section 1203-A to any person who applies for a license, without examination. Any such person employed by an electrician as an apprentice for the purpose of qualifying for any license mentioned in section 1203, or as an electrician's helper, must apply for a license ~~as such immediately~~ within 10 days after commencing that employment or ~~immediately after~~ starting school in an electrical course.

Sec. F-14. 32 MRSA §1202, sub-§5, as enacted by PL 1995, c. 325, §15, is amended to read:

5. Electrical company. The board shall issue a license to operate an electrical company to a person who files an application validated by an employee or officer of the company holding a current master or limited ~~electrician licensee~~ electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the death of or the severance from the company of the validating licensee.

PART G

Sec. G-1. 32 MRSA §2278, as repealed and replaced by PL 1997, c. 294, §5, is amended to read:

§2278. Temporary license

A temporary license may be granted to a person who has completed the education and level II fieldwork requirements of this chapter and who has also received NBCOT approval to sit for the appropriate certification examination. This temporary license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. Temporary licensees shall take the first available national examination for which they become eligible.

~~A temporary license is valid until the results of the national examination are made available to the board. If the person has passed the national examination, a license must be issued under sections 2279 and 2280-A. The temporary license of a person who has failed the examination may be renewed one time at the discretion of the board.~~

~~If, for a legitimate reason, a person holding a temporary license does not take the first available national examination for which the person becomes eligible, the person must submit a letter to the board explaining the circumstances. After review, the board, at its discretion, may renew the person's temporary license once to allow the person to sit for the next scheduled national examination.~~

A temporary license may not be renewed more than once.

Foreign trained applicants must receive approval to sit for the examination from NBCOT in order to be eligible for a temporary license.

No more than one temporary license may be granted to a person who has completed the education requirements of this chapter. This license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. This license must be issued for a term of 6 months and may be renewed for an additional 6 months at the discretion of the board.

PART H

Sec. H-1. 32 MRSA §6208-A, sub-§1, as amended by PL 2007, c. 402, Pt. U, §5, is further amended to read:

1. Membership. The State Board of Alcohol and Drug Counselors, as established by Title 5, section 12004-A, subsection 41, consists of ~~9~~ 5 members~~.~~ ~~Seven members are~~ appointed by the Governor. ~~One member must be the Director of the Office of Substance Abuse or a designee. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of substance abuse or alcohol and drug counselors.~~ Of these ~~9~~ 5 members, ~~5~~ 4 members must be licensed alcohol and drug counselors and ~~2 members~~ one member must be a public ~~members~~ member as defined in Title 5, section 12004-A.

Sec. H-2. Terms. Notwithstanding any other provision of law, the terms of members of the State Board of Alcohol and Drug Counselors that are not consistent with the Maine Revised Statutes, Title 32, section 6208-A, subsection 1 as determined by the Governor terminate on the effective date of this Part.

PART I

Sec. I-1. 32 MRSA §9707, as amended by PL 1989, c. 450, §42, is further amended to read:

§9707. Temporary license

No more than one temporary license may be granted to a person who has completed the ~~educational~~ education requirements of this chapter. This license allows the holder to practice respiratory care under the ~~direct~~ supervision of a licensed respiratory care practitioner. This license ~~shall~~ must be issued for a term of ~~one year~~ 90 days and may be extended for ~~not more than~~ an additional ~~one year period~~ 90 days at the discretion of the board.

PART J

Sec. J-1. 32 MRSA §13173, sub-§6, as amended by PL 1999, c. 129, §7 and affected by §16, is further amended to read:

6. Branch office. Other locations ~~where real estate brokerage business is regularly conducted or~~ that are advertised as locations where the public may contact the agency or its employees concerning brokerage services must be licensed as a branch office. ~~In order to qualify for a branch office license, the agency designated broker may designate another broker to act as branch manager, in which case the manager has designated broker responsibilities for that office.~~

Sec. J-2. 32 MRSA §13177-A, sub-§2, as enacted by PL 2005, c. 378, §4 and affected by §29, is amended to read:

2. Written agreements. A brokerage agreement between a real estate brokerage agency and a client must be in writing and, at a minimum, include the following:

A. The signature of the client to be charged;

B. The terms and conditions of the brokerage services to be provided;

C. The method or amount of compensation to be paid; ~~and~~

D. The date upon which the agreement will expire~~.~~; and

E. A statement that the agreement creates an agency-client relationship.

A brokerage agreement may not be enforced against any client who in good faith subsequently engages the services of another real estate brokerage agency following the expiration date of the first brokerage agreement. Any brokerage agreement provision extending a real estate brokerage agency's right to a fee following expiration of the brokerage agreement may not extend that right beyond 6 months.

PART K

Sec. K-1. 32 MRSA §13741, as amended by PL 2007, c. 402, Pt. DD, §17, is repealed.

PART L

Sec. L-1. 32 MRSA §14011, sub-§7 is enacted to read:

7. Exemption from standard. The following are exempt from the requirements of the Uniform Standards of Professional Appraisal Practice, Standard 3 (2011):

A. A board member serving in the capacity of assigned complaint officer while performing an investigation or testifying at an adjudicatory hearing;

B. A board member serving in the capacity of reviewer while reviewing the work experience of an applicant for licensure; and

C. An investigator employed by or retained by the department while performing an investigation or testifying at an adjudicatory hearing.

Sec. L-2. 32 MRSA §14027, sub-§1, as amended by PL 2009, c. 241, Pt. D, §3, is further amended to read:

1. Requirement. As a prerequisite to renewal of a license, an applicant must have completed ~~the minimum hour requirements for continuing education in programs or courses approved by the appraiser qualifications board, which must include a 7-hour national uniform standards of professional appraisal practice update course completed in the even-numbered year as part of license renewal~~ continuing education as set forth by rules adopted by the board.

Sec. L-3. 32 MRSA §14035, sub-§2, ¶A, as enacted by PL 2005, c. 518, §6, is amended to read:

A. Hold a bachelor's or higher degree from an accredited college or university or have successfully passed 30 semester credit hours in the following college-level subject matter courses from an accredited college, junior college, community college or university:

(1) English composition;

(2) Microeconomics;

(3) Macroeconomics;

(4) Finance;

(5) Algebra, geometry or higher mathematics;

(6) Statistics;

(7) ~~Introduction to computers~~ Computers, word processing and spreadsheets;

(8) Business or real estate law; and

(9) Two elective courses in accounting, geography, agricultural economics, business management or real estate.

An applicant may receive credit for a college course for an exam taken through a college-level examination program if a college or university accredited by a commission on colleges, a regional or national accreditation association or an accrediting agency that is recognized by the United States Secretary of Education accepts the exam and issues a transcript showing its approval;

Sec. L-4. 32 MRSA §14036, sub-§2, ¶A, as enacted by PL 2005, c. 518, §7, is amended to read:

A. Hold an associate's or higher degree from an accredited college or university or have successfully passed 21 semester credit hours in the following collegiate level subject matter courses from an accredited college, junior college, community college or university:

(1) English composition;

(2) Principles of microeconomics or macroeconomics;

(3) Finance;

(4) Algebra, geometry or higher mathematics;

(5) Statistics;

(6) ~~Introduction to computers~~ Computers, word processing and spreadsheets; and

(7) Business or real estate law.

An applicant may receive credit for a college course for an exam taken through a college-level examination program if a college or university accredited by a commission on colleges, a regional or national accreditation association or an accrediting agency that is recognized by the United States Secretary of Education accepts the exam and issues a transcript showing its approval;

PART M

Sec. M-1. 32 MRSA §14202, sub-§3-A, as amended by PL 2009, c. 369, Pt. B, §2, is further amended to read:

3-A. Demonstrator. "Demonstrator" means a person who is licensed to practice cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology and engages in performing demonstrations outside establishments licensed by the 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, limited barbering, aesthetics or ~~manicuring~~ nail technology under this chapter or under the licensing provision of any other state.

Sec. M-2. 32 MRSA §14202, sub-§5-A is enacted to read:

5-A. Limited barbering. "Limited barbering" means any one or any combination of the following practices, when done for hire or compensation, upon the head of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

A. Shaving, trimming or cutting the beard or mustache or removing superfluous hair;

B. Massaging of the scalp, face and neck and giving a facial and scalp treatment with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances may not be galvanic or faradic;

C. Shampooing or applying hair tonics and conditioners;

D. Cutting, arranging and styling the human hair; or

E. Cutting, fitting or styling hairpieces or wigs.

Sec. M-3. 32 MRSA §14202, sub-§10, as enacted by PL 1991, c. 397, §6, is amended to read:

10. Nail technology. "~~The practice of manicuring~~ Nail technology," which includes manicuring and pedicuring services, means the performance by any person for hire or compensation of any one or more of the following practices:

A. Applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, lotions, creams or antiseptics to cut, trim, shape, ~~pedicure,~~ polish, color, tint or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person.

Sec. M-4. 32 MRSA §14202, sub-§10-A, as enacted by PL 2007, c. 402, Pt. HH, §1, is amended to read:

10-A. School. "School" means a school or ~~learning~~ education institution where a program of study in cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology or the instruction of cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology is offered or taught.

Sec. M-5. 32 MRSA §14202, sub-§11, as amended by PL 2009, c. 369, Pt. B, §4, is further amended to read:

11. Student. "Student" means any person duly enrolled in a school licensed by the director and engaged in learning and acquiring a knowledge of the practice of:

A. Cosmetology;

B. Barbering or limited barbering;

C. Aesthetics; ~~or~~

D. ~~Manicuring.~~ Nail technology; or

E. Instructing.

Sec. M-6. 32 MRSA §14202, sub-§13, as amended by PL 2009, c. 369, Pt. B, §5, 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 rules adopted by the director, is engaged in learning and acquiring a knowledge of the practice of:

A. Cosmetology;

B. Barbering or limited barbering;

C. Aesthetics; or

D. ~~Manicuring~~ Nail technology.

Sec. M-7. 32 MRSA §14203, sub-§2, as amended by PL 2009, c. 211, Pt. B, §29 and c. 369, Pt. B, §6, is further amended to read:

2. Exceptions. The practice of cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology may be carried on only by persons duly licensed to practice in this State and only in an establishment licensed by the 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 youth 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 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. M-8. 32 MRSA §14204, as amended by PL 2009, c. 369, Pt. B, §7, is further amended to read:

§14204. Instructors

A person may not instruct in any of the branches of aesthetics, barbering, limited barbering, cosmetology or ~~manicuring~~ nail technology unless that person holds a valid license to practice and is authorized to instruct in each respective practice issued under this chapter, except that when specifically authorized by law, physicians may instruct without holding a license to practice in a branch of aesthetics, barbering, limited barbering, cosmetology or ~~manicuring~~ nail technology.

Upon satisfactory completion of an instructor examination, the applicant must pay the fee as set under section 14238 to be ~~authorized~~ licensed to instruct.

Sec. M-9. 32 MRSA §14205, sub-§1, as amended by PL 2007, c. 402, Pt. HH, §6, is further amended to read:

1. Penalties. A person is subject to the provisions of section 14236-A and Title 10, section ~~8003-C~~ 8003, subsection 5-A if that person:

A. Practices barbering, limited barbering, cosmetology, ~~manicuring~~ nail technology or aesthetics in this State without having obtained a license as provided by this chapter;

B. Employs a person to practice barbering, limited barbering, cosmetology, ~~manicuring~~ nail technology or aesthetics who does not have a license~~, unless that person is a trainee within the meaning of this chapter~~; or

C. Falsely professes to be qualified to practice or instruct barbering, limited barbering, cosmetology, ~~manicuring~~ nail technology or aesthetics under this chapter.

Sec. M-10. 32 MRSA §14212-A, sub-§2, ¶A, as enacted by PL 2009, c. 369, Pt. B, §10, is amended to read:

A. Requirements for the licensure of aestheticians, barbers, limited barbers, cosmetologists, ~~manicurists~~ nail technicians, demonstrators, instructors~~, students~~ and trainees;

Sec. M-11. 32 MRSA §14224, sub-§1, as amended by PL 1993, c. 630, Pt. B, §15, is further amended to read:

1. Practice; license required. A person may not practice cosmetology, barbering, ~~manicuring~~ limited barbering, nail technology or aesthetics or act as a trainee in this State unless that person has first obtained a license as provided in this chapter ~~or unless that person is acting within the scope of employment as a trainee~~.

Sec. M-12. 32 MRSA §14224, sub-§2, as amended by PL 2009, c. 369, Pt. B, §11, 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~~ limited barbering, nail technology or aesthetics is practiced unless that shop has been duly licensed by the 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 rules.

The director shall furnish to each licensed cosmetologist, barber, ~~manicurist~~ limited barber, nail technician 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 exceptions listed in section 14203, subsection 3 do not permit the practice of cosmetology, barbering, ~~manicuring~~ limited barbering, nail technology or aesthetics in food establishments or food preparation areas.

Sec. M-13. 32 MRSA §14224, sub-§3, as amended by PL 2009, c. 369, Pt. B, §14, is further amended to read:

3. Trainee. A trainee cosmetologist, barber, ~~manicurist~~ limited barber, nail technician 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 director in a licensed shop.

Sec. M-14. 32 MRSA §14224, sub-§4, as amended by PL 2009, c. 369, Pt. B, §15, is further amended to read:

4. Student. A student ~~enrolled in the study~~ studying the practice of cosmetology, barbering, ~~manicuring or~~ limited barbering, nail technology, aesthetics or instructing must be ~~licensed with~~ enrolled in a school licensed by the director pursuant to section 14233.

Sec. M-15. 32 MRSA §14225, 3rd ¶, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. M-16. 32 MRSA §14226, sub-§4, ¶B, as amended by PL 2007, c. 402, Pt. HH, §12, is repealed.

Sec. M-17. 32 MRSA §14226, 2nd ¶, as amended by PL 2009, c. 369, Pt. B, §19, is repealed.

Sec. M-18. 32 MRSA §14227, sub-§4, ¶B, as amended by PL 2007, c. 402, Pt. HH, §13, is repealed.

Sec. M-19. 32 MRSA §14227, 2nd ¶, as amended by PL 2009, c. 369, Pt. B, §22, is repealed.

Sec. M-20. 32 MRSA §14227-A is enacted to read:

§14227-A. Qualifications; limited barbering

A person is eligible to obtain a license under this chapter for the practice of limited barbering if that person:

1. Age. Is at least 17 years of age;

2. Education. Has satisfactorily completed the 10th grade in a secondary school or its equivalent;

3. Training. Has satisfactorily completed a course of instruction in the practice of limited barbering of 800 hours in not less than 5 months in a school licensed by the director or has experience in the practice of limited barbering as a trainee of 1,600 hours distributed over a period of at least 10 months; and

4. Examination. Has passed an approved examination.

Sec. M-21. 32 MRSA §14228, sub-§4, ¶B, as amended by PL 2007, c. 402, Pt. HH, §14, is repealed.

Sec. M-22. 32 MRSA §14229, as amended by PL 2009, c. 369, Pt. B, §§25 and 26, is further amended to read:

§14229. Qualifications; nail technology

A person is eligible to obtain a license under this chapter for the practice of ~~manicuring~~ nail technology if that person:

1. Age. Is at least 17 years of age;

2. Education. Has satisfactorily completed the 10th grade in a secondary school or its equivalent;

3. Training. Has satisfactorily completed a course of instruction in ~~manicuring~~ nail technology of 200 hours in not less than 5 weeks in a school licensed by the director or has experience in the practice of ~~manicuring~~ nail technology as a trainee of 400 hours distributed over a period of at least 10 weeks; and

4. Examination. Has passed an approved examination.

~~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. M-23. 32 MRSA §14229-A, as amended by PL 2009, c. 369, Pt. B, §27, is further amended to read:

§14229-A. First license; reexamination

Within ~~90 days~~ one year of notification of passing an examination, the applicant must pay a fee as set under section 14238 to receive a first license; otherwise, the applicant must retake the full examination to apply for initial licensure. The first license is valid until the next renewal period. The director has the authority to waive the ~~90 day~~ one-year 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. M-24. 32 MRSA §14230, as amended by PL 2009, c. 369, Pt. B, §28, is further amended to read:

§14230. Temporary license

If an applicant to practice cosmetology, barbering, ~~manicuring~~ limited barbering, nail technology or aesthetics qualifies for examination, the director may issue to that applicant a ~~permit~~ temporary license to practice under the direct supervision of a qualified supervisor, as determined by rules, within a licensed shop. The applicant must pay the fee as set under section 14238. A ~~permit~~ temporary license expires 6 months from the date of issuance and is not renewable. The applicant is not considered a trainee.

Sec. M-25. 32 MRSA §14231, as amended by PL 2009, c. 369, Pt. B, §29, is further amended to read:

§14231. Endorsement; examination eligibility for out-of-state applicants

The director may waive the examination and grant a license to any applicant who presents proof of being ~~authorized~~ licensed to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the 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.

An applicant who does not hold a current license issued by another state or other jurisdiction of the United States or another country may qualify for examination if the applicant presents proof of having satisfactorily completed a course of instruction in a licensed school or approved experience as a trainee considered by the director to have standards equivalent to or higher than the standards for instruction or experience set forth by this chapter, as long as no cause

exists for denial of a license under section 14236-A. The applicant must also comply with all other requirements to become licensed and must pay the fee provided in section 14238.

Sec. M-26. 32 MRSA §14232, as amended by PL 2009, c. 369, Pt. B, §30, is further amended to read:

§14232. Trainees

1. License. Each trainee must submit an application for licensure to the director. The application must be accompanied by a fee as set under section 14238 and meet requirements as specified in rule. ~~The license for each type of training expires as indicated below.~~ A trainee license may be renewed no more than 2 times and is subject to fees in accordance with section 14238. The director may grant an additional renewal upon a showing of extenuating circumstances.

~~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 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~~ limited barbering, nail technology 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 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 pursuant to this chapter.

4. Renewal; display; examination. The 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, limited barber, aesthetician or ~~manicurist~~ nail technician, a trainee, upon completion of the required training in accordance with this chapter, must pass an approved examination.

Sec. M-27. 32 MRSA §14233, as amended by PL 2009, c. 369, Pt. B, §31, is further amended to read:

§14233. Students

Schools licensed by the director shall ~~license students~~ maintain and submit a roster of student enrollment and attrition in accordance with rules adopted by the director ~~and upon payment of the fee as set under section 14238~~.

To be eligible for ~~licensure~~ enrollment, 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~~ maintained by the school and presented to the director or a designee of the director as required by rule and upon request.

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~~ provided by rule.

Sec. M-28. 32 MRSA §14235, first ¶, as amended by PL 2007, c. 402, Pt. HH, §22, is further amended to read:

Licensees must renew their licenses ~~on or before July 1st biennially~~ annually 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.

Sec. M-29. 32 MRSA §14236-A, sub-§1, ¶D, as enacted by PL 2007, c. 402, Pt. HH, §24, is amended to read:

D. Employing a person to practice cosmetology, barbering, ~~manicuring~~ limited barbering, nail technology or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or

Sec. M-30. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 126, subchapter 4, in the subchapter headnote, the words "regulation of schools of barbering and schools of cosmetology" are amended to read "regulation of schools" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART N

Sec. N-1. 32 MRSA §14306-F, sub-§1, as amended by PL 2007, c. 402, Pt. II, §7, is further amended to read:

1. Renewal. A license renewal fee as set under section 14306-G must be paid by the licensee. Licenses issued under this chapter expire annually on their anniversary date or as otherwise provided by the commissioner. Any license not renewed by its date of expiration automatically expires. Licenses may be renewed 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 14306-G. ~~If, after 90 days from the anniversary date, an individual has not renewed the license, the individual must reapply for licensure.~~ Any person who submits an application for renewal more than 90 days after the renewal date is subject to all requirements governing new applicants under this chapter, except that the commissioner may, giving due consideration to the protection of the public, waive examination if the renewal application is received, together with the late fee and renewal fee, within 2 years from the date of the expiration.

PART O

Sec. O-1. 5 MRSA §5301, sub-§2, ¶E, as amended by PL 2007, c. 369, Pt. A, §1 and affected by Pt. C, §5, is further amended to read:

E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of ~~Speech-language Pathology~~ Speech, Audiology and Hearing ~~Aid Dealing and Fitting~~, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board.

Sec. O-2. 5 MRSA §12004-A, sub-§48, as enacted by PL 2007, c. 369, Pt. A, §5 and affected by Pt. C, §5, is amended to read:

48.		
Board of ~~Speech-language Pathology~~ Speech, Audiology and Hearing ~~Aid Dealing and Fitting~~	$35/Day	32 MRSA §17201

Sec. O-3. 32 MRSA §17101, sub-§4, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is amended to read:

4. Board. "Board" means the Board of ~~Speech-language Pathology~~ Speech, Audiology and Hearing ~~Aid Dealing and Fitting~~ pursuant to section 17201.

Sec. O-4. 32 MRSA §17101, sub-§15, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is repealed.

Sec. O-5. 32 MRSA §17103, sub-§7 is enacted to read:

7. Foreign trained applicant. An applicant who has completed required education outside the United States and its territories must have the applicant's academic degree validated as equivalent to a baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. The board shall accept equivalency validations from regionally accredited colleges or universities in the United States or board-approved agencies specializing in education credential evaluations.

Sec. O-6. 32 MRSA §17201, first ¶, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is amended to read:

The Board of ~~Speech-language Pathology~~ Speech, Audiology and Hearing ~~Aid Dealing and Fitting~~, as established by Title 5, section 12004-A, subsection 48, consists of 7 members appointed by the Governor. All members must be residents of this State. Two members must have been engaged full-time in the practice of speech-language pathology for at least one year immediately preceding appointment. Two members must have been engaged full-time in the practice of audiology for at least one year immediately preceding appointment and 2 hearing aid dealers and fitters must have at least 5 years of experience. All professional members at all times must be holders of valid licenses for the practice of speech-language pathology, audiology or the practice of dealing in and fitting of hearing aids, respectively. The additional member is a public member as defined in Title 5, section 12004-A.

Sec. O-7. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 137, in the chapter headnote, the words "board of speech-language pathology, audiology and hearing aid dealing and fitting" are amended to read "board of speech, audiology and

hearing" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. O-8. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 137, subchapter 2, in the subchapter headnote, the words "board of speech-language pathology, audiology and hearing aid dealing and fitting" are amended to read "board of speech, audiology and hearing" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 287

H.P. 619 - L.D. 823

An Act To Amend the Law Governing Tax Increment Financing Districts

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

Sec. 1. 30-A MRSA §5223, sub-§3, ¶D, as amended by PL 2007, c. 693, §3 and affected by §37, is further amended to read:

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~~ 8 years of the commissioner's approval of the designation of the tax increment financing district.

See title page for effective date.

CHAPTER 288

S.P. 253 - L.D. 850

An Act To Improve the Protection of Animals

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

Sec. 1. 7 MRSA §4019, as enacted by PL 2007, c. 702, §20, is amended to read:

§4019. Removal from unattended motor vehicle

1. Removal authorized. A law enforcement officer, humane agent ~~or~~, animal control officer, firefighter as defined in Title 26, section 2101, first responder as defined in Title 32, section 83, subsection 13-A or security guard licensed under Title 32, chapter 93, referred to in this section as "authorized persons," may take all steps that are reasonably necessary to remove an animal from a motor vehicle if the animal's safety, health or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause extreme suffering or death.

2. Notice required. A law enforcement officer, humane agent or animal control officer who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the officer's or agent's name and office and the address of the location where the animal may be claimed. A firefighter, first responder or security guard who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the person's name and the address of the location where the animal may be claimed. The owner may claim the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.

3. Immunity. ~~A law enforcement officer, humane agent or animal control officer~~ An authorized person who removes an animal from a motor vehicle pursuant to subsection 1 is immune from criminal or civil liability that might otherwise result from the removal.

See title page for effective date.

CHAPTER 289

H.P. 234 - L.D. 290

An Act To Amend the Maine Secure and Fair Enforcement for Mortgage Licensing Act of 2009

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

Sec. 1. 9-A MRSA §13-102, sub-§1-A is enacted to read:

1-A. Credit sale. "Credit sale" means the sale of a dwelling or residential real estate purchased for a personal, family or household purpose in which credit is extended by the seller and either the debt is payable in installments or a finance charge is made.

Sec. 2. 9-A MRSA §13-102, sub-§13, as enacted by PL 2009, c. 362, Pt. B, §1, is amended to read:

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. "Residential mortgage loan" does not include a credit sale unless the credit sale is determined to be a residential mortgage loan by any rule, advisory ruling or interpretation issued by the administrator or by the United States Department of Housing and Urban Development or successor federal agency responsible for ensuring state compliance with the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 United States Code, Sections 5101 to 5113.

Sec. 3. 9-A MRSA §13-103, sub-§2, ¶G is enacted to read:

G. An individual who, during any calendar year or other 12-month period, takes applications for or offers or negotiates terms of not more than the maximum number of residential mortgage loans to qualify for exemption as determined by rule, advisory ruling or interpretation issued by the administrator or by the United States Department of Housing and Urban Development or successor federal agency responsible for ensuring state compliance with the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 United States Code, Sections 5101 to 5113.

Sec. 4. 9-A MRSA §13-112, sub-§5 is enacted to read:

5. Effect on mortgage loans. This article may not be construed to provide that a mortgage loan originator's good faith failure to comply with the requirements of this article affects the validity or enforceability of the obligations under any residential mortgage loan resulting from a transaction in which the mortgage loan originator participated.

Sec. 5. Retroactivity. This Act applies retroactively to January 1, 2011.

See title page for effective date.

CHAPTER 290

H.P. 675 - L.D. 915

An Act To Clarify the Exemption of Lineworkers from Maine Electrician Licensing 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, in the fall of 2010, the Electricians' Examining Board issued a preliminary determination that would require licensure under the laws governing electrician licensing for lineworkers employed by electricity generators and contractors performing line work on behalf of public utilities and electricity generators; and

Whereas, electrician licensing is intended to cover indoor electrical work governed by the National Electrical Code, whereas outdoor and related line work performed by public utilities, electricity generators and their contractors is governed by the National Electrical Safety Code and is unrelated to electrician licensing; and

Whereas, the actions of the Electricians' Examining Board to require electrician licensure of lineworkers would substantially interfere with the ability of public utilities, electricity generators and their contractors to safely and cost-effectively install electric lines subject to the National Electrical Safety Code, including lines for large transmission and distribution projects currently under 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. 32 MRSA §1101, sub-§7, as enacted by PL 1997, c. 119, §1, is repealed.

Sec. 2. 32 MRSA §1101, sub-§8, as enacted by PL 1999, c. 386, Pt. F, §1, is repealed and the following enacted in its place:

8. Utility corporation. "Utility corporation" means a utility that is not a public utility, as defined in Title 35-A, section 102, or a person, firm or corporation subject to the jurisdiction of the Federal Communications Commission.

Sec. 3. 32 MRSA §1102, sub-§1-A, as amended by PL 1999, c. 657, §13, is repealed and the following enacted in its place:

1-A. Public utility. An entity subject to the jurisdiction of the Public Utilities Commission, the Federal Energy Regulatory Commission or the Federal Communications Commission, including all employees of such an entity, but only to the extent the entity or its employees are making electrical installations in furtherance of providing its authorized service or activities incidental to that authorized service. This exception does not apply to:

A. Installations, other than installation of a meter, inside a customer's building;

B. Installations of mobile home service equipment; and

C. Installations at any business office of a utility corporation that is not physically located adjacent to the utility's generation or transmission and distribution plant;

Sec. 4. 32 MRSA §1102, sub-§1-B is enacted to read:

1-B. Aboveground electric lines. Electrical work in connection with the construction, installation, operation, repair or maintenance of any aboveground electric line capable of operating at one kilovolt or more.

Sec. 5. 32 MRSA §1102, sub-§1-C is enacted to read:

1-C. Contractor. An entity, including all employees of such an entity, to the extent the entity has contracted with a public utility, as described in this section, to perform services for the public utility, but only to the extent the public utility would be exempt from this chapter if it were performing the services directly through its employees; or

Sec. 6. 32 MRSA §1102, sub-§2, as amended by PL 1999, c. 386, Pt. F, §2, is repealed.

Sec. 7. 32 MRSA §1102-B, sub-§5, ¶B, as enacted by PL 1981, c. 432, §2, is amended to read:

B. The electrical work and equipment employed in connection with the construction, installation, operation, repair or maintenance of any utility by a public utility ~~corporation~~, or by a contractor working on behalf of a public utility as set forth in section 1102, subsection 1-C, in rendering its authorized service or in any way incidental thereto;

Sec. 8. 32 MRSA §1102-B, sub-§5, ¶B-1 is enacted to read:

B-1. The electrical work and equipment employed in connection with an aboveground electric line described in section 1102, subsection 1-B;

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

Effective June 10, 2011.

CHAPTER 291

H.P. 699 - L.D. 939

An Act To Enhance Mandated Reporting and Prosecution of Elder Abuse, Neglect and Exploitation

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

Sec. 1. 22 MRSA §3472, sub-§6, as amended by PL 2003, c. 653, §2, is further amended to read:

6. Dependent adult. "Dependent adult" means an adult who has a physical or mental condition that substantially impairs the adult's ability to adequately provide for that adult's daily needs. "Dependent adult" includes, but is not limited to, any of the following:

A. A resident of a nursing home licensed or required to be licensed under section 1817;

B. A resident of a facility providing assisted living services licensed or required to be licensed pursuant to section 7801; ~~or~~

C. A person considered a dependent person under Title 17-A, section 555~~.~~; or

D. A person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the person suffers from a significant limitation in mobility, vision, hearing or emotional or mental functioning.

Sec. 2. 22 MRSA §3477, sub-§1, as amended by PL 2007, c. 577, §5, is further amended to read:

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is ~~at substantial risk of abuse, neglect or exploitation~~ likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

(1) An allopathic or osteopathic physician;

(2) A medical resident or intern;

(3) A medical examiner;

(4) A physician's assistant;

(5) A dentist, dental hygienist or dental assistant;

(6) A chiropractor;

(7) A podiatrist;

(8) A registered or licensed practical nurse;

(9) A certified nursing assistant;

(10) A social worker;

(11) A psychologist;

(12) A pharmacist;

(13) A physical therapist;

(14) A speech therapist;

(15) An occupational therapist;

(16) A mental health professional;

(17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;

(18) Emergency room personnel;

(19) An ambulance attendant;

(20) An emergency medical technician or other licensed medical service provider;

(21) Unlicensed assistive personnel;

(22) A humane agent employed by the Department of Agriculture, Food and Rural Resources;

(23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

(24) A sexual assault counselor; ~~or~~

(25) A family or domestic violence victim advocate;

(26) A naturopathic doctor;

(27) A respiratory therapist;

(28) A court-appointed guardian or conservator; or

(29) A chair of a professional licensing board that has jurisdiction over mandated reporters;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation; ~~or~~

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation~~.~~; or

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation.

The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate~~,~~ reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are ~~not inconsistent~~ consistent with this chapter.

Sec. 3. 22 MRSA §3477, sub-§6 is enacted to read:

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings.

Sec. 4. 22 MRSA §3477, sub-§7 is enacted to read:

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.

Sec. 5. 22 MRSA §3485, as amended by PL 2003, c. 653, §18, is repealed and the following enacted in its place:

§3485. Reporting abuse

1. Immediate report. Subject to the confidentiality provisions of section 3474, subsection 2, paragraph A, when the department receives a report under subchapter 1-A that a person is suspected of abusing, neglecting or exploiting an incapacitated or dependent adult, the department shall immediately report the suspected abuse, neglect or exploitation to the appropriate district attorney's office, whether or not the department investigates the report.

2. After investigation. Upon finding evidence indicating that a person has abused, neglected or exploited an incapacitated or dependent adult, resulting in serious harm, the department shall notify the appropriate district attorney or law enforcement agency of that finding.

See title page for effective date.

CHAPTER 292

S.P. 437 - L.D. 1420

An Act To Modify the Laws Regarding Status as an Independent Contractor

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 meaning of "independent contractor" in unemployment law is confusing to employers and employees, who seek clarity and uniformity; and

Whereas, the issue of classification of workers transcends many decades of legislative discussion and needs to be addressed to encourage the spirit of entrepreneurship in the State; and

Whereas, it is in the best interests of the State, employees and employers to eliminate this confusion as soon as possible and, to that end, the stakeholder group authorized by this legislation needs to meet as soon as possible to formulate a test to determine independent contractor status; 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 §1043, sub-§11, ¶E, as amended by PL 1979, c. 651, §45, is further amended to read:

E. Services performed by an individual for remuneration ~~shall be deemed~~ are considered to be employment subject to this chapter unless ~~and until~~ it is shown to the satisfaction of the bureau that the individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of service and in fact, and:

~~(1) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact;~~

(2) Such service is either outside the usual course of the business for which such service is performed~~,~~ or ~~that~~ such service is performed outside of all the places of business of the enterprise for which such service is performed; ~~and~~ or

(3) ~~Such~~ That individual is customarily engaged in an independently established trade, occupation, profession or business.

This paragraph is repealed December 31, 2012.

Sec. 2. Report. The Commissioner of Labor or the commissioner's designee shall convene a stakeholder group with representatives from the Workers' Compensation Board and the Department of Administrative and Financial Services, Maine Revenue Services and shall invite the participation of representatives from the Maine Merchants Association, Maine State Chamber of Commerce, National Federation of Independent Business, Maine Employers' Mutual Insurance Company, American Federation of Labor - Congress of Industrial Organizations, Maine Women's Lobby, Maine Equal Justice Partners, Associated Builders and Contractors, Inc., Associated General Contractors of Maine, Technology Association of Maine and Maine Immigrant Rights Coalition. The stakeholder group shall develop an employment test to be used in the administration of, without limitation, unemployment compensation law, workers' compensation law and programs of the Department of Labor, Bureau of Labor Standards to determine whether a person is an employee or independent contractor. The commissioner or the commissioner's designee shall submit a report with recommendations to the Joint Standing Committee on Labor, Commerce, Research

and Economic Development by January 15, 2012. The joint standing committee is authorized to introduce a bill related to the report to the Second Regular Session of the 125th Legislature.

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

Effective June 10, 2011.

CHAPTER 293

H.P. 887 - L.D. 1196

An Act To Clarify Assistance for Persons with Acquired Brain Injury

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

Sec. 1. 22 MRSA §3086, sub-§1, as repealed and replaced by PL 1989, c. 501, Pt. P, §26, is amended to read:

1. Acquired brain injury. "~~Head~~ Acquired brain injury" means an insult to the brain resulting directly or indirectly from trauma, anoxia, vascular lesions or infection, which:

A. Is not of a degenerative or congenital nature;

B. Can produce a diminished or altered state of consciousness resulting in impairment of cognitive abilities or physical functioning;

C. Can result in the disturbance of behavioral or emotional functioning;

D. Can be either temporary or permanent; and

E. Can cause partial or total functional disability or psychosocial maladjustment.

Sec. 2. 22 MRSA §3087, as amended by PL 1991, c. 155, is repealed.

Sec. 3. 22 MRSA §3088, as enacted by PL 1987, c. 494, is repealed and the following enacted in its place:

§3088. Comprehensive neurorehabilitation service system

The department shall, within the limits of its available resources, develop a comprehensive neurorehabilitation service system designed to assist, educate and rehabilitate the person with an acquired brain injury to attain and sustain the highest function and self-sufficiency possible using home-based and community-based treatments, services and resources to the greatest possible degree. The comprehensive neurorehabilitation service system must include, but is not limited to, care management and coordination, crisis stabilization services, physical therapy, occupational therapy, speech therapy, neuropsychology, neurocognitive retraining, positive neurobehavioral supports and teaching, social skills retraining, counseling, vocational rehabilitation and independent living skills and supports. The comprehensive neurorehabilitation service system may include a posthospital system of nursing, community residential facilities and community residential support programs designed to meet the needs of persons who have sustained an acquired brain injury and assist in the reintegration of those persons into their communities.

Sec. 4. 22 MRSA §3089, as enacted by PL 2005, c. 229, §1, is amended to read:

§3089. Acquired brain injury assessments and interventions; protection of rights

The department is designated as the official state agency responsible for acquired brain injury services and programs.

1. Assessments and interventions. In addition to developing the comprehensive neurorehabilitation service system under section 3088, the department may undertake, within the limits of available resources, appropriate identification and medical and rehabilitative interventions for persons who sustain acquired brain injuries, including, but not limited to, establishing services:

A. To assess the needs of persons who sustain acquired brain injuries and to facilitate effective and efficient medical care, neurorehabilitation planning and reintegration; and

B. To improve the knowledge and skills of the medical community, including, but not limited to, emergency room physicians, psychiatrists, neurologists, neurosurgeons, neuropsychologists and other professionals who diagnose, evaluate and treat acquired brain injuries.

2. Rights of patients and responsibility of department to protect those rights. To the extent possible within the limits of available resources and except to the extent that a patient with an acquired brain injury's rights have been suspended as the result of court-ordered guardianship, the department shall:

A. Protect the health and safety of that patient;

B. Ensure that the patient has access to treatment, individualized planning and services and positive behavioral interventions and protections; and

C. Protect the patient's rights to appeal decisions regarding the person's treatment, access to advocacy services and service quality control standards, monitoring and reporting.

3. Rules. The department shall establish rules under this section. Rules adopted pursuant to this sec-

tion are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 715-A, in the chapter headnote, the words "assistance for survivors of head injury" are amended to read "assistance for survivors of acquired brain injury" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 294

H.P. 902 - L.D. 1211

An Act To Include Civics in the Social Studies and History Courses Required for a High School Diploma

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

Sec. 1. 20-A MRSA §4722, sub-§2, ¶B, as enacted by PL 1983, c. 859, Pt. C, §§5 and 7, is amended to read:

B. Social studies and history, including American history ~~and~~, government and civics--2 years;

See title page for effective date.

CHAPTER 295

S.P. 273 - L.D. 869

An Act To Clarify the State's Authority under Public Health Laws for Municipal Inspections of Establishments

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

Sec. 1. 22 MRSA §2499, first ¶, as enacted by PL 1975, c. 496, §3, is amended to read:

Notwithstanding any other provisions of this chapter, ~~the~~ in order to ensure statewide uniformity in health standards, health inspector certification and the maintenance of inspection report records, a municipality must have been delegated authority by the department to conduct inspections and demonstrated adherence to requirements under this section prior to performing any municipal inspections under such authority. A municipality that has not been delegated authority is prohibited from licensing or inspecting establishments. The department may issue a license to ~~establishments~~ an establishment as defined in section 2491 on the basis of an inspection performed by ~~an~~ a health inspector who works for and is compensated by the municipality in which such an establishment is located, but only if the following conditions have been met.

Sec. 2. 22 MRSA §2499, sub-§1, as enacted by PL 1975, c. 496, §3, is amended to read:

1. Adopted rules; code of standards. The municipality involved has adopted ~~a set of rules and regulations,~~ ordinances or ~~other~~ a code of standards for ~~such~~ the establishments ~~which~~ that has been approved by the department and ~~which~~ that is consistent with the ~~regulations~~ rules used by the department for the issuance of ~~such~~ licenses in effect at the time of inspection.

See title page for effective date.

CHAPTER 296

H.P. 544 - L.D. 713

An Act To Amend the Definition of "Automobile" for Purposes of the Sales and Use Tax Law

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

Sec. 1. 36 MRSA §1752, sub-§1-B, as amended by PL 2007, c. 627, §37, is further amended to read:

1-B. Automobile. "Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a registered gross vehicle weight of ~~6,000~~ 10,000 pounds or less.

See title page for effective date.

CHAPTER 297

S.P. 455 - L.D. 1464

An Act To Establish Standards for Portable Electronic Device Insurance

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

Sec. 1. 24-A MRSA §601, sub-§29 is enacted to read:

29. Portable electronic device insurance vendor. Portable electronic device insurance vendor licensing fees may not exceed:

A. Original license issuance fee, $1,000; and

B. Annual renewal fee, $500.

Sec. 2. 24-A MRSA §1420-C, sub-§2, ¶F, as enacted by PL 2001, c. 259, §24, is amended to read:

F. A person who is not a resident of this State who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, ~~provided that~~ if that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; ~~or~~

Sec. 3. 24-A MRSA §1420-C, sub-§2, ¶G, as enacted by PL 2001, c. 259, §24, is amended to read:

G. A salaried full-time employee who counsels or advises that person's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission~~.~~; or

Sec. 4. 24-A MRSA §1420-C, sub-§2, ¶H is enacted to read:

H. A person who offers to sell or sells portable electronic device insurance pursuant to a license issued by the superintendent under chapter 89.

Sec. 5. 24-A MRSA c. 89 is enacted to read:

CHAPTER 89

PORTABLE ELECTRONIC DEVICE INSURANCE

§7001. Definitions

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

1. Customer. "Customer" means a person who purchases a portable electronic device or service.

2. Enrolled customer. "Enrolled customer" means a customer who elects coverage under a portable electronic device insurance policy issued to a vendor.

3. Limited lines license. "Limited lines license" means a license to sell or offer a policy for portable electronic device insurance.

4. Location. "Location" means any physical location in the State or any publicly accessible website, call center or similar operation directed to residents of the State.

5. Portable electronic device. "Portable electronic device" means an electronic device that is portable in nature, its accessories and services related to the use of the device.

6. Portable electronic device insurance. "Portable electronic device insurance" means insurance authorized under section 705 providing coverage for the repair or replacement of a portable electronic device that may cover a portable electronic device against any one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure, malfunction, damage or other similar causes of loss. "Portable electronic device insurance" does not include:

A. A service contract or extended warranty providing coverage limited to the repair, replacement or maintenance of property for the operational or structural failure of property due to a defect in materials, workmanship, accidental damage from handling or normal wear and tear;

B. A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or

C. Homeowner's or renter's insurance, private passenger automobile insurance, commercial multiple peril insurance or any similar policy.

7. Portable electronic device transaction. "Portable electronic device transaction" means:

A. The sale or lease of a portable electronic device by a vendor to a customer; or

B. The sale of a service related to the use of a portable electronic device by a vendor to a customer.

8. Supervising entity. "Supervising entity" means a business entity that is a licensed insurance producer or insurer.

9. Vendor. "Vendor" means a person in the business of engaging in portable electronic device transactions directly or indirectly.

§7002. Licensure of vendors

1. License required. A vendor is required to hold a limited lines license under this chapter to sell or offer coverage under a policy of portable electronic device insurance.

2. Authority provided by license. A limited lines license issued under this chapter authorizes any employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronic device insurance to a customer at each location at which the vendor engages in portable electronic device transactions.

3. List of locations. In connection with a vendor's application for licensure and upon request by the superintendent, the vendor shall provide a list to the

superintendent of all locations in this State at which the vendor offers coverage.

4. Activities authorized by license. Notwithstanding any other provision of law, a license issued pursuant to this chapter authorizes the licensee and its employees or authorized representatives to engage only in those activities that are expressly permitted in this chapter.

§7003. Requirements for sale of portable electronic device insurance

1. Brochures. At every location where portable electronic device insurance is offered to customers, brochures or other written materials must be made available to a prospective customer that:

A. Disclose that portable electronic device insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy or other source of coverage;

B. State that the enrollment by the customer in a portable electronic device insurance policy is not required in order to purchase or lease a portable electronic device or service;

C. Summarize the material terms of the insurance coverage, including:

(1) The identity of the insurer;

(2) The identity of the supervising entity;

(3) The amount of any applicable deductible and how it is to be paid;

(4) Benefits of the coverage; and

(5) Key terms and conditions of coverage such as whether the portable electronic device may be replaced with a similar make and model or repaired using reconditioned or nonoriginal manufacturer parts or equipment;

D. Summarize the process for filing a claim, including a description of any requirements to return the portable electronic device and the maximum fee applicable if the customer fails to comply with any equipment return requirements; and

E. State that the customer may cancel enrollment for coverage under a portable electronic device insurance policy at any time and the person paying the premium must receive a refund of any applicable unearned premium.

2. Periodic basis of coverage. Portable electronic device insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor under which individual customers may elect to enroll for coverage.

3. Eligibility and underwriting standards. Eligibility and underwriting standards for customers electing to enroll in coverage must be established by an insurer for each portable electronic device insurance program.

§7004. Authority of vendors

1. Requirements for employees and authorized representatives of vendors. An employee or authorized representative of a vendor may sell or offer portable electronic device insurance to a customer and is not subject to licensure as an insurance producer under this chapter if:

A. The vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronic device insurance pursuant to this section;

B. The insurer issuing the portable electronic device insurance either directly supervises or appoints a supervising entity to supervise the administration of the sale of insurance, including development of a training program for employees and authorized representatives of the vendors. The training required by this paragraph must comply with the following:

(1) The training must be delivered to all employees and authorized representatives of the vendor who are directly engaged in the activity of selling or offering portable electronic device insurance. The training may be provided in electronic form. If conducted in electronic form the supervising entity shall implement a supplemental education program that is conducted and overseen by licensed employees of the supervising entity to supplement the electronic training; and

(2) Each employee and authorized representative must receive basic instruction about the portable electronic device insurance offered to customers and the disclosures required under section 7003, subsection 1; and

C. The employee or authorized representative of the vendor does not advertise, represent or otherwise hold that employee or authorized representative out as a nonlimited lines licensed insurance producer.

2. Charges. The charges for portable electronic device insurance coverage may be billed and collected by the vendor. Any charge to the customer for coverage that is not included in the cost associated with the purchase or lease of a portable electronic device or related services must be separately itemized on the customer's bill. If the portable electronic device insurance coverage is included with the purchase or lease of a portable electronic device or related services, the vendor shall clearly and conspicuously disclose to the

customer that the portable electronic device insurance coverage is included with the portable electronic device or related services. A vendor billing and collecting charges for coverage is not required to maintain those funds in a segregated account as long as the vendor is authorized by the insurer to hold such funds in an alternative manner and remits the funds to the supervising entity within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronic device insurance are considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may receive compensation for billing and collection services.

§7005. Violations

1. Penalties. If a vendor or its employee or authorized representative violates any provision of this chapter, the superintendent may enforce this chapter in accordance with section 12-A except the superintendent may not impose a fine exceeding $15,000 for aggregate conduct in violation of this chapter.

2. Suspension or revocation. In addition to any other penalties authorized by law, the superintendent may:

A. Suspend the authority of a vendor to transact portable electronic device insurance;

B. Suspend the authority of a vendor to transact portable electronic device insurance pursuant to this chapter at specific business locations where violations have occurred; and

C. Suspend or revoke the authority of an individual employee or authorized representative of a vendor to act under a limited lines license under section 7002, subsection 2.

§7006. Termination of portable electronic device insurance

1. Notice. Notwithstanding any other provision of law, an insurer may terminate or otherwise change the terms and conditions of a policy of portable electronic device insurance only upon providing the vendor policyholder and enrolled customers with at least 30 days' notice.

2. Revised documents. Notwithstanding any other provision of law, if the insurer changes the terms and conditions of a policy of portable electronic device insurance, the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate or endorsement, an updated brochure or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes.

3. Notice in case of fraud or material misrepresentation. Notwithstanding subsection 1 or any other provision of law, an insurer may upon 15 days' notice terminate an enrolled customer's enrollment under a portable electronic device insurance policy for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder.

4. Immediate termination of enrollment allowed. Notwithstanding subsection 1 or any other provision of law, an insurer may immediately terminate an enrolled customer's enrollment under a portable electronic device insurance policy:

A. For nonpayment of premium;

B. If the enrolled customer ceases to have an active service with the vendor; or

C. If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronic device insurance policy and the insurer sends notice of termination to the customer within 30 calendar days after exhaustion of the limit. If this notice is not timely sent, enrollment must continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

5. Policy terminated by vendor policyholder. Notwithstanding any other provision of law, when a portable electronic device insurance policy is terminated by a vendor policyholder, the vendor policyholder shall mail or deliver written notice to each enrolled customer advising the customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the customer at least 30 days prior to the termination.

6. Method of notice. Notwithstanding any other provision of law, whenever notice is required pursuant to this section, it must be in writing and may be mailed or delivered to the vendor at the vendor's mailing address and to the vendor's affected enrolled customers at the last known mailing addresses on file with the insurer. If notice is mailed, the insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service. Alternatively, an insurer or vendor policyholder may comply with any notice required by this section by providing notice to a vendor or its affected enrolled customers, as the case may be, by electronic means. If notice is accomplished through electronic means, the insurer or vendor, as the case may be, shall maintain proof that the notice was sent.

§7007. Application for license and fees

1. Application for license to be filed with superintendent. A sworn application for a license under this chapter must be made to and filed with the superintendent on forms prescribed and furnished by the superintendent.

2. Contents of application. In addition to other information required by the superintendent, the application must:

A. Provide the name, residence address and other information required by the superintendent for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this chapter. If the vendor derives more than 50% of its revenue from the sale of portable electronic device insurance, the information specified in this paragraph must be provided for all officers, directors and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under the federal securities laws;

B. Appoint the superintendent as the applicant's attorney to receive service of all legal process issued against it in any civil action or proceeding in this State and agree that process so served is valid and binding against the applicant. The appointment is irrevocable, binds the company and any successor in interest as well as the assets or liabilities of the applicant and must remain in effect as long as the applicant's license remains in force in this State; and

C. Provide the location of the applicant's home office.

3. Time of application. An application for licensure under this chapter must be made within 90 days of the application being made available by the superintendent.

4. Initial license valid for 24 months. An initial license issued pursuant to this chapter is valid for 24 months and expires on the last day of the 24th month.

5. Fee. Each vendor licensed under this chapter shall pay to the superintendent a fee as prescribed by section 601, subsection 29.

See title page for effective date.

CHAPTER 298

H.P. 1070 - L.D. 1439

An Act Regarding Permits To Carry Concealed Firearms

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

Sec. 1. 12 MRSA §11403, sub-§2, ¶B, as amended by PL 2007, c. 163, §2 and affected by §3, is further amended to read:

B. A person may not carry firearms of any kind while hunting any species of wildlife with bow and arrow during the regular archery-only season on deer, except that a person who holds a license that allows hunting with firearms may carry a handgun. This paragraph may not be construed to prohibit a person who holds a valid permit to carry a concealed ~~firearm~~ handgun pursuant to Title 25, section 2003 from carrying a ~~firearm~~ handgun.

Sec. 2. 17-A MRSA §1057, sub-§3, as enacted by PL 1989, c. 917, §2, is amended to read:

3. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed ~~firearm~~ handgun issued under Title 25, chapter 252.

Sec. 3. 17-A MRSA §1057, sub-§5, as amended by PL 2009, c. 447, §20, 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 alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive alcohol level" means 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 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~~ handguns issued pursuant to Title 25, chapter 252, or of the authority of a private investigator licensed to carry a concealed ~~firearm~~ handgun pursuant to Title 32, chapter 89, is as provided in those chapters.

Sec. 4. 25 MRSA §2001-A, sub-§2, ¶A, as enacted by PL 2003, c. 452, Pt. N, §2 and affected by Pt. X, §2, is amended to read:

A. ~~Firearms~~ Handguns carried by a person to whom a valid permit to carry a concealed ~~firearm~~ handgun has been issued as provided in this chapter;

Sec. 5. 25 MRSA §2001-A, sub-§2, ¶F, as amended by PL 2007, c. 555, §1, is further amended to read:

F. A ~~firearm~~ handgun carried by a person to whom a valid permit to carry a concealed ~~firearm~~ handgun has been issued by another state if a permit to carry a concealed ~~firearm~~ handgun issued from that state has been granted reciprocity. The Chief of the State Police may enter into reciprocity agreements with any other states that meet the requirements of this paragraph. Reciprocity may be granted to a permit to carry a concealed ~~firearm~~ handgun issued from another state if:

(1) The other state that issued the permit to carry a concealed ~~firearm~~ handgun has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed ~~firearm~~ handgun; and

(2) The other state that issued the permit to carry a concealed ~~firearm~~ handgun observes the same rules of reciprocity regarding a person issued a permit to carry a concealed ~~firearm~~ handgun under this chapter.

Sec. 6. 25 MRSA §2002, sub-§8-A is enacted to read:

8-A. Handgun. "Handgun" means a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and that is designed to fire or is capable of firing fixed cartridge ammunition. "Handgun" does not include a shotgun or rifle that has been altered by having its stock or barrel cut or shortened or an automatic firearm that may be held with a single hand.

Sec. 7. 25 MRSA §2003, as amended by PL 2007, c. 194, §5, is further amended to read:

§2003. Permits to carry concealed handguns

1. Criteria for issuing permit. The issuing authority shall, upon written application, issue a permit to carry concealed ~~firearms~~ handguns to an applicant over whom it has issuing authority and who has demonstrated good moral character and who meets the following requirements:

A. Is 18 years of age or older;

B. Is not disqualified to possess a firearm pursuant to Title 15, section 393, is not disqualified as a permit holder under that same section and is not disqualified to possess a firearm based on federal law as a result of a criminal conviction~~.~~;

D. Submits an application that contains the following:

(1) Full name;

(2) Full current address and addresses for the prior 5 years;

(3) The date and place of birth, height, weight, color of eyes, color of hair, sex and race;

(4) A record of previous issuances of, refusals to issue and revocations of a permit to carry concealed firearms, handguns or other concealed weapons by any issuing authority in the State or any other jurisdiction. The record of previous refusals alone does not constitute cause for refusal and the record of previous revocations alone constitutes cause for refusal only as provided in section 2005; and

(5) Answers to the following questions:

(a) Are you less than 18 years of age?

(b) Is there a formal charging instrument now pending against you in this State for a crime under the laws of this State that is punishable by imprisonment for a term of one year or more?

(c) Is there a formal charging instrument now pending against you in any federal court for a crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year?

(d) Is there a formal charging instrument now pending against you in another state for a crime that, under the laws of that state, is punishable by a term of imprisonment exceeding one year?

(e) If your answer to the question in division (d) is "yes," is that charged crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?

(f) Is there a formal charging instrument pending against you in another state for a crime punishable in that state by a term of imprisonment of 2 years or less and classified by that state as a misdemeanor, but that is substantially similar to a crime that under the laws of this State is punishable by imprisonment for a term of one year or more?

(g) Is there a formal charging instrument now pending against you under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority has pleaded that you committed the crime with the use of a firearm against a person or with the use of a dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A?

(h) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that, if committed by an adult, would be a crime described in division (b), (c), (d) or (f) and involves bodily injury or threatened bodily injury against another person?

(i) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense

that, if committed by an adult, would be a crime described in division (g)?

(j) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that, if committed by an adult, would be a crime described in division (b), (c), (d) or (f), but does not involve bodily injury or threatened bodily injury against another person?

(k) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (b), (c), (f) or (g)?

(l) Have you ever been convicted of committing or found not criminally responsible by reason of mental disease or defect of committing a crime described in division (d)?

(m) If your answer to the question in division (l) is "yes," was that crime classified under the laws of that state as a misdemeanor punishable by a term of imprisonment of 2 years or less?

(n) Have you ever been adjudicated as having committed a juvenile offense described in division (h) or (i)?

(o) Have you ever been adjudicated as having committed a juvenile offense described in division (j)?

(p) Are you currently subject to an order of a Maine court or an order of a court of the United States or another state, territory, commonwealth or tribe that restrains you from harassing, stalking or threatening your intimate partner, as defined in 18 United States Code, Section 921(a), or a child of your intimate partner, or from engaging in other conduct that would place your intimate partner in reasonable fear of bodily injury to that intimate partner or the child?

(q) Are you a fugitive from justice?

(r) Are you a drug abuser, drug addict or drug dependent person?

(s) Do you have a mental disorder that causes you to be potentially dangerous to yourself or others?

(t) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, Article 5, Parts 3 and 4 and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?

(u) Have you been dishonorably discharged from the military forces within the past 5 years?

(v) Are you an illegal alien?

(w) Have you been convicted in a Maine court of a violation of Title 17-A, section 1057 within the past 5 years?

(x) Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would be a violation of Title 17-A, section 1057?

(y) To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?

(z) Have you been convicted in any jurisdiction within the past 5 years of 3 or more crimes punishable by a term of imprisonment of less than one year or of crimes classified under the laws of a state as a misdemeanor and punishable by a term of imprisonment of 2 years or less?

(aa) Have you been adjudicated in any jurisdiction within the past 5 years to have committed 3 or more juvenile offenses described in division (o)?

(bb) To your knowledge, have you engaged within the past 5 years in reckless or negligent conduct that has been the subject of an investigation by a governmental entity?

(cc) Have you been convicted in a Maine court within the past 5 years of any Title 17-A, chapter 45 drug crime?

(dd) Have you been adjudicated in a Maine court within the past 5 years as having committed a juvenile offense involving conduct that, if committed by an adult, would have been a violation of Title 17-A, chapter 45?

(ee) Have you been adjudged in a Maine court to have committed the civil violation of possession of a useable amount of marijuana, butyl nitrite or isobutyl nitrite in violation of Title 22, section 2383 within the past 5 years?

(ff) Have you been adjudicated in a Maine court within the past 5 years as

having committed the juvenile crime defined in Title 15, section 3103, subsection 1, paragraph B of possession of a useable amount of marijuana, as provided in Title 22, section 2383?; and

E. Does the following:

(1) At the request of the issuing authority, takes whatever action is required by law to allow the issuing authority to obtain from the Department of Health and Human Services, limited to records of patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, the courts, law enforcement agencies and the military information relevant to the following:

(a) The ascertainment of whether the information supplied on the application or any documents made a part of the application is true and correct;

(b) The ascertainment of whether each of the additional requirements of this section has been met; and

(c) Section 2005;

(2) If a photograph is an integral part of the permit to carry concealed ~~firearms~~ handguns adopted by an issuing authority, submits to being photographed for that purpose;

(3) If it becomes necessary to resolve any questions as to identity, submits to having fingerprints taken by the issuing authority;

(4) Submits an application fee along with the written application to the proper issuing authority pursuant to the following schedule:

(a) Resident of a municipality or unorganized territory, $35 for an original application and $20 for a renewal, except that a person who paid $60 for a concealed firearms permit or renewal during 1991 or 1992 is entitled to a credit toward renewal fees in an amount equal to $30 for a person who paid $60 for an original application and $45 for a person who paid $60 for a permit renewal. The credit is valid until fully utilized; and

(b) Nonresident, $60 for an original or renewal application~~, except that a person who paid $80 for a concealed firearms permit during 1991 or 1992 is entitled to a $20 credit toward permit renewal fees. The credit is valid until fully utilized~~; and

(5) Demonstrates to the issuing authority a knowledge of handgun safety. The applicant may fully satisfy this requirement by submitting to the issuing authority, through documentation in accordance with this subparagraph, proof that the applicant has within 5 years prior to the date of application completed a course that included handgun safety offered by or under the supervision of a federal, state, county or municipal law enforcement agency or a firearms instructor certified by a private firearms association recognized as knowledgeable in matters of ~~firearms~~ handgun safety by the issuing authority or by the state in which the course was taken. A course completion certificate or other document, or a photocopy, is sufficient if it recites or otherwise demonstrates that the course meets all of the requirements of this subparagraph.

As an alternative way of fully satisfying this requirement, an applicant may personally demonstrate knowledge of handgun safety to an issuing authority, if the issuing authority is willing to evaluate an applicant's personal demonstration of such knowledge. The issuing authority is not required to offer this 2nd option.

The demonstration of knowledge of handgun safety to the issuing authority may not be required of any applicant who holds a valid ~~State~~ state permit to carry a concealed firearm as of April 15, 1990 or of any applicant who was or is in any of the Armed Forces of the United States and has received at least basic firearms training.

2. Complete application; certification by applicant. The requirements set out in subsection 1, constitute a complete application. By affixing the applicant's signature to the application, the applicant certifies the following:

A. That the statements the applicant makes in the application and any documents the applicant makes a part of the application are true and correct;

A-1. That the applicant understands that an affirmative answer to the question in subsection 1, paragraph D, subparagraph (5), division (l) or (o) is cause for refusal unless the applicant is nonetheless authorized to possess a firearm under Title 15, section 393;

A-2. That the applicant understands that an affirmative answer to subsection 1, paragraph D, subparagraph (5), division (p) is cause for refusal if the order of the court meets the preconditions contained in Title 15, section 393, subsection 1, paragraph D. If the order of the court does not meet the preconditions, the conduct underlying the order may be used by the issuing authority,

along with other information, in judging good moral character under subsection 4;

B. That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph (5), divisions (a), (k), (n) or (q) to (x) is cause for refusal;

B-1. That the applicant understands that an affirmative answer to one or more of the questions in subsection 1, paragraph D, subparagraph (5), divisions (b) to (j), (m), (y), (z) or (aa) to (ff) is used by the issuing authority, along with other information, in judging good moral character under subsection 4; and

C. That the applicant understands any false statements made in the application or in any document made a part of the application may result in prosecution as provided in section 2004.

3. Copy of laws furnished to applicant. A copy of this chapter and the definitions from other chapters ~~which~~ that are used in this chapter ~~shall~~ must be provided to every applicant.

3-A. Model forms. The Attorney General shall develop model forms for the following:

A. An application for a resident permit to carry concealed ~~firearms~~ handguns;

B. An application for a nonresident permit to carry concealed ~~firearms~~ handguns;

C. A resident permit to carry concealed ~~firearms~~ handguns of which a photograph is an integral part;

D. A resident permit to carry concealed ~~firearms~~ handguns of which a photograph is not an integral part;

E. A nonresident permit to carry concealed ~~firearms~~ handguns; and

F. Authority to release information to the issuing authority for the purpose of evaluating information supplied on the application.

Each issuing authority shall utilize only the model forms.

4. Good moral character. The issuing authority in judging good moral character shall make its determination in writing based solely upon information recorded by governmental entities within 5 years of receipt of the application, including, but not limited to, the following matters:

A. Information of record relative to incidents of abuse by the applicant of family or household members, provided pursuant to Title 19-A, section 4012, subsection 1;

B. Information of record relative to 3 or more convictions of the applicant for crimes punishable by less than one year imprisonment or one or more adjudications of the applicant for juvenile offenses involving conduct that, if committed by an adult, is punishable by less than one year imprisonment;

C. Information of record indicating that the applicant has engaged in reckless or negligent conduct; or

D. Information of record indicating that the applicant has been convicted of or adjudicated as having committed a violation of Title 17-A, chapter 45 or Title 22, section 2383, or adjudicated as having committed a juvenile crime that is a violation of Title 22, section 2383 or a juvenile crime that would be defined as a criminal violation under Title 17-A, chapter 45 if committed by an adult.

5. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, the records pertaining to patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and records compiled pursuant to Title 19-A, section 4012, subsection 1, that are necessary to the issuing authority's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 2005 must, at the request of the issuing authority, be made available for inspection by and dissemination to the issuing authority.

8. Term of permit. All concealed ~~firearm~~ handgun permits are valid for 4 years from the date of issue, unless sooner revoked for cause by the issuing authority. If a permit renewal is issued before the expiration date of the permit being renewed or within 6 months of the expiration date of the permit being renewed, the permit renewal is valid for 4 years from the expiration date of the permit being renewed.

9. Information contained in permit. Each permit to carry concealed ~~firearms~~ handguns issued ~~shall~~ must contain the following: The name, address and physical description of the permit holder; the holder's signature; the date of issuance; and the date of expiration. A permit to carry concealed ~~firearms~~ handguns may additionally contain a photograph of the permit holder if the issuing authority makes a photograph an integral part of the permit to carry concealed ~~firearms~~ handguns.

10. Validity of permit throughout the State. Permits issued authorize the person to carry those concealed ~~firearms~~ handguns throughout the State.

11. Permit to be in permit holder's immediate possession. Every permit holder shall have ~~his~~ the holder's permit in ~~his~~ the holder's immediate possession at all times when carrying a concealed ~~firearm~~ handgun and shall display the same on demand of any law enforcement officer. ~~No~~ A person charged with

violating this subsection may not be adjudicated as having committed a civil violation if ~~he~~ that person produces in court the concealed ~~firearms~~ handgun permit ~~which~~ that was valid at the time of the issuance of a summons to court or, if ~~he~~ the holder exhibits the permit to a law enforcement officer designated by the summonsing officer not later than 24 hours before the time set for the court appearance, ~~no~~ a complaint may not be issued.

12. Permit for a resident of 5 or more years to be issued or denied within 30 days; permit for a nonresident and resident of less than 5 years to be issued or denied within 60 days. The issuing authority, as defined in this chapter, shall issue or deny, and reply in writing as to the reason for any denial, within 30 days of the application date in the case of a resident of 5 or more years and within 60 days of the application date in the case of a nonresident or in the case of a resident of less than 5 years. If the issuing authority does not issue or deny a request for a permit renewal within the time limits specified in this subsection, the validity of the expired permit is extended until the issuing authority issues or denies the renewal.

13. Fee waiver. An issuing authority may waive the permit fee for a permit issued to a law enforcement officer certified by the Maine Criminal Justice Academy.

14. Lapsed permit. A person may apply for renewal of a permit at the permit renewal rate at any time within 6 months after expiration of a permit. A person who applies for a permit more than 6 months after the expiration date of the permit last issued to that person must submit an original application and pay the original application fee.

15. Duty of issuing authority; application fees. The application fees submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) are subject to the following.

A. If the issuing authority is other than the Chief of the State Police, $25 of the fee for an original application and $15 of the fee for a renewal must be paid over to the Treasurer of State.

B. If the Chief of the State Police is the issuing authority as the designee of a municipality under section 2002-A, $25 of the fee for an original application and $15 of the fee for a renewal must be paid over to the Treasurer of State.

C. If the Chief of the State Police is the issuing authority because the applicant is either a resident of an unorganized territory or a nonresident, the application fee must be paid over to the Treasurer of State. The fee must be applied to the expenses of administration incurred by the State Police.

16. Application fee; use. The application fee submitted by the applicant as required by subsection 1, paragraph E, subparagraph (4) covers the cost of processing the application by the issuing authority and the cost of the permit to carry concealed ~~firearms~~ handguns issued by the issuing authority.

17. Waiver of law enforcement agency record and background check fees. Notwithstanding any other provision of law, a law enforcement agency may not charge an issuing authority a fee in association with the law enforcement agency's conducting a concealed handgun permit applicant record check or background check for the issuing authority.

Sec. 8. 25 MRSA §2004, sub-§1, as enacted by PL 2003, c. 452, Pt. N, §3 and affected by Pt. X, §2, is amended to read:

1. False statements. A person who intentionally or knowingly makes a false statement in the written application for a permit to carry a concealed ~~firearm~~ handgun or any documents made a part of the application commits a Class D crime.

Sec. 9. 25 MRSA §2005, sub-§2, ¶A, as enacted by PL 1985, c. 478, §2, is amended to read:

A. If the permit holder changes ~~his~~ the permit holder's legal residence from one municipality to another during the term of the permit, the permit remains valid if ~~he~~ the permit holder provides ~~his~~ the permit holder's new address to the issuing authority of ~~his~~ the permit holder's new residence within 30 days of making that change. The issuing authority of the new residence shall immediately reissue the permit with the corrected address for a fee of not more than $2.

Sec. 10. 25 MRSA §2005-A, sub-§1, as enacted by PL 1989, c. 917, §16, is amended to read:

1. Immediate suspension. If the permit holder is required by law to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for conduct that occurs while the permit holder is in possession of a loaded firearm, and the permit holder refuses to submit to the required testing, the permit to carry a concealed ~~firearm~~ handgun issued to that person is immediately suspended and must be surrendered at that time by the permit holder to the law enforcement officer.

Sec. 11. 25 MRSA §2006, as enacted by PL 1985, c. 478, §2 and corrected by RR 1999, c. 2, §28, is amended to read:

§2006. Confidentiality of application

Notwithstanding Title 1, sections 401 to 410, all applications for a permit to carry concealed ~~firearms~~ handguns and documents made a part of the application, refusals and any information of record collected by the issuing agency during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 2003

and 2005~~,~~ are confidential and may not be made available for public inspection or copying. The applicant may waive this confidentiality by written notice to the issuing authority. All proceedings relating to the issuance, refusal or revocation of a permit to carry concealed ~~firearms~~ handguns are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

The issuing authority shall make a permanent record of each permit to carry concealed ~~firearms~~ handguns in a suitable book or file kept for that purpose. The record ~~shall~~ must include the information contained in the permit itself and ~~shall~~ must be available for public inspection.

Sec. 12. 30-A MRSA §2801, sub-§3-A, 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:

3-A. Names of those issued concealed handgun permits. The names of persons issued concealed ~~firearms~~ handgun permits under Title 25, chapter 252~~,~~ may not be printed in the annual report.

Sec. 13. 32 MRSA §8120-A, as enacted by PL 1997, c. 360, §5, is amended to read:

§8120-A. Handguns

A private investigator licensed under this chapter may carry a ~~firearm~~ handgun while performing the duties of a private investigator only after being issued a concealed ~~weapons~~ handgun permit by the Chief of the State Police under Title 25, chapter 252 and passing the written firearms examination prescribed by the commissioner.

Sec. 14. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 25, chapter 252, in the chapter headnote, the words "permits to carry concealed firearms" are amended to read "permits to carry concealed handguns" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 299

H.P. 963 - L.D. 1317

An Act Concerning Sex Offender Registry Information

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

Sec. 1. 34-A MRSA §11221, sub-§9-A is enacted to read:

9-A. Registry information. Registry information created, collected or maintained by the bureau, including, but not limited to, information relating to the identity of persons accessing the registry, is confidential, except the following are public records:

A. Information provided to the public pursuant to subsection 9; and

B. Applications and bureau decisions, including any documents made part of those decisions, pursuant to section 11202-A.

Sec. 2. 34-A MRSA §11221, sub-§10, as amended by PL 2003, c. 711, Pt. C, §20 and affected by Pt. D, §2, is further amended to read:

10. Registrant access to information. ~~Pursuant to Title 16, section 620, the~~ The bureau shall provide all information described in subsection 1, paragraphs A to F to a registrant who requests that person's own information. The process for access and review of that information is governed by Title 16, section 620.

Sec. 3. 34-A MRSA §11221, sub-§13 is enacted to read:

13. Access to registrant information existing in electronic form restricted. Notwithstanding Title 1, chapter 13:

A. Except as made available to the public through the bureau's Internet website pursuant to subsection 9, the bureau may not disseminate in electronic form information about a registrant that is created, collected or maintained in electronic form by or for the bureau; and

B. Except as made available to the public through an Internet website maintained by a law enforcement agency pursuant to subsection 12, a law enforcement agency may not disseminate in electronic form information about a registrant that is collected or maintained in electronic form by or for the law enforcement agency.

See title page for effective date.

CHAPTER 300

H.P. 1107 - L.D. 1506

An Act To Remove Obstacles to the Use of Technological Advances for Heating in Multifamily Structures

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

Sec. 1. 10 MRSA §1413, sub-§7-A is enacted to read:

7-A. Geothermal heat pump. "Geothermal heat pump" means a central heating or central cooling system that pumps heat to or from the ground.

Sec. 2. 10 MRSA §1415-G, sub-§1, as amended by PL 2005, c. 350, §11, is further amended to read:

1. Residential construction, remodeling and renovation. Except as provided in this section, during the construction, remodeling or renovation of a multifamily residential structure, a person may not install electric space heating equipment as the primary heating system if that construction, remodeling or renovation is funded in whole or in part by public funds, guarantees or bond proceeds. For purposes of this section, "multifamily residential structure" means a residential structure with more than one dwelling unit and "electric space heating equipment" does not include electric thermal storage space heating equipment or a geothermal heat pump.

See title page for effective date.

CHAPTER 301

H.P. 1083 - L.D. 1474

An Act To Amend the Beano Laws

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

Sec. 1. 17 MRSA §317, first ¶, as amended by PL 1999, c. 74, §2, is further amended to read:

The Chief of the State Police ~~has the power to~~ may adopt rules, not inconsistent with law, that are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of the amusement commonly known as "Beano" or "Bingo" and for the permitting and operation of commercial beano halls. The Chief of the State Police ~~has the power and authority to~~ may regulate, supervise and exercise general control over the operation of such amusement and commercial beano halls, including, but not limited to, the payment of prizes and the use of equipment. Any rule adopted by the Chief of the State Police concerning the value of prizes that may be awarded must include a provision that no single prize may exceed $400 in value and that no more than $1,400 in total prizes may be awarded on any one occasion except that once per calendar year on one occasion a licensee may award up to $2,000 in total prizes. In establishing such rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~II-A~~ 2-A, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, use the following standards setting forth conduct, conditions and activity considered undesirable:

See title page for effective date.

CHAPTER 302

H.P. 1130 - L.D. 1538

An Act To Amend the Laws Governing the Maine Turnpike Authority and To Implement Certain Recommendations of the Government Oversight Committee in the Office of Program Evaluation and Government Accountability Report Concerning the Maine Turnpike 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, this legislation makes adjustments to the management and operations of the Maine Turnpike Authority; and

Whereas, it is necessary that these changes be implemented as soon as possible to allow the Maine Turnpike Authority to correct prior deficiencies; 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 §12004-F, sub-§4, as enacted by PL 1987, c. 786, §5, is amended to read:

4.

Maine Turnpike Authority, Board of Directors	Legislative Per Diem	23 MRSA §~~1965~~ 1964-A

Sec. 2. 23 MRSA §1961, sub-§2, as amended by PL 1995, c. 504, Pt. C, §1, is further amended to read:

2. Cooperation with the Department of Transportation. ~~The Department of Transportation must be provided each year the operating surplus of the Maine Turnpike Authority.~~ The ~~Maine Turnpike Authority~~ authority may issue bonds or other obligations to pay

for ~~Department of Transportation~~ department projects. These amounts are considered necessary for use by the department for construction, reconstruction, operation and maintenance of all roads on the state highway system, which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike and its users have received and will continue to receive a benefit from, or have caused and will continue to cause, or both, the State acting by and through the ~~Department of Transportation~~ department to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly be and should be compensated from the tolls to be collected. The ~~Maine Turnpike Authority should~~ authority must be maintained to carry out the purposes of this chapter in cooperation with the ~~Department of Transportation~~ department.

Sec. 3. 23 MRSA §1961, sub-§6, as amended by PL 1995, c. 613, §1 and affected by §7, is further amended to read:

6. Appropriation. On or before January 31st of each year, the authority shall present to each regular session of the Legislature for its approval ~~a~~ the authority's revenue fund budget ~~for the operating expenses of the authority~~ for the calendar year that begins after the adjournment of that regular session and shall present to each regular session of the Legislature for informational purposes a statement of the revenues necessary ~~for~~ during the next calendar year to fund capital expenditures and reserves~~,~~ and to meet the requirements of any resolution authorizing bonds of the authority ~~during that calendar year~~, including debt service and the maintenance of reserves for debt service and reserve maintenance. The authority shall present a detailed budget of expenditures from the authority's reserve maintenance fund for the next calendar year and shall include cross-references to show the total of similar expense categories that are paid from both the revenue and reserve maintenance funds. The authority may only pay revenue fund operating expenses in accordance with allocations approved by the Legislature or as necessary to satisfy the requirements of any resolution authorizing bonds of the authority. ~~The operating surplus must be transferred to the Department of Transportation and expended in accordance with allocations approved by the Legislature.~~ If alterations to the authority's revenue fund budget are needed, they must be reported by financial order to the joint standing committee of the Legislature having jurisdiction over transportation matters.

Sec. 4. 23 MRSA §1961, sub-§7 is enacted to read:

7. Funds for department projects. As part of the budget presented in subsection 6, the authority shall allocate funds for department projects in an amount such that the 3-year rolling average of the allocation equals at least 5% of annual operating revenues. All department projects are subject to mutual agreement of the authority and the department.

Sec. 5. 23 MRSA §1964, sub-§§2-A and 2-B are enacted to read:

2-A. Away agency. "Away agency" means a tolling authority in a jurisdiction other than the State that imposes an administrative fee or a civil liability on the registered owner of a vehicle whose operator fails to pay a required toll for the use of a highway, bridge or tunnel.

2-B. Board. "Board" means the board of directors of the authority established pursuant to section 1964-A.

Sec. 6. 23 MRSA §1964, sub-§4-A, as enacted by PL 1995, c. 504, Pt. C, §2, is amended to read:

4-A. Department project. "Department ~~of Transportation~~ project" means the rehabilitation, reconstruction or construction of any highway or bridge on the state highway system determined by the department and the authority to have a sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6~~.~~ and is a project or allocation to:

A. Build or improve an interchange;

B. Maintain, build or improve an access road;

C. Study or plan a future highway corridor and study related issues;

D. Maintain, build or improve a park and ride lot or other transportation infrastructure for all modes of transportation relating to turnpike use;

E. Purchase, lease or improve highway-related infrastructure; or

F. Pay debt incurred by the authority for any capital project purpose in paragraphs A to E.

Sec. 7. 23 MRSA §1964, sub-§6-A, as amended by PL 1995, c. 613, §2 and affected by §7, is repealed.

Sec. 8. 23 MRSA §1964, sub-§§7-A and 7-B are enacted to read:

7-A. Reserve maintenance fund. "Reserve maintenance fund" means a fund established by a resolution authorizing bonds of the authority as a source to pay for turnpike maintenance, turnpike rehabilitation, insurance, emergency repairs of the turnpike, remediation of turnpike deficiencies and other perennial costs

and selected capital projects as recommended by a consulting engineer.

7-B. Revenue fund. "Revenue fund" means a fund established by a resolution authorizing bonds of the authority as the initial depositary for all operating income of the authority; certain operating expenses, defined by bond resolutions, are paid from the revenue fund before further transfers are made to funds for debt service, reserve maintenance and general reserves.

Sec. 9. 23 MRSA §1964-A is enacted to read:

§1964-A. Board of directors

The authority is managed by a board of 7 members. Except for the member from the department who serves ex officio, all members are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate.

1. Qualifications. The 7 members of the board are as follows:

A. The Commissioner of Transportation or the commissioner's designee from within the department, who serves ex officio;

B. Four members, one each from York, Cumberland, Androscoggin and Kennebec counties who serves as the representative from the county in which the member resides; and

C. Two at-large members who are residents of the State.

2. Term. Each appointed member holds office for 6 years or until a qualified successor has been confirmed. Each term expires on March 31st of the last year of the term. The terms of the appointed members must be staggered so that no more than one term expires in any given year.

3. Vacancy. A member's term is vacated if the member dies, resigns, becomes incapacitated, is removed for cause or no longer meets a requirement under which the member was appointed. By majority vote of the remaining members, the board may declare and bring to the Governor's attention any circumstances creating a vacancy. When a vacancy occurs, the Governor may appoint a member to serve only for the unexpired portion of the term vacated.

4. Removal. The Governor may remove a member from the board only for gross misconduct. For purposes of this subsection, "gross misconduct" means financial malfeasance, a deliberate or reckless failure to attend to duties required for governance of the authority or unexcused absences from 4 or more meetings of the board in a 12-month period.

5. Chair. The Governor may appoint the chair from among members appointed to the board. In the absence of such appointment or if the position of chair is vacated, the board may elect a chair from among the members of the board. The chair must be appointed or elected for a one-year term at the board's annual meeting.

6. Annual meetings; quorum; action. The board shall convene annually at a meeting held in September and more often as determined by the chair. Four members of the board constitute a quorum. Four votes are required to act on any matter, although a lesser number may adjourn a meeting.

7. Compensation. Appointed members of the board are compensated in accordance with Title 5, section 12004-F, subsection 4.

8. Executive director. At its annual meeting each September, the board shall appoint or reappoint an executive director who is not a member of the board. An executive director's first appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters and to confirmation by the Senate.

9. Secretary and treasurer. At its annual meeting each year, the board shall elect a secretary and a treasurer, who may be the same person and need not be a member of the board. The secretary and treasurer are responsible in their respective capacities directly to the board and may be relieved of their duties only by the board. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of $50,000. Each security bond must be approved by the Attorney General and conditioned upon the faithful performance of the duties of the secretary and treasurer. The bond must be filed in the office of the State Auditor.

10. Compliance audits. In addition to retaining an annual auditor, the board shall retain a separate compliance auditor who shall:

A. Periodically monitor the authority's financial operations and management controls;

B. Test selected transactions for policy compliance;

C. Make quarterly findings directly to the board and to the joint standing committee of the Legislature having jurisdiction over transportation matters;

D. Recommend to the board any necessary or advisable improvements to management systems, policies or controls; and

E. Render an annual compliance and management report in conjunction with the report of the authority's annual auditor.

Sec. 10. 23 MRSA §1965, as amended by PL 2007, c. 270, §1, is further amended to read:

§1965. Maine Turnpike Authority; powers

1. Powers. The Maine Turnpike Authority, as created by Private and Special Law 1941, chapter 69 and as authorized by Title 5, section 12004-F, subsection 4, is and ~~shall continue~~ continues to be a body both corporate and politic in the State and may:

A. Sue and be sued;

B. Have a seal and alter the seal at pleasure;

C. Adopt from time to time and amend bylaws covering its procedure and rules governing use of the turnpike and any of the other services made available in connection with the turnpike; develop and adopt, in accordance with ~~the Maine Administrative Procedure Act,~~ Title 5, chapter 375, rules governing the use of the turnpike and other services; publish those bylaws, rules as publication is necessary or advisable; and cause records of its proceedings to be kept;

D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, except that the traveled way may not be widened or expanded beyond 3 lanes for each direction of travel from the southern terminus of the turnpike to mile marker 53 and beyond 2 lanes for each direction of travel elsewhere on the turnpike without the express approval of the Legislature.

Except as provided in section 1965-A, a license, permit or approval necessary for the widening or expansion of the turnpike may not be issued by any state agency unless that agency makes an affirmative finding that the widening or expansion is consistent with state transportation policy, as established in section 73, as well as rules implementing that policy;

D-1. Construct, acquire, install, maintain and reconstruct communications facilities and equipment within the boundaries of the turnpike for the use of the authority, the use of others or both on such terms and conditions as the authority may determine;

E. Acquire, hold and dispose of personal property for its purposes;

F. Acquire in the name of the authority by purchase, eminent domain, lease or otherwise, real property and rights or easements therein ~~deemed~~ determined by it necessary or desirable for its purposes, and use that property;

G. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by section 1967;

H. Charge and collect fees, fares and tolls for the use of the turnpike and other services made available in connection with the turnpike and use the proceeds of such fees, fares and tolls for the purposes provided in this chapter, both as subject to and in accordance with such agreement with bondholders as may be made as provided in this chapter;

I. Make contracts with the United States or any instrumentality or agency of the United States, another state or any instrumentality, municipality or agency of another state, including multi-state entities composed of other state agencies, this State or any of its agencies or instrumentalities, municipalities, public corporations, or bodies existing therein, private corporations, partnerships, associations and individuals;

J. Accept grants and the cooperation of the United States or any agency thereof in the construction, maintenance, reconstruction, operation and financing of the turnpike and do any and all things necessary in order to avail itself of that aid and cooperation and repay any such grant or portion thereof;

J-1. ~~Provide~~ Contract with other public agencies and political subdivisions of the State to provide maintenance services ~~on connecting interstate highways for a maximum road distance of 5 miles from the point of connection with the turnpike and only~~ in accordance with reimbursement arrangements that are ~~mutually~~ satisfactory to the authority ~~and the department~~;

K. Employ such assistants, agents and servants, engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employees as it ~~deems~~ considers necessary or desirable for its purposes;

L. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States;

M. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligations of the authority for the purposes set forth in this chapter and secure the payment of that obligation or any part thereof by pledge of all or any part of the operating revenues of the turnpike;

N. Enter into loan or security agreements with one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for purposes for which bonds may be issued and to exercise with respect to such loan or security agreements all of the powers delineated in this chapter for the issuances of bonds;

O-1. Provide for an annual amount not to exceed a maximum of $4,700,000 to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations, after money has been set aside or adequate provision has been made to pay operating expenses and to meet the requirements of any resolution authorizing revenue bonds of the authority;

O-2. Make a contract or enter into an agreement with or provide certifications and assurances to the Department of Transportation, or any other 3rd party, necessary in connection with the determination of ~~Department of Transportation~~ department projects, the issuance of bonds or other obligations pursuant to section 1968, subsection 2-A, the pledge of revenues to the payment of these bonds or obligations or the payment of the costs or a portion of the costs of ~~Department of Transportation~~ department projects;

P. Provide from revenues to or for the use of the department funds for the maintenance, construction or reconstruction of interchanges determined pursuant to section 1974, subsection 3, for which the authority has not otherwise provided;

Q. Use toll revenues to provide payment of obligations, if any, as may be due to the United States in order to continue the use of the turnpike as a toll type facility;

S. Prior to the issuance of any bonds, issue interim certificates in such manner and with such conditions as the authority may determine to be exchanged for those bonds when issued;

S-1. Utilize the Department of Transportation, Office of Legal Services or the Department of the Attorney General for general counsel, bond counsel, labor defense, workers' compensation, legislative issues and other required legal services on a fee-for-service basis at rates determined by those agencies;

T. Take all other lawful action necessary and incidental to these powers;

U. Adopt rules, in accordance with the Maine Administrative Procedure Act, to establish a logo signing program on the turnpike. The authority may charge fees for signs that contain names, symbols, logos or other ~~indentifiers~~ identifiers of specific commercial enterprises. This paragraph may not be interpreted as limiting the authority's general power to collect fees under paragraph H; ~~and~~

V. Develop programs whereby a patron of the turnpike who uses the authority's electronic toll collection system, as defined in section 1980, subsection 2-A, paragraph B, may elect to use the patron's electronic toll collection system device to pay for services other than tolls for the use of the turnpike, whether those services are provided by the authority itself or 3rd parties, and allow the patron to participate in similar programs developed by other tolling authorities.~~;~~ and

W. Provide, receive or exchange services with other political agencies, political subdivisions of a state or tolling authorities upon terms beneficial to the authority.

~~2. Membership of the authority.~~ ~~The membership of the authority shall be as follows.~~

~~A. Members of the authority are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over transportation and subject to confirmation by the Legislature. The Commissioner of Transportation is a member ex officio. The Commissioner of Transportation may designate a deputy, director, assistant or other officer or employee of the department to represent the Commissioner of Transportation at meetings of the authority with full power to act and vote on behalf of the Commissioner of Transportation. Upon the expiration of the term of office of any member, the Governor shall appoint a new member who serves in office for a term of 7 years and until a successor is duly appointed and qualified, and any member of the authority is eligible for reappointment. In the event of a vacancy in the membership of the authority caused by the death, incapacity, resignation or removal of a member, the Governor shall appoint a member to fill that vacancy only for the unexpired term of office of the member whose death, incapacity, resignation or removal created the vacancy, but the newly appointed member may be reappointed at the end of the unexpired term in accordance with this subsection. In all events, a member may not be appointed to the authority who is not a resident of the State at the time of the appointment and qualification, or who has not been a qualified voter in the State for a period of at least one year next preceding the appointment.~~

~~A-1. The authority consists of the Commissioner of Transportation, who is an ex officio member, and:~~

~~(1) Four members appointed by the Governor pursuant to paragraph A. Three members of the authority constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting;~~

~~(2) On and after August 1, 2000, 5 members appointed by the Governor pursuant to paragraph A. Three members of the authority~~

~~constitute a quorum and 3 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting; and~~

~~(3) On and after August 1, 2002, 6 members appointed by the Governor pursuant to paragraph A. After August 1, 2002, 4 members of the authority constitute a quorum and 4 votes are required for the authority to act on any matter, although a lesser number may adjourn a meeting.~~

~~A-2. In making appointments under this subsection, the Governor shall ensure that after August 1, 2002 or at the earliest opportunity thereafter, the authority includes at least one person who is a resident of York County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Cumberland County and who is named by the Governor as that county's representative on the authority; one person who is a resident of Androscoggin County and who is named by the Governor as that county's representative on the authority; and one person who is a resident of Kennebec County and who is named by the Governor as that county's representative on the authority. A member named to represent a certain county ceases to be a member if that person's residency changes to another county. Vacancies created as a result of changes in residency must be filled by the Governor as provided for other vacancies in paragraph A.~~

~~B. Immediately after their appointments, the members of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chair of the authority. The authority shall elect a secretary and a treasurer, who need not be members of the authority. The offices of secretary and treasurer may be held simultaneously by the same person. The authority shall elect an executive director or general manager who is not a member of the authority. 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.~~

~~C. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of $50,000. Each security bond must be approved by the Attorney General and must be conditioned upon the faithful performance of the duties of the secretary's and treasurer's offices, which bond must be filed in the office of the State Auditor. Each member of the authority is entitled to compensation according to the provisions of Title 5, chapter 379. The Governor may remove a member from the authority only for gross misconduct.~~

Sec. 11. 23 MRSA §1966, sub-§2, as amended by PL 1997, c. 743, §1, is further amended to read:

2. Coordination between authority and department on construction or reconstruction. ~~All contracts and agreements relating to the construction~~ Construction or reconstruction of the turnpike and ~~the construction or reconstruction of~~ its connecting tunnels and bridges, overpasses, underpasses, interchanges and toll facilities must be ~~approved by~~ coordinated with the ~~Department of Transportation and the turnpike and connecting tunnels and bridges, overpasses, underpasses, interchanges and barriers must be constructed or reconstructed under the supervision of the department~~ department and performed in a fashion generally consistent with applicable department standards under oversight of professional engineers registered in the State. The department shall coordinate with the authority on all department projects that are likely to affect turnpike projects and operations.

Contractors and subcontractors on all authority construction and reconstruction projects must be equal opportunity employers and, in connection with contracts in excess of $250,000, also pursue in good faith affirmative action programs designed to remedy underrepresentation of minorities, women and persons with disabilities. The authority may by rule provide for the enforcement of this requirement. To the extent practical, the authority may use program and technical information developed by and available through the Department of Transportation to carry out this subsection.

All authority construction and reconstruction projects are governed by the prevailing wage provisions in Title 26, chapter 15.

Sec. 12. 23 MRSA §1966, sub-§2-A is enacted to read:

2-A. Contracts for goods and services. Except as otherwise permitted by law, contracts for goods and services must be awarded by the authority through a competitive procurement process. The requirement for competitive procurement may be waived:

A. By the executive director when the purchase is for $25,000 or less and the executive director determines that procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;

B. By the chair of the board when the chair determines that procurement is required by a state of emergency; or

C. By the board pursuant to a written finding that:

(1) Procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;

(2) The service or product is uniquely available from only one source; or

(3) Only one known source can meet the authority's needs within the required time.

Sec. 13. 23 MRSA §1966, sub-§2-B is enacted to read:

2-B. Contracts for engineering services. When bond indentures require the authority to appoint an engineering consultant who may thereby gain a disproportionate advantage when competing for other design and inspection contracts, the authority shall adopt policies to mitigate this advantage and promote a fair distribution of the available work among qualified competing applicants.

Sec. 14. 23 MRSA §1969, sub-§1, ¶A, as amended by PL 1995, c. 504, Pt. C, §6, is further amended to read:

A. To the payment of the cost of the construction and reconstruction of the turnpike or to the payment to the Department of Transportation of the cost of ~~Department of Transportation~~ department projects;

Sec. 15. 23 MRSA §1974, sub-§6, as enacted by PL 1995, c. 504, Pt. C, §7, is amended to read:

6. Revenues to secure special obligation bonds for department projects; determination of project eligibility for funding. Subject to the terms and conditions of this chapter, the authority may authorize turnpike revenues to be transferred to a trustee or agent designated by the authority and that trustee or agent shall hold these revenues in trust to secure or to be applied to the payment of obligations issued pursuant to section 1968, subsection 2-A and as provided for in a resolution authorizing the issuance of these bonds or in a related trust indenture or loan or other security agreement.

The Department of Transportation shall provide the authority with a list of proposed ~~Department of Transportation~~ department projects and any other information requested by the authority and relating to a project on the list. The Department of Transportation and the authority shall determine ~~Department of Transportation~~ department projects that are eligible for funding with proceeds from bonds authorized by section 1968, subsection 2-A. In making this determination, the department and the authority may consider the following factors:

A. The existing access roads and the state highway system;

B. The traffic impact of the maintenance, construction or reconstruction on the existing road network;

C. The total cost of the state highway system;

D. The probable change in departmental expenditures resulting from maintenance, construction or reconstruction of the project;

E. The relative number of vehicles using or expected to use the project on the way to or from the turnpike;

F. The road distance or average road distance of the project or portions of the project from the nearest entrance to or exit from the turnpike;

G. The effect that maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike and in diverting vehicular traffic off or away from the turnpike;

H. The proportionate usage of the state highway system by vehicles using the turnpike and vehicles not using the turnpike;

I. Vehicle classification and travel characteristics;

J. Origins and destinations of trips;

K. Fuel type and consumption;

L. Existing sources of revenue; and

M. Any other factors considered relevant, including, but not limited to, expert opinion.

Sec. 16. 23 MRSA §1977, as amended by IB 1991, c. 1, §9, is further amended to read:

§1977. Trust funds

Subject to any agreement with the bondholders, all revenue received from the operation of the turnpike after deducting expenditures required for the construction, reconstruction, operation and maintenance of the turnpike and for the payment of the principal and the interest on the bonds of the authority or otherwise in accordance with the provisions thereof, and after deducting the ~~operating surplus~~ amount provided to the ~~Department of Transportation~~ department pursuant to section 1961, subsection 7, must be held and invested by the authority to establish trust funds for reserve and sinking funds for the retirement of bonded indebtedness.

Sec. 17. 23 MRSA §1980, sub-§2-A, ¶G, as repealed and replaced by PL 2003, c. 591, §2, is amended to read:

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if a registered owner:

(1) Does not dispute a notice of liability and pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);

(2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final decision of a violation clerk as provided in paragraphs I and J; ~~or~~

(3) Does not pay the required tolls, administrative fees and civil penalties within 30 days of final adjudication of liability under paragraph K~~.~~; or

(4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of final adjudication of liability by an away agency with whom the authority has a reciprocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by certified mail, return receipt requested, informing the registered owner of the pending suspension.

Sec. 18. 23 MRSA §1980, sub-§2-B, ¶B, as amended by PL 2001, c. 473, §1, is further amended to read:

B. A photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. This material is confidential and is not available to the public or to any person employed by the authority whose duties do not require access to the material. The authority shall make this information available to a law enforcement officer upon request and may share this information with other toll administrative agencies as provided in section 1982. Except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph F or to prosecute a criminal offense, this material may not be used in a court in an action or proceeding.

Sec. 19. 23 MRSA §1980, sub-§2-C is enacted to read:

2-C. Reciprocity with away agencies. The authority may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the authority may collect the civil penalties and tolls properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

A. The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the authority and does, in fact, reciprocate in collecting penalties and tolls of the authority by employing sanctions that include denial of a person's right to register or reregister a motor vehicle;

B. The penalties, exclusive of tolls, claimed by the away agency against an owner of an automobile registered in this State do not exceed $100 for a first violation or $600 for all pending violations;

C. The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner;

D. An owner of an automobile registered in this State may present evidence to the away agency or to the authority by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and

E. The reciprocal collection arrangement between the authority and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles.

Sec. 20. 23 MRSA §4206, sub-§1, ¶N, as amended by PL 2005, c. 277, §2, is further amended to read:

N. To make contracts and enter into agreements with and make assurances and certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in connection with determination of ~~Department of Transportation~~ department projects and the issuance of bonds or obligations pursuant to section 1968, subsection 2-A; and

Sec. 21. Transition; staggered terms; board of directors of the Maine Turnpike Authority. A member of the Maine Turnpike Authority appointed pursuant to the former Maine Revised Statutes, Title 23, section 1965, subsection 2:

1. Is subject to the 6-year term imposed pursuant to Title 23, section 1964-A, subsection 2;

2. Notwithstanding the requirement in Title 23, section 1964-A, subsection 2 that terms expire on March 31st, serves until one year prior to the end of that member's current term; and

3. Continues as a member of the board of directors of the Maine Turnpike Authority until the end of the 6-year term specified in subsections 1 and 2 or until the position becomes vacant due to resignation, death, incapacity or removal of that member, whichever comes first.

As each position becomes vacant, the Governor shall appoint or reappoint a member to a new term of 6 years or less in such fashion as to complete a rotation that will, as soon as possible, yield terms that are stag-

gered to comply with Title 23, section 1964-A, subsections 1 and 2.

Sec. 22. Transition; budget of Maine Turnpike Authority. Notwithstanding the Maine Revised Statutes, Title 23, section 1961, subsection 6, on or before January 31, 2012, the Maine Turnpike Authority shall submit a revenue fund budget for January 1, 2013 to June 30, 2013. Beginning in 2013, the authority shall submit its annual budget in compliance with Title 23, section 1961, subsection 6.

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

Effective June 10, 2011.

CHAPTER 303

H.P. 1159 - L.D. 1576

An Act To Clarify the Award of Fees in Domestic Violence Cases

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 Violence Against Women Act of 2000 has a requirement regarding management of costs and fees in protection from abuse orders; and

Whereas, all applicants for funding under the federal Violence Against Women Act of 2000 are required to certify that laws, policies and practices do not require, in connection with the filing, issuance, registration or service of a protection order or a petition for a protection order to protect a victim of domestic violence, stalking or sexual assault, that the victim bear the costs associated with the issuance of a protection order; and

Whereas, there are concerns that Maine's protection from abuse statute is ambiguous about the awards of attorney's fees and court costs; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period so that grant certifications can be made in good faith; 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. 19-A MRSA §4007, sub-§1, ¶L, as amended by PL 2005, c. 510, §10, is further amended to read:

L. Ordering the defendant ~~or, if the complaint is dismissed, the plaintiff~~ to pay court costs or reasonable attorney's fees;

Sec. 2. 19-A MRSA §4007, sub-§1, ¶L-1 is enacted to read:

L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both, only if a judgment is entered against the plaintiff after a hearing in which both the plaintiff and the defendant are present and the court finds that the complaint is frivolous;

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

Effective June 10, 2011.

CHAPTER 304

S.P. 10 - L.D. 1

An Act To Ensure Regulatory Fairness and Reform

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

Whereas, during the First Regular Session of the 125th Legislature, the Joint Select Committee on Regulatory Fairness and Reform held 7 public meetings throughout the State and received hundreds of recommendations for regulatory reform from the public, the regulated business community, environmental advocacy groups and other stakeholders; and

Whereas, through 2 subsequent public hearings and numerous work sessions on those recommendations, the committee reached unanimous agreement on the provisions in this Act to implement a number of significant and critical regulatory reforms; and

Whereas, these reforms must take effect immediately to ensure regulatory fairness, improve the business climate of the State, encourage job creation and retention and expand opportunities for Maine people; 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. 38 MRSA c. 2, sub-c. 1-A is enacted to read:

SUBCHAPTER 1-A

ENVIRONMENTAL AUDIT PROGRAM

§349-L. Scope of program

This subchapter is intended to enhance the protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of state and federal environmental requirements. An environmental audit program and a compliance management system developed under this subchapter may be part of a regulated entity's comprehensive environmental management system.

§349-M. Definitions

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

1. Compliance management system. "Compliance management system" means a system implemented by a regulated entity appropriate to the size and nature of its activities to prevent, detect and correct violations of environmental requirements through all of the following:

A. Compliance policies, standards and procedures that identify how employees and agents of the regulated entity are to meet environmental requirements and the conditions of permits, enforceable agreements and other sources of authority for environmental requirements;

B. Assignment of overall responsibility within a regulated entity for overseeing compliance with policies, standards and procedures and assignment of specific responsibility for ensuring compliance at each facility or operation of the regulated entity;

C. Mechanisms for systematically ensuring that compliance policies, standards and procedures of the regulated entity are being carried out, including monitoring and auditing systems reasonably designed to detect and correct violations, periodic evaluation of the overall performance of the compliance management system and a means for employees or agents of the regulated entity to report violations of environmental requirements without fear of retaliation;

D. Procedures to communicate effectively the regulated entity's standards and procedures to all employees and agents of the regulated entity;

E. Appropriate incentives to managers and employees of the regulated entity to perform in accordance with the compliance policies, standards and procedures of the regulated entity, including consistent enforcement through appropriate disciplinary mechanisms; and

F. Procedures for the prompt and appropriate correction of any violations and any necessary modifications to the regulated entity's compliance management system to prevent future violations.

2. Environmental audit program. "Environmental audit program" means a systematic, documented, periodic and objective review by a regulated entity of facility operations and practices that are related to meeting environmental requirements.

3. Environmental audit report. "Environmental audit report" means the documented analysis, conclusions and recommendations resulting from an environmental audit program, but does not include data obtained in, or testimonial evidence concerning, the environmental audit.

4. Environmental requirement. "Environmental requirement" means any law or rule administered by the department.

5. Gravity-based penalty. "Gravity-based penalty" means the punitive portion of a penalty for a violation of an environmental requirement that exceeds the economic gain from noncompliance with the requirement; and

6. Regulated entity. "Regulated entity" means an entity subject to environmental requirements.

§349-N. Incentives

Subject to section 349-Q, and notwithstanding any other provision of law relating to penalties, the department may adjust or mitigate penalties for violations of environmental requirements in accordance with this section.

1. No gravity-based penalties. If the department determines that a regulated entity satisfies all of the conditions of section 349-O, the department may not impose in any administrative proceeding or seek in any civil action any gravity-based penalty for a violation that is discovered and disclosed by the regulated entity.

2. Reduction of gravity-based penalties by 75%. If the department determines that the regulated entity satisfies the conditions of section 349-O, subsections 2 to 9, the department shall reduce by 75% gravity-based penalties that would otherwise be associated with violations discovered and disclosed by the regulated entity.

3. No recommendation for criminal prosecution. If the department determines that the regulated entity satisfies the conditions of section 349-O, sub-

sections 2 to 9, the department may not recommend that criminal charges be brought against the regulated entity if the department determines that the violation is not part of a pattern or practice that demonstrates or involves:

A. A prevalent management philosophy or practice that conceals or condones environmental violations; or

B. High-level corporate officials' or managers' conscious involvement in, or willful blindness to, violations of state or federal environmental laws.

Whether or not the department recommends the regulated entity for criminal prosecution under this section, the department may recommend for prosecution the criminal acts of individual managers or employees under existing policies guiding the exercise of enforcement discretion.

4. No routine request for environmental audit reports. The department may not request an environmental audit report in connection with a routine inspection of a regulated entity. If the department has reason to believe that a violation by a regulated entity of an environmental requirement has occurred, the department may seek any information relevant to identifying violations or determining liability or the extent of harm resulting from the violation.

§349-O. Conditions of discovery

The incentives established in section 349-N apply to a violation of an environmental requirement only if:

1. Systematic discovery. The violation was discovered through:

A. An environmental audit program; or

B. A compliance management system that demonstrates the regulated entity's due diligence in preventing, detecting and correcting violations. The regulated entity shall notify the department when it has a compliance management system in place and shall make available to the department upon request a copy of the system components. The regulated entity shall provide accurate and complete documentation to the department describing how its compliance management system meets the criteria specified in section 349-M, subsection 1 and how the regulated entity discovered the violation through its compliance management system. The department may require the regulated entity to make publicly available a description of its compliance management system;

2. Voluntary discovery. The violation was discovered by the regulated entity. Incentives under section 349-N do not apply to violations discovered through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order or consent agreement, including:

A. Emissions violations detected through a continuous emissions monitor or an alternative monitor established in a permit where any such monitoring is required;

B. Violations of National Pollutant Discharge Elimination System discharge limits established under the federal Clean Water Act, 33 United States Code, Section 1342 (2010) detected through required sampling or monitoring;

C. Violations discovered through a compliance audit required to be performed by the terms of a consent order or settlement agreement, unless the audit is a component of agreement terms to implement a comprehensive environmental management system; and

D. Violations discovered by a department inspection;

3. Prompt disclosure. The regulated entity fully discloses the specific violation in writing to the department within 21 days after the entity discovered that the violation has, or may have, occurred, unless the amount of time to report the violation is otherwise prescribed in statute, rule or order. The time at which the regulated entity discovers that a violation has, or may have, occurred begins when a person authorized to speak on behalf of the regulated entity has an objectively reasonable basis for believing that a violation has, or may have, occurred. Persons authorized to speak on behalf of the regulated entity must be listed in the management audit by position title. The department's response to a violation disclosed by a regulated entity under this subsection must be made in writing to the regulated entity within 3 months of the disclosure of the violation by the entity;

4. Discovery and disclosure independent of government or 3rd-party plaintiff. The regulated entity discovers and discloses to the department the potential violation prior to:

A. The commencement of an inspection or investigation related to the violation. If the department determines that the regulated entity did not know that it was under investigation and the department determines that the entity is otherwise acting in good faith, the department may determine that the requirements of this paragraph are met;

B. The regulated entity's receipt of notice that it is the subject of a lawsuit;

C. The filing of a complaint by a 3rd party;

D. The reporting of the violation to the department or other state agency by an employee other than the person authorized to speak on behalf of the regulated entity under subsection 3; or

E. The imminent disclosure of the violation by a regulatory agency.

For regulated entities that own or operate multiple facilities, the fact that one facility is the subject of an investigation, inspection, information request or 3rd-party complaint does not preclude the department from exercising its discretion to apply the regulated entity's compliance management system to other facilities owned or operated by that regulated entity;

5. Correction and remediation. The regulated entity corrects the violation within 60 days from the date of discovery, unless the amount of time to correct is otherwise prescribed in statute, rule or order, certifies in writing to the department that the violation has been corrected and takes appropriate measures as determined by the department to remedy any environmental or human harm due to the violation. The department retains the authority to order an entity to correct a violation within a specific time period shorter than 60 days whenever correction in a shorter period of time is feasible and necessary to protect public health and the environment adequately. If more than 60 days will be needed to correct the violation, the regulated entity shall so notify the department in writing before the 60-day period has passed. To satisfy conditions of this subsection and subsection 6, the department may require a regulated entity to enter into a publicly available written agreement, administrative consent order or judicial consent decree as a condition of obtaining relief under this subchapter, particularly when compliance or remedial measures are complex or a lengthy schedule for attaining and maintaining compliance or remediating harm is required;

6. Prevent recurrence. The regulated entity agrees in writing to take steps to prevent a recurrence of the violation, which may include improvements to its environmental audit program or compliance management system;

7. No repeat violations. The specific violation, or a closely related violation, has not occurred within the past 3 years at the same facility and has not occurred within the past 5 years as part of a pattern at multiple facilities owned or operated by the same regulated entity. For the purposes of this subsection, a violation or closely related violation is any violation previously identified in a judicial or administrative order, a consent agreement or order, a complaint, letter of warning or notice of violation, a conviction or plea agreement or any act or omission for which the regulated entity has previously received penalty mitigation from the United States Environmental Protection Agency or the department;

8. Other violations excluded. The violation did not result in serious actual harm, or present an imminent and substantial endangerment, to human health or the environment, did not violate the specific terms of any judicial or administrative order or consent agreement or was not a knowing, intentional or reckless violation; and

9. Cooperation. The regulated entity cooperates as requested by the department and provides such information requested by the department to determine the applicability of this subchapter.

§349-P. Economic benefit

1. Department discretion. In order to ensure that regulated entities that violate environmental requirements do not gain an economic advantage over regulated entities that comply with environmental requirements, this subchapter may not be construed to limit the discretion of the department to recover any economic benefit gained as a result of noncompliance by a regulated entity.

2. Waiver; insignificant economic benefit. The department may waive the entire penalty, including any penalty for economic benefit gained as a result of noncompliance, for a regulated entity that meets all the requirements of section 349-O when, in the department's opinion, the violation does not merit any penalty due to the insignificant amount of any economic benefit.

§349-Q. Application

This subchapter does not limit any authority of the department to adjust or otherwise mitigate any penalty imposed or sought by the department for a violation when the regulated entity responsible for the violation does not receive an incentive under this subchapter for the same violation.

§349-R. Rules

The board may adopt rules to implement the regulation of environmental audit programs established in this subchapter. Rules adopted under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

PART B

Sec. B-1. 5 MRSA §8063-A is enacted to read:

§8063-A. Analysis of benefits and costs

In addition to the economic impact statement required under section 8052, subsection 5-A and the fiscal impact note required under section 8063, an agency may, within existing budgeted resources and in instances in which the consideration of costs is permitted, conduct an analysis of the benefits and costs of a proposed rule to evaluate the effects of the rule on the distribution of benefits and costs for specific groups and on the overall economic welfare of the State.

1. Contents of a cost-benefit analysis. To the extent permitted within existing resources, a cost-benefit analysis conducted under this section must include, at a minimum, the following information:

A. Specification of the baseline condition for the analysis, including all required parameters for the analysis, all assumptions made in specifying the baseline condition and specification of the analysis period;

B. A description of the methods used to discount future benefits and costs, preferably based on the federal Office of Management and Budget's discount rate for federal projects;

C. An analysis of changes in the level of economic activity in the State as measured by employment, income and outputs; and

D. An estimate of the discounted benefits and costs of the proposed rule over the baseline condition, including benefits and costs to specific groups and changes in the economic welfare of the State as a whole over the baseline condition.

Prior to conducting a cost-benefit analysis under this section, an agency shall determine that sufficient staff expertise and budgeted resources exist within the agency to complete the analysis. The agency shall include a cost-benefit analysis with a copy of a proposed rule when responding to a request for the proposed rule under section 8053, subsection 3-A. When the analysis is conducted on a provisionally adopted major substantive rule, the analysis must be included with the materials submitted to the Executive Director of the Legislative Council under section 8072, subsection 2. A cost-benefit analysis conducted under this section is not subject to judicial review under section 8058.

PART C

Sec. C-1. 5 MRSA §13062, sub-§2, ¶B, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

B. In accordance with section 13063, the office shall implement a business ombudsman program ~~to assist businesses by referring businesses and persons to the proper agencies designed to provide the business services or assistance requested, and to serve as a central clearing house of information with respect to business assistance programs and services available in the State~~.

Sec. C-2. 5 MRSA §13063, as corrected by RR 1997, c. 2, §§17 and 18, is amended to read:

§13063. Business Ombudsman Program

The director shall ~~be responsible for the implementation of~~ establish and implement pursuant to this section the Business ~~Assistance Referral and Facilitation~~ Ombudsman Program, referred to in this section as "the program," and the director shall serve as the ombudsman for the program. The program is established to: resolve problems encountered by businesses dealing with other state agencies; facilitate responsiveness of State Government to small business needs; report to the commissioner and the Legislature on breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies; assist businesses by referring businesses and persons to resources that provide the business services or assistance requested; provide comprehensive permit information and assistance; and serve as a central clearinghouse of information with respect to business assistance programs and services available in the State.

1. Referral and central clearinghouse service. The ~~director~~ ombudsman shall maintain and update annually a list of the business assistance programs and services and the names, locations, websites and telephone numbers of the organizations providing these programs and services that are available within the State. The ~~director~~ ombudsman may publish a guide consisting of the business assistance programs and services available from public or private sector organizations throughout the State. This program ~~shall~~ must be designed to:

A. Respond to written and oral requests for information about business services and assistance programs available throughout the State;

B. Obtain and compile the most current and available information pertaining to business assistance programs and services within the State;

C. Delineate the business assistance programs and services by type of program or service and by agency; and

D. Maintain a list, to be updated annually, of marketing programs of state agencies with a description of each program.

2. Business fairness and responsiveness. The ~~director~~ ombudsman shall implement a business ~~facilitation~~ fairness and responsiveness service ~~which shall be~~ designed to:

A. Resolve problems encountered by ~~business persons~~ businesses with other state agencies and with certified regional and local economic development organizations;

B. Coordinate programs and services for business among agencies and all levels of government;

C. Facilitate responsiveness of State Government to ~~small~~ business needs; and

D. Report to the commissioner and the Legislature any breakdowns in the economic delivery system, including problems encountered by businesses dealing with state agencies.

3. Comprehensive permit information. The ~~director~~ ombudsman shall develop and maintain a program to provide comprehensive information on permits required for business undertakings, projects and

activities and to make that information available to any person. This program must function as follows.

A. ~~Not later than 90 days from April 6, 1992~~ By December 15, 2011, each state agency required to review, approve or grant permits for business undertakings, projects and activities shall report to the office in a form prescribed by the office on each type of review, approval and permit administered by that state agency. Application forms, applicable agency rules and the estimated time period necessary for permit application consideration based on experience and statutory or regulatory requirements must accompany each state agency report.

B. Each state agency required to review, approve or grant permits for business undertakings, projects and activities, subsequent to its report pursuant to paragraph A, shall provide to the office, for information purposes only, a report of any new permit or modification of any existing permit together with applicable forms, rules and information required under subsections 1 and 2 regarding the new or modified permit. To ensure that the department's information is current, each agency shall report immediately to the office when a new permit is adopted or any existing permit is modified. "Permit," as used in this paragraph, refers to the categorical authorization required for an activity. "Permit" does not mean a permit issued to a particular individual or business.

C. The office shall prepare an information file on each state agency's permit requirements upon receipt of that state agency's reports and shall develop methods for that file's maintenance, revision, updating and ready access.

D. The office shall provide comprehensive permit information on the basis of the information received under this subsection. The office may prepare and distribute publications, guides and other materials explaining permit requirements affecting business and including requirements involving multiple permits or multiple state agencies that are based on the state agency reports and the information file for the convenience of permit applicants.

4. Permit assistance. ~~Within 90 days of April 6, 1992~~ By December 15, 2011, the ~~director~~ ombudsman shall set up procedures to assist permit applicants who have encountered difficulties in obtaining timely and efficient permit review. These procedures must include the following.

A. Any applicant for permits required for a business undertaking, project or activity must be allowed to confer with the office to obtain assistance in the prompt and efficient processing and review of applications.

B. The office shall, as far as possible, give assistance, and the ~~director~~ ombudsman may designate an officer or employee of the office to act as an expediter with the purpose of:

(1) Facilitating contacts for the applicant with state agencies responsible for processing and reviewing permit applications;

(2) Arranging conferences to clarify the interest and requirements of any state agency with respect to permit applications;

(3) Considering with state agencies the feasibility of consolidating hearings and data required of the applicant;

(4) Assisting the applicant in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review; and

(5) Coordinating federal, state and local permit review actions to the extent practicable.

5. Retail business permitting program. By ~~July 1, 1994~~ February 1, 2012, the ~~director~~ ombudsman shall establish and administer a central permitting program for all permits required by retail businesses selling directly to the final consumer, ~~except permits~~ including, but not limited to, permits required for the operation of hotels and motels, convenience stores and eating and lodging places, and permits required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. Permits issued by the Department of Environmental Protection, the Department of Marine Resources and the Maine Land Use Regulation Commission are not included in this program. ~~Agencies and permits referred to in subsections 5 to 7 do not include these excepted agencies or permits issued by them.~~ The ~~director~~ ombudsman shall:

A. Create a consolidated permit procedure that allows each business to check on a cover sheet all state permits for which it is applying and to receive all permit applications from a centralized office;

B. Total all permit fees due from a business, collect those fees on a semiannual basis, with 1/2 of the total fees due by January 1st and 1/2 of the total fees due by July 1st, and distribute the fees to the appropriate funds or permitting entities;

C. Forward a copy of the appropriate permit application to any commission, department, municipality or other agency that has responsibility for permitting that retail business;

D. Develop a tracking system to track permits issued by state agencies. This system must at a minimum include information on the applicant,

agency involvement, time elapsed or expended on the permit and action taken;

E. Coordinate and supervise the permitting process to ensure that all involved state agencies process the applications and complete any necessary inspections in a timely fashion; and

F. Respond to inquiries from the business community and requests for information from the individual permitting entities, including reports on the status of an application.

A retail business is not required to participate in the retail business permitting program. An enforcement action taken against a retail business for a permit obtained through the retail business permitting program does not affect other permits issued to that same retail business through that program.

6. Municipal permitting agents. By ~~January 1, 1995~~ February 1, 2012, the ~~director~~ ombudsman shall establish a municipal centralized permitting program.

A. Upon application by the municipal officers of a municipality and upon evidence that the municipality meets all qualifications as determined by departmental rulemaking, the ~~director~~ ombudsman shall appoint the municipality as a centralized permitting agent to provide all permits for retail businesses. Upon evidence that a municipality qualified to provide permits meets the qualifications for conducting the inspection associated with any of those permits as determined by departmental rulemaking, the ~~director~~ ombudsman shall appoint that municipality as an agent to provide that inspection for retail businesses with less than 10,000 square feet of retail space. The ombudsman shall ensure that municipalities appointed as agents for purposes of inspection are qualified and capable of conducting those inspections in a manner that ensures compliance with all applicable public health and safety requirements. Retail businesses shall pay the municipality an additional fee of $4 for each permit included in the consolidated application up to a limit of $40. Municipalities may retain 1/2 of all fees collected for permits requiring inspection. The remaining 1/2 of those permit fees and all fees for permits not requiring inspection must be remitted to the department, which shall remit the fees to the issuing agency. A municipality with a population of less than 4,000 ~~population~~ may contract with an appointed municipality for centralized permitting and inspection services. A ~~retailer~~ retail business is not required to participate in the municipal central permitting program.

B. The ~~director~~ ombudsman shall make permitting and inspection training programs available to a municipality seeking appointment or appointed as a central permitting agent. The municipality shall pay a fee of $25 for each person receiving permitting training and $100 for each person receiving inspection training.

C. A business that seeks to determine why it has not received its permits must be directed to the municipal office where the application was filed. That office shall bring the matter to the attention of the department, which shall contact the appropriate issuing agency.

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program.

The ~~director~~ ombudsman may extend by rulemaking, but may not curtail, the department's centralized permitting program or the municipal centralized permitting program, except that the programs may not be extended to include additional issuing agencies.

7. Goal and evaluation. It is the goal of the programs established in subsections 5 and 6 for retail businesses to obtain permits more quickly at no additional cost to the taxpayers of the State. The ~~director~~ ombudsman shall devise and implement a program of data collection and analysis that allows a determination as to whether these goals have been met. This program must include the collection of benchmark data before the initiation of the programs and an enumeration of the number of municipalities participating in the program. ~~In analyzing costs, the director shall amortize the costs of computers or computer programs necessary for the program.~~ By January ~~1, 1994~~ 15, 2012 and every 2 years after that date, the ~~director~~ ombudsman shall prepare and submit a report to the joint standing committee of the Legislature having jurisdiction over economic development matters ~~based on this data and a recommendation~~ regarding the effectiveness of the program and any recommendations as to why the retail business program and the municipal centralized permitting program should not be expanded to other sizes or types of businesses, to other issuing agencies and to smaller municipalities. The first report must contain an assessment of the levels of willingness of municipalities to participate in the programs established by this section.

8. Report. By January 15, 2012 and at least annually thereafter, the ombudsman shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters about the program with any recommen-

dations for changes in the statutes to improve the program and its delivery of services to businesses. The joint standing committee of the Legislature having jurisdiction over economic development matters may report out a bill relating to the program.

Sec. C-3. Report. By February 15, 2012, the ombudsman for the Business Ombudsman Program established pursuant to the Maine Revised Statutes, Title 5, section 13063 within the Department of Economic and Community Development, Office of Business Development shall provide a report to the joint standing committee of the Legislature having jurisdiction over economic development matters on the effectiveness of comprehensive permit information and assistance services to businesses within the Business Ombudsman Program, as well as the program's success in implementing the retail business and municipal centralized permitting programs required pursuant to Title 5, section 13063. In preparing the report, the ombudsman shall work with the network manager of InforMe and the director of the Office of Information Systems to identify ways to incorporate electronic commerce options into the centralized permitting programs and shall include recommendations on those options in the report. The joint standing committee of the Legislature having jurisdiction over economic development matters may report out a bill to the Second Regular Session of the 125th Legislature relating to the permitting programs within the Business Ombudsman Program.

PART D

Sec. D-1. 5 MRSA §57, as amended by PL 2007, c. 676, §1, is repealed.

Sec. D-2. 5 MRSA c. 5, sub-c. 2 is enacted to read:

SUBCHAPTER 2

SPECIAL ADVOCATE

§90-N. Bureau established

The Bureau of the Special Advocate, referred to in this subchapter as "the bureau," is established within the Department of the Secretary of State to assist in resolving regulatory enforcement actions affecting small businesses that, if taken, are likely to result in significant economic hardship and to advocate for small business interests in other regulatory matters.

§90-O. Definitions

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

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

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

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

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

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

A. Temporary or permanent closure of the small business; or

B. Termination of employees of the small business.

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

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

§90-P. Special advocate; appointment and qualifications

The Secretary of State shall appoint a special advocate to carry out the purposes of this subchapter. The special advocate shall serve at the pleasure of the Secretary of State.

§90-Q. Small business requests for assistance

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

§90-R. Powers and duties of the special advocate

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

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

A. Consult with the small business that filed the complaint and with the staff in the agency that initiated the agency enforcement action to determine the facts of the case;

B. After reviewing the complaint and discussing the complaint with the small business and the agency that initiated the agency enforcement action, determine whether, in the opinion of the special advocate, the complaint arises from an agency enforcement action that is likely to result in a significant economic hardship to the small business;

C. If the special advocate determines that an agency enforcement action is likely to result in a significant economic hardship to the small business, seek to resolve the complaint through consultation with the agency that initiated the agency enforcement action and the small business and participation in related regulatory proceedings in a manner allowed by applicable laws; and

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

§90-S. Regulatory impact notice

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

§90-T. Regulatory Fairness Board

The Regulatory Fairness Board, referred to in this section as "the board," is established within the Department of the Secretary of State to hear testimony and to report to the Legislature and the Governor at least annually on regulatory and statutory changes necessary to enhance the State's business climate.

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

A. One public member appointed by the President of the Senate;

B. One public member appointed by the Speaker of the House;

C. Two public members appointed by the Governor, one of whom represents a business with fewer than 50 employees and one of whom represents a business with fewer than 20 employees.

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

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

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

4. Duties of board. The board shall:

A. Meet at least 3 times a year to review complaints submitted to the special advocate;

B. Review the status of complaints filed with the special advocate and regulatory impact notices issued by the Secretary of State; and

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

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

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

Sec. D-3. 5 MRSA §12004-I, sub-§2-G, as enacted by PL 2007, c. 676, §2, is amended to read:

2-G.

Business	~~Maine~~ Regulatory Fairness Board	Expenses Only	5 MRSA ~~§57~~ §90-T

Sec. D-4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 5, chapter 5, before section 81, the headnote "subchapter 1, general provisions" is enacted and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. D-5. Transition provisions; Regulatory Fairness Board. The terms of members appointed to the Maine Regulatory Fairness Board under the former Maine Revised Statutes, Title 5, section 57 are terminated on the effective date of this Act. Notwithstanding Title 5, section 90-T, subsection 2, the initial terms of members appointed to the Regulatory fairness Board must be staggered as follows:

1. The member appointed by the President of the Senate shall serve an initial term of 2 years;

2. The member appointed by the Speaker of the House shall serve an initial term of 2 years;

3. The first member appointed by the Governor shall serve an initial term of one year; and

4. The 2nd member appointed by the Governor shall serve an initial term of 3 years.

PART E

Sec. E-1. 5 MRSA §8057-A, sub-§4, as enacted by PL 1989, c. 574, §7, is amended to read:

4. Adoption of rules. At the time of adoption of any rule, the agency shall file with the Secretary of State the information developed by the agency pursuant to subsections 1 and 2 and, except for emergency rules, citations for up to 3 primary sources of information relied upon by the agency in adopting the rule. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review.

Sec. E-2. 5 MRSA §8063-B is enacted to read:

§8063-B. Identification of primary source of information

For every rule proposed by an agency, except for emergency rules, the agency shall file with the Secretary of State citations for up to 3 primary sources of information relied upon by the agency in developing the proposed rule. The agency shall include that information with a copy of the proposed rule when responding to a request under section 8053, subsection 3-A. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review.

PART F

Sec. F-1. Rules; isopropyl alcohol and wood ash. The Commissioner of Environmental Protection shall adopt or amend rules as necessary that, consistent with rules adopted by the United States Environmental Protection Agency, provide that isopropyl alcohol and wood ash are not hazardous waste or solid waste if being used, reused or recycled as effective substitutes for commercial products. Rules adopted under this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. F-2. Rules; beneficial reuse. The Board of Environmental Protection shall adopt or amend rules as necessary that, consistent with rules adopted by the United States Environmental Protection Agency governing the transfer, management, reclamation and reuse of hazardous and solid waste, allow and encourage the beneficial reuse of hazardous and solid wastes consistent with the protection of public health and the environment in order to preserve resources, conserve energy and reduce the need to dispose of such wastes. Rules adopted under this section are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

PART G

Sec. G-1. 5 MRSA §8002, sub-§9, as amended by PL 1989, c. 574, §1, is further amended to read:

9. Rule. "Rule" is defined as follows.

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency guideline or statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

B. The term does not include:

(1) Policies or memoranda concerning only the internal management of an agency or the State Government and not judicially enforceable;

(2) Advisory rulings ~~issed~~ issued under subchapter ~~III~~ 3;

(3) Decisions issued in adjudicatory proceedings; or

(4) Any form, instruction or explanatory statement of policy ~~which~~ that in itself is not judicially enforceable, and ~~which~~ that is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges.

A rule is not judicially enforceable unless it is adopted in a manner consistent with this chapter.

PART H

Sec. H-1. 38 MRSA §341-B, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

§341-B. Purpose of the board

The purpose of the Board of Environmental Protection is to provide informed, independent and timely decisions on the interpretation, administration and enforcement of the laws relating to environmental protection and to provide for credible, fair and responsible public participation in department decisions. The board shall fulfill its purpose through major substantive rulemaking, decisions on selected permit applications, ~~review~~ decisions on appeals of the commissioner's licensing and enforcement actions and recommending changes in the law to the Legislature.

Sec. H-2. 38 MRSA §341-C, sub-§1, as amended by PL 1995, c. 3, §6, is further amended to read:

1. Appointments. The board consists of ~~10~~ 7 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature.

Sec. H-3. 38 MRSA §341-C, sub-§2, as amended by PL 1997, c. 346, §2, is further amended to read:

2. Qualifications and requirements. Members of the board must be chosen to represent the broadest possible interest and experience that can be brought to bear on the administration and implementation of this Title and all other laws the board is charged with administering. ~~At least 4 members must be residents of the First Congressional District and at least 4 members must be residents of the Second Congressional District.~~ At least 3 members must have technical or scientific backgrounds in environmental issues and no more than 4 members may be residents of the same congressional district. The boundaries of the congressional districts are defined in Title 21-A, chapter 15. 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 board. If a county or municipality is a participant in an adjudicatory proceeding before the board, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

Sec. H-4. 38 MRSA §341-D, sub-§1-B, as amended by PL 1999, c. 784, §6, is repealed.

Sec. H-5. 38 MRSA §341-D, sub-§1-C is enacted to read:

1-C. Rulemaking. The board shall adopt, amend or repeal rules in accordance with section 341-H.

Sec. H-6. 38 MRSA §341-D, sub-§2, as amended by PL 2009, c. 615, Pt. E, §1, is further amended to read:

2. Permit and license applications. Except as otherwise provided in this subsection, the board shall decide each application for approval of permits and licenses that in its judgment represents a project of statewide significance. A project of statewide significance is a project that meets at least 3 of the following 4 criteria:

~~A. Involves a policy, rule or law that the board has not previously interpreted;~~

~~B. Involves important policy questions that the board has not resolved;~~

~~C. Involves important policy questions or interpretations of a rule or law that require reexamination; or~~

~~D. Has generated substantial public interest.~~

E. Will have an environmental or economic impact in more than one municipality, territory or county;

F. Involves an activity not previously permitted or licensed in the State;

G. Is likely to come under significant public scrutiny; and

H. Is located in more than one municipality, territory or county.

The board shall also decide each application for approval of permits and licenses that is referred to it jointly by the commissioner and the applicant.

The board shall assume jurisdiction over applications referred to it under section 344, subsection 2-A~~,~~ when it finds that ~~the~~ at least 3 of the 4 criteria of this subsection have been met.

The board may vote to assume jurisdiction of an application if it finds that ~~one or more of the~~ at least 3 of the 4 criteria ~~in~~ of this subsection have been met.

~~Any interested party may request the board to assume jurisdiction of an application.~~

The board may not assume jurisdiction over an application for an expedited wind energy development as defined in Title 35-A, section 3451, subsection 4, for a certification pursuant to Title 35-A, section 3456 or for a general permit pursuant to section 480-HH or section 636-A.

Prior to holding a hearing on an application over which the board has assumed jurisdiction, the board shall ensure that the department and any outside agency review staff assisting the department in its review of the application have submitted to the applicant and the board their review comments on the application and any additional information requests pertaining to the application and that the applicant has had an opportunity to respond to those comments and requests. If additional information needs arise during the hearing, the board shall afford the applicant a reasonable opportunity to respond to those information requests prior to the close of the hearing record.

Sec. H-7. 38 MRSA §341-D, sub-§3, as amended by PL 1995, c. 642, §§1 and 2, is repealed and the following enacted in its place:

3. Modification or corrective action. At the request of the commissioner and after written notice and opportunity for a hearing pursuant to Title 5, chapter 375, subchapter 4, the board may modify in whole or in part any license, or may issue an order prescribing necessary corrective action, whenever the board finds that any of the criteria in section 342, subsection 11-B have been met.

For the purposes of this subsection, "license" includes any license, permit, order, approval or certification issued by the department.

Sec. H-8. 38 MRSA §341-D, sub-§4, ¶B, as amended by PL 2007, c. 661, Pt. B, §2, is repealed.

Sec. H-9. 38 MRSA §341-D, sub-§4, ¶D, as amended by PL 2009, c. 615, Pt. E, §2, is further amended to read:

D. License or permit decisions regarding an expedited wind energy development as defined in Title 35-A, section 3451, subsection 4 or a general permit pursuant to section 480-HH or section 636-A. In reviewing an appeal of a license or permit decision by the commissioner under this paragraph, the board shall base its decision on the administrative record of the department, including the record of any adjudicatory hearing held by the department, and any supplemental information allowed by the board ~~using the standards contained in subsection 5~~ for supplementation of the record. The board may remand the decision to the department for further proceedings if appropriate. The chair of the Public Utilities Commission or the chair's designee serves as a nonvoting member of the board and is entitled to fully participate but is not required to attend hearings when the board considers an appeal pursuant to this paragraph. The chair's participation on the board pursuant to this paragraph does not affect the ability of the Public Utilities Commission to submit information to the department for inclusion in the record of any proceeding before the department.

Sec. H-10. 38 MRSA §341-D, sub-§5, as amended by PL 1993, c. 356, §1, is repealed.

Sec. H-11. 38 MRSA §341-D, sub-§6, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is repealed and the following enacted in its place:

6. Enforcement. The board shall hear appeals of emergency orders pursuant to section 347-A, subsection 3.

Sec. H-12. 38 MRSA §341-D, sub-§7, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

7. Reports to the Legislature. The board shall report to the joint standing committee of the Legislature having jurisdiction over ~~energy and~~ natural resource matters by January 15th of the first regular session of each Legislature on the effectiveness of the environmental laws of the State and any recommendations for amending those laws or the laws governing the board.

Sec. H-13. 38 MRSA §341-E, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

§341-E. Board meetings

Board meetings held under section 341-D~~, subsections 1 to 7,~~ are governed by the following provisions.

1. Quorum. ~~Six~~ Four members of the board constitute a quorum. A quorum is required to open a meeting and for a vote of the board~~, 6 members constitute a quorum for rule-making hearings held by the board and 3 members constitute a quorum for other hearings held by the board~~.

2. Proceedings recorded. All proceedings before the board must be recorded electronically.

Sec. H-14. 38 MRSA §341-H is enacted to read:

§341-H. Departmental rulemaking

The department may adopt, amend or repeal rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering as provided in this section.

1. Rule-making authority of the board. Notwithstanding any other provision of this Title, and except as provided in this subsection, the board shall adopt, amend or repeal only those rules of the department designated as major substantive rules pursuant to

Title 5, chapter 375, subchapter 2-A. The board shall also adopt, amend and repeal routine technical rules as necessary for the conduct of the department's business, including the processing of applications, the conduct of hearings and other administrative matters.

2. Rule-making authority of the commissioner. Notwithstanding any other provision of this Title, the commissioner shall adopt, amend or repeal only those rules of the department that are not designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

3. Duties of department. The department shall:

A. Identify in its regulatory agenda under Title 5, section 8060, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than a federal standard, if an applicable federal standard exists;

B. During the consideration of any proposed rule, when feasible, and using information available to it, identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the federal standard, if such a federal standard exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard; and

C. Notwithstanding Title 5, chapter 375, subchapter 2 or 2-A, the department shall accept and consider additional public comment on a proposed rule following the close of the formal rule-making comment period at a meeting that is not a public hearing only if the additional public comment is directly related to comments received during the formal rule-making comment period or is in response to changes to the proposed rule. Public notice of the meeting must comply with Title 1, section 406 and must state that the department will accept additional public comment on the proposed rule at that meeting.

4. Legislative review of a rule. If a rule adopted by the department is the subject of a request for legislative review of a rule under Title 5, chapter 377-A, the Executive Director of the Legislative Council shall immediately notify the department of that request and of the legislative committee's decision under that chapter on whether or not to review the rule.

Sec. H-15. 38 MRSA §342, sub-§9, as enacted by PL 1989, c. 890, Pt. A, §18 and affected by §40, is amended to read:

9. Rules. The commissioner may adopt, amend or repeal, in accordance with section 341-H, routine technical rules under Title 5, chapter 375, subchapter 2-A and shall submit to the board new or amended major substantive rules for its adoption.

Sec. H-16. 38 MRSA §342, sub-§11-A, as enacted by PL 1999, c. 784, §8, is amended to read:

11-A. Recommendations and assistance to board. The commissioner shall make recommendations to the board regarding proposed major substantive rules; permit and license applications over which the board has jurisdiction; modification~~, revocation or suspension of~~ or corrective action on licenses; appeals of license and permit decisions; and other matters considered by the board. The commissioner shall also provide the board with the technical services of the department.

Sec. H-17. 38 MRSA §342, sub-§11-B is enacted to read:

11-B. Revoke or suspend licenses and permits. After written notice and opportunity for a hearing pursuant to Title 5, chapter 375, subchapter 4, the commissioner may act to revoke or suspend a license or recommend that the board modify or take corrective action on a license whenever the commissioner finds that:

A. The licensee has violated any condition of the license;

B. The licensee has obtained a license by misrepresenting or failing to disclose fully all relevant facts;

C. The licensed discharge or activity poses a threat to human health or the environment;

D. The license fails to include any standard or limitation legally required on the date of issuance;

E. There has been a change in any condition or circumstance that requires revocation or suspension of a license;

F. There has been a change in any condition or circumstance that requires a corrective action or a temporary or permanent modification of the terms of the license;

G. The licensee has violated any law administered by the department; or

H. The license fails to include any standard or limitation required pursuant to the federal Clean Air Act Amendments of 1990.

For the purposes of this subsection, "license" includes any license, permit, order, approval or certification issued by the department and "licensee" means the holder of the license.

Sec. H-18. 38 MRSA §344, sub-§2-A, ¶A, as amended by PL 2009, c. 615, Pt. E, §3, is further amended to read:

A. Except as otherwise provided in this paragraph, the commissioner shall decide as expeditiously as possible if an application meets ~~one or~~

~~more~~ 3 of the 4 criteria set forth in section 341-D, subsection 2 and shall request that the board assume jurisdiction of that application. If an interested person requests that the commissioner refer an application to the board and the commissioner determines that the criteria are not met, the commissioner shall notify the board of that request. If at any subsequent time during the review of an application the commissioner decides that the application falls under section 341-D, subsection 2, the commissioner shall request that the board assume jurisdiction of the application.

(1) The commissioner may not request the board to assume jurisdiction of an application for any permit or other approval required for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, a certification pursuant to Title 35-A, section 3456 or a general permit pursuant to section 480-HH or section 636-A. Except as provided in subparagraph (2), the commissioner shall issue a decision on an application for an expedited wind energy development, an offshore wind power project or a hydropower project, as defined in section 632, subsection 3, that uses tidal action as a source of electrical or mechanical power within 185 days of the date on which the department accepts the application as complete pursuant to this section or within 270 days of the department's acceptance of the application if the commissioner holds a hearing on the application pursuant to section 345-A, subsection 1-A.

(2) The expedited review periods of 185 days and 270 days specified in subparagraph (1) do not apply to the associated facilities, as defined in Title 35-A, section 3451, subsection 1, of the development if the commissioner determines that an expedited review time is unreasonable due to the size, location, potential impacts, multiple agency jurisdiction or complexity of that portion of the development. If an expedited review period does not apply, a review period specified pursuant to section 344-B applies.

The commissioner may stop the processing time with the consent of the applicant for a period of time agreeable to the commissioner and the applicant.

Sec. H-19. 38 MRSA §347-A, sub-§1, ¶A, as amended by PL 2003, c. 245, §5, is further amended to read:

A. Whenever it appears to the commissioner, after investigation, that there is or has been a violation of this Title, of rules adopted under this Title or of the terms or conditions of a license, permit or order issued by the board or the commissioner, the commissioner may initiate an enforcement action by taking one or more of the following steps:

(1) Resolving the violation through an administrative consent agreement pursuant to subsection 4, signed by the violator and approved by the ~~board~~ commissioner and the Attorney General;

(2) Referring the violation to the Attorney General for civil or criminal prosecution;

(3) Scheduling and holding an enforcement hearing on the alleged violation pursuant to subsection 2; or

(4) With the prior approval of the Attorney General, commencing a civil action pursuant to section 342, subsection 7 and the Maine Rules of Civil Procedure, Rule 3.

Sec. H-20. 38 MRSA §347-A, sub-§4, ¶D, as enacted by PL 1993, c. 204, §2, is amended to read:

D. The public may make written comments to the ~~board~~ commissioner at the ~~board's~~ commissioner's discretion on an administrative consent agreement entered into by the commissioner ~~and approved by the board~~.

Sec. H-21. 38 MRSA §353, sub-§3, as amended by PL 1997, c. 624, §2, is further amended to read:

3. License fee. The license fee must be paid at the time of filing the application. Failure to pay the license fee at the time of filing results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant. Notwithstanding the provisions of this subsection, the license fee for a subdivision must be paid prior to the issuance of the license.

The license fees for nonferrous metal mining must be paid annually on the anniversary date of the license for the life of the project, up to and including the period of closure and reclamation.

The license fee for a solid waste facility must be paid annually. Failure to pay the annual fee within 30 days of the anniversary date of a license is sufficient grounds for modification, revocation or suspension of the license under section 341-D, subsection 3~~, paragraph A~~ or section 342, subsection 11-B.

Sec. H-22. 38 MRSA §414-A, sub-§5, ¶C, as enacted by PL 1997, c. 794, Pt. A, §25, is amended to read:

C. Notwithstanding Title 5, section 10051, the board may modify~~, revoke or suspend~~ a license and the commissioner may revoke or suspend a license when the board or the commissioner finds that any of the conditions specified in section ~~341-D~~ 342, subsection ~~3~~ 11-B exist or upon an application for transfer of a license.

Sec. H-23. 38 MRSA §489-A, sub-§10, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §102, is further amended to read:

10. Appeal of decision by commissioner to review. An aggrieved party may appeal the decision by the commissioner to exert or not exert state jurisdiction over the proposed project to the board. Review and actions taken by the department are subject to appeal procedures governing the department under section 341-D, ~~subsections~~ subsection 4 ~~and 5~~.

Sec. H-24. Transition provisions. The following transition provisions apply to changes in the membership of the Board of Environmental Protection, rulemaking and the impact on pending proceedings.

1. Board membership. Notwithstanding the Maine Revised Statutes, Title 38, section 341-C, the terms of members of the Board of Environmental Protection serving on the effective date of this Act that would otherwise expire prior to September 16, 2011 are extended to September 16, 2011 and expire on that date.

2. Effect on existing rules. All rules adopted by the Board of Environmental Protection prior to the effective date of this Act that were not adopted as major substantive rules are deemed to be routine technical rules adopted by the Commissioner of Environmental Protection and continue in effect until amended or rescinded by the commissioner; and

3. Effect on pending proceedings. All regulatory proceedings pending before the Board of Environmental Protection or the Commissioner of Environmental Protection on the effective date of this Act are subject to the Maine Revised Statutes, Title 1, section 302.

PART I

Sec. I-1. Department of Health and Human Services to amend rules. The Department of Health and Human Services shall by emergency rulemaking rescind its adoption of Rule 10-144, Chapter 30: Maine Uniform Accounting and Auditing Practices for Community Agencies that took effect January 1, 2011 and reinstate Rule 10-144, Chapter 30 as in effect on December 31, 2010.

Sec. I-2. New rulemaking required. In accordance with the Maine Administrative Procedure Act, the Commissioner of Health and Human Services shall adopt such amendments to the Department of Health and Human Services' Rule 10-144, Chapter 30 to avoid duplication of federal standards and preserve the authority of community agency boards. In adopting those rules, the commissioner shall work cooperatively and in consultation with the Advisory Committee to the Commissioner established in the Maine Revised Statutes, Title 5, section 1660-L. Amendments to Rule 10-144, Chapter 30 required by this Part must be provisionally adopted by the department as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A not later than December 31, 2011 and submitted to the Second Regular Session of the 125th Legislature for consideration. If approved by the Legislature, those rules must be finally adopted by the department and in effect on July 1, 2012. Subsequent revisions to those rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. I-3. Annual report. The Commissioner of Health and Human Services shall ensure that the Advisory Committee to the Commissioner is convened each year as necessary to fulfill its annual reporting requirements under the Maine Revised Statutes, Title 5, section 1660-L.

PART J

Sec. J-1. 25 MRSA §2448-A, sub-§1, as enacted by PL 2009, c. 364, §2, is amended to read:

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~~ as described in section 2448.

Sec. J-2. 25 MRSA §2448-A, sub-§7, as enacted by PL 2009, c. 364, §2, is repealed and the following enacted in its place:

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, the municipal reviewing authority shall submit to the commissioner within 14 days of that determination a copy of the project application.

Sec. J-3. 25 MRSA §2448-A, sub-§8, as enacted by PL 2009, c. 364, §2, is repealed.

PART K

Sec. K-1. Paperwork reduction working group. The Secretary of State shall convene a working group consisting of representatives of state agencies, small businesses recommended by the Maine chapter of the National Federation of Independent Businesses, other private businesses and other interested parties to examine opportunities for reducing the

paperwork associated with the filing of forms with the office of the Secretary of State. The Secretary of State shall report the findings of the working group by February 1, 2012 to the Joint Standing Committee on State and Local Government.

PART L

Sec. L-1. 3 MRSA c. 36 is enacted to read:

CHAPTER 36

RETROSPECTIVE REVIEW OF AGENCY RULES

§971. Definitions

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

1. Agency. "Agency" means any body of State Government authorized by law to adopt rules under Title 5, chapter 375.

2. Committee of jurisdiction. "Committee of jurisdiction" means the joint standing committee of the Legislature having jurisdiction over the policy and subject matter of a rule.

3. Retrospective review. "Retrospective review" means a review of a rule by an agency for any change in the relevance, clarity and reasonableness of the rule between the time of its initial adoption and the time of the review.

§972. Direction from committees of jurisdiction

On or before February 1st of any first regular session of the Legislature, a committee of jurisdiction may direct an agency in writing to undertake a retrospective review of one or more rules under the jurisdiction of the committee.

§973. Agency review

When directed by a committee of jurisdiction to undertake a retrospective review of a rule under this chapter, an agency shall evaluate the continued relevance, clarity and reasonableness of the rule by examining:

1. Relevance. The extent to which the rule may have over time become redundant, inconsistent or in conflict with the original goals and objectives for which the rule was first proposed, with other rules or with any underlying federal or state law or regulation that initially served as the basis for the rule;

2. Clarity. Whether the language of the rule has retained its clarity and use of plain and clear English as required by Title 5, section 8061, continues to comply with the uniform drafting standards set forth in the drafting manual developed by the Secretary of State under Title 5, section 8056-A or whether the rule could be made less complex or more understandable to the general public;

3. Reasonableness. Whether the rule has been reasonably and consistently applied with respect to the public or particular persons and whether less costly or more limited regulatory methods of achieving the original purposes of the rule have become available; and

4. Appropriate categorization. Whether the rule should be categorized as a major substantive rule or a routine technical rule, as those terms are defined in Title 5, chapter 375.

§974. Report to the committee of jurisdiction

An agency directed to undertake a retrospective review of one or more of its rules in a first regular session of the Legislature pursuant to section 972 shall submit a written report to the committee of jurisdiction on or before February 14th of the second regular session of that Legislature. The report must address each of the criteria listed in section 973 for each rule reviewed by the agency and identify ways in which the agency proposes to amend the rule, if any, and recommend whether the legislative authority for each rule should be retained, repealed or modified.

PART M

Sec. M-1. Application for designation as a state regional center. The Commissioner of Economic and Community Development shall work collaboratively and in partnership with the Finance Authority of Maine, the Maine International Trade Center and representatives of private sector business interests in applying to the United States Department of Homeland Security, United States Citizenship and Immigration Service for the designation of the State as a state regional center for the purposes of reviewing and approving foreign investment projects under the Immigrant Investor Pilot Program enacted in federal law under Public Law 102-395, Section 610, 8 United States Code, Section 1153(b)(5). The purpose of the pilot program is to encourage immigration through the 5th employment-based preference, EB-5, immigrant visa category by immigrants seeking to enter the United States to invest from $500,000 to $1,000,000 in commercial enterprises that will create at least 10 full-time jobs.

Sec. M-2. Report. The Commissioner of Economic and Community Development shall report by January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development on the progress of the State's application process required under section 1. That report must include any statutory changes recommended to facilitate that application or to administer a federally designated regional center in the State.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except that those sections of this Act that

amend the Maine Revised Statutes, Title 38, section 341-C take effect on September 16, 2011.

Effective June 13, 2011, unless otherwise indicated.

CHAPTER 305

H.P. 656 - L.D. 889

An Act To Regulate Boxing and Prizefighting in Maine

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

Sec. 1. 5 MRSA §12004-G, sub-§4-D, as enacted by PL 2009, c. 352, §1, is amended to read:

4-D.

Amusements and Sports	~~Mixed Martial Arts~~ Combat Sports Authority of Maine	Legislative Per Diem and Expenses ~~only~~ Only	8 MRSA c. 20

Sec. 2. 8 MRSA §521, sub-§1, as enacted by PL 2009, c. 352, §2, is amended to read:

1. Authority. "Authority" means the ~~Mixed Martial Arts~~ Combat Sports Authority of Maine created under section 522.

Sec. 3. 8 MRSA §521, sub-§3-A is enacted to read:

3-A. Boxing. "Boxing" means a combative sport for compensation that features the use of gloved fists in attack and defense.

Sec. 4. 8 MRSA §522, as amended by PL 2009, c. 582, §1, is further amended to read:

§522. Combat Sports Authority of Maine

1. Establishment. The ~~Mixed Martial Arts~~ Combat Sports 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 and boxing competitions, exhibitions and events in the State as set forth in this chapter. A mixed martial arts or boxing 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~~ 7 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.

5-A. Compensation. Members of the authority may be compensated for per diem and expenses as provided in the board's bylaws from money received under subsection 7.

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 and boxing 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. Funds may be used to compensate members of the authority for per diem and expenses in accordance with the board's bylaws. The board may enter into contracts to obtain the assistance of staff sufficient to support operations of the board.

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.

Sec. 5. 8 MRSA §523, sub-§1, as amended by PL 2009, c. 582, §2 and affected by §9, is further amended to read:

1. Rules. Adopt rules to protect the health and safety of authorized participants and the integrity of competition, as well as to establish a certification process authorizing participation in a mixed martial arts or boxing competition, exhibition or event and set the fee schedules for all authorized participants. A certificate authorizing participation in a mixed martial arts or boxing competition, exhibition or event may be issued for one year or such other time period as may be fixed by rule under this chapter. The board may establish requirements to ensure that a mixed martial arts or boxing competition, exhibition or event is not conducted unless a promoter's fee has been paid and that each competitor has been examined by a physician who has certified the competitor's fitness to participate in the mixed martial arts or boxing competition, exhibition or event. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. Notwithstanding this subsection, rules establishing fees, including promotion fees pursuant to section 524, are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The authority's rules must include, but are not limited to, the following:

A. Rules of competition, weighing of participants and scoring of decisions;

B. Length of contests and rounds;

C. Availability of medical services, including a requirement that a physician be present during a mixed martial arts or boxing competition, exhibition or event;

D. Age limits, which must include a minimum age of not less than 18 years;

E. Weight limits and classification of participants;

F. Physical condition of participants;

G. Qualifications of referees and other authorized participants;

H. Uniforms, attire, safety gear and equipment of authorized participants;

I. Specifications of facilities and equipment; and

J. Requirements for health and accident insurance providing coverage in the event of injury or death to authorized participants. This coverage must comply with standards prescribed by the Superintendent of Insurance.

Sec. 6. 8 MRSA §524, as enacted by PL 2009, c. 352, §2, is amended to read:

§524. Promotion fees

In addition to the requirements set by rule pursuant to section 523, a promoter of a mixed martial arts or boxing competition, exhibition or event authorized under this chapter must pay a fee set by the authority in advance of the mixed martial arts or boxing 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.

Sec. 7. 8 MRSA §525, as enacted by PL 2009, c. 352, §2, is amended to read:

§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~~ Combat Sports 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.

Sec. 8. 8 MRSA §526, as enacted by PL 2009, c. 352, §2, is amended to read:

§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 or boxing activities if ownership or employment is made known to the authority and the director abstains from voting on matters relating to that participation. A director of the authority must comply with the requirements of Title 5, section 18.

Sec. 9. 8 MRSA §529, as enacted by PL 2009, c. 582, §4, is amended to read:

§529. Powers of board

1. Inspections and investigations. The board may enter and inspect the premises where a mixed martial arts or boxing competition, exhibition or event is to be conducted and question persons present and review documents to the extent it considers necessary to determine whether the event is in accordance with this chapter and rules adopted under this chapter.

2. Other action. The board may take all reasonable steps to ensure that a mixed martial arts or boxing competition, exhibition or event is conducted in accordance with this chapter and rules adopted under this chapter and take all other lawful action necessary and incidental to its purposes.

Sec. 10. 8 MRSA §532, as enacted by PL 2009, c. 582, §7, is amended to read:

§532. Fines; enforcement

The board may, after a hearing under Title 5, chapter 375, subchapter 4, impose a fine of not more than $500 for each violation against a person who violates this chapter or rules adopted pursuant to this chapter or who participates in a mixed martial arts or boxing competition, exhibition or event without the certificate described under section 523, subsection 1. The Attorney General may bring an action in Superior Court to enjoin a mixed martial arts or boxing competition, exhibition or event from occurring for which the promoter's fee has not been paid or a participant who does not meet the qualifications of this chapter from participating in the competition, exhibition or event.

Sec. 11. 17-A MRSA §515, sub-§2, ¶A, as enacted by PL 1975, c. 499, §1, is repealed.

Sec. 12. 17-A MRSA §515, sub-§2-A, as amended by PL 2009, c. 582, §8, is further amended to read:

2-A. This section does not apply to any mixed martial arts or boxing competition, exhibition or event authorized pursuant to Title 8, chapter 20 as long as rules have been adopted by the ~~Mixed Martial Arts~~ Combat Sports Authority of Maine pursuant to Title 8, chapter 20.

Sec. 13. 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 Combat Sports Authority of Maine after September 1, 2011, 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. 14. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 8, chapter 20, in the chapter headnote, the words "mixed martial arts" are amended to read "mixed martial arts and boxing" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 306

H.P. 103 - L.D. 121

An Act To Amend the Laws Regarding Public Health Infrastructure

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

Sec. 1. 22 MRSA §411, as enacted by PL 2009, c. 355, §5, is amended to read:

§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. As applicable to a tribal health department or health clinic, "accreditation" means a recognized credentialing process by a national federally recognized review board for Indian health.

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, com-

posed 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, and the tribal district, composed of any lands belonging to the Indian tribes in the State and including any member of a tribe living outside of tribal lands.

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~~ identified by a national public health performance standards program, a national federally recognized review board or a national federally recognized review board for Indian health 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, including the tribal district.

8-A. Indian tribe. "Indian tribe" or "tribe" means a federally recognized Indian nation, tribe or band in the State.

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.

12. Tribal district. "Tribal district" means an administrative district established in a memorandum of understanding or legal contract among all Indian tribes in the State that is recognized by the department. The tribal district's jurisdiction includes tribal lands, tribal health departments or health clinics and members of the tribes anywhere in the State.

13. Tribal health department or health clinic. "Tribal health department or health clinic" means a health department or health clinic managed by an Indian tribe that is eligible for funds from the United States Department of the Interior, Bureau of Indian Affairs, Indian Health Service and other federal funds. For the purposes of this subsection, each director of a tribal health department or health clinic has a tribal role and a role defined by the Indian Health Service that is equivalent to the role of a director of an accreditation-eligible municipal health department.

Sec. 2. 22 MRSA §412, as amended by PL 2011, c. 90, Pt. J, §§7 to 9, is further amended to read:

§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. Where a service area of Healthy Maine Partnerships includes a tribal health department or health clinic, Healthy Maine Partnerships shall seek a membership or consultative relationship with leaders and members of Indian tribes or designees of health departments or health clinics of Indian tribes.

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. As funds are available, a minimum of one tribal comprehensive community health coalition must be provided funding as a member of a Healthy Maine Partnerships coalition. The tribal district is eligible for the same funding opportunities offered to any other district. The tribal district or a tribe is eligible to partner with any coalition in Healthy Maine Partnerships for collaborative funding opportunities that are approved by the tribal district coordinating council or a tribal health director.

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. Tribal public health programs and services delivered by the tribal district or a tribal health department or health clinic must help improve the efficiency of the administration and coordination of publicly and privately funded public health programs and policies and communications at local, district, state and federal levels.

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~~ 9 districts as resources permit. If the district jurisdiction includes tribal lands and tribal members, and is not the tribal district, the district coordinating council for public health may not represent the tribe or tribes but shall consider Indian health status and pursue a consultative relationship with the tribe or tribes. Tribal representatives may choose to participate in the district coordinating council for public health as members or function in a consultative relationship. The tribal district shall have a tribal district coordinating council.

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; 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.

A-1. The tribal district coordinating council shall:

(1) Participate as appropriate in department district-level activities to help ensure the tribal public health system in the tribal district is ready and maintained for tribal public health accreditation; and

(2) Ensure that the national goals and strategies for health in tribal lands and the tribal district health goals and strategies are aligned and that tribal district health goals and strategies are appropriately tailored for each tribe and tribal health department or health clinic.

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~~ Indian tribes and their tribal health departments or health clinics, 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. In districts, other than the tribal district, that contain tribal members, population health assessments and health improvement plans and strategies developed by municipal health departments, Healthy Maine Partnerships and district coordinating councils for public health must consider Indian health issues and disparities. Data used for these assessments must be sound and at the most local level available. Assessments must include any quantitative or qualitative data the tribes agree to share. Tribal health assessments and tribal health improvement plans and strategies may focus exclusively on tribal members but may be conducted only at any tribe's discretion.

D. Population and personal health programs, interventions and services that formally include or focus on tribal members must be developed in close consultation with tribes and must be culturally competent in design and implementation. In addition, tribes must be consulted prior to their inclusion in any grant applications.

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 except that approval of the Statewide Coordinating Council for Public Health is not required for the membership and governance structures of the tribal district coordinating council.

5. Municipal and tribal health departments. Municipal health departments or tribal health departments or health clinics 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.

5-A. Tribal district. The tribal district shall deliver components of essential public health services through the tribal district's public health liaisons, who are tribal employees, and report to the tribes, the department's office of minority health and any other sources of funding. Responses to federal and state requests for applications may be issued by one tribe, 2 or more tribes collectively or the tribal district as the recipient of funds. The directors of the tribal health departments or health clinics serve as the tribal district coordinating council for public health in an advisory role to the tribal district. The council may establish subcommittees to work on specific projects approved by the council.

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; 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.;

(5) Receive reports from the tribal district coordinating council for public health regarding readiness for tribal public health systems for accreditation if offered; and

(6) Participate as appropriate and as resources permit to help support tribal public health systems to prepare for and maintain accreditation if assistance is requested from any tribe.

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, including the tribal district coordinating council, 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 and has representation from populations in the State facing health disparities. 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, tribal health departments or health clinics, 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 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.

Sec. 3. 22 MRSA §413, as enacted by PL 2009, c. 355, §5, is amended to read:

§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, including members of Indian Tribes, 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, tribal health departments or health clinics, 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, members of Indian tribes 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.

See title page for effective date.

CHAPTER 307

S.P. 313 - L.D. 1025

An Act To Amend the Laws Governing the Sex Offender Registry

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

Sec. 1. 34-A MRSA §11221, sub-§9, ¶A, as amended by PL 2003, c. 711, Pt. C, §20 and affected by Pt. D, §2, is further amended to read:

A. The bureau shall post on the Internet for public inspection the following information concerning a registrant:

(1) The registrant's name, date of birth and photograph;

(2) The registrant's city or town of domicile and residence;

(3) The registrant's place of employment and college or school being attended, if applica-

ble, and the corresponding address and location; ~~and~~

(4) The statutory citation and name of the offense for which the registrant was convicted~~.~~; and

(5) The registrant's designation as a 10-year registrant or a lifetime registrant.

See title page for effective date.

CHAPTER 308

H.P. 1007 - L.D. 1368

An Act To Adjust Payroll Processor License Fees

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

Sec. 1. 10 MRSA §1495, sub-§§1-B to 1-D are enacted to read:

1-B. Full-service payroll processor license. "Full-service payroll processor license" means a license permitting a payroll processor to prepare and issue payroll checks, prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports and collect, hold and turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.

1-C. Issue payroll checks. To "issue payroll checks" means to provide redeemable payroll payment instruments and includes functions performed by a payroll processor that holds a signature stamp, electronic signature or presigned check stock from the employer, but does not include functions performed by a payroll processor that provides unsigned checks to the employer for distribution by the employer.

1-D. Limited payroll processor license. "Limited payroll processor license" means a license that permits a payroll processor to prepare and issue payroll checks and prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports, but does not permit the licensee to collect, hold or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.

Sec. 2. 10 MRSA §1495, sub-§2, as amended by PL 1997, c. 668, §2, is further amended to read:

2. Payroll processing services. "Payroll processing services" means preparing and issuing payroll checks; preparing and filing state or federal income withholding tax reports or unemployment insurance contribution reports; or collecting, holding and turning over to the State Tax Assessor or to federal tax authorities income withholding taxes pursuant to Title 36, chapter 827 or federal law or unemployment insurance contributions pursuant to Title 26, chapter 13, subchapter 7 or federal law.

Sec. 3. 10 MRSA §1495, sub-§4 is enacted to read:

4. Restricted payroll processor license. "Restricted payroll processor license" means a license that permits a payroll processor to prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports, but does not permit the licensee to collect, hold or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions or to issue payroll checks.

Sec. 4. 10 MRSA §1495-D, sub-§2, as enacted by PL 2003, c. 668, §6 and affected by §12, is amended to read:

2. Proof of fidelity insurance. Each applicant for a limited payroll processor license, and each applicant for a full-service payroll processor license that issues payroll checks, shall provide to the administrator proof of one of the following, at the applicant's option, in an amount 2 times the highest weekly payroll processed by the applicant in the preceding year or in the amount of $5,000,000, whichever is less:

A. Fidelity bond;

B. Employee dishonesty bond;

C. Third-party fidelity coverage; or

D. Liability insurance, including crime coverage.

Sec. 5. 10 MRSA §1495-D, sub-§4, as amended by PL 2005, c. 278, §3, is repealed and the following enacted in its place:

4. Fees. The initial license application and annual renewal application must include the fees set out in this subsection.

A. The fee for a full-service payroll processor license or a limited payroll processor license is $200 if the payroll processor has fewer than 25 employers as payroll processing clients; $500 if the payroll processor has from 25 to 500 employers as payroll processing clients; and $800 for those payroll processors that have more than 500 employers as payroll processing clients.

B. The fee for a restricted payroll processor license is $100.

The aggregate of license fees and other fees and assessments provided for by this chapter is appropriated for the use of the administrator. Any balance of these funds does not lapse but must be carried forward to be expended for the same purpose in the following fiscal year.

Sec. 6. 10 MRSA §1495-F, sub-§3-A is enacted to read:

3-A. Accounting standards and escrow requirement. To facilitate the administrator's compliance examination responsibilities, a payroll processor shall maintain a trust account for client funds in accordance with generally accepted accounting principles, international accounting standards or other recognized accounting standards. A payroll processor may not commingle funds held on behalf of its clients with the payroll processor's operating funds.

See title page for effective date.

CHAPTER 309

H.P. 361 - L.D. 468

An Act To Amend the Laws Governing Bear Hunting

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

Sec. 1. 12 MRSA §10902, sub-§6, ¶E, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

E. Buying or selling bear, hunting or trapping bear after having killed ~~one~~ 2 or exceeding the bag limit on bear, in violation of section 11217 ~~or~~, 11351 or 12260;

Sec. 2. 12 MRSA §11351, sub-§1, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §162 and affected by §422, is further amended to read:

1. Hunting or trapping bear; 2-bear limit. A person may not hunt or trap bear after that person has killed or registered one during ~~any~~ an open season under section 11251 and one during the open season on trapping bear under section 12260.

Sec. 3. 12 MRSA §11351, sub-§2, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §163 and affected by §422, is further amended to read:

2. Exceeding bag limit on bears. A person may not possess more than ~~one bear~~ 2 bears in any calendar year, except a person may keep more than one legally obtained bear in that person's home or as otherwise provided in law.

Sec. 4. 12 MRSA §12051, sub-§1, ¶C, as amended by PL 2009, c. 550, §7, is further amended to read:

C. A resident may train up to 6 dogs at any one time on bear from July 1st to the ~~first day of~~ 4th day preceding the open season on hunting bear, except in those portions of Washington County and Hancock County that are situated south of Route 9.

Sec. 5. 12 MRSA §12260, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

4. Trapping bear after having killed one. A person may not trap a bear after that person has killed or registered one ~~during any open season~~ trapped pursuant to this section. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not ~~too~~ to exceed 180 days and a fine of not less than $1,000, none of which may be suspended.

Sec. 6. 12 MRSA §12260, sub-§5, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §222 and affected by §422, is further amended to read:

5. Exceeding bag limit on bears. Except as otherwise provided in this Part, a person may not possess more than ~~one bear~~ 2 bears in any calendar year. A person who violates this subsection commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment not to exceed 180 days and a fine of not less than $1,000, none of which may be suspended.

See title page for effective date.

CHAPTER 310

H.P. 1116 - L.D. 1513

An Act To Clarify the Maine State Lottery Agent Licensing Process

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

Sec. 1. 8 MRSA §371, sub-§5, as enacted by PL 1987, c. 505, §2, is amended to read:

5. Person. "Person" means an individual, association, corporation, limited liability company, limited partnership, limited liability partnership, partnership, club, trust, estate, society, company, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" means all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

Sec. 2. 8 MRSA §372, sub-§2, ¶¶A, B and D, as enacted by PL 1987, c. 505, §2, are amended to read:

A. Supervise the operation of lotteries in accordance with this chapter and chapter 16 and with the rules ~~promulgated~~ adopted under this chapter and chapter 16;

B. Act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter and chapter 16. The personnel ~~shall~~ must be employed with the approval of the commissioner and are subject to the Civil Service Law, except for the deputy director who ~~shall be~~ is appointed by and ~~serve~~ serves at the pleasure of the director;

D. In accordance with this chapter and chapter 16 and the rules ~~promulgated~~ adopted under this chapter and chapter 16, license as agents to sell lottery tickets such persons who, in ~~his~~ the director's opinion, will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent in such amount as provided by rule. Every licensed agent shall prominently display ~~his~~ the agent's license, or a copy of ~~his~~ the license, as provided by rule;

Sec. 3. 8 MRSA §372, sub-§2, ¶F, as enacted by PL 1987, c. 505, §2, is repealed.

Sec. 4. 8 MRSA §374, sub-§1, ¶H, as amended by PL 1991, c. 683, §1, is further amended to read:

H. The method to be used in selling tickets or shares and the types of sales promotions that may be conducted utilizing tickets or shares as approved in advance by the commission or the director or the director's designee;

Sec. 5. 8 MRSA §374, sub-§1, ¶I, as enacted by PL 1987, c. 505, §2, is amended to read:

I. The ~~licensing of agents~~ issuing of licenses to sell tickets or shares~~, but a person under the age of~~ to qualified persons who are at least 18 ~~shall not be licensed as an agent~~ years of age and the denial, suspension and revocation of those licenses;

Sec. 6. 8 MRSA §374, sub-§1, ¶J, as enacted by PL 1987, c. 505, §2, is amended to read:

J. The license fee to be charged to ~~agents~~ persons applying for a license;

Sec. 7. 8 MRSA §374, sub-§1, ¶K, as amended by PL 1997, c. 301, §1, is further amended to read:

K. The manner and amount of compensation to be paid ~~licensed sales agents~~ to persons licensed to sell lottery tickets or shares necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public;

Sec. 8. 8 MRSA §374, sub-§4, as enacted by PL 1993, c. 397, §1, is repealed.

Sec. 9. 8 MRSA §375, as amended by PL 1993, c. 641, §1 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§375. Lottery sales; licensing; appeals

1. Factors. A license ~~as an agent~~ to sell lottery tickets or shares may be issued by the director or the director's designee to any qualified person. Before issuing the license, the director or the director's designee shall consider at least the following factors:

A. The financial responsibility and security of the person and the person's business or activity;

B. The accessibility of the person's place of business or activity to the public;

C. The sufficiency of existing licensees to serve the public convenience; and

D. The volume of expected sales.

2. Appeals. ~~An applicant who is denied a license~~ If the director or the director's designee denies a person a license to sell lottery tickets or shares, the person may appeal the ~~director's~~ decision to the commission by filing a written appeal with the commission within 15 days of the mailing of the ~~director's~~ decision. ~~An applicant~~ A person aggrieved by a decision of the commission may appeal the commission's decision by filing a complaint with the District Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 30 days of the mailing of the commission's decision.

Sec. 10. 8 MRSA §376, sub-§1, as enacted by PL 1987, c. 505, §2, is amended to read:

1. Reasons for suspension or revocation. The ~~commission~~ director or the director's designee may suspend or revoke, after notice and hearing in a manner consistent with the Maine Administrative Procedure Act, ~~Title 5, chapter 375,~~ any license issued pursuant to this chapter. The license may be temporarily suspended by the ~~commission without prior notice~~ director or the director's designee, pending any prosecution, investigation or hearing. A license may be suspended or revoked by the ~~commission~~ director or the director's designee for just cause, including actions inconsistent with those considered appropriate for an agent operating a business on behalf of the State, or one or more of the following reasons:

A. Failure to account for tickets received or the proceeds of the sale of tickets or to file a bond, if required ~~by the commission~~, or to comply with ~~instructions of the commission~~ provisions of this chapter or rules adopted under this chapter concerning the licensed activity;

B. Conviction of any criminal offense;

C. Failure to file any return or report, to keep records or to pay any tax;

D. Engaging in fraud, deceit, misrepresentation or conduct prejudicial to public confidence;

E. Insufficiency of the number of tickets sold by ~~the sales agent~~ a person licensed to sell lottery tickets or shares; or

F. A material change, since issuance of the license, with respect to any of the matters required to be considered by the director under section 375 or as defined by rules adopted under this chapter.

Sec. 11. 8 MRSA §376, sub-§2, as enacted by PL 1987, c. 505, §2, is repealed.

Sec. 12. 8 MRSA §409, sub-§2, as enacted by PL 1983, c. 732, §1, is repealed.

Sec. 13. 8 MRSA §411, as enacted by PL 1983, c. 732, §1, is repealed.

Sec. 14. 8 MRSA §412, as enacted by PL 1983, c. 732, §1, is repealed.

See title page for effective date.

CHAPTER 311

S.P. 453 - L.D. 1462

An Act To Amend the Department of Marine Resources' Administrative Suspension Process

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

Sec. 1. 12 MRSA §6371, as amended by PL 2009, c. 561, §12, is further amended to read:

§6371. Administrative suspension

1. Suspension for refusal to allow inspection. Refusal to allow inspection or seizure under section 6306 is grounds for suspension of any licenses issued under marine resources laws. In order to suspend a license because of a refusal to allow inspection or seizure, the commissioner shall follow the procedures of section 6372.

2. Suspension for refusal to allow a shellfish inspection by a department shellfish inspector. Refusal to allow a shellfish inspection under section 6852-A or 6856 ~~or violation of shellfish sanitation rules adopted under section 6856~~ is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate ~~for these reasons~~ under this subsection, the commissioner shall follow the procedures of section ~~6373~~ 6372.

3. Suspension for violations. ~~Violation~~ Except as provided in subsections 1 and 2, violation of any section of marine resources laws or rules adopted under this Part is grounds for suspension under section 6374 of any licenses or certificates issued under this Part. ~~In order to suspend a license or certificate for a violation, the commissioner shall follow the procedures for license suspension or revocation in the District Court, as provided under Title 4, chapter 5.~~

Sec. 2. 12 MRSA §6372, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

Notwithstanding the Maine Administrative Procedure Act, the procedure for suspending a license ~~or~~ for refusal to allow inspection or seizure under section 6306 ~~shall be~~ or refusal to allow inspection under section 6852-A or section 6856 is as follows.

Sec. 3. 12 MRSA §6373, as amended by PL 1999, c. 547, Pt. B, §30 and affected by §80, is repealed.

Sec. 4. 12 MRSA §6374 is enacted to read:

§6374. Procedure for suspending without criminal conviction or civil adjudication

Except as provided in section 6371, subsections 1 and 2, the procedure for suspending a license or certificate for a violation of marine resources law without a criminal conviction or civil adjudication is governed by this section.

1. Initiation and notice. If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of marine resources law has been committed, the commissioner shall immediately examine the affidavit and determine if a suspension is necessary. If the commissioner determines based on a preponderance of the evidence that a suspension is necessary, the commissioner shall immediately notify in writing the person who violated the law. The notice must state that there is an opportunity for a hearing, if the person requests the hearing in writing within 10 days of the notice.

2. Hearing. A hearing requested under subsection 1 must be held within 10 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than 10 business days after the request if the delay is requested by the person requesting the hearing. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether the person requesting the hearing had a license and whether that person committed a violation of marine resources law; and

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.

3. Finding of marine resources violation and suspension. If the presiding officer of the hearing under subsection 2 finds that a violation of marine resources law has been committed, the presiding officer shall immediately notify the commissioner of the finding, and the commissioner may suspend the license or certificate of the person requesting the hearing. The length of the suspension of the license or certificate may not exceed:

A. One year from the date of a first finding of a violation under this subsection;

B. Two years from the date of a 2nd finding of a violation under this subsection; or

C. Three years from the date of a 3rd or subsequent finding of a violation under this subsection.

4. Prohibition against multiple suspensions. If the commissioner suspends a license or certificate under this section, the commissioner may not suspend the license or certificate because of a criminal conviction or civil adjudication for the same violation.

5. Appeal. A decision of the commissioner to suspend a license or certificate pursuant to this section may be appealed to the Superior Court if it is filed with the court within 30 days of the decision.

6. Request for hearing on suspension length; place of hearing. The license or certificate holder may request a hearing regarding the length of suspension under this section. A hearing must be requested in writing within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

Sec. 5. 12 MRSA §6852-A, sub-§7 is enacted to read:

7. Inspection. For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access an establishment or part thereof or vehicle in which activities authorized under this section are conducted by a person holding an enhanced retail seafood license. Denial of access is grounds for suspension or revocation of an enhanced retail seafood license under the provisions of section 6372.

Sec. 6. 12 MRSA §6856, sub-§5, as amended by PL 2003, c. 248, §11, is further amended to read:

5. Right of entry. Whenever a certificate has been issued under this section, the commissioner, or the commissioner's agent, must have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access is grounds for suspension or revocation of any certificate or license under the provisions of section ~~6373~~ 6372.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

MARINE RESOURCES, DEPARTMENT OF

Office of the Commissioner 0258

Initiative: Provides an allocation to contract with the Department of the Secretary of State to conduct administrative hearings.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$5,625	$5,625
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,625	$5,625

See title page for effective date.

CHAPTER 312

H.P. 1082 - L.D. 1473

An Act To Clarify Rights-of-way Laws

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

Sec. 1. 33 MRSA §469-A, sub-§§1 and 2, as enacted by PL 1987, c. 385, §4, are amended to read:

1. Reservation of title. Any conveyance made before ~~the effective date of this section which~~ September 29, 1987 that conveyed land abutting upon a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds ~~shall be~~ is deemed to have conveyed all of the grantor's interest in the portion of the way ~~which~~ that abuts the land conveyed, unless the grantor expressly reserved ~~his~~ the grantor's title to the way by a specific reference to this reservation in the conveyance of the land.

2. Intent to reserve. Any grantor who, before ~~the effective date of this section~~ September 29, 1987, conveyed land abutting a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds with the intent to reserve title to the way, but who did not expressly reserve title to the way as required in subsection 1, or any person who claims title to the way by, through or under the grantor, may preserve the grantor's claim by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within 2 years after ~~the effective date of this section~~ September 29, 1987.

Sec. 2. 33 MRSA §469-A, sub-§6, as enacted by PL 1987, c. 385, §4, is amended to read:

6. Lack of reservation. Any person owning land in this State abutting a proposed, unaccepted way or portion of a proposed, unaccepted way, whose predecessors in title had not reserved title in the way under subsection 1 or 2, is deemed to own to the center line of the way or portion of the way, except for a proposed, unaccepted way under subsection 6-A.

Sec. 3. 33 MRSA §469-A, sub-§6-A is enacted to read:

6-A. Bounded by other property. A person owning land in a subdivision abutting a proposed, unaccepted way or portion of a proposed, unaccepted way owns the entire width of the portion of the way that abuts the person's land if:

A. The proposed, unaccepted way or portion of the proposed, unaccepted way is part of the subdivision and is laid out on the subdivision plan recorded in the registry of deeds;

B. The person's predecessors in title had not reserved title in the proposed, unaccepted way or portion of the proposed, unaccepted way under subsection 1 or 2; and

C. The proposed, unaccepted way or portion of the proposed, unaccepted way is bounded on the opposite side by land that is not included in the subdivision.

If the land on the opposite side of a proposed, unaccepted way or a portion of a proposed, unaccepted way under this subsection extends beyond the person's land, then the person owns the entire width of that portion of the extension of the proposed, unaccepted way that is not bounded by another owner's land on the person's side of the way.

See title page for effective date.

CHAPTER 313

H.P. 1018 - L.D. 1385

An Act To Provide Tax Relief to Residents Deployed for Military Duty or Stationed outside of Maine

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

Sec. 1. 36 MRSA §1483-A is enacted to read:

§1483-A. Local option exemption for residents permanently stationed or deployed for military service outside of the State

A municipality may by ordinance exempt from the annual excise tax imposed pursuant to section 1482 vehicles owned by a resident who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days who desires to register that resident's vehicle in this State. To apply for the exemption, the resident must present to a designated municipal official certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days. For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces. For purposes of this section, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A.

Sec. 2. Effective date. This Act takes effect January 1, 2012.

Effective January 1, 2012.

CHAPTER 314

H.P. 568 - L.D. 761

An Act To Provide Rebates for Renewable Energy Technologies

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 laws governing the solar and wind energy rebate program were repealed effective December 31, 2010; and

Whereas, the installation of renewable energy technology is a form of economic activity in this State; and

Whereas, funding is immediately available for rebates to provide incentives for this economic activity; and

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

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

Sec. 1. 35-A MRSA §3210, sub-§9, ¶B, as amended by PL 2009, c. 565, §4 and affected by §9, is further amended to read:

B. The commission shall collect alternative compliance payments made by competitive electricity

providers and shall deposit all funds collected under this paragraph in the Renewable Resource Fund established under section 10121, subsection 2 to be used to fund research, development and demonstration projects relating to renewable energy technologies and to fund rebates for cost-effective renewable energy technologies.

Sec. 2. 35-A MRSA §10121, sub-§1, as enacted by PL 2009, c. 565, §7 and affected by §9, is amended to read:

1. Funding for renewable resource research and development; community demonstration projects; rebates for cost-effective renewable energy technologies. The trust by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development ~~and~~, to fund community demonstration projects using renewable energy technologies and to fund rebates for cost-effective renewable energy technologies. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions;

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust;

C. Provide for a distribution of the funds through a competitive bid process to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development;

D. Provide for a distribution of the funds through a competitive bid process to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30-A, section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using renewable energy technologies; ~~and~~

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of renewable energy technologies~~.~~; and

F. Provide rebates for cost-effective renewable energy technologies as determined by the trust.

~~Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.~~

Sec. 3. 35-A MRSA §10121, sub-§2, as enacted by PL 2009, c. 565, §7 and affected by §9, is amended to read:

2. Fund established. There is established the Renewable Resource Fund, referred to in this section as "the fund." The fund is a nonlapsing fund administered by the trust. All funds collected by the trust pursuant to subsection 1 must be deposited in the fund for distribution by the trust in accordance with subsection 1. The trust may seek and accept funding for the program established pursuant to subsection 1 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 1 must be deposited in the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. Any interest earned on funds in the fund must be credited to the fund.

The trust may allocate funds pursuant to subsection 1, paragraphs C, D and F from the fund to most effectively meet the objectives of the triennial plan pursuant to section 10104, subsection 4.

Sec. 4. 35-A MRSA §10121, sub-§4 is enacted to read:

4. Rulemaking. The trust shall adopt rules to implement this section. The rules must include, but are not limited to:

A. Selection criteria for the competitive bid process pursuant to subsection 1, paragraphs C and D, including, but not limited to, the cost-effectiveness of the project or development and the likelihood that the renewable energy technology will be adopted on a broader scale in this State; and

B. Qualification criteria for rebates for renewable energy technologies pursuant to paragraph F, including, but not limited to, cost-effectiveness and quality assurance requirements.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 5. Use of remaining funds for solar and wind energy rebate program. The Efficiency Maine Trust, established in the Maine Revised Statutes, Title 35-A, section 10103, shall use any remaining funds collected for purposes of the solar and wind energy rebate program that was terminated on December 31, 2010 pursuant to Title 35-A, former section 10112 for rebates for renewable energy technologies pursuant to Title 35-A, section 10121, subsection 1, paragraph F.

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

EFFICIENCY MAINE TRUST

Efficiency Maine Trust Z100

Initiative: Allocates funds to the Efficiency Maine Trust to provide rebates for cost-effective renewable energy technologies utilized by government and nonprofit entities subjected to a competitive bid process.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$0	$360,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$360,000

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

Effective June 13, 2011.

CHAPTER 315

S.P. 126 - L.D. 422

An Act To Amend the Laws Governing the Tax Assessment for Correctional Services in Lincoln County and Sagadahoc 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, in order for Lincoln County to change its tax assessment for correctional services effective July 1, 2011 and for Lincoln County to pay withheld money to Two Bridges Regional Jail by July 1, 2011, this legislation must take effect before the end of the 90-day period; 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 §701, sub-§2-A, ¶H, as enacted by PL 2007, c. 653, Pt. A, §8, is amended to read:

H. A sum of ~~$3,018,361~~ $2,657,105 in Lincoln County;

Sec. 2. 30-A MRSA §701, sub-§2-A, ¶L, as enacted by PL 2007, c. 653, Pt. A, §8, is amended to read:

L. A sum of ~~$2,295,849~~ $2,657,105 in Sagadahoc County;

Sec. 3. Lincoln County payment to Two Bridges Regional Jail. Lincoln County shall pay all withheld revenue from its tax assessment for correctional services from July 1, 2009 to June 30, 2011 directly to the Two Bridges Regional Jail by July 1, 2011 for the jail's correctional services operations in fiscal year 2012-13.

Sec. 4. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 30-A, section 701, subsection 2-A, paragraph H takes effect July 1, 2011. That section of this Act that amends Title 30-A, section 701, subsection 2-A, paragraph L takes effect January 1, 2012.

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

Effective June 13, 2011, unless otherwise indicated.

CHAPTER 316

H.P. 903 - L.D. 1212

An Act To Improve Hospital Reporting of MRSA and Clostridium difficile Data

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

Sec. 1. 22 MRSA §8761, as enacted by PL 2009, c. 346, §1, is repealed and the following enacted in its place:

§8761. Methicillin-resistant Staphylococcus aureus and Clostridium difficile

All hospitals licensed under chapter 405 shall:

1. Enrollment. No later than October 1, 2011, enroll and shall maintain enrollment after that date in the National Healthcare Safety Network within the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Division of Healthcare Quality Promotion, referred to in this section as "the network";

2. Submission of MRSA data. No later than October 1, 2011, submit to the network infection data for nosocomial methicillin-resistant Staphylococcus aureus, referred to in this section as "MRSA," for all inpatients on a monthly basis in accordance with the protocols defined by the United States Department of Health and Human Services, Centers for Disease Control and Prevention;

3. Access to MRSA data. No later than November 1, 2011, authorize, for public health surveillance

purposes only, the Maine Center for Disease Control and Prevention's access to the facility-specific infection rates for nosocomial MRSA contained in the network database;

4. Authorization to Maine Health Data Organization regarding MRSA data. Upon completion of data validation by the Maine Center for Disease Control and Prevention in partnership with a statewide collaborative for infection prevention, authorize, for public reporting purposes only, the Maine Health Data Organization's access to the facility-specific infection rates for nosocomial MRSA contained in the network database;

5. Submission of C. diff data. Beginning January 1, 2012, submit to the network infection data for nosocomial Clostridium difficile, referred to in this section as "C. diff," for all inpatients on a monthly basis in accordance with the protocols defined by the United States Department of Health and Human Services, Centers for Disease Control and Prevention;

6. Access to C. diff data. No later than July 1, 2012, authorize, for public health surveillance purposes only, the Maine Center for Disease Control and Prevention's access to the facility-specific infection rates for nosocomial C. diff contained in the network database; and

7. Authorization to Maine Health Data Organization regarding C. diff data. Upon completion of data validation by the Maine Center for Disease Control and Prevention in partnership with a statewide collaborative for infection prevention, authorize, for public reporting purposes only, the Maine Health Data Organization's access to the facility-specific infection rates for nosocomial C. diff contained in the network database.

The Maine Health Data Organization shall adopt rules regarding public reporting of data reported to the United States Department of Health and Human Services, Centers for Disease Control and Prevention regarding MRSA and C. diff in accordance with this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Rulemaking. The Department of Health and Human Services shall undertake the rulemaking required by the Maine Revised Statutes, Title 22, section 8761 and must provisionally adopt and submit to the Legislature the rules on public reporting of data reported to the United States Department of Health and Human Services, Centers for Disease Control and Prevention regarding methicillin-resistant Staphylococcus aureus and Clostridium difficile no later than January 15, 2012.

Sec. 3. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 1684-A, in the chapter headnote, the words "screening for methicillin-resistant staphylococcus aureus" are amended to read "screening for methicillin-resistant staphylococcus aureus and clostridium difficile" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 317

S.P. 371 - L.D. 1250

An Act To Improve Oil Storage Facility Operator Training

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

Sec. 1. 38 MRSA §564, sub-§2-A, ¶L, as enacted by PL 2009, c. 319, §7, is amended 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). The training program must provide certification for the successful completion of the program, which must be renewed every 2 years. Training may be provided by a 3rd party if approved by the department.

See title page for effective date.

CHAPTER 318

S.P. 386 - L.D. 1265

An Act To Allow the Unclaimed Remains of a Veteran To Have Proper Burial

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

Sec. 1. 22 MRSA §2900 is enacted to read:

§2900. Cremated remains of a veteran

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

A. "National cemetery" means a cemetery under the control of the United States Department of Veterans Affairs, National Cemetery Administration.

B. "Veteran" means a person who served in and was honorably discharged from active duty:

(1) In the Armed Forces of the United States;

(2) In the Army or Air Force National Guard in a full-time status; or

(3) As a reservist in the Armed Forces of the United States.

C. "Veterans' service organization" means an association, corporation or other entity that qualifies under Section 501(c)(3) or Section 501(c)(19) of the United States Internal Revenue Code of 1986, as amended, as a tax-exempt organization that has been organized for the benefit of veterans and recognized or chartered by the United States Congress or a nonprofit corporation, association or entity that specifically assists in facilitating the identification and interment of unclaimed remains of veterans.

2. Cremated remains of veterans. A funeral director or other authorized person who has held in the funeral director's or other authorized person's possession the cremated remains of a veteran for more than one year from the date of cremation may determine pursuant to the provisions of this section if the cremated remains are those of a veteran and, if the funeral director or other authorized person determines that the cremated remains are those of a veteran, the funeral director or other authorized person may dispose of the remains pursuant to this section.

3. Sharing information. Notwithstanding any other provision of law, a funeral director or other authorized person under subsection 2 may share information concerning cremated remains in the funeral director's or other authorized person's possession with the United States Department of Veterans Affairs, a veterans' service organization or a national cemetery to determine whether the cremated remains are those of a veteran.

4. Disposition of veterans' remains. If a funeral director or other authorized person determines that cremated remains in the funeral director's or other authorized person's possession are those of a veteran pursuant to this section and the funeral director or other authorized person has not received instructions as to the final disposition of the cremated remains from the person lawfully in control of the final disposition of the cremated remains, the funeral director or other authorized person may dispose of the cremated remains or relinquish possession of the cremated remains to a veterans' service organization pursuant to section 2843 and this subsection. The cremated remains of a veteran disposed of or relinquished pursuant to this subsection must be finally disposed of in a national cemetery or other government-owned or government-operated veterans' cemetery or in a cemetery or with a cemetery corporation under Title 13, chapter 83 where veterans' graves are memorialized by a veterans' marker or that has a veterans' section.

5. Release from liability. A funeral director, other authorized person or veterans' service organization is not liable and is released from any legal obligation other than a legal obligation imposed under this section regarding the release or sharing of information or the disposing of or relinquishing of the remains of a veteran, except in the case of gross negligence or willful misconduct.

6. Reimbursement. The estate of a veteran whose remains are the subject of disposition under this section is responsible for reimbursing a funeral director, other authorized person or veterans' service organization for all reasonable expenses incurred in activities conducted under this section.

7. Record. A funeral director or other authorized person shall maintain a record identifying a veterans' service organization that receives a veteran's remains from the funeral director or other authorized person under this section and of the site designated for final disposition of the veteran's remains relinquished or disposed of by the funeral director or other authorized person under this section.

8. Duty of funeral director or other authorized person. This section does not require a funeral director or other authorized person to determine the veteran status of cremated remains in the funeral director's or other authorized person's possession or to relinquish or dispose of a veteran's remains in the funeral director's or other authorized person's possession pursuant to this section if the funeral director or other authorized person has a reasonable belief or is instructed by the person in lawful control of the disposition of the veteran's remains that the veteran did not desire a funeral, burial-related services or ceremonies recognizing the veteran as a veteran.

See title page for effective date.

CHAPTER 319

H.P. 841 - L.D. 1129

An Act To Provide the Department of Environmental Protection with Regulatory Flexibility Regarding the Listing of Priority Chemicals

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

Sec. 1. 5 MRSA §8060, sub-§7 is enacted to read:

7. Agenda listing required. Notwithstanding any provision of law to the contrary, a rule may not be proposed pursuant to Title 38, chapter 16-D unless the chemicals affected by that proposed rule were specifically disclosed to the Legislature prior to the initiation

of the rule-making process as part of a regulatory agenda, except that this subsection may not be construed to prohibit an agency from initiating appropriate rule-making proceedings in response to any person who petitions for adoption or modification of rules pursuant to section 8055.

Sec. 2. 38 MRSA §1691, as enacted by PL 2007, c. 643, §2, is amended to read:

§1691. Definitions

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

1. Alternative. "Alternative" means a substitute process, product, material, chemical, strategy or combination of these that serves a functionally equivalent purpose to a chemical in a children's product.

2. Chemical. "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation or metabolism.

2-A. Chemical of concern. "Chemical of concern" means a chemical identified by the department pursuant to section 1693.

3. Chemical of high concern. "Chemical of high concern" means a chemical identified by the department pursuant to section ~~1693~~ 1693-A.

4. Chemical of low concern. "Chemical of low concern" means a chemical for which adequate toxicity and environmental data are available to determine that it is not a chemical of high concern, a chemical of concern, a chemical of ~~moderate~~ potential concern or a chemical of unknown concern.

5. Chemical of potential concern. "Chemical of ~~moderate~~ potential concern" means a chemical identified by an authoritative governmental entity on the basis of credible scientific evidence as being suspected of causing an adverse health or environmental effect listed in section 1693, subsection 1.

6. Chemical of unknown concern. "Chemical of unknown concern" means a chemical for which insufficient data are available to classify it as a chemical of high concern, a chemical of concern, a chemical of ~~moderate~~ potential concern or a chemical of low concern.

7. Children's product. "Children's product" means a consumer product intended for, made for or marketed for use by children under 12 years of age, such as baby products, toys, car seats, personal care products and clothing, and any consumer product containing a chemical of high concern that when used or disposed of will likely result in a ~~child's~~ child under 12 years of age or a fetus's being exposed to that chemical.

8. Consumer product. "Consumer product" means any item sold for residential or commercial use, including any component parts and packaging~~. "Consumer product" does not include a food or beverage or an additive to a food or beverage, a tobacco product or paper or forest products or a pesticide regulated by the federal Environmental Protection Agency. "Consumer product" also does not include a drug or biologic regulated by the federal Food and Drug Administration or the packaging of a drug or biologic regulated by the federal Food and Drug Administration if the packaging is regulated by the federal Food and Drug Administration.~~, that is sold for:

A. An indoor use in a residence, child care facility or school; or

B. An outdoor residential use if a child under 12 years of age may have direct contact with the item.

"Consumer product" does not include a food or beverage or an additive to a food or beverage, a tobacco product or paper or forest products or a pesticide regulated by the United States Environmental Protection Agency. "Consumer product" also does not include a drug or biologic regulated by the United States Department of Health and Human Services, Food and Drug Administration or the packaging of a drug or biologic regulated by the Food and Drug Administration if the packaging is regulated by the Food and Drug Administration. "Consumer product" also does not include an item sold for outdoor residential use that consists of a composite material made from polyester resins.

8-A. Credible scientific evidence. "Credible scientific evidence" means the results of a study, the experimental design and conduct of which have undergone independent scientific peer review, that are published in a peer-reviewed journal or publication of an authoritative federal or international governmental agency, including but not limited to the United States Department of Health and Human Services, National Toxicology Program, Food and Drug Administration and Centers for Disease Control and Prevention; the United States Environmental Protection Agency; the World Health Organization; and the European Union, European Chemicals Agency.

8-B. De minimis level. "De minimis level" means:

A. For a chemical of high concern or priority chemical that is an intentionally added chemical in a component of a children's product, the practical quantification limit; or

B. For a chemical of high concern or priority chemical that is a contaminant present in a component of a children's product, a concentration of 100 parts per million.

9. Distributor. "Distributor" means a person who sells consumer products to retail establishments on a wholesale basis.

9-A. Intentionally added chemical. "Intentionally added chemical" means a chemical that was added during the manufacture of a product or product component to provide a specific characteristic, appearance or quality or to perform a specific function.

10. Manufacturer. "Manufacturer" means any person who manufactured a final consumer product or whose brand name is affixed to the consumer product. In the case of a consumer product that was imported into the United States, "manufacturer" includes the importer or first domestic distributor of the consumer product if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not have a presence in the United States.

10-A. Practical quantification limit. "Practical quantification limit" means the lowest concentration of a chemical that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness and comparability during routine laboratory operating conditions. The practical quantification limit is based on scientifically defensible, standard analytical methods. The practical quantification limit for a given chemical may be different depending on the matrix and the analytical method used.

11. Priority chemical. "Priority chemical" means a chemical identified as such by the commissioner pursuant to section 1694, subsection 1.

12. Safer alternative. "Safer alternative" means an alternative that, when compared to a priority chemical that it could replace, would reduce the potential for harm to human health or the environment or that has not been shown to pose the same or greater potential for harm to human health or the environment as that priority chemical.

Sec. 3. 38 MRSA §1693, as enacted by PL 2007, c. 643, §2, is repealed and the following enacted in its place:

§1693. Identification of chemicals of concern

1. Criteria. By January 1, 2010, the department, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, shall publish a list of chemicals of high concern, referred to after September 1, 2011 as "the list of chemicals of concern." A chemical may be included on the list only if it has been identified by an authoritative governmental entity on the basis of credible scientific evidence as being:

A. A carcinogen, a reproductive or developmental toxicant or an endocrine disruptor;

B. Persistent, bioaccumulative and toxic; or

C. Very persistent and very bioaccumulative.

2. Revisions. By January 1, 2012, the department, with input from interested persons and with the concurrence of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, shall remove any chemical from the list published pursuant to subsection 1 that it finds is:

A. Used solely in an item that is not a consumer product, including, but not limited to, a food or beverage, drug or biologic, paper or forest product or pesticide; or

B. Used solely in a consumer product that is exempt from the requirements of this chapter pursuant to section 1697.

The department may periodically review and revise the list published pursuant to subsection 1. The department may add chemicals to the list if, in the judgment of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, the chemical meets one or more of the criteria in subsection 1.

3. Removal by petition. A person may petition the department to remove a chemical from the list published pursuant to subsection 1. The department, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, may grant a petition if the person demonstrates to the satisfaction of the department that the chemical:

A. Does not meet the criteria for listing pursuant to subsection 1; or

B. Meets the criteria for removal from the list pursuant to subsection 2.

Upon receipt of a petition under this subsection, the department shall notify interested persons and provide an opportunity for review and comment on the evidence submitted by the petitioner. The department shall make a determination within 180 days of receipt of the petition and notify interested persons of the basis for its decision. If the petition is granted, the department shall immediately remove the chemical from the list published pursuant to subsection 1.

Sec. 4. 38 MRSA §1693-A is enacted to read:

§1693-A. Identification of chemicals of high concern

1. List. By July 1, 2012, the department shall publish a list of no more than 70 chemicals of high concern. The Department of Health and Human Services, Maine Center for Disease Control and Prevention, in consultation with the department, shall develop the list. To be listed as a chemical of high concern, a chemical must be on the list of chemicals of concern pursuant to section 1693 and meet the eligibility criteria of subsection 2.

2. Criteria. A chemical of concern on the list of chemicals of concern pursuant to section 1693 may be included in the list published pursuant to subsection 1 if the department, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, determines that there is strong credible scientific evidence that the chemical is a reproductive or developmental toxicant, endocrine disruptor or human carcinogen, and there is strong credible scientific evidence that the chemical meets one or more of the following criteria:

A. The chemical has been found through biomonitoring studies to be present in human blood, human breast milk, human urine or other bodily tissues or fluids;

B. The chemical has been found through sampling and analysis to be present in household dust, indoor air or drinking water or elsewhere in the home environment; or

C. The chemical has been added to or is present in a consumer product used or present in the home.

3. Updates. The commissioner shall review the list published pursuant to subsection 1 at least every 3 years. The commissioner shall remove any chemical from the list of chemicals of high concern that has been designated as a priority chemical pursuant to section 1694 or that no longer meets any of the criteria of subsection 2. The commissioner may identify additional chemicals of high concern according to the criteria and requirements of this section. The list of chemicals of high concern may not consist of more than 70 or fewer than 10 chemicals of high concern, unless fewer than 10 chemicals of high concern meet any of the criteria under subsection 2.

4. Rules. The department shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 38 MRSA §1694, as enacted by PL 2007, c. 643, §2, is amended to read:

§1694. Identification of priority chemicals

Effective July 1, 2012, a chemical is eligible for designation as a priority chemical only if that chemical has been identified and listed as a chemical of high concern pursuant to section 1693-A.

1. Criteria. The commissioner may designate a chemical of high concern as a priority chemical if the commissioner finds, in concurrence with the Department of Health and Human Services, Maine Center for Disease Control and Prevention:

A. The chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine or other bodily tissues or fluids;

B. The chemical has been found through sampling and analysis to be present in household dust, indoor air~~,~~ or drinking water or elsewhere in the home environment; or

~~C. The chemical has been found through monitoring to be present in fish, wildlife or the natural environment;~~

D. The chemical is present in a consumer product used or present in the home~~;~~.

~~E. The chemical has been identified as a high production volume chemical by the federal Environmental Protection Agency; or~~

~~F. The sale or use of the chemical or a product containing the chemical has been banned in another state within the United States.~~

~~The commissioner shall designate at least 2 priority chemicals by January 1, 2011.~~

2. Designation. The commissioner shall designate at least 2 priority chemicals by January 1, 2011. The commissioner ~~shall review the list of chemicals of high concern at least every 3 years and~~ may designate additional priority chemicals if the commissioner finds that the chemicals meet one of the criteria listed in subsection 1.

The commissioner shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. 38 MRSA §1695, sub-§1, as enacted by PL 2007, c. 643, §2, is amended to read:

1. Reporting of chemical use. Not later than 180 days after a priority chemical is identified pursuant to section 1694, a person who is a manufacturer or distributor of a children's product for sale in the State that contains a priority chemical in an amount greater than a de minimis level shall notify the department in writing unless waived by the commissioner pursuant to this section or exempt from this chapter pursuant to section 1697. This written notice must identify the children's product, the number of units sold or distributed for sale in the State or nationally, the priority chemical or chemicals contained in the children's product, the amount of such chemicals in each unit of children's product and the intended purpose of the chemicals in the children's product.

Sec. 7. 38 MRSA §1696, sub-§1, as enacted by PL 2007, c. 643, §2, is amended to read:

1. Authority. The board may adopt rules prohibiting the manufacture, sale or distribution in the State of a children's product containing a priority chemical in an amount greater than a de minimis level if the

board finds, after consideration of information filed under section 1695 and other relevant information submitted to or obtained by the board, that:

A. Distribution of the children's product directly or indirectly exposes children and vulnerable populations to the priority chemical; and

B. One or more safer alternatives to the priority chemical are available at a comparable cost.

If there are several available safer alternatives to a priority chemical, the board may prohibit the sale of children's products that do not contain the safer alternative that is least toxic to human health or least harmful to the environment.

A rule established pursuant to this subsection must specify the effective date of the prohibition, which may not be sooner than 12 months after notice of the proposed rule is published as required under Title 5, section 8053, subsection 5. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 38 MRSA §1696, sub-§2, ¶¶A and B, as enacted by PL 2007, c. 643, §2, are amended to read:

A. Presume that an alternative is a safer alternative if the alternative is not a chemical of ~~high~~ concern;

B. Presume that a safer alternative is available if the sale of the children's product containing the priority chemical has been banned by another state within the United States based on the availability of a safer alternative;

Sec. 9. 38 MRSA §1697, sub-§§9 to 11 are enacted to read:

9. Regulatory efficiency. The department may, in exercising its discretionary authority under this chapter, consider the extent to which a chemical of high concern in a children's product is adequately regulated by the Federal Government or an agency of this State to reduce or prevent the same public health threats that would be the basis for addressing the chemical under this chapter.

10. Inaccessible components. The requirements of sections 1695 and 1696 do not apply to a priority chemical contained in a component of a children's product that during reasonably foreseeable use and abuse would not come into direct contact with a child's skin or mouth, such as inaccessible components of children's products. The department may adopt a rule, based on a case-by-case evaluation, to subject such components to the requirements of sections 1695 and 1696. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11. Contaminants. The requirements of sections 1695 and 1696 do not apply to a priority chemical that occurs in a product component only as a contaminant if the manufacturer had in place a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the component.

Sec. 10. 38 MRSA §1698, first ¶, as enacted by PL 2007, c. 643, §2, is amended to read:

The department is authorized to participate in an interstate clearinghouse to promote safer chemicals in consumer products in cooperation with other states and governmental entities. The department may cooperate with the interstate clearinghouse to classify existing chemicals in commerce into one of ~~4~~ 5 categories: chemicals of high concern, chemicals of ~~moderate~~ concern, chemicals of potential concern, chemicals of unknown concern and chemicals of low concern.

Sec. 11. 38 MRSA §1699-A, sub-§2, as enacted by PL 2007, c. 643, §2, is amended to read:

2. Certificate of compliance. If there are grounds to suspect that a children's product is being offered for sale in violation of this chapter, the department may request the manufacturer or distributor of the product to provide a certificate of compliance with the provisions of this chapter. Within ~~10~~ 30 days of receipt of a request under this subsection, the manufacturer or distributor shall:

A. Provide the department with the certificate attesting that the children's product does not contain the priority chemical; or

B. Notify persons who sell the product in this State that the sale of the children's product is prohibited and provide the department with a list of the names and addresses of those notified.

Sec. 12. 38 MRSA §2322, sub-§8, as enacted by PL 2009, c. 579, Pt. A, §3, is amended to read:

8. Toxic chemical. "Toxic chemical" means a chemical that has been identified as a chemical of ~~high~~ concern pursuant to section 1693 or a chemical the use or release of which is subject to reporting under the SARA, Title III, Section 312 or 313.

Sec. 13. Delayed priority chemical reporting; retroactivity. Notwithstanding the Maine Revised Statutes, Title 38, section 1695, subsection 1, a manufacturer or distributor of a children's product containing a priority chemical identified pursuant to Title 38, section 1694 is not required to comply with the reporting requirements of Title 38, section 1695, subsection 1 until the effective date of this section. This section applies retroactively to July 8, 2011.

See title page for effective date.

CHAPTER 320
H.P. 852 - L.D. 1154

An Act To Implement the Recommendations of the Right To Know Advisory Committee

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

PART A

Sec. A-1. 22 MRSA §1065, as enacted by PL 2005, c. 628, §1, is repealed.

Sec. A-2. 24 MRSA §2329, sub-§8, as enacted by PL 1983, c. 527, §1, is amended to read:

8. Confidentiality. ~~The confidentiality of all alcoholism~~ Alcoholism and drug treatment patient records ~~shall be protected~~ are confidential.

Sec. A-3. 24-A MRSA §225, sub-§3, as enacted by PL 1991, c. 828, §10, is amended to read:

3. All working papers, recorded information, documents and copies of any of these media produced by, obtained by or disclosed to the superintendent or any other person in the course of an examination made under this chapter ~~must be given~~ are confidential ~~treatment~~, are not subject to subpoena and may not be made public by the superintendent or any other person, except to the extent provided in sections 226 and 227. Access may be granted to the National Association of Insurance Commissioners. Any parties granted access must agree in writing prior to receiving the information to provide the information with the same confidential treatment as required by this section unless prior written consent of the insurer to which the information pertains has been obtained.

Sec. A-4. 24-A MRSA §226, sub-§2, as amended by PL 1999, c. 113, §15, is further amended to read:

2. If requested by the person examined, within the period allowed under subsection 1, or if determined advisable by the superintendent without such request, the superintendent shall hold a hearing relative to the report and may not file the report in the bureau until after the hearing and the superintendent's order on the report; except that the superintendent may furnish a copy of the report to the Governor, Attorney General or Treasurer of State pending final decision and, if the copies are so furnished, they are ~~deemed~~ confidential ~~information~~ until the other requirements of this section with regard to examination reports have been satisfied. In lieu of convening a hearing, the superintendent may reopen the examination or, if supported by the information obtained, may adopt some or all of the modifications proposed by the person examined.

Sec. A-5. 24-A MRSA §227, as amended by PL 1991, c. 828, §12, is further amended to read:

§227. Examination report

The report of examination of those persons, partnerships, corporations or other business associations that are subject to examination by the superintendent as provided for in sections 221 and 222 ~~shall~~ must, upon satisfaction of the requirements of section 226 and so long as no court of competent jurisdiction has stayed its publication, be filed in the bureau as a public record, except ~~for~~ that any information relating to an individual insured or individual applicant for insurance~~, which~~ is ~~deemed~~ confidential.

Sec. A-6. 24-A MRSA §952-A, sub-§4, ¶H, as repealed and replaced by PL 2001, c. 89, §1, is amended to read:

H. Except as provided in paragraphs K, L and M, any memorandum in support of the opinion and any other documents, materials or other information provided by the insurer to the superintendent in connection with the memorandum are confidential, must be kept confidential by the superintendent ~~and are not public records within the meaning of the freedom of access laws~~ and are not subject to subpoena or discovery, nor admissible in evidence in any private civil action. The superintendent is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties.

Sec. A-7. 24-A MRSA §2315, as amended by PL 1989, c. 797, §17 and affected by §§37 and 38, is repealed.

Sec. A-8. 24-A MRSA §2323, sub-§4, as amended by PL 1989, c. 797, §27 and affected by §§37 and 38, is further amended to read:

4. Each insurer shall report its loss or expense experience to the lawful rating organization, advisory organization or agency of which it is a member or subscriber, but ~~shall~~ is not ~~be~~ required to report its loss or expense experience to any rating organization, advisory organization or agency of which it is not a member or subscriber. Any insurer not reporting such experience to a rating organization, advisory organization or other agency may be required to report such experience to the superintendent. Any report of such experience of any insurer filed with the superintendent ~~shall be deemed~~ is confidential and ~~shall~~ may not be

revealed by the superintendent to any other insurer or other person, but the superintendent may make compilations including such experience.

Sec. A-9. 24-A MRSA §2325-B, sub-§9, as enacted by PL 2003, c. 671, Pt. B, §2, is amended to read:

9. Modified policy form and rate filings. A modified policy form and modified rate developed by a member insurer must be filed with the superintendent. A modified rate to be used in connection with an existing policy form that consists solely of a permissible surcharge not in excess of the maximum allowable cap contained in rules adopted under subsection 8 may be used by a member insurer immediately upon filing that modified rate with the superintendent. For any other modified filings, a modified policy form and modified rate must be filed with the superintendent not less than 30 days in advance of the stated effective date. A modified rate filing subject to the 30-day advance filing requirement must include any supplementary rating information to be used in conjunction with a rate and, to the extent available, sufficient supporting information to support a rate. A modified rate may not be excessive, inadequate or unfairly discriminatory with respect to risks written through the program. A modified policy form may only be disapproved for the grounds specified in section 2413. All modified policy form and rate filings are confidential until ~~effective or~~ approved in accordance with applicable law.

Sec. A-10. 24-A MRSA §2842, sub-§8, as enacted by PL 1983, c. 527, §2, is amended to read:

8. Confidentiality. ~~The confidentiality of all alcoholism~~ Alcoholism and drug treatment patient records ~~shall be protected~~ are confidential.

PART B

Sec. B-1. 1 MRSA §401, as repealed and replaced by PL 1975, c. 758, is amended by adding after the first paragraph a new paragraph to read:

This subchapter does not prohibit communications outside of public proceedings between members of a public body unless those communications are used to defeat the purposes of this subchapter.

PART C

Sec. C-1. 1 MRSA §403, as amended by PL 2009, c. 240, §1, is repealed and the following enacted in its place:

§403. Meetings to be open to public; record of meetings

1. Proceedings open to public. Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.

2. Record of public proceedings. Unless otherwise provided by law, a record of each public proceeding for which notice is required under section 406 must be made within a reasonable period of time after the proceeding and must be open to public inspection. At a minimum, the record must include:

A. The date, time and place of the public proceeding;

B. The members of the body holding the public proceeding recorded as either present or absent; and

C. All motions and votes taken, by individual member, if there is a roll call.

3. Audio or video recording. An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

4. Maintenance of record. Record management requirements and retention schedules adopted under Title 5, chapter 6 apply to records required under this section.

5. Validity of action. The validity of any action taken in a public proceeding is not affected by the failure to make or maintain a record as required by this section.

6. Advisory bodies exempt from record requirements. Subsection 2 does not apply to advisory bodies that make recommendations but have no decision-making authority.

PART D

Sec. D-1. 1 MRSA §432, sub-§1, as amended by PL 2005, c. 631, §3, is further amended to read:

1. Recommendations. During the second regular session of each Legislature, the review committee may report out legislation containing its recommendations concerning the repeal, modification and continuation of public records exceptions and any recommendations concerning the exception review process and the accessibility of public records. Before reporting out legislation, the review committee shall notify the appropriate committees of jurisdiction concerning public hearings and work sessions and shall allow members of the appropriate committees of jurisdiction to participate in work sessions.

Sec. D-2. 1 MRSA §432, sub-§2-C is enacted to read:

2-C. Accessibility of public records. The advisory committee may include in its evaluation of public records statutes the consideration of any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

Sec. D-3. 1 MRSA §434, as amended by PL 2005, c. 631, §6, is further amended to read:

§434. Review of proposed exceptions to public records; accessibility of public records

1. Procedures before legislative committees. Whenever a legislative measure containing a new public records exception is proposed or a change that affects the accessibility of a public record is proposed, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the review committee to review and evaluate the proposal pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed exception or proposed change that affects the accessibility of a public record may not be enacted into law unless review and evaluation pursuant to ~~subsection~~ subsections 2 and 2-B have been completed.

2. Review and evaluation. Upon referral of a proposed public records exception from the joint standing committee of the Legislature having jurisdiction over the proposal, the review committee shall conduct a review and evaluation of the proposal and shall report in a timely manner to the committee to which the proposal was referred. The review committee shall use the following criteria to determine whether the proposed exception should be enacted:

A. Whether a record protected by the proposed exception needs to be collected and maintained;

B. The value to the agency or official or to the public in maintaining a record protected by the proposed exception;

C. Whether federal law requires a record covered by the proposed exception to be confidential;

D. Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;

E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;

F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the proposed exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception.

2-A. Accountability review of agency or official. In evaluating each proposed public records exception, the review committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public access to public records is not hindered.

2-B. Accessibility of public records. In reviewing and evaluating whether a proposal may affect the accessibility of a public record, the review committee may consider any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

3. Report. The review committee shall report its findings and recommendations on whether the proposed exception or proposed limitation on accessibility should be enacted to the joint standing committee of the Legislature having jurisdiction over the proposal.

Sec. D-4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 1, chapter 13, subchapter 1-A, in the subchapter headnote, the words "exceptions to public records" are amended to read "public records exceptions and accessibility" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART E

Sec. E-1. 1 MRSA §402, sub-§3, ¶N, as amended by PL 2009, c. 176, §1 and c. 339, §1, is further amended to read:

N. Social security numbers ~~in the possession of the Department of Inland Fisheries and Wildlife~~;

See title page for effective date.

CHAPTER 321

S.P. 482 - L.D. 1521

An Act To Amend the InforME Public Information Access Act

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

Sec. 1. 1 MRSA §532, sub-§1-A is enacted to read:

1-A. Agency fees. "Agency fees" are fees defined in statute or agency rulemaking that the data custodian charges to provide a record or service.

Sec. 2. 1 MRSA §532, sub-§2-B is enacted to read:

2-B. Fee service. "Fee service" means an electronic service provided for a fee.

Sec. 3. 1 MRSA §532, sub-§3, as enacted by PL 1997, c. 713, §1, is amended to read:

3. InforME. "InforME" means the system through which the State electronically provides public information, access to public information and ~~premium~~ electronic services to individuals, businesses and other entities.

Sec. 4. 1 MRSA §532, sub-§3-B is enacted to read:

3-B. Portal fee. "Portal fee" means a fee, authorized in section 534, paid by a user for a transaction.

Sec. 5. 1 MRSA §532, sub-§4, as enacted by PL 1997, c. 713, §1, is amended to read:

4. Premium services. "Premium services" means InforME services that are available only to subscribers. Premium services include, but are not limited to, ~~the enhancement of~~ enhanced information ~~that is otherwise available through InforME for the statutory fee or at no charge~~ access or other electronic services that provide significant value to the subscriber.

Sec. 6. 1 MRSA §532, sub-§6, as amended by PL 2003, c. 406, §2, is further amended to read:

6. Subscriber. "Subscriber" means ~~a person~~ an individual, business or organization who, in exchange for a fee established under section 534, subsection 5, paragraph G, subparagraph (8), receives access to premium services ~~or other electronic services available for a statutory fee or at no charge~~.

Sec. 7. 1 MRSA §532, sub-§§6-A and 6-B are enacted to read:

6-A. Transaction. "Transaction" means a transaction between a user and a data custodian involving electronic services, including but not limited to: the submission by a user of an application, registration or other document; the purchase by a user of a permit, license or other document or service; the payment of a tax, fee, fine or other charge; and the retrieval of records.

6-B. User. "User" means an individual, business or organization that uses electronic services, whether for a fee or at no charge.

Sec. 8. 1 MRSA §534, sub-§5, ¶F, as enacted by PL 1997, c. 713, §1, is amended to read:

F. Approve ~~premium~~ services offered.

(1) The board may not approve a service that provides access to public records and data in the form they are maintained by the data custodian and available for public inspection under chapter 13, subchapter ~~I~~ 1 as a premium service;

Sec. 9. 1 MRSA §534, sub-§5, ¶G, as amended by PL 2003, c. 406, §6, is further amended to read:

G. Review revenue and expenditures and approve ~~premium services~~ fees and fee schedules to be levied by the network manager.

(1) Fees must be sufficient to maintain, develop, operate and expand InforME on a continuing basis.

(2) Fees for ~~premium~~ services must be reasonable but sufficient to support the maximum amount of information and services provided at no charge.

(3) The board may establish fee schedules that include no charge for designated services for one or more specified classes of users. If services are to be provided at no charge to libraries, the services must be provided to libraries designated as depository libraries for government documents pursuant to 44 United States Code, Chapter 19 and to any other libraries the board designates.

(4) Fees must be sufficient to ensure that, to the extent possible, data custodians do not suffer loss of revenues from sources that are approved or authorized by law due to the operations of InforME.

(5) Fees must be sufficient to ensure that data custodians are reimbursed for the actual costs of providing data to InforME.

(6) Fees must be sufficient to meet the expenses of the board.

(7) The board may approve, when applicable, service level agreements entered into by InforME and data custodians for information, electronic services and transactions provided by InforME.

(8) The board may establish a subscription fee for subscribers~~;~~.

(9) The board may establish portal fees to maintain, develop, operate and expand InforME on a continuing basis. A portal fee may not exceed $6 plus 3% of the total charges for each transaction, except that the board may establish a higher portal fee by

major substantive rule as defined in Title 5, chapter 375, subchapter 2-A;

Sec. 10. 1 MRSA §534, sub-§5, ¶I, as enacted by PL 1997, c. 713, §1, is amended to read:

I. Approve interagency agreements that affect ~~premium~~ electronic services;

Sec. 11. 1 MRSA §535, sub-§2, ¶F, as enacted by PL 1997, c. 713, §1, is amended to read:

F. Develop ~~charges~~ fees for the services provided to users, agencies and subscribers, which must meet the provisions of section 534, subsection 5, paragraph G;

Sec. 12. 1 MRSA §536, sub-§2, as enacted by PL 1997, c. 713, §1, is amended to read:

2. Duplication of fee services. Executive branch and semiautonomous state agencies may not provide services that duplicate ~~premium~~ fee services offered by InforME except as authorized by the board.

Sec. 13. 1 MRSA §536, sub-§3, as amended by PL 2007, c. 37, §6, is further amended to read:

3. Service level agreements. Services provided by the network manager and information to be provided by a data custodian are governed by service level agreements between the network manager and the data custodian. A service level agreement may include a provision for the network manager to receive a portion of the agency fee for information or services in return for electronically providing that information or service. ~~The fee for electronically accessing the information or service may not exceed the agency fee for distributing the information or providing the service in its usual form.~~

Sec. 14. 1 MRSA §537, sub-§1, as repealed and replaced by PL 2007, c. 37, §7, is amended to read:

1. Funding. InforME is self-supporting and may not receive an appropriation or allocation from the General Fund or other state funds.

Revenue is generated through fees ~~or surcharges~~ on services paid by data custodians, subscribers or ~~other~~ users, from contracts with other state departments and agencies and from money, goods or in-kind services donated or awarded to carry out the purposes of this Act.

Sec. 15. 1 MRSA §537, sub-§2, as enacted by PL 1997, c. 713, §1, is amended to read:

2. Fiscal year. InforME's fiscal year begins ~~July~~ January 1st and ends on ~~June 30th~~ December 31st of ~~the next~~ each calendar year.

Sec. 16. 1 MRSA §538, sub-§3, as enacted by PL 1997, c. 713, §1, is repealed and the following enacted in its place:

3. User records. Information in records of the network manager or collected by InforME relating to the identity of or use by users of electronic services is confidential and may be released only with the express permission of the user or pursuant to court order. This subsection does not affect the public record status of any records of data custodians regarding users.

Sec. 17. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 1, section 537, subsection 2 takes effect January 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 322

S.P. 488 - L.D. 1531

An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards

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

Sec. 1. 5 MRSA §4593, as amended by PL 1995, c. 393, §25, is further amended to read:

§4593. Standards for facilities constructed or altered between September 1, 1974 and January 1, 1982

1. Public accommodations. For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974~~,~~ but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed $250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide.

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict.

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high.

D. Doors that are not intended for normal use~~,~~ and that are dangerous if a blind person were to enter or exit by them~~,~~ must be made identifiable to touch by knurling the handle or knob.

E. There must be parking spaces designated for persons with physical disability set aside in adequate number and clearly marked for use only by the disabled. Set aside in adequate number means that, for every 25 parking spaces made available to the public on a public or private parking lot, at least one of those spaces must be made available in an appropriate location for parking exclusively used by persons with physical disability.

In any building designed and constructed specifically for public accommodations, the bathroom facilities and all accompanying fixtures must be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. The units must be constructed on ground level and must comply with paragraph C.

2. Places of employment. For any building or facility constructed specifically as a place of employment on or after September 1, 1974~~,~~ but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building ~~exceeds~~ exceed $100,000~~,~~ and the remodeling or enlarging is begun before January 1, 1982, the public accommodation provisions relating to walks, entries, ~~restroom~~ rest room facilities and doors apply.

Sec. 2. 5 MRSA §4594, as amended by PL 1991, c. 99, §24, is further amended to read:

§4594. Standards for facilities constructed or altered between January 1, 1982 and January 1, 1984

1. Facilities attested. This section applies for the following facilities:

A. Any building or facility constructed specifically as a place of public accommodation on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building exceeds $250,000 and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984; and

B. Any building or facility constructed specifically as a place of employment on or after January 1, 1982 but before January 1, 1984, or when the estimated total costs for remodeling or enlarging an existing building ~~exceeds~~ exceed $100,000~~,~~ and the remodeling or enlarging is begun after January 1, 1982 but before January 1, 1984.

2. Application. Facilities subject to this section must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, chapter 331, to implement the following 4 parts of the American National Standards Institute's "Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," (ANSI A 117.1-1980):

A. 4.3 Accessible Route;

B. 4.13 Doors;

C. 4.17 Toilet Stalls;

D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and

E. Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E.

Sec. 3. 5 MRSA §4594-A, as amended by PL 1991, c. 99, §25, is further amended to read:

§4594-A. Standards for facilities constructed or altered between January 1, 1984 and January 1, 1988

1. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1984 but before January 1, 1988, or when the estimated total costs for remodeling or enlarging an existing building ~~exceeds~~ exceed $150,000 and the remodeling or enlarging is begun after January 1, 1984 but before January 1, 1988.

2. Application. Facilities subject to this section must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1984~~,~~ but before January 1, 1988 must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, chapter 331.

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section ~~which~~ that are remodeled, enlarged or renovated on or after January 1, 1984~~,~~ but before January 1, 1988 must meet the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, chapter 331:

(1) 4.3 accessible route;

(2) 4.13 doors;

(3) 4.17 toilet stalls;

(4) 4.29.3 tactile warnings on doors to hazardous areas; and

(5) Parking spaces for use by persons with physical disability in adequate number, pur-

suant to section 4593, subsection 1, paragraph E.

Sec. 4. 5 MRSA §4594-B, as amended by PL 1987, c. 402, Pt. B, §5, is further amended to read:

§4594-B. Standards for facilities constructed or altered between January 1, 1988 and September 1, 1988

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits.

B. "Design professional" means an architect or professional engineer registered to practice under Title 32.

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986.

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after January 1, 1988~~,~~ but before September 1, 1988 or when the estimated total costs for remodeling or enlarging an existing building ~~exceeds~~ exceed $150,000 and the remodeling or enlarging is begun after January 1, 1988 but before September 1, 1988.

3. Application. Facilities subject to this section ~~shall~~ must meet the following standards.

A. Facilities subject to this section constructed on or after January 1, 1988~~, shall~~ but before September 1, 1988 must meet the standards of construction.

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $150,000, ~~shall be~~ are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section ~~which~~ that are remodeled, enlarged or renovated on or after January 1, 1988~~, shall~~ but before September 1, 1988 must meet the requirements of the following 4 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls; and

(4) 4.29.3 tactile warnings on doors to hazardous areas.

4. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or

B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality.

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection shall include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

Sec. 5. 5 MRSA §4594-C, as enacted by PL 1987, c. 686, §1, is amended to read:

§4594-C. Standards for facilities constructed or altered between September 1, 1988 and January 1, 1991

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits.

B. "Design professional" means an architect or professional engineer registered to practice under Title 32.

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986.

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation on or after September 1, 1988~~,~~ but before January 1, 1991 or when the estimated total costs for remodeling or enlarging an existing building exceed $100,000 and the remodeling or enlarging is begun after September 1, 1988 but before January 1, 1991.

3. Application. Facilities subject to this section ~~shall~~ must meet the following standards.

A. Facilities subject to this section~~,~~ constructed on or after September 1, 1988~~, shall~~ but before January 1, 1991 must meet the standards of construction, except that, in the case of toilet stalls, at least one toilet stall shall be the standard stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b).

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds $100,000, ~~shall be~~ are subject to this section when the proposed reconstruction, remodeling or enlargement substantially affects that portion of the building normally accessible to the public.

Facilities subject to this section ~~which~~ that are remodeled, enlarged or renovated on or after September 1, 1988~~,~~ but before January 1, 1991 shall meet the requirements of the following 4 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b); and

(4) 4.29.3 tactile warnings on doors to hazardous areas.

4. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to:

A. The municipal authority who reviews plans in the municipality where the facility will be constructed; or

B. If the municipality where the facility will be constructed has no authority who reviews plans, the municipal officers of the municipality.

If municipal officials of the municipality where the facility will be constructed inspect buildings for compliance with construction standards, that inspection ~~shall~~ must include an inspection for compliance with the standards required by this section. The municipal officials shall require the facility inspected to meet the construction standards of this section before the municipal officials permit the facility to be occupied.

Sec. 6. 5 MRSA §4594-D, as amended by PL 1993, c. 349, §10; c. 410, Pt. X, §§2 and 3; and c. 450, §1, is further amended to read:

§4594-D. Standards for facilities constructed or altered between January 1, 1991 and January 1, 1996

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

A. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of the property in a municipality that does not require building permits.

B. "Design professional" means an architect or professional engineer registered to practice under Title 32.

C. "Standards of construction" means the 1986 standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," ANSI A 117.1-1986.

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1991~~,~~ but before January 1, 1996 or when the estimated total costs for remodeling, enlarging or renovating an existing building exceed $100,000~~,~~ and the remodeling, enlarging or renovating is begun after January 1, 1991 but before January 1, 1996.

3. Application. Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to these places constructed on or after January 1, 1991~~,~~ but before January 1, 1996 must meet the standards of construction.

B. Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed remodeling or renovation substantially affects that portion of the building normally accessible to the public, places of employment or public accommodation remodeled or renovated on or after January 1, 1991~~,~~ but before January 1, 1996 must meet the following 5 parts of the standards of construction:

(1) 4.3 accessible routes;

(2) 4.13 doors;

(3) 4.29.3 tactile warnings on doors to hazardous areas;

(4) Parking spaces for use by persons with physical disability in adequate number, pur-

suant to section 4593, subsection 1, paragraph E; and

(5) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ANSI Figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b).

4. Rules. The commission may adopt, alter, amend and repeal rules designed to make buildings under this section accessible to, functional for and safe for use by persons with physical disability in accordance with subsection 3, and may adopt, alter, amend and repeal rules designed otherwise to enforce this section.

5. Certification; inspection. The builder of a facility to which this section applies shall obtain a certification from a design professional that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

6. Training, education and assistance. The commission and the Office of the State Fire Marshal shall, as necessary, develop information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, design professionals, code enforcers, building contractors and other interested parties.

7. Mandatory plan review; certification; inspection. Builders of the following newly constructed facilities must submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3:

A. Restaurants;

B. Motels, hotels and inns;

C. State, municipal and county buildings; and

D. Schools, elementary and secondary.

Fees for reviews are established by the Office of the State Fire Marshal.

No building permit may be issued by the municipal authority having jurisdiction to issue these permits unless the Office of the State Fire Marshal approves the plans and certifies that the facility covered by the mandatory plan review meets the standards of construction required by this section; if, however, no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation that the plans meet the standards of construction.

If officials of the municipality in which the facility is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that the facility be inspected for compliance with construction standards before the municipal officials permit the facility to be occupied.

8. Voluntary plan review. Builders of facilities not governed by subsection 7 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Fees for this review may be assessed by the Office of the State Fire Marshal.

9. Waivers; variance. Builders of facilities governed by subsection 7 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If the representative of the Office of the State Fire Marshal determines in cases covered by mandatory plan review that compliance with this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to persons with physical disability, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

10. Appeals. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for such further action as the court may direct.

11. Report. The commission shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by March 1992, regarding the effectiveness of efforts to provide technical assistance and compliance with the standards set forth in this section requiring accessibility by persons subject to this section. The commission shall submit a copy of the report to the Executive Director of the Legislative Council.

Sec. 7. 5 MRSA §4594-F, as amended by PL 1997, c. 630, §§1 to 4, is further amended to read:

§4594-F. Standards for facilities constructed or altered between January 1, 1996 and March 15, 2012

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

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions.

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits.

D. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located.

E. "Historic preservation programs" means programs conducted by a public or private entity that have preservation of historic properties as a primary purpose.

F. "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places or the State of Maine Register of Historic Places.

G. "Maximum extent feasible" applies to the occasional case when the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration must provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible must be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities would not be feasible, the facility must be made accessible to persons with other types of disabilities.

H. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy after January 1, 1996 or an alteration affecting at least 80% of the space of the internal structure of facilities after January 1, 1996.

I. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed under this subchapter;

(2) The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or other impacts of the action on the operation of the facility;

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; and

(4) The type of operation or operations of the covered entity, including the composition, structure and functions of the entity's work force, the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity.

J. "Standards of construction" means the standards set forth in the federal Americans with Disabilities Act Accessibility Guidelines, "ADAAG," standards. The ADAAG standards of construction replace ANSI standards and provide the architectural standards of construction.

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1996 but before March 15, 2012 or to any alterations of an existing place of public accommodation or place of employment when the alteration is begun after January 1, 1996 but before March 15, 2012, unless such construction or alteration is covered by section 4594-G, in which case section 4594-G and not this section applies. As an alternative to compliance with this section, any new construction or alterations covered by this section may comply with section 4594-G.

3. Application. Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to those places constructed on or after January 1, 1996~~,~~ but before March 15, 2012 the standards of must meet the standards of construction, including, but not limited to, the 5 parts of the standards of construction in paragraph B, subparagraph (2).

B. Alterations are governed by the following.

(1) Any alteration to a place of public accommodation, commercial facility or place of employment on or after January 1, 1996 but

before March 15, 2012 must be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If existing elements, spaces or common areas are altered, then each altered element, space or area must comply with the applicable provisions of the standards of construction.

(2) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building exceed $100,000.

(a) Except for repairs undertaken in accordance with the rules adopted pursuant to subsection 4, when the proposed alteration substantially affects that portion of the building normally accessible to the public, a place of employment or public accommodation altered on or after January 1, 1996 but before March 15, 2012 must meet the following 5 parts of the standards of construction or as otherwise indicated:

(i) 4.3 accessible routes;

(ii) 4.13 doors;

(iii) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person, for example, doors to loading platforms, boiler rooms, stages and the like, must be made identifiable to the touch by a textured surface on the door handle, knob, pull or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Textured surfaces may not be provided for emergency exit doors or any doors other than those to hazardous areas;

(iv) Parking spaces for use by persons with physical disabilities pursuant to 4.1.2 of the standards of construction; and

(v) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ADAAG figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ADAAG figure 30(a) or alternate stall configuration ADAAG figure 30(b).

(b) In addition to the 5 parts of the standards of construction specified in division (a), each of which must be met regardless of the cost of the 5 parts of the standards, when the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area to the extent that the costs to provide an accessible path of travel do not exceed 20% of the cost of the alteration to the primary function area.

If the cost to provide an accessible path of travel to the altered area exceeds 20% of the costs of the alteration to the primary function area, the path of travel must be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

In determining whether the 20% cost figure has been met, the following analysis must be used. The analysis must include an evaluation of whether the following elements of access have been provided, using the following order of priority, before costing 20%, regardless of other elements of access that may have been provided which may affect the path of travel:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage and alarms.

The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(3) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building do not exceed $100,000. When the entity is undertaking an alteration that affects or could affect usability or access to an area of the facility containing a primary function, the entity shall make the alterations in a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, where the alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

C. This subsection may not be construed to require the installation of an elevator for a facility that is less than 3 stories in height or has less than 3,000 square feet per story unless the facility is a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot or other station used for specified public transportation or an airport passenger terminal or a facility covered by Title II of the Americans with Disabilities Act or unless the United States Attorney General determines that a particular category of facility requires the installation of elevators based on the usage of the facility.

4. Curb ramps. Curb ramps or other slopes are required in the following situations.

A. Newly constructed or altered streets, roads and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street-level pedestrian walkway.

B. Newly constructed or altered street-level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads or highways.

5. Rules. The commission shall adopt, alter and amend rules designed to make facilities under this section accessible to, functional for and safe for use by persons with physical or mental disabilities in accordance with subsections 3 and 4 and shall adopt, alter and amend rules designed to enforce this section. The commission may repeal only those rules contrary to this chapter. The commission shall also adopt rules concerning procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards, maintaining, at a minimum, the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

6. Barrier-free certification; inspection. If the costs of construction or alterations are at least $50,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession that the plans meet the standards of construction required by this section. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

7. Training, education and assistance. The commission and the Office of the State Fire Marshal, with input from organizations representing individuals with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, individuals with disabilities and other interested parties.

8. Mandatory plan review; certification; inspection. Builders of newly constructed public buildings shall submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

(1) State, municipal or county purposes;

(2) Education;

(3) Health care;

(4) Public assembly;

(5) A hotel, motel or inn;

(6) A restaurant;

(7) Business occupancy; or

(8) Mercantile establishments occupying more than 3000 square feet.

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the public building covered by this subsection meets the standards of construction required by this section. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction.

C. If officials of the municipality in which a restaurant; motel; hotel; inn; state; municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with construction standards before the municipal officials permit a facility covered by this paragraph to be occupied.

9. Voluntary plan review. Builders of facilities not governed by subsection 8 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

10. Waivers; variance. Builders of facilities governed by subsection 8 that are private entities, when the facilities are not to be owned or operated by, or leased to or by, a public entity, may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 8, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify its allowance.

11. Appeals relating to mandatory plan reviews. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 8 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

12. Fees. The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this chapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 8. 5 MRSA §4594-G is enacted to read:

§4594-G. Standards for facilities constructed or altered after March 15, 2012

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

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits.

C. "Commuter rail transportation" means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation.

D. "Demand responsive system" means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, that is not a fixed-route system.

E. "Designated public transportation" means transportation provided by a public entity other than public school transportation by bus, rail or other conveyance other than transportation by aircraft or intercity or commuter rail transportation that provides the general public with general or special service, including charter service, on a regular and continuing basis.

F. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located.

G. "Fixed-route system" means a system of transporting individuals other than by aircraft, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

H. "Intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation, doing business as Amtrak.

I. "New construction" includes, but is not limited to, the design and construction of a facility for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility.

J. "Specified public transportation" means transportation by bus, rail or any other conveyance other than aircraft provided by a private entity to the general public, with general or special service, including charter service, on a regular and continuing basis.

K. "Standards of construction" means:

(1) For a transportation facility, the accessibility standards adopted by the federal Department of Transportation, 49 Code of Federal Regulations, Sections 37.9, 37.41, 37.43 and 37.45 (2010);

(2) For a facility constructed or altered by, on behalf of or for the use of a public entity, other than a transportation facility, the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Sections 35.104 and 35.151; and

(3) For a place of public accommodation or a commercial facility, other than a facility covered by subparagraphs (1) or (2), the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Section 36.104 and Section 36.401 to 36.407.

L. "Transportation facility" means a facility constructed or altered by, on behalf of or for the use of:

(1) Any public entity that provides designated public transportation or intercity or commuter rail transportation;

(2) Any private entity that provides specified public transportation; or

(3) Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive system or fixed-route system.

2. Facilities attested. This section applies to new construction and alterations of transportation facilities, places of public accommodation and commercial facilities and facilities constructed or altered by, on behalf of or for the use of a public entity, if:

A. The last application for a building permit or permit extension is certified to be complete by the appropriate state, county or local government entity on or after March 15, 2012;

B. In a jurisdiction where the government does not certify completion of applications, the last application for a building permit or permit extension is received by the appropriate state, county or local government entity on or after March 15, 2012; or

C. If no permit is required, the start of physical construction or alterations occurs on or after March 15, 2012.

3. Unlawful discrimination. In addition to failure to meet applicable accessible building requirements in subchapter 4, for purposes of this Act, unlawful discrimination includes, but is not limited to, the failure to meet the standards of construction for new construction or alterations subject to this section.

4. Barrier-free certification. If the costs of construction or alterations are at least $75,000, the builder of a facility to which this section applies must obtain a certification from an architect, professional engineer, certified interior designer or landscape architect who is licensed, certified or registered to practice under Title 32 and is practicing within the scope of that individual's profession that the plans meet the requirements of subsection 3. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built. Nothing in this section may be construed to change the scope of practice of any individual licensed, certified or registered to practice under Title 32.

5. Training, education and assistance. The commission and the Office of the State Fire Marshal,

with input from organizations representing persons with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, professional engineers, certified interior designers, landscape architects, code enforcers, building contractors, persons with disabilities and other interested parties.

6. Mandatory plan review; certification. A builder of a proposed public building shall submit plans to the Office of the State Fire Marshal prior to construction to ensure that the plans meet the standards of construction.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

(1) State, municipal or county purposes;

(2) Education;

(3) Health care, residential care nursing homes or any facility licensed by the Department of Health and Human Services;

(4) Public assembly;

(5) A hotel, motel, inn or rooming or lodging house;

(6) A restaurant;

(7) Business occupancy of more than 3,000 square feet or more than one story; or

(8) Mercantile occupancy of more than 3,000 square feet or more than one story.

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the plans for the public building covered by this subsection meet the standards of construction. If the builder of a facility is required to obtain barrier-free certification, a permit for construction from the Office of the State Fire Marshal is also required. If no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the permit request directly to the municipality with an attestation from an architect or professional engineer licensed or registered to practice under Title 32 that the plans meet the standards of construction.

7. Inspection. If officials of the municipality in which a restaurant, motel, hotel or inn; state, municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with plans certified by the Office of the State Fire Marshal or by a professional pursuant to subsection 4. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with the standards of construction required by subsection 3 before the municipal officials permit a facility covered by this paragraph to be occupied.

8. Voluntary plan review. Builders of facilities not governed by subsection 6 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsection 3. Certification for a voluntary plan review may be provided by an architect, professional engineer, certified interior designer or landscape architect licensed, certified or registered to practice under Title 32 and practicing within the scope of that individual's profession.

9. Waivers; variance. Builders of facilities governed by subsection 6 may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 6, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify allowing the variance or waiver.

10. Appeals relating to mandatory plan reviews. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 6 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

11. Fees. The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire Marshal shall pay all fees to the Treasurer of State to be used to carry out this subchapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 9. Review and legislation. After reviewing the standards established in that section of this Act that enacts the Maine Revised Statutes, Title 5, section 4594-G, and comparing the standards with those applicable under federal law beginning March 15, 2012, the Joint Standing Committee on Judiciary may report out a bill to the Second Regular Session of the 125th

Legislature implementing recommended changes in the standards.

See title page for effective date.

CHAPTER 323

H.P. 1092 - L.D. 1485

An Act To Promote Transparency in the Medicaid Reimbursement Process

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

Sec. 1. 22 MRSA c. 603, sub-c. 1-B is enacted to read:

SUBCHAPTER 1-B

MAXIMUM ALLOWABLE COST LIST

§2687. Maximum allowable cost list

1. Comment period. The Department of Health and Human Services, office of MaineCare services shall establish a 17-day written comment period on any proposed change to the state maximum allowable cost list if the change results in a reduction in payment to pharmacies. The written comment period must be held in compliance with the Maine Administrative Procedure Act. A change in the maximum allowable cost list that will result in a reduction in payment to pharmacies may not take effect for at least 30 days and not until 30 days after the office of MaineCare services has completed its response to any written comments. For the purposes of this section, "maximum allowable cost list" means a list of prescription drugs that bases reimbursement on the cost of the generic product.

2. Report. The Department of Health and Human Services, office of MaineCare services shall prepare an annual report that summarizes the number of drugs affected by changes made to the maximum allowable cost list under subsection 1 and the percentage change in payment for those drugs that resulted from changes to the list during the calendar year. The office of MaineCare services shall file the report annually by December 31st with the joint standing committee of the Legislature having jurisdiction over health and human services matters.

3. Rulemaking. The Department of Health and Human Services, office of MaineCare services shall amend its rules to implement the provisions of this subchapter. 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 324

H.P. 1125 - L.D. 1533

An Act To Provide for a Method To Remove an Elected Municipal Official

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

Whereas, municipalities conduct official business that must be attended to on a daily basis, mostly by a small group of municipal officials; and

Whereas, many small municipalities do not have sufficient charters or ordinances to respond timely to misconduct or malfeasance by their municipal officials; and

Whereas, misconduct or malfeasance by an official in a small municipality that does not have the legal means to address the issue can directly affect the ability of the municipality to conduct its official business, which has a negative effect on the public interest and is of a direct concern to 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. 30-A MRSA §2505 is enacted to read:

§2505. Recall of municipal officials

Except as otherwise provided by the municipality's ordinances or charter, an elected official of a municipality may be recalled from office pursuant to this section. For purposes of this section, "official" has the same meaning as section 2604, subsection 2.

1. Petition for recall. On the written petition pursuant to subsection 5 of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, an election must be held to determine the recall of an elected official of that municipality.

2. Notice of intention. In order to initiate a recall election under subsection 1, the initiator of the petition shall file a notice of intention of recall with the municipal clerk of the municipality. A notice of intention of recall under this subsection must include the name, address and contact information of the person filing the notice and the name and position of the official subject to recall under this section. Only a

person registered to vote in the municipality may file a notice of intention of recall under this subsection.

3. Petition forms. Within 3 business days of receipt of a notice of intention of recall under subsection 2, the municipal clerk shall prepare petition forms for the collection of signatures under subsection 4 and send notice to the initiator of the petition under subsection 2 that the petition forms are available. The municipality may charge the initiator of the petition a reasonable fee for preparing and providing the petition forms under this subsection. A petition form under this subsection must include:

A. At the top of the form, the name and position of the official subject to recall, the name and contact information of the initiator of the petition and the date by which the signatures must be submitted to the municipal clerk under subsection 4;

B. Spaces for each voter's signature, actual street address and printed name; and

C. Space at the bottom of the form for the name, address and signature of the person circulating the petition form.

4. Collection and submission of signatures. A petition form under subsection 3 may be circulated or signed only by a registered voter of the municipality. A circulator of a petition form shall fill in the information required under subsection 3, paragraph C and sign the form prior to submission of the form to the municipal clerk. The initiator of the petition under subsection 2 shall collect the petition forms from all circulators and submit the signed petition forms to the municipal clerk within 14 days of receipt of notice from the clerk that the petition forms are available under subsection 3. A municipal clerk may not accept a petition form submitted more than 14 days after sending notice of availability to the initiator under subsection 3, and any voter signatures on that form are invalid.

5. Petition certification and notification. Within 7 business days of receiving petition forms under subsection 4, the municipal clerk shall determine whether the petition forms meet the criteria under subsection 4 and certify the validity of any signatures on the petition forms. If the municipal clerk finds that the number of valid signatures submitted under subsection 4 meets or exceeds the requirements under subsection 1, the clerk shall certify the petition and immediately send notification of the certification to the municipal officers, the initiator of the petition and the official subject to the recall. If the municipal clerk finds the number of valid signatures submitted under subsection 4 does not meet the requirements for a petition under subsection 1, the municipal clerk shall file the petition and the petition forms in the clerk's office and notify the initiator of the petition.

6. Scheduling recall election. Within 10 business days of certification of the petition under subsection 5, the municipal officers shall schedule a recall election to determine whether the official subject to the recall petition should be recalled. The election must be held no less than 45 days nor more than 75 days after certification of the petition under subsection 5 unless a regular municipal election is scheduled to be held within 90 days of the certification of the petition under subsection 5, in which case the recall election must be held on the date of the regular municipal election. If the municipal officers fail to schedule a recall election within 10 days of certification of the recall petition under subsection 5, the municipal clerk shall schedule the recall election pursuant to the date requirements of this subsection.

7. Ballots for recall election. If the official subject to the recall does not resign from office within 10 business days of certification of the recall petition under subsection 5, the ballots for the recall election under subsection 6 must be printed. A ballot for a recall election under this section must read:

"Do you authorize the recall of (name of official) from the position of (name of office)?

( ) Yes ( ) No"

8. Results of recall election. Within 2 business days of a recall election under subsection 6, the municipal clerk shall certify and record the election results and notify the municipal officers of those results. If a majority of voters vote to remove the official, the recall takes effect on the date the election results are recorded pursuant to this subsection.

9. Limitation of recall. An elected official may be the subject of a recall petition under this section only if the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is the municipality.

Sec. 2. 30-A MRSA §2602, sub-§1, ¶F, 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:

F. Failure to qualify for the office within 10 days after written demand by the municipal officers; ~~or~~

Sec. 3. 30-A MRSA §2602, sub-§1, ¶G, 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:

G. Failure of the municipality to elect a person to office~~.~~; or

Sec. 4. 30-A MRSA §2602, sub-§1, ¶H is enacted to read:

H. Recall pursuant to section 2505.

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

Effective June 13, 2011.

CHAPTER 325

H.P. 718 - L.D. 974

An Act To Revise the Laws on Tournament Games

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

Sec. 1. 17 MRSA §1836, first ¶, as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

The Chief of the State Police may issue a license ~~to conduct a tournament game as provided in~~ under this section to an organization eligible to conduct beano games under chapter 13-A and games of chance under this chapter to conduct up to 2 tournament games per month. For purposes of this section, "tournament game" means a game of chance played using a deck of cards with rules similar to poker or other card games. ~~The Chief of the State Police may not issue a tournament game license to an organization more than once per month.~~

Sec. 2. 17 MRSA §1836, sub-§3, as enacted by PL 2009, c. 487, Pt. A, §2, is repealed.

Sec. 3. 17 MRSA §1836, sub-§3-A is enacted to read:

3-A. License. The license fees for tournament game licenses are as follows:

A. For tournament games that do not exceed 100 players:

(1) One hundred fifty dollars per tournament license;

(2) Two hundred fifty dollars for a monthly license; and

(3) Three thousand dollars for an annual license; and

B. For tournament games that exceed 100 players:

(1) Three hundred dollars for a tournament game with 101 to 150 players;

(2) Four hundred dollars for a tournament game with 151 to 200 players;

(3) Five hundred dollars for a tournament game with 201 to 250 players; and

(4) Six hundred dollars for a tournament game with 251 to 300 players.

Sec. 4. 17 MRSA §1836, sub-§4, as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

4. Tournament. The organization licensed to conduct a tournament game under this section shall display the rules of the tournament game and the license issued. The maximum number of players allowed is 100 unless the tournament game is held on premises owned by the licensee, in which case the maximum number of players allowed is 300. Winners are determined by a process of elimination. The use of currency is prohibited as part of tournament game play. The maximum entry fee to play in the tournament game is $100, except the organization may add to the player entry fee to defray the cost of the license fee, as long as the total additional amount collected from all players does not exceed ~~$200~~ $125. An organization that holds a per tournament license may collect up to $150 to defray the cost of the license fee. Only one entry fee is permitted per person. A tournament game must be completed within 48 hours. Other games of chance on the premises are prohibited during a tournament game, except for lucky seven or similar sealed tickets and no more than one 50/50 raffle per tournament with a prize value up to $1,000. This subsection does not prohibit a licensee from conducting one winner-take-all hand per tournament game with a bet limit of $5. The total number of bets received in a winner-take-all round must be awarded to the winner or in the case of multiple winners divided among them as evenly as possible. All prizes awarded in accordance with this subsection must be paid in cash.

Sec. 5. 17 MRSA §1836, sub-§6, as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

6. Cost of administration; surplus. The Chief of the State Police may retain, from license fees collected in accordance with subsection ~~3~~ 3-A, only an amount necessary to defray the costs of administering this section. All fees collected in excess of the amount necessary to defray the costs of administration must be allocated as follows:

A. Forty percent to the Fractionation Development Center; and

B. Sixty percent to the General Fund.

See title page for effective date.

CHAPTER 326

H.P. 1036 - L.D. 1410

An Act To Amend the Maine Administrative Procedure Act

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

Sec. 1. 5 MRSA §8053, sub-§6, as amended by PL 2009, c. 256, §3, is further amended to read:

6. Electronic publication. In addition to the printed publication required in subsection 5, the Secretary of State shall maintain a publicly accessible website for posting the notices of all proposed and adopted rules. The contents of the notice for electronic publication are pursuant to subsection 3. An agency, on its publicly accessible website, shall either post its proposed and adopted rules or provide a link to the proposed or adopted rules posted on the Secretary of State's website. Notice of each rule-making proceeding must be published on the Secretary of State's website 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing was scheduled.

See title page for effective date.

CHAPTER 327

H.P. 1071 - L.D. 1456

An Act Regarding the Right of Native Americans To Be Issued Hunting, Trapping and Fishing Licenses

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 provisions of this Act must take effect immediately to ensure that the Department of Inland Fisheries and Wildlife has sufficient time to implement the changes in this Act to the complimentary licenses issued to Maine's federally recognized Indian tribes before the start of this year's hunting 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 §10853, sub-§8, as amended by PL 2007, c. 195, §1, is further amended to read:

8. Members of federally recognized nation, band or tribe. The commissioner shall issue a hunting, trapping and fishing license, including permits, stamps and other permission needed to hunt, trap and fish, to a ~~Native American~~ person, 10 years of age or older, who is an enrolled member of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of Micmacs that is valid for the life of that ~~Native American~~ person without any charge or fee if the ~~Native American~~ person presents ~~a certificate~~ certification from the respective reservation governor~~,~~ or the Aroostook Micmac Council ~~or "Wesget Sipu"~~ stating that the person described is ~~a Native American and a~~ an enrolled member of ~~that~~ a federally recognized nation, band or tribe listed in this subsection. Holders of these licenses are subject to this Part, including, but not limited to, a lottery or drawing system for issuing a particular license or permit.

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

Effective June 14, 2011.

CHAPTER 328

H.P. 121 - L.D. 139

An Act To Reduce the Time Period after Which a Member Municipality May Petition To Withdraw from a Regional School Unit

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

Sec. 1. 20-A MRSA §1466, sub-§1, as enacted by PL 2009, c. 580, §9, is amended to read:

1. Petition. ~~The~~ Beginning January 1, 2012, the residents of a municipality that has been a member of a regional school unit for at least ~~3 years~~ 30 months may petition to withdraw from the regional school unit in accordance with this subsection.

A. Ten percent of the number of voters in the municipality who voted at the last gubernatorial election must sign the petition to withdraw from the regional school unit.

B. At least 10 days before the special election called pursuant to this paragraph, the municipal officers of the municipality within the regional school unit shall hold a posted or otherwise advertised public hearing on the petition. The municipal officers shall call and hold a special election in the manner provided for the calling and holding of town meetings or city elections to vote on the withdrawal from the regional school unit.

C. The petition to withdraw from the regional school unit must be approved by secret ballot by a majority vote of the voters present and voting be-

fore it may be presented to the regional school unit board and the commissioner. Voting in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528, and voting in cities must be conducted in accordance with Title 21-A.

For the purposes of this subsection, the ~~3 year~~ 30-month period after which a petition to withdraw may be considered in a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 is ~~3 years~~ 30 months after the original operational date of the school administrative district; and the ~~3 year~~ 30-month period after which a petition to withdraw may be considered in a member municipality of a school administrative district that did not reformulate as a regional school unit but that became a member entity of an alternative organizational structure is ~~3 years~~ 30 months after the operational date of the alternative organizational structure.

Sec. 2. Effective date. This Act takes effect January 1, 2012.

Effective January 1, 2012.

CHAPTER 329
S.P. 212 - L.D. 723

An Act To End Homelessness for Veterans in Maine

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

Sec. 1. 37-B MRSA §513 is enacted to read:

§513. Homelessness prevention coordination

The director shall establish a partnership with a national, human services-based volunteer organization to coordinate efforts to remedy and prevent homelessness among veterans in this State. The volunteer organization must have as its core programs addressing homelessness and veterans' services and have been active as a human services-based volunteer organization for a minimum of 30 years. The director may accept donations from outside sources and federal funding to accomplish the priorities of the partnership. If federal or outside funding is available, the priorities of this partnership, listed in order of priority, include, but are not limited to:

1. Identification. Identifying homeless veterans in the State;

2. Outreach events. Conducting annual outreach events, targeted to reach the maximum number of veterans in need, to disseminate information on resources and services available to assist homeless veterans; and

3. Funding homes. Identifying and securing temporary or permanent living space for veterans within the veterans' communities.

See title page for effective date.

CHAPTER 330
S.P. 480 - L.D. 1519

An Act To Allow the Board of Dental Examiners To Issue Dental School Faculty Licenses

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

Sec. 1. 32 MRSA §1086-A is enacted to read:

§1086-A. Dental school faculty license

1. Dental school faculty license. The board may issue a dental school faculty license to an applicant who teaches:

A. Dentistry, dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

B. Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

C. Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students.

A dental school faculty license allows the licensee to practice only within the dental school setting, dental hygiene school setting or denturism school setting, including any satellite locations approved by the board.

2. Eligibility. To qualify for licensure under this section, an applicant must:

A. Hold a current dental, dental hygiene or denturism license in another state or a Canadian province and demonstrate, to the satisfaction of the board, full compliance with the requirements of that other jurisdiction's dental laws; and

B. Submit credentials, satisfactory to the board, including a recommendation letter from an employing school of dentistry, dental hygiene or den-

turism stating why the board should consider the applicant to be qualified under criteria established by rules adopted by the board.

3. Fees. The board may assess a fee of up to $250 for a dental school faculty license and renewal.

4. Renewals. All licenses under this section expire after 2 years on such date as the board may designate and are renewable by the board.

5. Rules. 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.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Dental Examiners - Board of 0384

Initiative: Allocates one-time funds for the costs associated with rulemaking and with configuring the licensing system to issue dental school faculty licenses.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$5,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$5,000	$0

See title page for effective date.

CHAPTER 331

H.P. 993 - L.D. 1352

An Act To Implement the Requirements of the Federal Nonadmitted and Reinsurance Reform Act of 2010

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 Nonadmitted and Reinsurance Reform Act of 2010, Title V, Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, which takes effect July 21, 2011, was enacted after the adjournment of the Second Regular Session of the 124th Legislature and requires states to revise their eligibility standards for surplus lines insurance and directs states to adopt a multistate premium tax allocation system before June 16, 2011; and

Whereas, the implementation dates imposed by federal law are less than 90 days after the anticipated adjournment of the Legislature; and

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

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

Sec. 1. 24-A MRSA §2001-A is enacted to read:

§2001-A. Scope

This chapter applies exclusively to transactions when this State is the home state of the applicant or insured. Nothing in this chapter applies to the sale, solicitation, negotiation, placement or writing of contracts of insurance for any applicant or insured whose home state is in a jurisdiction other than in this State.

Sec. 2. 24-A MRSA §2002-A, sub-§3, as amended by PL 1997, c. 592, §48, is further amended to read:

3. Producers with surplus lines authority may procure the following kinds of insurance from eligible surplus lines insurers without adherence to the procedures set forth in section 2004 or any other requirement to determine whether the full amount or type of insurance sought can be obtained from admitted insurers:

A. Wet marine and transportation insurance;

B. Insurance on subjects located, resident or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this State;

C. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations; ~~or~~

D. Insurance on aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability other than workers' compensation and employer's liability arising out of the ownership, maintenance or use of such aircraft~~.~~; or

E. Insurance placed by a producer with surplus lines authority for an exempt commercial purchaser if:

(1) The producer has disclosed to the exempt commercial purchaser that such insurance

may or may not be available from the admitted market that provides greater protection with more regulatory oversight; and

(2) The exempt commercial purchaser has subsequently requested in writing for the producer to procure or place such insurance from a nonadmitted insurer.

Sec. 3. 24-A MRSA §2003, as amended by PL 1997, c. 592, §49, is further amended to read:

§2003. Definitions

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

1. "Producer" ~~as used in this chapter and unless context otherwise requires,~~ means a producer with surplus lines authority duly licensed as such under this chapter.

2. To "export" means to place insurance in ~~an unauthorized~~ a nonadmitted insurer under this Surplus Lines Law ~~insurance covering a subject of insurance resident, located or to be performed in Maine~~.

3. "Admitted insurer" means an insurer licensed to engage in the business of insurance in this State.

4. "Affiliate" means, with respect to an insured, any entity that controls, is controlled by or is under common control with the insured.

5. "Affiliated group" means any group of affiliates.

6. "Exempt commercial purchaser" means an exempt commercial purchaser as defined by the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 527.

7. "Home state" means:

A. With respect to an insured:

(1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(2) If 100% of the insured risk is located out of the state referred to in subparagraph 1, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated; or

B. With respect to an affiliated group, if more than one of the insureds from an affiliated group are named insureds on a single nonadmitted insurance contract, the home state, as determined pursuant to paragraph A, of the member of the affiliated group that has the largest percentage of premium attributed to it under that insurance contract.

8. "Nonadmitted insurance" means any property and casualty insurance permitted to be placed through a surplus lines broker with a nonadmitted insurer eligible to accept that insurance.

9. "Nonadmitted insurer" means an insurer not licensed to engage in the business of insurance in this State. "Nonadmitted insurer" does not include a risk retention group, as that term is defined in section 6093, subsection 13.

Sec. 4. 24-A MRSA §2007, as amended by PL 1997, c. 592, §54, is further amended to read:

§2007. Eligible surplus lines insurers

1. A producer may not knowingly place surplus lines insurance with an insurer that is unsound financially or that is ineligible under this section.

2. The superintendent shall from time to time publish a list of all surplus lines insurers determined by the superintendent to be eligible currently, and shall mail a copy of such list to each producer at the producer's office last of record with the superintendent. This subsection may not be construed to cast upon the superintendent the duty of determining the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the superintendent, may indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the superintendent has no credible evidence to the contrary. While any such list is in effect, the producer shall restrict to the insurers so listed all surplus lines business placed by the producer.

3. The superintendent shall approve a United States insurer's request for eligibility if the insurer:

A. Is authorized to write such insurance in its domiciliary jurisdiction;

B. Has established satisfactory evidence of good repute and financial integrity; and

C. Maintains capital and surplus, or its equivalent under the laws of its state of domicile, in an amount at least equal to the greater of:

(1) The minimum capital and surplus that would be required if the insurer were licensed in this State; and

(2) $15,000,000.

4. The superintendent may list an insurer as eligible if it does not meet the minimum capital and surplus requirements of subsection 3 upon an affirmative finding of acceptability by the superintendent. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry. The superin-

tendent may not make an affirmative finding of acceptability if the nonadmitted insurer's capital and surplus is less than $4,500,000.

5. A non-United States insurer is considered eligible to write insurance on an unauthorized basis in this State if it is listed on the quarterly listing of alien insurers maintained by the National Association of Insurance Commissioners.

Sec. 5. 24-A MRSA §2016, sub-§2, as enacted by PL 1991, c. 674, §1, is repealed.

Sec. 6. 24-A MRSA §2101, sub-§2, ¶E, as amended by PL 1973, c. 625, §141, is further amended to read:

E. The employee, compensated on salary only, of a Maine employer who on behalf of the employer assists in the procurement or administration of insurance coverages on the property, risks and insurable interests of the employer.; or

Sec. 7. 24-A MRSA §2101, sub-§2, ¶F is enacted to read:

F. Transactions outside this State arising from the unsolicited application of the insured, if the transaction is lawful in the jurisdiction in which it occurs and the applicable premium tax has been paid in compliance with Title 36, section 2513.

Sec. 8. 24-A MRSA §2113, as corrected by RR 2001, c. 2, Pt. A, §39, is repealed.

Sec. 9. 36 MRSA §191, sub-§2, ¶PP, as corrected by RR 2009, c. 2, §107, is amended to read:

PP. The disclosure to the Department of Conservation of information contained on the commercial forestry excise tax return filed pursuant to section 2726, such as the landowner name, address and acreage, to facilitate the administration of chapter 367; and

Sec. 10. 36 MRSA §191, sub-§2, ¶QQ, as reallocated by RR 2009, c. 2, §108, is amended to read:

QQ. The disclosure of registration, reporting and payment information to the Department of Agriculture, Food and Rural Resources necessary for the administration of Title 32, chapter 28.; and

Sec. 11. 36 MRSA §191, sub-§2, ¶RR is enacted to read:

RR. The disclosure to tax officials of other states, and to clearinghouses and other administrative entities acting on behalf of participating states, of information necessary for the administration of a multistate agreement entered into pursuant to section 2532.

Sec. 12. 36 MRSA §2513, first ¶, as amended by PL 2009, c. 625, §9, is further amended to read:

Every insurance company or association that does business or collects premiums or assessments including annuity considerations in the State, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year. Every surplus lines nonadmitted insurer that does business or collects premiums in the State shall, for the privilege of doing business in this State and in addition to any other taxes imposed for that privilege, pay a tax upon all gross direct premiums, whether in cash or otherwise, on contracts written on risks located or resident in the State at the rate of 3% a year as provided in section 2531. The producer of those contracts must collect the tax and report and pay the tax to the State Tax Assessor as provided in section 2521-A, except that an insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers. For purposes of this section, the term "annuity considerations" includes amounts paid to an insurance company for the purchase of a contract that may result in an annuity, even if the annuitization never occurs or does not occur until some time in the future and the amounts are in the meantime applied to an investment vehicle other than an annuity. This section does not apply to mutual fire insurance companies subject to tax under section 2517 or to captive insurance companies formed or licensed under Title 24-A, chapter 83 or under the laws of another state.

Sec. 13. 36 MRSA §2519, as repealed and replaced by PL 1973, c. 727, §9, is amended to read:

§2519. Ratio of tax on foreign insurance companies

Any insurance company incorporated by a state of the United States or province of the Dominion of Canada whose laws impose upon insurance companies chartered by this State any greater tax than is herein provided shall pay the same tax upon business done by it in this State, in place of the tax provided in any other section of this Title. If it is not paid as provided in section 2521-A, the Superintendent of Insurance shall suspend the right of said company to do business in this State. Any insurance company incorporated by another country shall be is regarded for the purpose of this section as though incorporated by the state where it has elected to make its deposit and establish its principal agency in the United States. For nonadmitted insurance premiums subject to section 2531, the rate

applied pursuant to this section must be the highest rate that the state or province applies to nonadmitted insurance premiums taxed in that state or province.

Sec. 14. 36 MRSA §2531 is enacted to read:

§2531. Taxation of nonadmitted insurance coverage

1. Generally. All gross direct insurance premiums and annuity considerations paid to insurers that do not have certificates of authority to do business in this State issued by the Superintendent of Insurance pursuant to Title 24-A are subject to taxation in accordance with this section if this State is the insured's home state, as defined in the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 527. This section does not apply to reinsurance premiums paid by an authorized domestic insurer.

2. Rate and incidence of tax. Except as otherwise provided in section 2519 or 2532, the rate of taxation is 3% of the premiums subject to tax under this section. For all coverage placed in accordance with Title 24-A, chapter 19, the tax must be paid by the surplus lines producer. For all other nonadmitted insurance, the tax must be paid by the insured.

3. Returns. Except as otherwise provided in accordance with a multistate agreement entered into pursuant to section 2532, every producer holding surplus lines authority in this State shall file a return and pay the tax due in accordance with section 2521-A and every insured subject to tax in accordance with this section shall file a return and pay the tax due subject to the same requirements as provided in section 2521-A. An insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers and file a single return.

Sec. 15. 36 MRSA §2532 is enacted to read:

§2532. Authority to enter into multistate agreement

1. Authority; multistate agreement. The State Tax Assessor may, after consultation with the Department of Professional and Financial Regulation, Bureau of Insurance, enter into a multistate agreement, in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 521, for the reporting of nonadmitted insurance premiums and the collection and allocation of nonadmitted insurance taxes. For any nonadmitted insurance premiums that are subject to taxation by this State and interstate allocation of taxes in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 521, the rate of taxation on each participating state's share of the premium must be that state's applicable nonadmitted insurance premium tax rate.

2. Fiscal analysis; consultation. The State Tax Assessor may not enter into a multistate agreement pursuant to subsection 1 unless the assessor has:

A. Completed a fiscal analysis of the impact of the agreement that examines the expected effects on the State's gross receipt of premium tax; and

B. Concluded, after consultation with representatives of surplus lines insurers, admitted insurers and surplus lines producers, that entering into the agreement:

(1) Is in this State's financial best interest;

(2) Does not significantly increase administrative burden and cost to the State, surplus lines insurers and insureds; and

(3) Is consistent with the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203.

Sec. 16. Effective date. This Act takes effect July 21, 2011, except that that section of this Act that enacts the Maine Revised Statutes, Title 36, section 2532 takes effect when approved.

Sec. 17. Application. This Act applies to taxes on all premiums received on or after July 1, 2011.

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

Effective June 14, 2011, unless otherwise indicated.

CHAPTER 332

H.P. 181 - L.D. 228

An Act To Revise Notification Requirements for Pesticide Application

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

Sec. 1. 22 MRSA §1471-Z, as amended by PL 2009, c. 584, §2, is repealed.

Sec. 2. 22 MRSA §1471-AA, as enacted by PL 2009, c. 584, §3, is repealed.

Sec. 3. Directive to the Board of Pesticides Control regarding requests for notification of outdoor pesticide applications. The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control, referred to in this section as "the board," shall amend Rule Chapter 28, Section 1 to establish a distance from an aerial application of pesticides within which a person is entitled to receive notification of the application. The rule must allow an owner, lessee or other legal occupant of a sensitive area to make a request for notification and receive

notification of aerial applications of pesticides within 1,000 feet of the sensitive area.

For purposes of this section, "sensitive area" has the same meaning as in the board's Rule Chapter 10. Notwithstanding the Maine Revised Statutes, Title 7, section 610, subsection 6, paragraph B, the amendment to Rule Chapter 28 under this section is routine technical rulemaking as defined in Title 5, chapter 375, subchapter 2-A and must be adopted and in effect no later than January 1, 2012.

See title page for effective date.

CHAPTER 333

H.P. 645 - L.D. 878

An Act To Provide a Temporary License To Operate a Public Dance Establishment

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

Sec. 1. 8 MRSA §161, sub-§7 is enacted to read:

7. Temporary license. Following the transfer of ownership of a building used for public dances licensed under this section, a new owner that applies for a new dancing license for that building may simultaneously apply to the Commissioner of Public Safety for a temporary dancing license. The commissioner may issue a temporary dancing license, which is valid for a period of 60 days or until a decision is made on the application submitted pursuant to subsection 3, whichever is shorter. The fee for a temporary dancing license issued pursuant to this subsection is $25.

See title page for effective date.

CHAPTER 334

H.P. 686 - L.D. 926

An Act To Increase the Credit Toward Payment of Fines Given for Jail Time

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

Sec. 1. 17-A MRSA §1304, sub-§3, ¶A, as amended by PL 2009, c. 608, §11, is further amended to read:

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

(1) Commit the offender to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed one day for every ~~$5~~ $100 of unpaid fine or 6 months, whichever is shorter. An offender committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the offender is in custody, at the rate specified in the court's order. The offender is also given credit for each day that the offender is detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section; or

(2) If the unexcused default relates to a fine imposed for a Class D or Class E crime, as authorized by chapter 53, order the offender to perform community service work, as authorized in chapter 54-C, until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and may not exceed 8 hours for every $25 of unpaid fine or one hundred 8-hour days, whichever is shorter. An offender ordered to perform community service work pursuant to this subparagraph is given credit toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued pursuant to this section at a rate specified in the court's order that is ~~not less than $5~~ up to $100 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this section.

See title page for effective date.

CHAPTER 335

H.P. 1096 - L.D. 1491

An Act To Strengthen the Laws against Driving under the Influence of Drugs

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

Sec. 1. 16 MRSA §357, last ¶, as amended by PL 2009, c. 447, §17, 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 an alcohol level, a detectable urine-drug level ~~and~~, a detectable blood-drug level or a drug concentration of either blood or urine 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 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. 2. 29-A MRSA §2401, sub-§8, as amended by PL 2009, c. 447, §34, is further amended to read:

8. OUI. "OUI" means operating under the influence of intoxicants or with an excessive alcohol level under section 2411, 2453, 2453-A, 2454, 2456, 2457 or 2472.

Sec. 3. 29-A MRSA §2431, sub-§1, as amended by PL 2009, c. 447, §44, is further amended to read:

1. Test results. Test results showing a confirmed positive drug ~~concentration~~ or metabolite presence in blood or urine or 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 alcohol level or confirmed positive drug ~~concentration~~ or metabolite presence, unless the evidence is determined to be not sufficiently reliable.

Sec. 4. 29-A MRSA §2432, as amended by PL 2009, c. 447, §48, is further amended to read:

§2432. Alcohol level; confirmed positive drug or metabolite test results; evidentiary weight

1. Level less than 0.05 grams. If a person has 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 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 an alcohol level in excess of 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~~ admissible evidence, but not prima facie, indicating whether or not that person is under the influence of intoxicants to be considered with other competent evidence, including evidence of a confirmed positive drug or metabolite test result.

3. Level of 0.08 grams or greater. In proceedings other than under section 2411, a person is presumed to be under the influence of intoxicants if that person has an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath.

4. Confirmed positive drug or metabolite concentration level. If a person has a trace amount of any drug or the metabolites of any drug at detectable concentration levels within the person's blood or urine in accordance with the drug reporting rules, standards, procedures and protocols adopted by the Department of Health and Human Services, it is admissible evidence, but not prima facie, indicating whether that person is under the influence of intoxicants to be considered with other competent evidence, including evidence of alcohol level.

Sec. 5. 29-A MRSA §2453-A is enacted to read:

§2453-A. Suspension on administrative determination; operating under the influence of drugs

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 while under the influence of drugs.

2. Report of drug recognition expert. A drug recognition expert certified in accordance with section 2526 who has probable cause to believe that a person was operating a motor vehicle under the influence of a specific category of drug, a combination of specific categories of drugs or a combination of alcohol and one or more specific categories of drugs shall send to the Secretary of State a report, under oath on a form approved by the Secretary of State, of all relevant information, including, but not limited to, the following:

A. Information adequately identifying the person who is the subject of the report; and

B. The grounds the drug recognition expert had for probable cause to believe the person operated

a motor vehicle while under the influence of drugs.

Section 2481, subsections 2 and 3 apply to the report submitted by the drug recognition expert.

3. Drug test. The person who analyzed the drug or its metabolite in the blood or urine of the person who is the subject of the drug recognition expert's report under subsection 2 shall send a copy of a confirmed positive test result certificate to the Secretary of State.

4. Suspension. The Secretary of State shall immediately suspend a license of a person determined to have operated a motor vehicle under the influence of drugs.

5. Period of suspension. The following periods of suspension apply.

A. The same suspension period applies as if the person were convicted for OUI.

B. 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 pursuant to this section prior to the conviction must be deducted from the period of time of a court-imposed suspension.

6. Stay of suspension. 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.

7. Hearing. The scope of the hearing must include whether:

A. The person operated a motor vehicle with a confirmed positive blood or urine test for a drug or its metabolite;

B. There was probable cause to believe that the person was operating a motor vehicle while under the influence of a specific category of drug, a combination of specific categories of drugs or a combination of alcohol and one or more specific categories of drugs; and

C. The person operated a motor vehicle under the influence of the confirmed drug.

8. Restoration of license. 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.

Sec. 6. 29-A MRSA §2472, sub-§3, as amended by PL 2009, c. 447, §58, is further amended to read:

3. Suspension for OUI conviction, certain alcohol level or operating under the influence of drugs. 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 an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath~~.~~; or

C. Operates a motor vehicle under the influence of drugs.

Sec. 7. 29-A MRSA §2472, sub-§4, as amended by PL 2009, c. 447, §60, 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 an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath or while under the influence of a specific category of drug, a combination of specific categories of drugs or a combination of alcohol and one or more specific categories of drugs. The provisions of subchapter 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. 8. 29-A MRSA §2472, sub-§5, as amended by PL 2009, c. 447, §§61 and 62, is further amended to read:

5. Hearing; stay; issues. If a hearing is requested in accordance with section 2483, the suspension under subsection 3, paragraph B or C is stayed pending the outcome of the hearing. The scope of a hearing must include whether:

A. There was probable cause to believe that the person was under 21 years of age and operated a motor vehicle with an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath or while under the influence of a specific category of drug, a combination of specific categories of drugs or a combination of alcohol and one or more specific categories of drugs;

B. The person operated a motor vehicle with an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath or with a confirmed positive blood or urine test for a drug or its metabolite and was under the influence of the confirmed drug; and

C. The person was under 21 years of age.

Sec. 9. 29-A MRSA §2482, sub-§2, ¶C, as amended by PL 2003, c. 434, §34 and affected by §37, is further amended to read:

C. ~~If the suspension or revocation is imposed by an authority other than a court~~ Unless the suspension or revocation is ordered by a court or rests solely upon a conviction or adjudication in court of an offense that is, by statute, expressly made grounds for that suspension or revocation, the right of the person to request a hearing and the procedure for requesting a hearing; and

Sec. 10. 29-A MRSA §2482, sub-§2, ¶F, as amended by PL 2009, c. 447, §64, is further amended to read:

F. If the suspension or revocation is based on a report under section 2453-A or 2481, that a copy of the report of the law enforcement officer and any alcohol test certificate and the confirmed positive drug or metabolite test result and the report of the drug recognition expert will be provided to the person upon request to the Secretary of State.

Sec. 11. 29-A MRSA §2502, sub-§1, as amended by PL 2001, c. 511, §7, is further amended to read:

1. Issuance of special license. Following the expiration of the total period of suspension imposed on a first-time offender pursuant to Title 15, section 3314 or sections 2411, 2453, 2453-A, 2472 and 2521, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program pursuant to Title 5, section 20073-B. First offenders who have registered for the completion of treatment programs as described in Title 5, section 20072, subsection 2 are entitled to receive a special license after completion of 3 treatment sessions provided by a counselor or agency approved by the Office of Substance Abuse. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

Sec. 12. 29-A MRSA §2503, sub-§1, as amended by PL 1997, c. 737, §21, is further amended to read:

1. Administrative suspension; work-restricted license. On receipt of a petition for a work-restricted license from a person under suspension pursuant to section 2453, section 2453-A or section 2472, subsection 3, paragraph B or C for a first offense, the Secretary of State may stay a suspension during the statutory suspension period and issue a work-restricted license, if the petitioner shows by clear and convincing evidence that:

A. As determined by the Secretary of State, a license is necessary to operate a motor vehicle:

(1) Between the residence and a place of employment or in the scope of employment, or both; or

(2) Between the residence and an educational facility attended by the petitioner if the suspension is under section 2472, subsection 3, paragraph B or C for a first offense;

B. No alternative means of transportation is available; and

C. The petitioner has not, within 10 years, been under suspension for an OUI offense or pursuant to section 2453 or 2453-A.

Sec. 13. 29-A MRSA §2508, sub-§1, as amended by PL 2009, c. 482, §1, is further amended to read:

1. Installation of ignition interlock device. Notwithstanding the periods of suspension pursuant to section 2411 or 2451, subsection 3, the Secretary of State may reinstate the license of a person convicted of more than one violation of section 2411 or whose license is suspended by the Secretary of State pursuant to section 2453 or 2453-A if the person satisfies all other conditions for license reinstatement and installs an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates, under the following conditions.

A. The license of a person with 2 OUI offenses may be reinstated after 9 months of the suspension period has run if the person has installed for a period of 2 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

B. The license of a person with 3 OUI offenses may be reinstated after 3 years of the suspension period has run if the person has installed for a period of 3 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

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

Sec. 14. 29-A MRSA §2525, sub-§§1 and 2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are further amended to read:

1. Submission to test required. If a drug recognition ~~technician~~ expert has probable cause to believe that a person is under the influence of a specific cate-

gory of drug, a combination of specific categories of drugs or a combination of alcohol and one or more specific categories of drugs, that person must submit to a blood or urine test selected by the drug recognition ~~technician~~ expert to confirm that person's category of drug use and determine the presence of the drug ~~concentration~~.

2. Admissibility of evidence. If a law enforcement officer certified as a drug recognition ~~technician~~ expert by the Maine Criminal Justice Academy conducts a drug impairment assessment, the officer's testimony about that assessment is admissible in court as evidence of operating under the influence of intoxicants. Test results showing a confirmed positive drug or metabolite in the blood or urine are admissible as evidence of operating under the influence of intoxicants. Failure to comply with any provision of this section does not, by itself, result in the exclusion of evidence of test results, unless the evidence is determined to be not sufficiently reliable.

Sec. 15. 29-A MRSA §2526, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2526. Drug recognition experts

1. Training program. The board of trustees of the Maine Criminal Justice Academy shall establish:

A. A program that meets the National Highway Traffic Safety Administration guidelines for training and certification of drug recognition ~~technicians~~ experts; and

B. Eligibility standards for admission of law enforcement officers to the program that are consistent with National Highway Traffic Safety Administration guidelines and that ensure that trainees are:

(1) Law enforcement officers who have demonstrated proficiency and experience in standardized field sobriety testing and the ability to complete the training and function as drug recognition ~~technicians~~ experts; and

(2) Employed by law enforcement agencies that have the facilities, equipment and other resources necessary for the effective functioning of drug recognition ~~technicians~~ experts.

2. Selection of trainees. The Commissioner of Public Safety shall select for training as drug recognition ~~technicians~~ experts members of the State Police and other law enforcement officers who meet the eligibility requirements.

3. Qualifications. Only those law enforcement officers who successfully complete the training and certification program established under this section may conduct drug impairment assessments and offer testimony as drug recognition ~~technicians~~ experts under section 2525.

See title page for effective date.

CHAPTER 336

H.P. 774 - L.D. 1040

An Act To Amend the Maine Juvenile Code

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

Sec. 1. 15 MRSA §1004, as amended by PL 2007, c. 552, §1, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229, post-conviction review proceedings under sections 2121 to 2132, probation revocation proceedings under Title 17-A, sections 1205 to 1207, supervised release revocation proceedings under Title 17-A, section 1233 or administrative release revocation proceedings under Title 17-A, sections 1349 to 1349-F, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively. This chapter does not apply to a person arrested for a juvenile crime as defined in section 3103 or a person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103.

Sec. 2. 15 MRSA §3206, as amended by PL 2005, c. 507, §8, is further amended to read:

§3206. Detention of juveniles

A person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103 is not subject to chapter 105-A and may not be detained unless a juvenile community corrections officer has been notified within 2 hours after the person's arrest and the juvenile community corrections officer or attorney for the State has approved the detention. Section 3203-A, subsection 7, paragraphs A and B governing the facilities in which juveniles may be detained apply to any detention of such a juvenile following arrest and section 3203-A, subsection 7, paragraph C applies to the

decision whether to release or further detain the juvenile.

Sec. 3. 15 MRSA §3305, first ¶, as amended by PL 1989, c. 741, §14, is further amended to read:

An answer to a petition need not be entered by a juvenile or by the juvenile's parents, guardian or legal custodian. A juvenile may enter an answer admitting the allegations of the petition, in accordance with Rules 11 and 11A, Maine Rules of Criminal Procedure, except that, if the case has been continued for investigation and for a bind-over hearing pursuant to section 3101, subsection 4, paragraph A, the court may not accept an answer to the petition until the court has conducted a bind-over hearing and has decided to retain jurisdiction of the juvenile in the Juvenile Court or until the prosecuting attorney has withdrawn the request to have the juvenile tried as an adult.

Sec. 4. 15 MRSA §3310, sub-§7 is enacted to read:

7. Default judgment on certain juvenile crimes. If a juvenile fails to appear in response to a juvenile summons served pursuant to section 3304 for a juvenile crime described in section 3103, subsection 1, paragraph B or C, the judge may enter the juvenile's default, adjudicate that the juvenile has committed the juvenile crime alleged and impose a fine pursuant to section 3314, subsection 1, paragraph G. For good cause shown, the court may set aside the default and adjudication.

See title page for effective date.

CHAPTER 337

H.P. 484 - L.D. 654

An Act To Amend the Occupational Disease Reporting Laws

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

Sec. 1. 22 MRSA §1493, as enacted by PL 1985, c. 452, §1 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§1493. Duties of health care providers, health care facilities and medical laboratories

All ~~physicians or hospitals~~ health care providers, health care facilities and medical laboratories shall report to the Department of Health and Human Services all persons diagnosed as having an occupational disease no later than 30 days from the date of diagnosis or from discharge from a hospital. The report ~~shall~~ must include any factor known to the physician ~~which~~ that is suspected of being a contributing factor to the disease, including, but not limited to, whether or not the person smokes and, if so, the frequency of smoking.

A ~~physician~~ health care provider, health care facility or medical laboratory, upon notification by the Department of Health and Human Services, shall report to the department any further information requested by the department concerning any person now or formerly under ~~his~~ its care~~,~~ diagnosed as having or having had an occupational disease.

~~No physician or hospital~~ A health care provider, health care facility or medical laboratory complying with the reporting requirements of this section ~~may be~~ is not liable for any civil damages as a result of those acts.

Sec. 2. 22 MRSA §1494, as enacted by PL 1985, c. 452, §1, is repealed and the following enacted in its place:

§1494. Confidentiality

Unless otherwise authorized by section 42, subsection 5, the department may not release any information described in section 1493 regarding reporting of occupational diseases if that information identifies persons with occupational diseases directly or indirectly. The department may disclose information that relates to the site of employment to the Department of Labor, Bureau of Labor Standards if the disclosure contains only the information necessary to advance the public health and does not directly identify an individual having an occupational disease.

All other information submitted pursuant to this chapter may be made available to the public.

See title page for effective date.

CHAPTER 338

S.P. 365 - L.D. 1244

An Act Regarding Payment of Medical Fees in the Workers' Compensation System

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

Sec. 1. 39-A MRSA §206, sub-§14, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

14. Employer not liable. An employer is not liable under this Act for charges for health care services to an injured employee in excess of those established under section ~~209~~ 209-A, except upon petition as provided. The board shall allow charges in excess of those provided under section ~~209~~ 209-A against the employer if the provider satisfactorily demonstrates to the board that the services were extraordinary or that the

provider incurred extraordinary costs in treating the employee as compared to those reasonably contemplated for the services provided.

Sec. 2. 39-A MRSA §208, sub-§2, ¶E, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

E. A health care provider may not charge the insurer or self-insurer an amount in excess of the fees prescribed in section ~~209~~ 209-A for the submission of reports prescribed by this section and for the submission of any additional records.

Sec. 3. 39-A MRSA §209, as amended by PL 2007, c. 240, Pt. JJJ, §5 and c. 311, §2, is repealed.

Sec. 4. 39-A MRSA §209-A is enacted to read:

§209-A. Medical fee schedule

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

A. "Ancillary services and products" means those services and products that are necessary but peripheral to the medical procedure.

B. "Medical fee schedule" means a list of medical procedures and the medical codes used and fees charged for those medical procedures.

2. Medical fee schedule. In order to ensure appropriate limitations on the cost of health care services while maintaining broad access for employees to health care providers in the State, the board shall adopt rules that establish a medical fee schedule setting the fees for medical and ancillary services and products rendered by individual health care practitioners and health care facilities in accordance with the following:

A. The medical fee schedule for services rendered by individual health care practitioners must reflect the methodology underlying the federal Centers for Medicare and Medicaid Services resource-based relative value scale;

B. The medical fee schedule for services rendered by health care facilities must reflect the methodology and categories set forth in the federal Centers for Medicare and Medicaid Services severity-diagnosis related group system for inpatient services and the methodologies and categories set forth in the federal Centers for Medicare and Medicaid Services ambulatory payment classification system for outpatient services; and

C. The medical fee schedule must be consistent with the most current medical coding and billing systems, including the federal Centers for Medicare and Medicaid Services resource-based relative value scale, severity-diagnosis related group system, ambulatory payment classification system and healthcare common procedure coding system; the International Statistical Classification of Diseases and Related Health Problems report issued by the World Health Organization and the current procedural terminology codes used by the American Medical Association.

3. Annual updates. Notwithstanding Title 5, chapter 375, subchapter 2, the executive director of the board shall annually update the medical fee schedule developed pursuant to subsection 2. In order to facilitate the update, the executive director annually shall obtain from the Maine Health Data Organization the average total payments, including professional, facility, ancillary and patient cost-sharing contribution, across all providers in the Maine Health Data Organization database for the medical and ancillary services and products most commonly rendered during the immediately preceding calendar year under this Part.

4. Reimbursement rate if medical fee schedule not established or updated. If the board fails to adopt rules that establish a medical fee schedule in accordance with subsection 2 by December 31, 2011 or the executive director fails to annually update the medical fee schedule in accordance with subsection 3, the reimbursement rate for medical services is 105% of the private 3rd-party payor average payment rate for the provider or the amount agreed to in writing by the provider and the insurance company or self-insured employer prior to the rendering of service by the provider. For purposes of this subsection, "reimbursement rate for medical services" means the total payment allowed for the medical and ancillary services and products, including any amount to be paid by a 3rd-party payor and the amount to be paid by the patient to satisfy a copayment, deductible or coinsurance obligation.

5. Periodic updates to the medical fee schedule. In addition to the annual updates to the medical fee schedule required by subsection 3, the board shall undertake a comprehensive review of the medical fee schedule once every 3 years beginning in 2014. The board shall consider the following factors in setting or revising the medical fee schedule as required by this section:

A. The private 3rd-party payor average payment rates obtained from the Maine Health Data Organization pursuant to subsection 3;

B. Any material administrative burden imposed on providers by the nature of the workers' compensation system; and

C. The goal of maintaining broad access for employees to all individual health care practitioners and health care facilities in the State.

6. Associated services fee schedule. The board shall adopt rules that establish a fee schedule or other standards of reimbursement for providers regarding

administrative, case management, medical and legal and other activities unique to the treatment of injured workers in the workers' compensation system.

7. MaineCare reimbursement. MaineCare must be paid 100% of any expenses incurred for the treatment of an injury of an employee under this Title.

Sec. 5. Rulemaking; report to Legislature. The Workers' Compensation Board shall adopt rules to establish a medical fee schedule addressing services provided by both individual health care practitioners and health care facilities no later than December 31, 2011. Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The executive director of the board shall report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development on the establishment of the medical fee schedule required by Title 39-A, section 209-A no later than February 15, 2012.

See title page for effective date.

CHAPTER 339

S.P. 441 - L.D. 1427

An Act To Amend Seasonal Licenses for the Operation of Beano or Bingo Games

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

Sec. 1. 17 MRSA §315, as enacted by PL 1975, c. 307, §2, is repealed and the following enacted in its place:

§315. Seasonal licenses

Notwithstanding sections 314 and 319, the Chief of the State Police may issue up to 10 seasonal licenses to operate beano or bingo games in a calendar year, including those designed to attract players under 16 years of age, in bona fide resort hotels as long as the conditions prescribed by this section are met. For the purposes of this section, "resort hotel" means a full-service hotel facility that offers leisure or recreational activities such as golf, tennis, water sports or horseback riding.

1. Operated on-site. The beano or bingo games must be operated and conducted in those resort hotels by the management without profit and solely for the entertainment of registered guests or patrons of that resort hotel.

2. Player fee prohibited. A licensee under this section may not charge an entry fee or any fee to participate in a beano or bingo game.

3. Minors. Prizes awarded for the play of beano or bingo under this section must be nonmonetary and valued at less than $10 and may be awarded to a single player no more than once every 24 hours. Notwithstanding section 319, a person under 16 years of age may be admitted to the playing area without an adult and may participate in the game as long as the game is not conducted in a room or area where alcoholic beverages are served. Beano or bingo games under this section may not be conducted with any other gambling activity, including games of chance under chapter 62. For purposes of this subsection, "nonmonetary prize" includes a credit for food served on the premises of the resort hotel.

The fee for a license issued pursuant to this section is $10 and must be paid to the Treasurer of State to be credited to the General Fund. A hotel or liquor license of a resort hotel licensee may not be withheld because of the conducting by the resort hotel of beano or bingo games.

Nothing in this section permits the operation or conduct of beano or bingo games without a license.

See title page for effective date.

CHAPTER 340

H.P. 513 - L.D. 685

An Act To Support Farm Programs at Department of Corrections Facilities

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

Sec. 1. 34-A MRSA §1403, sub-§7, as enacted by PL 1983, c. 724, is amended to read:

7. Establishment of farm programs and gravel mining programs to support farm programs at correctional facilities. The commissioner may establish a farm program at each correctional facility for the purposes of producing agricultural and farm products and teaching prisoners and juvenile clients cultivation and gardening techniques. The commissioner may also establish a gravel mining program at any correctional facility sited on land that contains sufficient gravel for the purpose of supporting the farm programs.

A. Products from ~~those~~ farm programs ~~shall~~ under this subsection must be used by correctional facilities. If a surplus exists, it may be:

(1) Sold or distributed to other state, county or local governmental entities;

(2) Exchanged with other state, county or local governmental entities for services or other goods; ~~or~~

(3) Sold to or exchanged with private Maine businesses.; or

(4) Sold to or exchanged with community agencies as defined in section 1206, subsection 1.

B. The revenue generated by the sale of those farm products shall under this subsection must be deposited in a special account. This account shall does not lapse at the end of a fiscal year but may must be carried forward from year to year. If the amount in the fund exceeds $100,000, the excess in the account shall be transferred to the General Fund.

C. These The funds in this the special account under paragraph B may be expended to implement and maintain farm programs in correctional facilities. These expenditures include, but are not limited to, the purchase of necessary materials and equipment, construction, administrative costs and employee salaries.

D. The commissioner may establish, for the purpose of supporting farm programs at correctional facilities by generating additional revenue for the special account under paragraph B, a gravel mining program at any correctional facility sited on land that contains sufficient gravel. The commissioner shall determine the amount of gravel to be mined. Gravel not used by correctional facilities may be sold, distributed or exchanged in the same manner as farm products pursuant to paragraph A. In addition to the expenditures allowed by paragraph C, the revenue generated from a gravel mining program may be expended to implement and maintain gravel mining programs in correctional facilities.

Sec. 2. 34-A MRSA §1403, sub-§9, ¶A, as enacted by PL 1985, c. 821, §21, is amended to read:

A. The program may make services and goods available for use by correctional facilities or for purchase by other state, county or local governmental entities, private businesses in the State, community agencies, as defined in section 1206, subsection 1, or the public.

See title page for effective date.

CHAPTER 341

H.P. 1029 - L.D. 1400

An Act To Address Certain Aspects of Bail

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

Sec. 1. 15 MRSA §1003, sub-§3-A is enacted to read:

3-A. Crime involving domestic violence. "Crime involving domestic violence" means:

A. As defined in Title 17-A, a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; and

B. A violation of a protective order under Title 19-A, section 4011, the alleged victim of which is a family or household member as defined in Title 19-A, section 4002, subsection 4.

Sec. 2. 15 MRSA §1023, sub-§4, as repealed and replaced by PL 2001, c. 686, Pt. A, §1, is amended to read:

4. Limitations on authority. A bail commissioner may not:

A. Set preconviction bail for a defendant confined in jail or held under arrest by virtue of any order issued by a court in which bail has not been authorized;

B. Change bail set by a court; or

C. In a case involving domestic violence, set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the district attorney responsible prosecutorial office, a jail employee or other law enforcement officer:

(1) A brief history of the alleged abuser;

(2) The relationship of the parties;

(3) The name, address, phone number and date of birth of the victim; and

(4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation.;

D. Set preconviction bail for a violation of condition of release pursuant to section 1092, except as provided in section 1092, subsection 4; or

E. Set preconviction bail using a condition of release not included in every order for pretrial release without specifying a court date within 8 weeks of the date of the bail order.

Sec. 3. 15 MRSA §1092, sub-§4 is enacted to read:

4. Limitations on authority of bail commissioner to set preconviction bail. A court may, but a bail commissioner may not, set bail for a defendant granted preconviction bail who has been arrested for an alleged violation of this section if:

A. The condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above or for a Class D or Class E crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12;

B. The underlying crime for which preconviction bail was granted is classified as Class C or above; or

C. The underlying crime for which preconviction bail was granted is a crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12.

If a bail commissioner does not have sufficient information to determine whether the violation of the condition of release meets the criteria set forth under this subsection, the bail commissioner may not set bail on the violation of the condition of release.

Sec. 4. 15 MRSA §1095, sub-§2, as amended by PL 1997, c. 543, §22, is further amended to read:

2. Arrest. ~~A~~ Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. ~~If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new charged crimes in accordance with this chapter.~~ A defendant under arrest pursuant to ~~subsection 1 or~~ this ~~subsection~~ section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

Sec. 5. 15 MRSA §1098, sub-§2, as enacted by PL 1995, c. 356, §19, is amended to read:

2. Arrest. ~~A~~ Prior to the filing of a motion to revoke a defendant's post-conviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. ~~If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter.~~ A defendant under arrest pursuant to this ~~subsection~~ section must be brought before a judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

Sec. 6. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2009, c. 142, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;

(5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;

(6) Theft as defined in section 357, when the value of the services is $1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A;

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;

(14) A violation of a sex offender registration provision under Title 34-A, chapter 15;

(15) A violation of a requirement of administrative release when requested by the attorney for the State;

(16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;

(17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;

(18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;

(19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;

(20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, sections 3810 and 4112 when requested by a juvenile community corrections officer; ~~or~~

(21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer; ~~and~~

(22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;

(23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A; or

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; and

See title page for effective date.

CHAPTER 342

H.P. 1122 - L.D. 1528

An Act To Amend the Election Laws and Other Related Laws

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

Sec. 1. 1 MRSA §353, as amended by PL 2009, c. 538, §1, is further amended to read:

§353. Explanation of proposed amendments and statewide referenda

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each direct initiative, bond issue, constitutional resolution or statewide referendum that may be presented to the people ~~and that must include any information prepared by the Treasurer of State under Title 5, section 152~~. ~~The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, the~~ 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 of each measure that may appear on the ballot, within the following time frames: for a direct initiative, within 15 business days after ~~the receipt of the application and full text of the proposed law by~~ the applicant has given consent to the Secretary of State for the final language of the proposed law; and for a statewide referendum, bond issue or constitutional resolution, within 30 days after adjournment of the legislative session in which the measure was passed. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution ~~or~~, statewide referendum, direct initiative or bond issue will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the State to local units of government.

Sec. 2. 1 MRSA §354, as enacted by PL 2005, c. 316, §2, is amended to read:

§354. Public comment on proposed amendments and statewide referenda; rules; fees

The Secretary of State shall adopt rules regarding the publication of public comment by proponents and opponents of direct initiatives, bond issues, constitutional resolutions or statewide referenda. These rules must include, but are not limited to, a word limit, the labeling of public comment as supporting or opposing a measure and the identification of the person or persons responsible for the comment. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning with the November 2006 election and every election thereafter, the Secretary of State shall publish the public comment, along with the explanatory statement and fiscal estimate required under section 353, on a publicly accessible site on the Internet and in pamphlets distributed to the municipalities of the State. A person filing a public comment for publication shall pay a fee of $500 to the Secretary of State. Fees collected pursuant to this section must be deposited in the Public Comment Publication Fund established under Title 5, section 90-D.

Sec. 3. 5 MRSA §152, as amended by PL 2007, c. 515, §1, is further amended to read:

§152. Ratification of bond issue; signed statement

In accordance with the Constitution of Maine, Article IX, section 14, the Treasurer of State shall prepare a signed statement, called the Treasurer's Statement, to accompany any question submitted to the electors for ratification of a bond issue setting forth the total amount of bonds of the State outstanding and unpaid, the total amount of bonds of the State authorized and unissued and the total amount of bonds of the State contemplated to be issued if the enactment submitted to the electors should be ratified. The Treasurer of State shall also set forth in that statement an estimate of costs involved, including explanation of, based on such factors as interest rates that may vary, the interest cost contemplated to be paid on the amount to be issued, the total cost of principal and interest that will be paid at maturity and any other substantive explanatory information relating to the debt of the State as the Treasurer of State considers appropriate. To meet the requirement that the signed statement of the Treasurer of State accompany any ballot question for ratification of a bond issue, the statement may be printed on the ballot or it may be printed as a separate document that is ~~posted in each voting booth on election day and, in the case of absentee voting, the statement must be~~ made available to ~~each voter who votes in the presence of the municipal clerk or provided along with the ballot to each absentee voter who does not vote in the presence of the municipal clerk~~ voters as provided in Title 21-A, sections 605 and 651.

Sec. 4. 21-A MRSA §1, sub-§21, as amended by PL 2007, c. 515, §2, is further amended to read:

21. Incoming voting list. "Incoming voting list" means the printed list of all of the voters in a municipality that is used by election officials at a voting place to record which voters have been issued a ballot at an election. The list must include the following information for each voter and may not include any other information: name; year of birth; residence address; enrollment status; electoral district; voter status, active or inactive; voter record number; designations regarding challenged ballots, absentee ballots or whether a voter needs to show identification before voting; and any special designations indicating uniformed service voters, overseas voters or township voters. The portion of the incoming voting list relating to Address Confidentiality Program participants must be kept under seal and excluded from public inspection. The residence address for any voter whose address has been made confidential pursuant to section 22, subsection 3, paragraph B may not be printed on the incoming voting list, and the words "address is confidential" must be printed on the list instead.

Sec. 5. 21-A MRSA §22, sub-§7 is enacted to read:

7. Incoming voting list. After the incoming voting list is unsealed following the election, the list must be made available for public inspection and copying in accordance with Title 1, section 408.

Sec. 6. 21-A MRSA §23, sub-§7, as amended by PL 1985, c. 383, §1, is further amended to read:

7. Ballots and other election materials. The clerk shall keep the ballots, envelopes and applications from voters who voted by absentee ballot and other election materials listed in section 698 ~~in his~~ other than the incoming voting list in the clerk's office or other secure location under the control of the clerk for 22 months ~~and incoming voting lists for 2 years~~ following the election, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they ~~shall~~ must be kept by ~~him~~ the Secretary of State until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this Title, referenda elections or special legislative elections ~~shall~~ must be kept for 2 months.

Sec. 7. 21-A MRSA §23, sub-§7-A is enacted to read:

7-A. Incoming voting lists. The clerk shall keep the incoming voting lists in the clerk's office for 2 years following the election.

Sec. 8. 21-A MRSA §155, first ¶, as amended by PL 2005, c. 453, §30, is further amended to read:

The registrar shall conditionally accept the registration and enrollment of any person who is 17 years

of age ~~and will attain 18 years of age by the next election,~~ and who is otherwise qualified to be a voter. The conditional registration automatically becomes effective on the person's 18th birthday and the registrant then is eligible to vote.

Sec. 9. 21-A MRSA §337, sub-§2, ¶D, as amended by PL 2003, c. 447, §11, is further amended to read:

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State ~~and must be tried, without a jury, within 10 days of the date of that decision~~. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petitions, unless the applicant's interest is adequately represented by existing parties. The court shall issue a written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

Sec. 10. 21-A MRSA §356, sub-§2, ¶D, as amended by PL 2009, c. 253, §22, is further amended to read:

D. A challenger or a candidate may appeal the decision of the Secretary of State by commencing an action in the Superior Court. This action must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section. This action must be commenced within 5 days of the date of the decision of the Secretary of State ~~and must be tried, without a jury, within 10 days of the date of that decision~~. Upon timely application, anyone may intervene in this action when the applicant claims an interest relating to the subject matter of the petition, unless the applicant's interest is adequately represented by existing parties. The court shall issue its written decision containing its findings of fact and conclusions of law and setting forth the reasons for its decision within 20 days of the date of the decision of the Secretary of State.

Sec. 11. 21-A MRSA §371, as amended by PL 2007, c. 455, §15, is further amended to read:

§371. Candidates for nomination; vacancy

If a candidate for nomination dies, withdraws at least 60 days before the primary or becomes disqualified after having filed the candidate's primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled by a political committee pursuant to section 363. The Secretary of State shall declare the vacancy pursuant to section 362-A. ~~A candidate for nomination may not withdraw less than 60 days before the primary election.~~ Less than 60 days before the primary election, a candidate may withdraw from the primary by providing a written notice to the Secretary of State that the candidate is withdrawing and will not serve if elected. The candidate's name will not be removed from the ballot, but upon receipt of the notice of late withdrawal, the Secretary of State shall instruct the local election officials in the candidate's electoral district to distribute notices with absentee ballots requested after that date and to post a notice at each voting place in the district informing voters that the candidate has withdrawn and that a vote for that candidate will not be counted. Notice of the late withdrawal must also be posted on the Secretary of State's publicly accessible website.

Sec. 12. 21-A MRSA §374-A, sub-§1, ¶A, as amended by PL 1993, c. 447, §4, is further amended to read:

A. Withdraws on or before 5 p.m. of the 2nd Monday in July preceding the general election in accordance with section 367;

Sec. 13. 21-A MRSA §374-A, sub-§3, as enacted by PL 2007, c. 455, §16, is amended to read:

3. Deadline for withdrawal. A candidate for an office on the general election ballot ~~may not~~ must withdraw ~~less than~~ at least 60 days before the general election in order for the candidate's name to be removed from the ballot. Less than 60 days before the general election, a candidate may withdraw from the election by providing a written notice to the Secretary of State that the candidate is withdrawing and will not serve if elected. The candidate's name will not be removed from the ballot, but upon receipt of the notice of late withdrawal, the Secretary of State shall instruct the local election officials in the candidate's electoral district to distribute notices with absentee ballots requested after that date and to post a notice at each voting place in the district informing voters that the candidate has withdrawn and that a vote for that candidate will not be counted. Notice of the late withdrawal must also be posted on the Secretary of State's publicly accessible website.

Sec. 14. 21-A MRSA §605, as amended by PL 2007, c. 455, §22, is repealed.

Sec. 15. 21-A MRSA §605-A is enacted to read:

§605-A. Instructions

1. For election officials. The Secretary of State shall provide the clerk, registrar and election officials of each municipality with printed instructions and information to assist them in performing the requirements of this Title.

2. For voters. The Secretary of State shall prepare instructional materials and posters and provide them to each municipality to assist voters in registering to vote and in voting.

A. The voting instruction poster must include information on how to mark the ballot, including how to mark a write-in vote; how to replace the ballot if the voter makes a mistake; and how to receive assistance in marking the ballot. It may include other voting information.

B. The voting rights poster or notice must contain information advising prospective registrants and voters of their voting rights.

C. The election penalty poster or notice must contain information regarding penalties for voting law violations.

D. The Treasurer's Statement must be prepared according to Title 5, section 152 to accompany ballots containing any statewide bond issues. The Secretary of State must include written instructions on each referendum ballot that indicate where the voter may view the Treasurer's Statement on the Secretary of State's publicly accessible website.

E. For each referendum ballot, a citizen's guide to the referendum election must be prepared and include the full text of each measure; the Attorney General's explanatory statement prepared under Title 1, section 353; the Treasurer's Statement prepared under Title 5, section 152; the Office of Fiscal and Program Review's estimate of the fiscal impact prepared under Title 1, section 353; and any public comment submitted pursuant to Title 1, section 354. The Secretary of State must post a citizen's guide to the referendum election on the Secretary of State's publicly accessible website and provide a printed copy to each municipality and to each public library in the State.

Each municipality must post the voter instructional materials as described in section 651.

Sec. 16. 21-A MRSA §606, as amended by PL 2007, c. 455, §23, is repealed and the following enacted in its place:

§606. Official ballots

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with official ballots to be used for absentee voting and for voting on election day.

1. Number of ballots furnished. The Secretary of State shall review the number of votes cast at the last election of that type as well as current registration and enrollment statistics in each voting district when determining the number of ballots to be furnished to each municipality. If the clerk believes that extra ballots will be needed, the clerk must request them from the Secretary of State a reasonable time before the election and provide a written justification for the request. The Secretary of State may send the requested number to the clerk and may furnish as many additional ballots as the Secretary of State believes necessary.

2. How packaged. The ballots must be bundled and sealed in units as determined by the Secretary of State. Each package to be shipped must be labeled on the outside with the name of the municipality for which it is intended and indicate that it contains state ballots. If the municipality has more than one voting place or voting district, then each package of ballots for election day must be labeled on the outside to indicate the voting place or voting district for which it is intended.

3. Receipt issued; inspection of ballots by the clerk. Upon receipt of one or more packages of official ballots for an election, the clerk shall use the following process to inspect and verify the contents of the packages.

A. Upon receipt of absentee ballots or blank absentee ballots, the clerk shall open each sealed package and verify that the ballots do not have any errors and that the correct amount of ballots has been received. The clerk shall immediately complete and return the receipt form provided by the Secretary of State, confirming receipt and noting any discrepancies in the type or amount of ballots received. The clerk shall then proceed to issue absentee ballots or blank absentee ballots in response to pending requests.

B. Upon receipt of regular ballots to be used on election day, the clerk shall open, in the presence of one or more witnesses, each sealed package and verify that the ballots do not have any errors and that the correct amount of ballots has been received. The clerk shall immediately complete and return the receipt form provided by the Secretary of State, confirming receipt and noting any discrepancies in the type or amount of ballots received. The clerk may remove ballots to be used for testing electronic tabulating systems or other voting devices and mark them as provided by section 854. The clerk shall complete the clerk's portion of the warden's receipt of ballots and shall then reseal each package of regular ballots and secure each package until election day when it is delivered to the warden at the voting place.

4. Records kept. The Secretary of State shall keep a record of the time when and the manner in which the ballots were furnished to each municipality.

5. Reproducing official ballots. It is unlawful for a person to copy or reproduce an unmarked official

ballot without the express authorization of the Secretary of State.

Sec. 17. 21-A MRSA §609 is enacted to read:

§609. Ballot security materials

The Secretary of State shall furnish each municipality with tamper-proof ballot security containers and locks, which must be used for securing used ballots and other election materials for statewide elections conducted under this Title. If a state-supplied container or lock becomes defective, lost or destroyed, the clerk must apply in writing to the Secretary of State for a replacement. The Secretary of State shall supply or approve a replacement at the expense of the municipality. If a municipality wishes to use a tamper-proof ballot security container to seal municipal election ballots and materials, that municipality must obtain the container and lock at its own expense. For each election, the Secretary of State also must furnish uniquely numbered seals to be used to secure the containers.

Sec. 18. 21-A MRSA §626, sub-§1, as amended by PL 1997, c. 436, §88, is further amended to read:

1. Opening time flexible. The polls must be opened no earlier than 6 a.m. and no later than ~~9 a.m. on election day; except that in municipalities with a population of less than 4,000, the polls must be opened no later than 10:00~~ 8 a.m. on election day~~.~~, except that in municipalities with a population of less than 500, the polls must be opened no later than 10:00 a.m. The municipal officers of each municipality shall determine the time of opening the polls within these limits. The municipal clerk shall notify the Secretary of State of the poll opening times at least 30 days before each election conducted under this Title.

Sec. 19. 21-A MRSA §629, sub-§1, ¶D-1, as amended by PL 2009, c. 538, §8, is repealed.

Sec. 20. 21-A MRSA §629, sub-§3, as amended by PL 1995, c. 459, §52, is further amended to read:

3. Described. Each booth must have within it a pencil or marker without an eraser and a shelf on which a voter may mark a ballot conveniently. An instruction poster provided under section ~~605~~ 605-A, subsection 2 must be securely placed above the shelf to assist the voter. Each booth must have back and side panels large enough to screen the voter from the observation of others.

Sec. 21. 21-A MRSA §631-A, sub-§3 is enacted to read:

3. Change of voting place. If the municipal officers wish to change the location of a voting place, they must apply to the Secretary of State at least 60 days before the next statewide election, unless an emergency exists. The Secretary of State shall design the application form. The Secretary of State must approve the application before the voting place may be changed.

Sec. 22. 21-A MRSA §651, sub-§2, as amended by PL 2009, c. 253, §25, is further amended to read:

2. Election materials distributed and posted. At any time after the materials are received and before the polls are open, the clerk may open the packages or boxes of election materials, break the seals on the packages not marked "ballots," and use the materials for instructional purposes. ~~The election officials shall post one instruction poster in each voting booth and at least one instruction poster outside the guardrail where it is visible to voters before they have voted. The election officials shall also post one set of sample ballots or one set of sample ballot labels for each ballot being used in that voting place, along with one poster of the constitutional resolutions and statewide referenda, outside the guardrail where they are visible to voters. The election officials shall post a list of any declared write-in candidates for that voting district, with the office sought, next to the sample ballot.~~ On election day, the clerk or the election officials must post the voter instructional materials described in section 605-A, if applicable to the election, as follows:

A. In each voting booth: one voting instruction poster prepared under section 605-A; and

B. Outside the guardrail enclosure at each voting place:

(1) At least one voting instruction poster prepared under section 605-A;

(2) One set of sample ballots for each ballot style being used in that voting place;

(3) A list of any declared write-in candidates for that voting district, with the office sought, next to the sample ballots;

(4) One voting rights poster or notice prepared under section 605-A;

(5) One election penalty poster or notice prepared under section 605-A;

(6) One Treasurer's Statement prepared under Title 5, section 152;

(7) One citizen's guide to the referendum election prepared under section 605-A; and

(8) One copy of the Office of Fiscal and Program Review's estimate of the fiscal impact prepared under Title 1, section 353.

Sec. 23. 21-A MRSA §674, sub-§1, ¶D, as repealed and replaced by PL 1993, c. 473, §18 and affected by §46, is repealed.

Sec. 24. 21-A MRSA §674, sub-§1, ¶G is enacted to read:

G. Having been entrusted with another voter's marked ballot, intentionally or knowingly discloses the content of that ballot to another person.

Sec. 25. 21-A MRSA §696, sub-§6, as amended by PL 2009, c. 253, §33, is further amended to read:

6. Rules. The Secretary of State is authorized to adopt rules pursuant to Title 5, chapter 375, subchapter 2-A for determining voter intent based on relevant case law and provisions of this Title. These rules must be used by election officials in tabulating the results of state and local elections and in all recounts conducted pursuant to this Title. A copy of the rules must be included with the instructional materials provided to the clerk, registrar and election officials in each municipality pursuant to section ~~605~~ 605-A, subsection 1 and must be used by the Secretary of State in the training of election officials pursuant to section 505. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 26. 21-A MRSA §698, sub-§2-A, as amended by PL 2005, c. 568, §17, is repealed and the following enacted in its place:

2-A. Used ballots secured. The election officials shall use the tamper-proof ballot security containers described in section 609 to seal the used state ballots, wrapped with their tabulations if hand counted or loose if machine tabulated; spoiled ballots; defective ballots; void ballots; unopened envelopes containing rejected absentee ballots; envelopes containing challenge certificates; and the official tally tape from the electronic tabulating system. The containers must be further secured as follows.

A. Each tamper-proof ballot security container must be locked with a state-supplied lock and sealed with a uniquely numbered seal before leaving the voting place. The lock and seal numbers must correlate with a certificate identifying the person sealing the container and the time of the sealing.

B. Ballots and election materials for municipal elections conducted at the same time as a state election must be sealed separately from state ballots and other state election materials and may not be sealed in the state-supplied tamper-proof ballot security containers. If municipalities wish to use tamper-proof ballot security containers to seal municipal election materials, they must obtain the containers and locks at their own expense.

The sealed tamper-proof ballot security containers of used ballots must remain sealed for at least 2 months after the election, unless the Secretary of State authorizes the clerk to open the containers prior to that date. After 2 months, the clerk shall open the containers in the presence of one or more witnesses and transfer the ballots to other containers for the remainder of the retention period described in section 23. The new containers must be securely sealed.

Sec. 27. 21-A MRSA §698, sub-§3-A is enacted to read:

3-A. Absentee envelopes sealed in separate containers. The election officials shall seal the used absentee envelopes, from which the voted ballots have been removed and counted, with the applicable applications attached, in one or more tamper-proof ballot security containers or other containers separate from the containers with the used or unused ballots. The municipal clerk shall keep these containers of used absentee envelopes sealed for 5 business days after the election or until the time for any recount conducted under section 737-A, contested election or appeal has passed, whichever is longer. At the end of the 5th business day after the election, if the municipal clerk verifies that a recount has not been requested, the municipal clerk shall unseal the containers of used absentee envelopes and keep them in the clerk's office as a public record for the time required for retention of ballots under section 23.

Sec. 28. 21-A MRSA §711, sub-§4 is enacted to read:

4. Authority to open tamper-proof ballot security containers. After giving notice to the state chair of each political party, the Secretary of State may authorize the municipal clerk, in the presence of one or more witnesses and in the presence of the warden and an election clerk from each of the major parties, to open the sealed tamper-proof ballot security containers as described in section 609 holding used ballots to retrieve the incoming voting list or a copy of any election return forms that were improperly sealed in the containers. The Secretary of State also may authorize these election officials to review and make copies of tabulation sheets that would assist in properly reporting or correcting the results recorded on election night, as well as to review machine-tabulated ballots that were hand counted because they were not read by the tabulator or because they contained write-in votes, and to correct errors in the hand tabulation. The clerk must reseal the containers and secure them for the remainder of the time required for retention of ballots under section 23.

Sec. 29. 21-A MRSA §753-B, sub-§9 is enacted to read:

9. Restrictions on absentee voting in presence of clerk. Except as allowed by subsection 5, a municipal clerk may not remove absentee ballots from the municipal office for the purpose of conducting absentee voting in the presence of the clerk except upon

receipt of an application or written request from the voter. The clerk may not be assisted in delivering or providing an absentee ballot by any person who is a candidate or a member of a candidate's immediate family. Assistance includes, but is not limited to, providing transportation to a clerk who is delivering absentee ballots to a voter who is not marking the absentee ballot in the municipal clerk's office.

Sec. 30. 21-A MRSA §854, as amended by PL 1995, c. 459, §106, is further amended to read:

§854. Test of electronic tabulating equipment

The clerk shall have the electronic tabulating equipment tested prior to the polls opening to ascertain that it accurately counts the votes cast for all offices and on all measures. The test must be conducted by processing a preaudited group of ballots marked to record a predetermined number of valid votes for each candidate and on each measure. In the presence of one or more witnesses, the clerk shall clearly mark each ballot used for testing with the word "TEST" across the front side of the ballot in black or blue indelible ink. The test must include one or more ballots that have votes for each office in excess of the number allowed by law in order to test the ability of the electronic tabulating equipment to reject those votes. In this test, valid votes must be assigned to each candidate for an office and for and against each measure. If any error is detected, the cause for the error must be ascertained and corrected and an errorless count must be made and certified by the clerk before the polls open on election day. The test ballots, the hand tally and the tapes generated as a result of the tests must be packed and sealed in a container labeled "Test Ballots." The container must remain sealed ~~until~~ for at least ~~60 days~~ 2 months after the election, unless needed for recount purposes. The tests provided for in this section must be open to the public.

Sec. 31. 21-A MRSA §902, 2nd ¶, as amended by PL 2009, c. 611, §2, is further amended to read:

The petitions must be signed, verified and certified in the same manner as are nonparty nomination petitions under section 354, subsections 3 and 4 and subsection 7, paragraphs A and C. The circulator of a petition must sign the petition and verify the petition by oath or affirmation as described in section 354, subsection 7, paragraph A prior to submitting the petition to the registrar. If the petitions submitted to the registrar are not signed and verified in accordance with this paragraph, the registrar may not certify the petitions and is required only to return the petitions. The clerk or registrar shall keep a log of petitions submitted to the municipal office for verification. The log must contain the title of the petition, the name of the person submitting the petition, the date of submission, the number of petition forms submitted and the date and manner by which the petitions were returned.

Sec. 32. 30-A MRSA §371-B, sub-§3, ¶C, as repealed and replaced by PL 1997, c. 562, Pt. D, §6 and affected by §11, is amended to read:

C. The candidate applies to the Secretary of State for a criminal background investigation; ~~and~~

Sec. 33. 30-A MRSA §371-B, sub-§3, ¶D, as amended by PL 1999, c. 338, §1, is further amended to read:

D. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has:

(1) Met the basic law enforcement training standards under Title 25, section 2804-C; or

(2) Met the basic corrections training standards under Title 25, section 2804-D ~~and has 5 years of supervisory employment experience.~~; and

Sec. 34. 30-A MRSA §371-B, sub-§3, ¶E is enacted to read:

E. The candidate swears to or affirms that the candidate has at least 5 years of supervisory employment experience and submits the name, address and telephone number for the relevant employer or employers.

See title page for effective date.

CHAPTER 343

S.P. 478 - L.D. 1516

An Act To Protect Consumer Information at the Efficiency Maine Trust

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

Sec. 1. 35-A MRSA §10106, sub-§1, ¶A, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

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~~

(3) Contains information about the energy usage profile of an identifiable customer of a transmission and distribution utility in the State or an identifiable customer of a distributor of heating fuel or other energy source; and

(4) Contains the social security number, address, telephone number or e-mail address of a customer that has participated or may participate in a program of the trust; and

See title page for effective date.

CHAPTER 344

H.P. 850 - L.D. 1144

An Act To Repeal Inactive Boards and Commissions

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

Sec. 1. 5 MRSA §82-B, as amended by PL 2009, c. 74, §§5 to 7, is repealed.

Sec. 2. 5 MRSA §12004-G, sub-§26-F, as enacted by PL 2007, c. 318, §1, is repealed.

Sec. 3. 5 MRSA §12004-G, sub-§31-C, as enacted by PL 2007, c. 285, §3, is repealed.

Sec. 4. 5 MRSA §12004-I, sub-§1-B, as enacted by PL 2005, c. 614, §1, is repealed.

Sec. 5. 5 MRSA §12004-I, sub-§4-A, as enacted by PL 1997, c. 752, §3, is repealed.

Sec. 6. 5 MRSA §12004-I, sub-§6-H, as enacted by PL 2007, c. 641, §1, is repealed.

Sec. 7. 5 MRSA §12004-I, sub-§10-A, as enacted by PL 1989, c. 899, §1, is repealed.

Sec. 8. 5 MRSA §12004-I, sub-§13-A, as enacted by PL 2007, c. 342, §1, is repealed.

Sec. 9. 5 MRSA §12004-I, sub-§24-E, as amended by PL 1997, c. 678, §1, is repealed.

Sec. 10. 5 MRSA §12004-I, sub-§57-C, as amended by PL 2003, c. 247, §1, is repealed.

Sec. 11. 5 MRSA §12004-I, sub-§84-A, as amended by PL 2009, c. 481, §1, is repealed.

Sec. 12. 5 MRSA §12004-I, sub-§86, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 13. 5 MRSA §12004-K, sub-§1, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 14. 5 MRSA §12006, sub-§2, as amended by PL 2009, c. 369, Pt. A, §11, 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 30th in the ~~first~~ second regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A ~~during either~~ for both of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the ~~first~~ second regular session of each biennium to repeal those boards.

Sec. 15. 5 MRSA §13171, as corrected by RR 2009, c. 1, §8, is repealed.

Sec. 16. 7 MRSA §216, as corrected by RR 2005, c. 2, §6, is repealed.

Sec. 17. 12 MRSA §1864, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 18. 12 MRSA §6078-A, sub-§3, as enacted by PL 2003, c. 247, §19, is amended to read:

3. Expenditures; purpose. The commissioner may make expenditures from the fund to develop effective and cost-efficient water quality licensing and monitoring criteria, analyze and evaluate monitoring data and process lease applications. The commissioner shall expend the fund amounts in proportion to the amounts of revenue from finfish sources and shellfish sources. ~~In developing a program of expenditures, the commissioner shall consult with the Aquaculture Advisory Council established under Title 5, section 12004-I, subsection 57-C.~~ The commissioner may contract for services privately or under memoranda of agreement with other state agencies.

Sec. 19. 12 MRSA §6080, as amended by PL 2005, c. 92, §9, is repealed.

Sec. 20. 20-A MRSA c. 7, as amended, is repealed.

Sec. 21. 20-A MRSA c. 117, sub-c. 5, as amended, is repealed.

Sec. 22. 20-A MRSA §7802, sub-§7, as enacted by PL 1989, c. 899, §4, is repealed.

Sec. 23. 20-A MRSA §7803, as amended by PL 2007, c. 539, Pt. JJJJ, §6, is repealed.

Sec. 24. 20-A MRSA §7804, as amended PL 2009, c. 147, §§6 and 7, is repealed.

Sec. 25. 22 MRSA §255-A, as enacted by PL 2007, c. 318, §2, is repealed.

Sec. 26. 23 MRSA §1904, as amended by PL 1999, c. 152, Pt. F, §1, is repealed.

Sec. 27. 23 MRSA §1906, sub-§1, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

1. Erection and maintenance. The commissioner~~, with the advice of the Travel Information Advisory Council,~~ shall designate locations for and erect official business directional signs licensed under this chapter. The official business directional signs ~~shall~~ must be furnished and preserved by the applicant ~~thereafter~~ after the erection of the official business directional signs and ~~shall~~ must conform to ~~regulations~~ rules issued by the commissioner ~~with the advice of the Travel Information Advisory Council~~. Such ~~regulations shall~~ rules must be consistent with section 1910.

Sec. 28. 23 MRSA §1909, as repealed and replaced by PL 1981, c. 318, §1, is amended to read:

§1909. Eligibility for official business directional signs

Lawful businesses and points of interest and cultural, historic, recreational, educational and religious facilities are eligible for official business directional signs, subject to this chapter and to rules ~~promulgated~~ adopted by the commissioner ~~with the advice of the Travel Information Advisory Council,~~ and to any federal law, rule or regulation affecting the allocation of federal highway funds or other funds to or for the benefit of the State or any agency or subdivision ~~thereof~~ of the State or any agency.

Sec. 29. 23 MRSA §1910, as amended by PL 1981, c. 576, §4, is further amended to read:

§1910. Types and arrangements of signs

Subject to this chapter, the commissioner~~, with the advice of the Travel Information Advisory Council,~~ shall regulate the size, shape, color, lighting, manner of display and lettering of official business directional signs. A symbol may be specified for each type of eligible service of facility for inclusion upon official business directional signs.

Sec. 30. 23 MRSA §1912-B, last ¶, as enacted by PL 1995, c. 416, §1, is amended to read:

The commissioner~~, with the advice of the Travel Information Advisory Council,~~ shall adopt rules to implement this section. Those rules may not be adopted until March 15, 1996. The commissioner shall report to the Joint Standing Committee on Transportation in January 1996 on the development of those rules.

Sec. 31. 23 MRSA §1925, as amended by PL 1985, c. 785, Pt. B, §104, is further amended to read:

§1925. Administration of chapter

The commissioner shall administer this chapter ~~with the advice of the Travel Information Advisory Council~~. The commissioner may employ, subject to the Civil Service Law, clerical and other assistants required for the administration of this chapter. The commissioner may delegate to personnel of the Department of Transportation the authority to administer this chapter. The commissioner may ~~promulgate~~ adopt rules to administer the various provisions of this chapter that are consistent with the provisions ~~thereof~~ of this chapter. The commissioner may execute contracts and other agreements to carry out the purposes of this chapter.

Sec. 32. 34-A MRSA §3002-A, as amended by PL 1999, c. 770, §§3 to 5, is repealed.

Sec. 33. 37-B MRSA §158, sub-§1, as enacted by PL 2009, c. 481, §6, is repealed.

Sec. 34. 37-B MRSA c. 8-A, as amended, is repealed.

Sec. 35. Transition. Notwithstanding the Maine Revised Statutes, Title 5, section 12006, the Secretary of State shall submit suggested legislation to the Joint Standing Committee on State and Local Government on or before January 30, 2012 to repeal those boards that have not reported on their activities for 2011 to the Secretary of State under Title 5, section 12005-A or 12006 but may not include those boards that report inactivity. The joint standing committee may submit legislation to the Second Regular Session of the 125th Legislature to repeal those boards.

See title page for effective date.

CHAPTER 345

H.P. 1109 - L.D. 1507

An Act Regarding Service Contracts

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

Sec. 1. 24-A MRSA §3, sub-§§2 and 3, as enacted by PL 1997, c. 592, §9, are amended to read:

2. Road or tourist service contract. A road or tourist service contract, other than a contract issued by a licensed insurer, related to the repair, operation and care of automobiles or to the protection and assistance of automobile owners or drivers; ~~and~~

3. Home service contract. A home service contract whereby, for a set fee and specified duration, a person agrees to defray the cost of repair or replacement or provide or arrange for the repair or replacement of all or any part of any structural component,

appliance or system of a home necessitated by wear and tear, deterioration or inherent defect or by failure of an inspection to detect the likelihood of any such loss.; and

Sec. 2. 24-A MRSA §3, sub-§4 is enacted to read:

4. Service contract. A service contract as defined in section 7102, subsection 11.

Sec. 3. 24-A MRSA §601, sub-§29 is enacted to read:

29. Service contract providers and administrators. Service contract provider or administrator annual registration fees may not exceed $200.

Sec. 4. 24-A MRSA c. 89 is enacted to read:

CHAPTER 89

SERVICE CONTRACTS

§7101. Short title; purpose; scope

1. Short title. This chapter may be known and cited as "the Service Contracts Act."

2. Purpose. The purpose of this chapter is to create a legal framework within which service contracts may be sold in this State.

3. Exclusions. The following types of service contracts are exempt from the provisions of this Title, including the other provisions of this chapter:

A. Warranties;

B. Maintenance agreements;

C. Warranties, service contracts or maintenance agreements offered by public utilities on their transmission devices to the extent they are regulated by the Public Utilities Commission;

D. Service contracts sold or offered for sale to persons other than consumers;

E. Service contracts on tangible personal property when the tangible personal property for which the service contract is sold has a purchase price of $100 or less, exclusive of sales tax;

F. Road or tourist service contracts under section 3, subsection 2;

G. Home service contracts under section 3, subsection 3; and

H. Warranties, service contracts and maintenance agreements that are conditioned upon or otherwise associated with the sale or supply of heating fuel.

4. Limited exclusions. The application of this chapter to the following is limited as follows.

A. Service contracts under which a motor vehicle dealer licensed pursuant to Title 29-A, chapter 9 is obligated to perform and that are sold in connection with the sale or service of a motor vehicle as defined in Title 29-A, section 101, subsection 42 are exempt from the requirements of section 7103, subsection 5 but must comply with all other requirements of this chapter.

B. A motor vehicle manufacturer's service contracts on the motor vehicle manufacturer's products must comply only with section 7103, subsection 7; section 7105, subsection 1 and subsections 4 to 13; section 7109; and section 7110, as applicable.

The types of agreements referred to in subsections 3 and 4 and service contracts governed by this chapter are not insurance and are not required to comply with any provision of the insurance laws of this State other than as expressly made applicable in this chapter as long as the service contract provider and administrator have registered with the superintendent as required by section 7103, subsection 4.

§7102. Definitions

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

1. Administrator. "Administrator" means the person who is responsible for the administration of a service contract program or who is responsible for any submission required by this chapter.

2. Consumer. "Consumer" means an individual who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business or research purposes.

3. Maintenance agreement. "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only and does not include repair or replacement.

4. Motor vehicle manufacturer. "Motor vehicle manufacturer" means a person that:

A. Manufactures or produces motor vehicles and sells motor vehicles under its own name or label;

B. Is a wholly owned subsidiary of a person that manufactures or produces motor vehicles;

C. Is a corporation that owns 100% of a person that manufactures or produces motor vehicles;

D. Sells motor vehicles under the trade name or label of another person that manufactures or produces motor vehicles; or

E. Does not manufacture or produce motor vehicles but, pursuant to a written contract, licenses the use of its trade name or label to another person that manufactures or produces motor vehicles and

that sells motor vehicles under the licensor's trade name or label.

5. Nonoriginal manufacturer's parts. "Nonoriginal manufacturer's parts" means replacement parts not made for or by the original manufacturer of the property, commonly referred to as "aftermarket parts."

6. Person. "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.

7. Premium. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

8. Provider. "Provider" means a person who is contractually obligated to a service contract holder under the terms of a service contract.

9. Provider fee. "Provider fee" means the consideration paid for a service contract.

10. Reimbursement insurance policy. "Reimbursement insurance policy" means a policy of insurance, issued to a provider, that provides reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's nonperformance, pays to service contract holders on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

11. Service contract. "Service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or to indemnify for the repair, replacement or maintenance for an operational or structural failure of any motor vehicle or other property due to a defect in materials or workmanship or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service and road hazard protection. Coverage issued by an authorized insurance company pursuant to a personal automobile insurance policy for payment of towing, rental, emergency road service or automobile mechanical breakdown is not a service contract. Service contracts may provide for the repair, replacement or maintenance of property for damage resulting from power surges or interruption. "Service contract" includes a contract or agreement sold for a separately stated consideration for a specific duration that provides for any of the following:

A. The repair or replacement or indemnification for the repair or replacement of a motor vehicle for the operational or structural failure of one or more parts or systems of the motor vehicle brought about by the failure of an additive product to perform as represented;

B. The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards, including, but not limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps;

C. The removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting;

D. The repair of small motor vehicle windshield chips or cracks but not the replacement of the entire windshield; or

E. The repair of damage to the interior components of a motor vehicle caused by wear and tear but that expressly excludes the replacement of any part or component of a motor vehicle's interior.

Notwithstanding any other provision of law, service contracts are not insurance in this State and may not be regulated as insurance except for a contract or agreement providing indemnification for a loss caused by misplacement, theft, collision, fire or other peril typically covered in the comprehensive section of an automobile insurance policy or by a homeowner's policy or a marine or inland marine policy.

12. Service contract holder. "Service contract holder" means a person who is the purchaser or holder of a service contract.

13. Superintendent. "Superintendent" means the Superintendent of Insurance.

14. Tangible net worth. "Tangible net worth" means equity less assets that have no physical existence and depend on expected future benefits for their ascribed value.

15. Warranty. "Warranty" means a warranty made solely by the manufacturer, importer or seller of property or services without consideration that is not negotiated or separated from the sale of the product and is incidental to the sale of the product and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

§7103. Requirements for doing business

1. Administrator. A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of the provider's service contracts and compliance with this chapter. All administrators of service contracts sold in this State shall register with the superintendent as provided in this section.

2. Provision of receipt and copy of contract. A service contract may not be issued, sold or offered for sale in this State unless the provider has:

A. Registered with the superintendent pursuant to this section;

B. Provided a receipt for, or other written evidence of, the purchase of the service contract to the service contract holder;

C. Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

D. Complied with the provisions of this chapter.

3. Sample copy before sale. A provider shall make a complete sample copy of the service contract terms and conditions available for inspection by a consumer prior to the time of sale.

4. Registration. A provider or administrator of service contracts issued, sold or offered for sale in this State shall apply for registration with the superintendent on a form prescribed by the superintendent, providing the registrant's name, full business address, telephone number and contact person and designating an agent in this State for service of process. The registration must be updated by written notification to the superintendent if changes occur in the registration on file.

A. The registrant shall pay to the superintendent a fee as set forth in section 601, subsection 29 upon initial registration and every year thereafter.

B. A registrant whose registration has terminated shall send notice within 15 days as follows:

(1) To all in-force service contract holders, if the registrant is a provider. Such registrant shall also cease issuing new service contracts in this State and may not renew existing service contracts unless authorized by the terms of a run-off plan approved by the superintendent; and

(2) To all providers for which it acts as an administrator, and to all in-force service contract holders of those providers, if the registrant is an administrator. Such registrant shall also cease acting as an administrator as to all service contract programs that it has contracted for in this State.

This section may not be construed to require a provider or administrator to apply for and obtain a license under chapter 16, subchapter 2-A.

5. Provider's obligations. To ensure the performance of the provider's obligations to its service contract holders, the provider shall either:

A. Insure all service contracts under a reimbursement insurance policy filed with the superintendent and issued by an insurer authorized to transact casualty insurance in this State, purchased through a risk retention group registered with the superintendent, or issued pursuant to chapter 19 by an eligible surplus lines insurer that agrees in writing to comply with the terms of this chapter and to submit to the jurisdiction of the superintendent for purposes of enforcing this chapter, as long as such insurer or risk retention group either:

(1) At the time the policy is filed with the superintendent and continuously thereafter:

(a) Maintains surplus as to policyholders and paid-in capital of at least $15,000,000; and

(b) Files annually copies of the insurer's or risk retention group's as audited financial statements, its annual statement under section 423 and the actuarial certification required by and filed in the insurer's state of domicile; or

(2) At the time the policy is filed with the superintendent and continuously thereafter:

(a) Maintains surplus as to policyholders and paid-in capital of at least $10,000,000;

(b) Demonstrates to the satisfaction of the superintendent that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than 3 to 1; and

(c) Files annually copies of the insurer's audited financial statements, its annual statement under section 423 and the actuarial certification required by and filed in the insurer's state of domicile; or

B. Maintains, or together with its parent company maintains, a tangible net worth of at least $100,000,000 and upon request provides the superintendent with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K or Form 20-F annual report filed with the United States Securities and Exchange Commission within the last calendar year or, if the company does not file with the United States Securities and Exchange Commission, a copy of the company's audited financial statements that shows a tangible net worth of the provider or its parent company of at least $100,000,000. If the provider's parent company's Form 10-K or Form 20-F annual report or financial statements are filed to meet the provider's financial stability requirement, the parent company shall agree, on a form approved by the

superintendent, to guarantee the obligations of the provider relating to service contracts sold by the provider in this State.

6. Other financial security requirements. Except for the requirements specified in subsections 4 and 5, other financial security requirements may not be required by the superintendent for providers.

7. Return of service contract. A service contract must require the provider to permit the service contract holder to return the service contract subject to the following conditions.

A. A service contract holder may return a service contract within 20 days of the date the service contract was mailed to the service contract holder or within 10 days of delivery if the service contract is delivered to the service contract holder at the time of sale or within a longer time period permitted under the service contract. Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract prior to its return to the provider, the service contract is void and the provider shall refund to the service contract holder or lienholder if the service contract holder has financed the purchase of the service contract the full provider fee and any sales tax refund required pursuant to state law. The right to void the service contract provided in this subsection is not transferable and applies only to the original service contract purchaser and only if no claim has been made prior to its return to the provider. A monthly penalty equal to 10% of the provider fee outstanding must be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

B. After the time period specified in paragraph A for returning a service contract or if a claim has been made under the service contract within that time period, a service contract holder may cancel the service contract and the provider shall refund to the service contract holder 100% of the unearned pro rata provider fee, less any claims paid. An administrative fee not to exceed 10% of the provider fee paid by the service contract holder may be charged by the provider.

8. Premium taxes. Insurance premium taxes under Title 36, chapter 357 apply as follows.

A. Provider fees collected on service contracts are not subject to premium taxes.

B. Premiums for reimbursement insurance policies are subject to premium taxes.

9. Licensing exemption. Except for the registration requirements in subsection 4, a license or registration is not required under this Title to provide, administer, market, sell or offer to sell service contracts in this State.

10. Insurance laws exemption. The marketing, sale, offering for sale, issuance, making, proposing to make and administration of service contracts by providers and related service contract sellers, administrators and other persons are exempt from all provisions of the State's insurance laws, except as specified in this chapter, as long as a service contract provider or administrator has registered with the superintendent as required by subsection 4. Reimbursement insurance policies are subject to all relevant provisions of this Title to the full extent consistent with this chapter.

§7104. Reimbursement insurance policy

1. Scope of policy. A reimbursement insurance policy insuring service contracts issued, sold or offered for sale in this State must unconditionally obligate the insurer that issued the reimbursement insurance policy to reimburse or pay on behalf of the provider any sums, including the refund of unearned provider fees, the provider is legally obligated to pay directly to the service contract holder or, in the event of the provider's nonperformance, to provide the service that the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

2. Application to insurer. A reimbursement insurance policy must provide that if a covered service is not provided by the provider within 60 days of proof of loss by a service contract holder, or unearned provider fees are not returned within 60 days of a valid refund request, the service contract holder may apply directly to the reimbursement insurance company for reimbursement or performance.

§7105. Required provisions; service contracts

1. Form; language. A service contract marketed, sold, offered for sale, issued, made, proposed to be made or administered in this State must be written, printed or typed in clear and understandable language that is in a font size that is easily readable by a person with average eyesight and must conspicuously disclose the requirements set forth in this section, as applicable. A provider may comply with the font size requirement of this subsection by directing the consumer to a publicly accessible website containing a complete sample of terms and conditions of the service contract.

2. Notice of reimbursement insurance policy. A service contract insured under a reimbursement insurance policy pursuant to section 7103 must contain a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim, including any claim for the return of the unearned portion of the provider fee, within 60 days after proof of loss has been filed, the contract

holder is entitled to make a claim directly against the insurance company." The service contract must also state the name and address of the insurer.

3. Notice when no reimbursement insurance policy. A service contract not insured under a reimbursement insurance policy pursuant to section 7103 must contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider and are not guaranteed under a service contract reimbursement insurance policy."

4. Contact information. A service contract must state the name and address of the provider, the service contract seller and the administrator if different than the provider. A service contract must state the service contract holder's name and address to the extent furnished by the service contract holder. The identities of the service contract seller and service contract holder, to the extent furnished by the service contract holder, are not required to be preprinted on the service contract but may be added to the service contract at the time of sale.

5. Purchase price and terms. A service contract must state the total purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

6. Prior approval. A service contract must conspicuously state the procedure for obtaining prior approval for repair work when prior approval is required and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

7. Deductible amount. A service contract must conspicuously state the existence of any deductible amount, if applicable.

8. Merchandise and services to be provided. A service contract must specify the merchandise and services to be provided and any limitations, exceptions or exclusions.

9. Nonoriginal manufacturer's parts. A service contract covering a motor vehicle must state whether the use of nonoriginal manufacturer's parts is allowed.

10. Transferability. A service contract must state any restrictions governing the transferability of the service contract, if applicable.

11. Cancellation. A service contract must state the terms, restrictions or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder. The provider of the service contract shall mail a written notice to the service contract holder at the last known address of the service contract holder contained in the records of the provider at least 15 days prior to cancellation by the provider. The notice must state the effective date of the cancellation and the reason for the cancellation. If a service contract is cancelled by the provider for a reason other than nonpayment of the provider fee, the provider shall refund to the service contract holder 100% of the unearned pro rata provider fee, less any claims paid. An administrative fee not to exceed 10% of the provider fee paid by the service contract holder may be charged by the provider.

12. Obligations and duties. A service contract must set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow instructions in the owner's manual.

13. Consequential damages. A service contract must state whether the service contract provides for or excludes consequential damages or preexisting conditions, if applicable. A service contract may, but is not required to, cover damage resulting from rust, corrosion or damage caused by a noncovered part or system.

§7106. Record-keeping requirements

1. Provider records. A provider shall keep accurate accounts, books and records concerning transactions regulated under this chapter. The provider's accounts, books and records must include the following:

A. Copies of each type of service contract sold;

B. The name and address of each service contract holder to the extent furnished by the service contract holder;

C. A list of the locations where service contracts are marketed, sold or offered for sale by the provider; and

D. Written claims files, which must contain at least the dates and descriptions of claims related to the provider's service contracts.

2. Retention period. Except as provided in subsection 4, a provider shall retain all records required to be maintained by this section for at least 3 years after the specified period of coverage has expired.

3. Form of records. The records required under this chapter may be, but are not required to be, maintained on a computer disk or other record-keeping medium. If the records are maintained in other than hard copy, the records must be capable of transfer to legible hard copy at the request of the superintendent.

4. Discontinuation of business. A provider discontinuing business in this State shall maintain its records until it furnishes to the superintendent satisfactory proof that it has discharged all obligations to service contract holders in this State.

§7107. Cancellation of reimbursement insurance policy

An insurer that issued a reimbursement insurance policy may not cancel or nonrenew the policy for any reason, including at the request of the policyholder, until the insurer has delivered a notice of such action to the superintendent at least 45 days before such action. The cancellation or nonrenewal of a reimbursement insurance policy does not reduce the insurer's obligations as to service contracts issued by providers prior to the date of cancellation or nonrenewal.

§7108. Obligation of reimbursement insurance policy insurers

1. Receipt of premium; agency. A provider is the agent of the insurer that issued the reimbursement insurance policy for purposes of obligating the insurer to service contract holders in accordance with the service contract and this chapter. When a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers. An insurer issuing a reimbursement insurance policy to a provider is deemed to have received the premiums for such insurance upon the payment of provider fees by consumers for service contracts issued by the insured provider.

2. Indemnification or subrogation. This chapter does not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract.

§7109. Enforcement provisions

1. Investigation and examination by superintendent. The superintendent may conduct investigations and examinations of providers, administrators, insurers or other persons to enforce the provisions of this chapter and protect service contract holders. Upon request of the superintendent, a person subject to this chapter shall make available to the superintendent all accounts, books and records concerning service contracts sold by the provider that are necessary to enable the superintendent to determine compliance or noncompliance with this chapter.

2. Enforcement actions. The superintendent may assess civil penalties or take any other action permitted under section 12-A against any person who violates any provision of this chapter or the superintendent's rules and orders, and nothing in this section may be construed as limiting the superintendent's authority to take enforcement action under section 12-A in connection with violations of applicable provisions of this Title.

3. Refusal of registration, suspension or revocation. The superintendent may suspend, revoke or refuse to accept the registration of a provider under this chapter as set out in this section.

A. The superintendent shall deny an application for registration if the registrant has not demonstrated that it is qualified to do business in accordance with this chapter or for any reason that would be a ground for suspension or revocation of registration.

B. If, upon investigation or examination, the superintendent finds that a person registered under this chapter in this State has exceeded its powers, has failed to comply with any of the provisions of this chapter, is not fulfilling its service contracts in good faith or is conducting its business fraudulently or in a manner injurious to its contract holders or the public, the superintendent shall notify the person of the deficiency or deficiencies and state in writing the reasons that warrant suspension, revocation or refusal of the person's registration. The notice must require that the deficiency or deficiencies be corrected.

After receipt of the notice, the person has 30 days to comply with the superintendent's request for correction, and if the person fails to comply the superintendent shall notify the person of the findings of noncompliance and require the person to show cause, on a date set by the superintendent, why its registration should not be suspended, revoked or refused. If on that date the person does not present good and sufficient reason why its authority to do business in this State should not be suspended, revoked or refused, the superintendent may suspend or refuse the registration of the person to do business in this State until satisfactory evidence is furnished to the superintendent that the suspension or refusal should be withdrawn or the superintendent may revoke the authority of the person to do business in this State.

4. Service of process. A provider and administrator registered under this chapter shall appoint in writing an agent located in the State in the same manner as insurers are required to appoint agents under section 421.

5. Administrative procedures. Any person aggrieved by an order of the superintendent under this chapter may submit an application for a hearing as provided in section 229, upon which the procedures set forth in section 229 apply.

6. Construction; existing contracts. This section may not be construed as preventing any provider from continuing in good faith all service contracts made in this State during the time the provider was legally authorized to transact business in this State.

§7110. Unfair methods of competition; unfair and deceptive acts and practices

1. Prohibited acts and practices. A person may not engage in this State in any act or practice determined by the superintendent to be unfair or deceptive or in any of the following acts or practices in connection with the marketing, sale, offering for sale, issuance, making, proposing to make or administration or solicitation of a service contract.

A. A person may not make, issue, circulate, or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any service contract issued or to be issued or the benefits or advantages promised thereby or make any misleading representation or any misrepresentation as to the financial condition of any provider.

B. A person may not make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication or on a business card, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of service contracts or with respect to any person in the conduct of that person's service contract business in a manner that is untrue, deceptive or misleading.

C. A person may not file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, delivered to any person or placed before the public, any false statement of financial condition of a provider with intent to deceive. A person may not make any false entry in any book, report or statement of any provider with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such person is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such provider.

D. A person may not engage in any of the following service contract claims practices in conscious disregard of this section and any rules adopted under this section or with such frequency as to indicate a general business practice of the person to engage in such conduct:

(1) Knowingly misrepresenting to service contract holders relevant facts or service contract provisions related to coverages at issue;

(2) Failing to acknowledge with reasonable promptness pertinent written communications with respect to claims arising under its service contracts;

(3) Failing to develop and maintain documented claim files supporting decisions made regarding liability;

(4) Refusing to pay claims without conducting a reasonable investigation;

(5) Failing, in the case of claims denials, to provide an accurate explanation of the basis for those actions; or

(6) Failing to adopt and implement reasonable standards to ensure that the repairs of a repairer owned by or required to be used by the provider are performed in a competent and professional manner.

E. A provider may not use in its name the words "insurance," "casualty," "surety," "mutual" or any other words descriptive of the insurance, casualty or surety business or use a name deceptively similar to the name or description of any insurance or surety corporation or to the name of any other provider. The word "guaranty" or a similar word may be used by a provider. This section does not apply to a provider that was using any of the prohibited language in its name prior to January 1, 2012; however, such provider must include in its service contracts a statement in substantially the following form: "This agreement is not subject to regulation as an insurance contract."

F. A person, including but not limited to a bank, savings and loan association, lending institution, manufacturer or seller of any product may not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

G. A provider of a service contract on a motor vehicle or its representative may not, directly or indirectly, represent in any manner, whether by written solicitation or telemarketing, a false, deceptive or misleading statement with respect to:

(1) The provider's affiliation with a motor vehicle manufacturer;

(2) The provider's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty;

(3) The expiration of a motor vehicle owner's current motor vehicle manufacturer's original equipment warranty; or

(4) A requirement that a motor vehicle owner register for a new motor vehicle service contract with the provider in order to maintain coverage under the motor vehicle owner's current motor vehicle service contract or manufacturer's original equipment warranty.

2. Cease and desist order. The superintendent may issue a cease and desist order pursuant to section 12-A, subsection 2 if, after a hearing, the superintendent finds that any person in the State has engaged or is engaging, or that a resident of the State has engaged or is engaging in another state, in an unfair or deceptive practice not described in this chapter or in rules adopted pursuant to this chapter. For any practice not described in this chapter or in rules adopted pursuant to this chapter, the civil penalties set forth in section 12-A, subsection 1 may not be imposed for practice engaged in prior to the issuance and service of a valid cease and desist order.

§7111. Rule-making authority

The superintendent may adopt rules necessary to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§7112. Transition

The exemptions in section 7101, subsection 3 are effective immediately upon the effective date of this chapter and extend to contracts that are already in force. All other service contracts entered into, renewed or offered for sale in this State on or after January 1, 2012 must comply with this chapter. The exemptions in section 7101, subsection 4 apply to all service contracts entered into, renewed or offered for sale on or after the provider's registration date.

Sec. 5. Election before January 1, 2012. A service contract provider may elect to implement the requirements of the Maine Revised Statutes, Title 24-A, chapter 89 before January 1, 2012. If a provider applies for registration with the Superintendent of Insurance on or before December 31, 2011, it may elect to make its in-force contracts subject to the requirements of Title 24-A, chapter 89. If a provider conforms its in-force contracts to the requirements and sends notice to all of its existing contract holders in this State making the required disclosures on or before December 31, 2011, the exemptions in Title 24-A, section 7101, subsection 4 apply to all service contracts entered into, renewed or offered for sale before the provider's registration date.

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

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

Initiative: Allocates funds for costs related to the review of service contract provider or administrator initial and renewal registrations.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$3,159	$4,012
OTHER SPECIAL REVENUE FUNDS TOTAL	$3,159	$4,012

Insurance - Bureau of 0092

Initiative: Allocates funds for one half-time Assistant Insurance Analyst position and related costs to review service contract provider or administrator initial and renewal registrations.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - FTE COUNT	0.500	0.500
Personal Services	$25,600	$38,809
All Other	$1,621	$1,809
OTHER SPECIAL REVENUE FUNDS TOTAL	$27,221	$40,618

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	$30,380	$44,630
DEPARTMENT TOTAL - ALL FUNDS	$30,380	$44,630

Sec. 7. Effective date. This Act takes effect January 1, 2012.

Effective January 1, 2012.

CHAPTER 346

S.P. 490 - L.D. 1540

An Act To Encourage Science, Technology, Engineering and Mathematics 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, according to the United States Department of Labor, Bureau of Labor Statistics projections for labor force needs over the next decade, 18 of the 20 fastest-growing occupations are directly related to knowledge and education in the areas of science, technology, engineering and mathematics; and

Whereas, less than 5% of Maine high school students score at the advanced level in mathematics and less than 15% of Maine's bachelor's degrees are awarded in the areas of science, technology, engineering and mathematics; and

Whereas, it is necessary to enact this legislation immediately in order that the Science, Technology, Engineering and Mathematics Council established in this Act may begin its work in time to make its initial report by January 2012; 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 §12004-C, sub-§8 is enacted to read:

8.

Science, Technology, Engineering and Mathematics Council	Expenses Only	20-A MRSA §11

Sec. 2. 20-A MRSA §11 is enacted to read:

§11. Science, Technology, Engineering and Mathematics Council

1. Establishment; composition. The Science, Technology, Engineering and Mathematics Council, established in Title 5, section 12004-C, subsection 8 and referred to in this section as "the council," consists of the following 16 members:

A. Five ex officio members:

(1) The Commissioner of Education or the commissioner's designee;

(2) The Chancellor of the University of Maine System or the chancellor's designee;

(3) The President of the Maine Community College System or the president's designee;

(4) The President of the Maine Maritime Academy or the president's designee; and

(5) The Commissioner of Labor or the commissioner's designee; and

B. The following 11 members, appointed by the Governor:

(1) A representative from the University of Maine, Maine Center for Research in STEM Education;

(2) A representative who teaches in elementary or middle school;

(3) A representative who teaches science or mathematics in secondary school;

(4) A representative who teaches in a technical school;

(5) A representative of public and private education partnerships;

(6) A representative of a statewide science, technology, engineering and mathematics collaborative;

(7) Two representatives from the business sector who employ workers with training in science, technology, engineering or mathematics;

(8) A representative employed in an industry related to science, technology, engineering or mathematics;

(9) A representative who teaches in an equivalent instruction program that is approved as an alternative to public school as set forth in section 5001-A, subsection 3; and

(10) A representative from the State Board of Education.

2. Terms; vacancy. The members of the council appointed pursuant to subsection 1, paragraph B serve for 2-year terms and serve until their successors are appointed and qualified. On the expiration of a term of any member, a successor must be appointed to a 2-year term. A member of the council is eligible for reappointment to the council. A vacancy in the council does not impair the right of a quorum of the members to exercise all the rights and perform all the duties of the council. In the event of a vacancy occurring in the membership, the Governor shall appoint a replacement member for the remainder of the unexpired term in the same manner as the original appointment was made.

3. Duties. The council shall develop strategies for enhancing science, technology, engineering and mathematics education from prekindergarten through postsecondary education and:

A. Review research that has been conducted on science, technology, engineering and mathematics education in the State and recommend strategic directions for consideration by policymakers as they identify future investments in science, technology, engineering and mathematics;

B. Plan for coordinated state leadership with respect to science, technology, engineering and mathematics education and initiatives;

C. Develop initiatives to promote science, technology, engineering and mathematics education;

D. Devise strategies for promoting career and technical education alignment and supporting early career planning and transition supports from high school to college and to the workforce; and

E. Propose methods for integrating out-of-school programs focused on science, technology, engineering and mathematics with school-based programs, with the goal of inspiring more students to concentrate in the fields of science, technology, engineering and mathematics.

4. Chair; vice-chair. The council shall elect from its membership a chair and a vice-chair. The chair and vice-chair serve for one-year terms. The chair and vice-chair serve until their successors are elected. The chair calls meetings of the council and presides over meetings. The vice-chair serves as the chair in the absence of the chair.

5. Meetings; quorum; subcommittees. The council shall meet at least 2 times each year. The chair shall establish the agenda. A quorum of the council is 9 members. The council may establish subcommittees of no fewer than 3 members.

6. Compensation. Members of the council appointed pursuant to subsection 1, paragraph B are entitled to receive compensation for travel expenses as allowed under Title 5, section 12004-C, subsection 8 while engaged in council activities.

7. Assistance. The Department of Education, the University of Maine System and the Maine Community College System shall jointly provide staff support to the council.

8. Annual report. By January 15th annually, the council shall submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 20-A, section 11, subsection 2, the terms of the 11 initial appointments made in accordance with Title 20-A, section 11, subsection 1, paragraph B are staggered as follows: 6 of the appointees must be appointed for 2-year terms and 5 of the appointees must be appointed for 3-year terms.

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

Effective June 14, 2011.

CHAPTER 347

H.P. 977 - L.D. 1331

An Act To Increase Health Care Quality through the Promotion of Health Information Exchange and the Protection of Patient Privacy

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

Sec. 1. 5 MRSA §19201, sub-§2-B is enacted to read:

2-B. Health care facility. "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to Title 22 that offers health care to persons in this State, including a home health care provider and hospice program. "Health care facility" or "facility" includes a pharmacy licensed pursuant to Title 32.

Sec. 2. 5 MRSA §19203, sub-§9, as amended by PL 1999, c. 512, Pt. B, §2 and affected by §§5 and 6, is further amended to read:

9. Medical records. As part of a medical record when release or disclosure of that record is authorized pursuant to section 19203-D; ~~or~~

Sec. 3. 5 MRSA §19203, sub-§10, ¶B, as amended by PL 1995, c. 319, §1, is further amended to read:

B. A victim-witness advocate authorized by section 19203-F to receive the test results of a person convicted of a sexual crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a victim under section 19203-F, subsection 4~~.~~; or

Sec. 4. 5 MRSA §19203, sub-§11 is enacted to read:

11. Access by health information exchange or other entity. To a statewide health information exchange designated by the State that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow that statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated

statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment.

Sec. 5. 5 MRSA §19203-D, sub-§6 is enacted to read:

6. Access by health information exchange or other entity. Nothing in this section precludes the disclosure of a medical record containing HIV information to a state-designated statewide health information exchange that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility consistent with the rules and regulations contained in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment.

Sec. 6. 22 MRSA §1711-C, sub-§6, ¶A, as corrected by RR 2001, c. 1, §26, is amended to read:

A. To another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provided diagnosis, treatment or care of individuals, as provided in this paragraph.

(1) For a disclosure within the office, practice or organizational affiliate of the health care practitioner or facility, no authorization is required.

(2) For a disclosure outside of the office, practice or organizational affiliate of the health care practitioner or facility, authorization is not required, except that in nonemergency circumstances authorization is required for health care information derived from mental health services provided by:

(a) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;

(b) A psychologist licensed under the provisions of Title 32, chapter 56;

(c) A social worker licensed under the provisions of Title 32, chapter 83;

(d) A counseling professional licensed under the provisions of Title 32, chapter 119; or

(e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

This subparagraph does not prohibit the disclosure of health care information between a licensed pharmacist and a health care practitioner or facility providing mental health services for the purpose of dispensing medication to an individual~~;~~.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this section to a state-designated statewide health information exchange that satisfies the requirement in subsection 18, paragraph C of providing a general opt-out provision to an individual at all times and that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health

care information covered under Title 34-B, section 1207;

Sec. 7. 22 MRSA §1711-C, sub-§6, ¶B, as amended by PL 2009, c. 387, §1, 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 state-designated statewide 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. 8. 22 MRSA §1711-C, sub-§18 is enacted to read:

18. Participation in a health information exchange. The following provisions apply to participation in a state-designated statewide health information exchange.

A. A health care practitioner may not deny a patient health care treatment and a health insurer may not deny a patient a health insurance benefit based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange. Except when otherwise required by federal law, a payor of health care benefits may not require participation in a state-designated statewide health information exchange as a condition of participating in the payor's provider network.

B. Recovery for professional negligence is not allowed against any health care practitioner or health care facility on the grounds of a health care practitioner's or a health care facility's nonparticipation in a state-designated statewide health information exchange arising out of or in connection with the provision of or failure to provide health care services. In any civil action for professional negligence or in any proceeding related to such a civil action or in any arbitration, proof of a health care practitioner's, a health care facility's or a patient's participation or nonparticipation in a state-designated statewide health information exchange is inadmissible as evidence of liability or nonliability arising out of or in connection with the provision of or failure to provide health care services. This paragraph does not prohibit recovery or the admission of evidence of reliance on information in a state-designated statewide electronic health information exchange when there was participation by both the patient and the patient's health care practitioner.

C. A state-designated statewide health information exchange to which health care information is disclosed under this section shall provide an individual protection mechanism by which an individual may opt out from participation to prohibit the state-designated statewide health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility.

Sec. 9. 34-B MRSA §1207, sub-§1, ¶G, as amended by PL 2003, c. 563, §2, is further amended to read:

G. Information must be disclosed to the executive director and the members of the subcommittees on institutes and quality assurance of the Maine Commission on Mental Health for the purpose of carrying out the commission's statutory duties; ~~and~~

Sec. 10. 34-B MRSA §1207, sub-§1, ¶H, as amended by PL 2005, c. 683, Pt. A, §57, is further amended to read:

H. The names and dates of death of individuals who died while patients at the Augusta Mental Health Institute, the Bangor Mental Health Institute, the Dorothea Dix Psychiatric Center or the Riverview Psychiatric Center may be made available to the public in accordance with rules adopted by the department. The rules must require the department to notify the public regarding the release of the information and to maintain the confidentiality of information concerning any deceased individual whose surviving relatives notify the department that they object to public disclosure. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.; and

Sec. 11. 34-B MRSA §1207, sub-§1, ¶I is enacted to read:

I. Nothing in this subsection precludes the disclosure of any information, except psychotherapy notes as defined in 45 Code of Federal Regulations, Section 164.501(2010), concerning a client to a state-designated statewide health information exchange that provides and maintains an individual protection mechanism by which a client may

choose to opt in to allow the state-designated statewide health information exchange to disclose that client's health care information covered under this section to a health care practitioner or health care facility for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to a client at all times.

A state-designated statewide health information exchange may disclose a client's health care information covered under this section even if the client has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when, in a health care provider's judgment, disclosure is necessary to:

(1) Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or

(2) Prevent or respond to imminent and serious harm to the client and disclosure is to a provider for diagnosis or treatment.

See title page for effective date.

CHAPTER 348

H.P. 986 - L.D. 1345

An Act To Align Maine Special Education Statutes with Federal Requirements

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

Sec. 1. 5 MRSA §12004-I, sub-§10-A, as enacted by PL 1989, c. 899, §1, is repealed.

Sec. 2. 20-A MRSA §254, sub-§13 is enacted to read:

13. Transitional services for students with disabilities. To provide for an efficient and effective coordinated system of services across state agencies and local and private entities, the commissioner shall plan, coordinate and implement services for students with disabilities who are in transition from school to community in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 20-A MRSA §7001, sub-§2-C is enacted to read:

2-C. Individualized education program team. "Individualized education program team" means the group of individuals composed in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to determine the individualized education program for a child with a disability.

Sec. 4. 20-A MRSA §7202, sub-§9, as amended by PL 2005, c. 662, Pt. A, §23, is further amended to read:

9. Securing parental permission. For the agency conducting studies pursuant to Title 5, chapter 511:

A. Assist the agency in its studies; and

B. Facilitate access to relevant case records by:

(1) Notifying parents or guardians of the study; and

(2) Requesting parental consent for the agency to have access to case records; ~~and~~

Sec. 5. 20-A MRSA §7202, sub-§10, as amended by PL 2005, c. 662, Pt. A, §23, is further amended to read:

10. Department of Health and Human Services; authority to request convening of individualized education program team meeting. Notify in writing the individual designated by the Department of Health and Human Services that the Department of Health and Human Services has the authority to request the school administrative unit to convene ~~a pupil evaluation~~ an individualized education program team meeting and to attend and participate in any ~~pupil evaluation~~ individualized education program team meetings concerning a child with a disability who is a state ward. The written notice must indicate the time and place of the ~~pupil evaluation~~ individualized education program team meeting and a copy of the notice must be placed in the child's permanent record~~.~~; and

Sec. 6. 20-A MRSA §7202, sub-§11 is enacted to read:

11. Transitional services for students with disabilities. Plan, coordinate and implement services for students with disabilities who are in transition from school to community in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. 20-A MRSA c. 308, as amended, is repealed.

Sec. 8. 26 MRSA §1411-D, sub-§9, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

9. Transitional services coordination. Shall participate ~~in the coordination of rehabilitation ser-~~

~~vices with local transitional services coordination projects for youth with disabilities, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project~~ with school administrative units in transition planning for each student receiving special education services who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student.

Sec. 9. 34-B MRSA §3004, sub-§3, ¶D, as amended by PL 2009, c. 147, §12, is further amended to read:

D. Participate ~~in the coordination of services for persons~~ with school administrative units in transition planning for each student with chronic mental illnesses ~~with local transitional services coordination projects for students with disabilities, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project~~ who is receiving special education services and who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student.

Sec. 10. 34-B MRSA §5433, sub-§5, as amended by PL 2009, c. 147, §13, is further amended to read:

5. Transitional services coordination. Participate ~~in the coordination of services for individuals~~ with school administrative units in transition planning for each student with developmental disabilities ~~with local transitional services coordination projects for students with disabilities, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project~~ who will be eligible for services under chapter 5 or 6 who is receiving special education services and who is 16 years of age or older, or 14 years of age if determined appropriate by the student's individualized education program team, and shall assign appropriate staff as a transition contact person and as a member of the transition planning team for each student.

Sec. 11. 34-B MRSA §6004, first ¶, as amended by PL 2007, c. 356, §28 and affected by §31, is further amended to read:

The commissioner shall submit a report in coordination with the Commissioner of Education on efforts to plan for and develop social and habilitative services for persons who have autism and other pervasive developmental disorders to the Governor and the joint standing ~~committee~~ committees of the Legislature having jurisdiction over health and institutional services matters and educational and cultural affairs. This report must be submitted no later than January 15th of every odd-numbered year and must be submitted in conjunction with the plan required by section 5003-A, subsection 3.

Sec. 12. Interagency Transition Coordination Services. The Department of Education shall form a work group, including representation from the Department of Labor, Department of Corrections, Department of Health and Human Services and other public and private stakeholders, to review current requirements for transition services in the Maine Revised Statutes, Title 20-A, section 7258 and to determine the appropriate location and content of those requirements in statute to reflect the responsibilities of each agency related to transition planning for students with disabilities. The Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Health and Human Services by January 15, 2012 on the findings and recommendations of this work group. The committees are authorized to submit legislation related to the report to the Second Regular Session of the 125th Legislature to facilitate the implementation of the work group's recommendations.

See title page for effective date.

CHAPTER 349

H.P. 105 - L.D. 123

An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements

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

Sec. 1. 25 MRSA §2452, first ¶, as amended by PL 2007, c. 632, §1, is further amended to read:

The Commissioner of Public Safety shall adopt and may amend rules governing the safety to life from fire in or around all buildings or other structures and mass outdoor gatherings, as defined in Title 22, section 1601, subsection 2, within the commissioner's jurisdiction. These rules do not apply to nursing homes having 3 or fewer patients. Automatic sprinkler systems may not be required in existing noncommercial places of assembly. Noncommercial places of assembly include those facilities used for such purposes as deliberation, worship, entertainment, amusement or awaiting transportation that have a capacity of 100 to 300 persons. Automatic sprinkler systems may not be required in existing commercial places of assembly that are open for no more than 50 days per calendar

year. "Commercial places of assembly" includes bars with live entertainment, dance halls, nightclubs, assembly halls with large open areas in which patrons stand or sit, commonly referred to as "festival seating," and restaurants. Rules adopted pursuant to this section are routine technical rules, except that rules pertaining to fire sprinklers are major substantive rules, both of which are defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 350

S.P. 87 - L.D. 281

An Act To Create a 6-year Statute of Limitations for Environmental Violations

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

Sec. 1. 38 MRSA §347-A, sub-§8, as enacted by PL 2007, c. 337, §1, is repealed.

Sec. 2. 38 MRSA §347-A, sub-§9 is enacted to read:

9. Limitations on enforcement actions. This subsection applies to enforcement actions for civil penalties.

A. An enforcement action must be commenced by the commissioner or the Attorney General within 6 years of the following, whichever occurs latest:

(1) The discovery by the commissioner or the Attorney General of an act or omission giving rise to a violation;

(2) The identification by the commissioner or the Attorney General of the person responsible for the violation; and

(3) The last day of an ongoing violation.

B. For purposes of this subsection, an enforcement action is commenced when any of the following occurs:

(1) The commissioner proposes an administrative consent agreement in writing to the violator pursuant to subsection 4;

(2) The commissioner schedules an enforcement hearing on the alleged violation pursuant to subsection 2;

(3) The commissioner, with the prior approval of the Attorney General, files a complaint in District Court pursuant to section 342, subsection 7 and the Maine Rules of Civil Procedure, Rule 3; and

(4) The Attorney General files a complaint in District Court or Superior Court.

C. The commencement of an enforcement action by any of the means set forth in paragraph B tolls the running of the 6-year limitation period for the purpose of bringing any other action pursuant to subsection 1, paragraph A.

See title page for effective date.

CHAPTER 351

H.P. 585 - L.D. 778

An Act To Amend the Process of Federal Aviation Administration Airport Improvement Program Grants

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

Sec. 1. 6 MRSA §3, sub-§25-C is enacted to read:

25-C. Primary airport. "Primary airport" means an airport that has at least 10,000 passenger boardings per year.

Sec. 2. 6 MRSA §17, sub-§1, as enacted by PL 1977, c. 678, §30, is amended to read:

1. Development. Aid and assist municipalities and other political subdivisions in the development~~, maintenance and operation~~ of their public airports;

Sec. 3. 6 MRSA §17, sub-§9, as enacted by PL 1977, c. 678, §30, is repealed.

Sec. 4. 6 MRSA §18, sub-§2-A is enacted to read:

2-A. Primary Airport Capital Improvement Grant Program; administration approval. Notwithstanding subsection 2, the Primary Airport Capital Improvement Grant Program, referred to in this subsection as "the state grant program," is established as a discretionary grant program administered by the department. The department shall distribute available state grant program funds to primary airports for eligible capital improvement projects as determined by the department. Funds may also be distributed to an eligible municipality or political subdivision of the State for airport equipment that is eligible under the administration's airport improvement program. The department shall provide state grant program funds to evenly share the local match with the eligible municipality or political subdivision of the State for the administration's airport improvement program grant offer and award an amount contingent upon the availability of state grant program funds. State grant program funds may be distributed only to projects ready for construc-

tion that are approved by the administration as eligible for state grant program funds. The department is not responsible for oversight or eligibility of projects under this subsection.

Sec. 5. 6 MRSA §18, sub-§3, as enacted by PL 1977, c. 678, §31, is amended to read:

3. Federal aid. This State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, are authorized to accept, establish, construct, own, lease, control, equip, improve, maintain and operate airports for the use of aircraft within their respective boundaries, or without those boundaries with the consent of the municipality or other political subdivision where the airport is or is to be located, and may use for the purpose or purposes any land suitable and available ~~therefor~~.

The State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, by and through their duly constituted representatives, are authorized to apply for and accept federal aid to further any purpose related to the development of aeronautics and to do all things necessary or incidental thereto, subject to ~~subsection~~ subsections 2 ~~of this section~~ and 2-A. A request for federal aid under the federal Airport and Airway Improvement Act of 1982, 49 United States Code, Chapter 471, as amended, made by a municipality or other political subdivision in this State for a primary airport project is not required to be approved by the commissioner.

Airports owned and operated by any city, town or county are declared to be governmental agencies and entitled to the same immunities as any agency of the State.

See title page for effective date.

CHAPTER 352

S.P. 110 - L.D. 397

An Act To Amend the Laws Governing Competitive Bidding for School Construction and Repair

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

Sec. 1. 5 MRSA §1743-A, as amended by PL 1989, c. 700, Pt. A, §17, is further amended to read:

§1743-A. Competitive bids; advertisement

Any contract for the construction, major alteration or repair of school buildings involving a total cost in excess of ~~$100,000~~ $250,000, except contracts for professional, architectural and engineering services and contracts for energy conservation services in accordance with Title 20-A, section 15915, ~~shall~~ must be awarded by competitive bids. The school district directors, school committee, building committee or whatever agency has responsibility for the construction, major alteration or repair shall, after consultation with the Director of the Bureau of Public Improvements, seek sealed proposals. Sealed proposals ~~shall~~ must be addressed to the responsible agency and ~~shall~~ must remain sealed until publicly opened in the presence of the responsible agency or a committee thereof at such time as the responsible agency may direct. Competitive bids may be waived in individual cases involving unusual circumstances with the written approval of the Director of the Bureau of Public Improvements and the Commissioner of Education.

When a contract requires that maintenance and service following completion of a project be provided by the person responsible for the construction, major alteration or repair of that project, the cost for the ongoing maintenance and service must be included in determining the total cost of the project and the need to award the project by competitive bid. When a school administrative unit enters into 2 or more contracts for construction, major alteration or repair of school buildings within a 6-month period and the total of those projects exceeds $250,000, the contracts for those projects must be awarded by competitive bid.

See title page for effective date.

CHAPTER 353

H.P. 698 - L.D. 938

An Act To Permit Public School Online Learning Programs To Accept Nonresident Tuition 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, there is an immediate opportunity for Maine school administrative units to improve the quality of education and earn additional revenues by enrolling nonresident tuition students in online learning 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. 20-A MRSA §5801-A is enacted to read:

§5801-A. Acceptance of tuition students; online learning programs

A school board may decide whether a school in its school administrative unit accepts tuition students who reside, and whose parents reside, outside the State in an online learning program.

This section is repealed July 1, 2014.

Sec. 2. 20-A MRSA §5805, sub-§5 is enacted to read:

5. Online learning program. Tuition for students in an online learning program who reside, and whose parents reside, outside the State is not subject to the limitations of this section.

This subsection is repealed July 1, 2014.

Sec. 3. 20-A MRSA §5810, sub-§3 is enacted to read:

3. Online program tuition. A school administrative unit shall collect tuition for students in an online learning program who reside, and whose parents reside, outside the State.

This subsection is repealed July 1, 2014.

Sec. 4. 20-A MRSA §6004, sub-§3 is enacted to read:

3. Online learning program. Tuition students in an online learning program who reside, and whose parents reside, outside the State must be reported separately to the commissioner and are not included in the annual student count required by subsections 1 and 2.

This subsection is repealed July 1, 2014.

Sec. 5. 20-A MRSA §19152, sub-§3, as enacted by PL 2009, c. 330, §4, is amended to read:

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~~

Sec. 6. 20-A MRSA §19152, sub-§4, as enacted by PL 2009, c. 330, §4, is amended to read:

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~~.~~; and

Sec. 7. 20-A MRSA §19152, sub-§5 is enacted to read:

5. Nonresident tuition students. Permit school administrative units to provide online educational opportunities to nonresident tuition students who reside, and whose parents reside, outside the State.

This subsection is repealed July 1, 2014.

Sec. 8. 20-A MRSA §19156 is enacted to read:

§19156. Applicable laws

A tuition student enrolled in an online learning program who resides, and whose parents reside, outside the State is not counted for purposes of essential programs and services under chapter 606-B, is not included in the statewide assessment program established pursuant to chapter 222 and is not subject to chapter 223, subchapters 1, 2 and 4. Notwithstanding section 1001, subsection 9, the participation in any online learning program by a student who resides, and whose parents reside, outside the State may be terminated at the discretion of the superintendent after providing the student with an online opportunity to be heard.

This section is repealed July 1, 2014.

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

Effective June 15, 2011.

CHAPTER 354

S.P. 161 - L.D. 569

An Act To Support and Encourage the Use of Online Textbooks

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

Sec. 1. 20-A MRSA §254, sub-§13 is enacted to read:

13. Technical assistance; professional development and training for instruction in digital literacy; clearinghouse for information on use of online learning resources. The commissioner shall develop a program of technical assistance, including professional development and training for instruction in digital literacy and the establishment of a clearinghouse for information on the use of online learning resources that may be made available to all school administrative units, including those schools that participate in the learning through technology program under section 15689-A, subsection 12-A, which provides one-to-one wireless computers for 7th grade, 8th grade and high school students and educators.

The technical assistance must include, but is not limited to:

A. A model for instruction that promotes digital literacy for students;

B. A clearinghouse for information on the use of online learning resources, including best practices in the use of open educational resources and open-source textbooks; and

C. Professional development and training for educators in the effective use of online learning resources, including open educational resources and open-source textbooks.

The program of technical assistance provided by the department may be used by those schools and educators who choose to provide instruction in digital literacy and who choose to use online learning resources, including best practices in the use of open educational resources and open-source textbooks. The program of technical assistance provided by the department must be available to all school administrative units in the State and posted on the department's publicly accessible website.

Sec. 2. 20-A MRSA §15689-A, sub-§12-A, as amended by PL 2009, c. 213, Pt. C, §11, is further amended to read:

12-A. Learning through technology. The commissioner may pay costs attributed to staff support consisting of one Education Team and Policy Director position, 2 Education Specialist III positions, one Planning and Research Associate I position, one Director of Special Projects position and 2 Education Specialist II positions, professional development and training in the use of open educational resources and open-source textbooks and system maintenance for a program that promotes learning through technology. A transfer of All Other funds from the General Purpose Aid for Local Schools account to the All Other line category in the Learning Through Technology General Fund nonlapsing account sufficient to support the All Other costs and the agreement that provides one-to-one wireless computers for 7th grade, 8th grade and high school students and educators may occur annually by financial order upon recommendation of the State Budget Officer and approval of the Governor.

Sec. 3. 20-A MRSA c. 803 is enacted to read:

CHAPTER 803

DIGITAL LITERACY AND ONLINE LEARNING RESOURCES

§19251. Digital Literacy Fund

1. Fund established. The Digital Literacy Fund, referred to in this section as "the fund," is established as an interest-bearing account administered by the department.

2. Revenue. Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years.

3. Use of fund; technical assistance. Balances in the fund may be used for the necessary expenses of the department in the administration of the fund. Balances in the fund may be used to pay for the development of a program of technical assistance pursuant to section 254, subsection 13 that designs instructional materials that promote digital literacy, teacher professional development and training on the use of online learning resources, new administrative costs and other expenses not related to a learning through technology program funded under section 15689-A, subsection 12-A and for the implementation of a new clearinghouse for information on the use of online learning resources, including best practices in the use of open educational resources and open-source textbooks for elementary schools, middle schools and high schools.

Sec. 4. Report. The Commissioner of Education shall develop a program of technical assistance under the Maine Revised Statutes, Title 20-A, section 254, subsection 13 for use by school administrative units beginning in school year 2012-2013. The commissioner shall report to the Joint Standing Committee on Education and Cultural Affairs by January 15, 2012 on the status of the development of the program of technical assistance.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Digital Literacy Fund N122

Initiative: Provides base allocations for the Digital Literacy Fund to support the development of a technical assistance program that designs instructional materials that promote digital literacy, teacher professional development and training in the use of online learning resources and the implementation of a new clearinghouse for information on the use of online learning resources.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$500	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$500	$500

See title page for effective date.

CHAPTER 355
H.P. 825 - L.D. 1113

An Act To Encourage Fishing for Individuals with Disabilities

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

Whereas, this legislation must take effect immediately so that persons with disabilities who need assistance to fish can get that assistance from a caregiver during this fishing 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 §10853, sub-§10, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

10. Persons with developmental disabilities. A complimentary license to fish must be issued to any person with ~~mental retardation~~ a developmental disability, as defined in Title ~~34-B, section 5001~~ 5, section 19503, subsection 3, upon application to the commissioner when that application is accompanied by a statement signed by the person's physician that states that the applicant's functional limitations substantially limit that person's ability to fish independently. ~~The application must be accompanied by certified evidence that the applicant meets the defined condition.~~ This complimentary license remains effective for the life of the license holder, if the license is not revoked or suspended.

Sec. 2. 12 MRSA §10853, sub-§15 is enacted to read:

15. Assisting a person with disabilities. The commissioner may allow a licensee who has received a complimentary fishing license under subsection 2, 3, 4, 7, 10 or 12 to have a person accompany and assist that licensee in fishing. The person accompanying and assisting the holder of a complimentary fishing license as provided in this subsection may do so without obtaining a separate fishing license. This subsection does not authorize the person accompanying and assisting the licensee to assist that licensee with more than one fishing rod and reel. The person accompanying and assisting the licensee must remain within the immediate proximity of the licensee while that licensee is fishing.

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

Effective June 15, 2011.

CHAPTER 356
S.P. 410 - L.D. 1313

An Act To Amend the Motor Vehicle 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, it is important to provide immediate relief to small business owners and automobile dealers in light of 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, it is important to provide immediate recognition of the sacrifices of all military service members; 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. 16 MRSA §614, sub-§1, as amended by PL 1999, c. 155, Pt. A, §5, is further amended to read:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources ~~or,~~ the Department of Inland Fisheries and Wildlife~~;~~ or the Department of the Secretary of State, Bureau of Motor Vehicles, office of investigations; or the Department of Conservation, Division of Forest Protection when the reports or records pertain to arson are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

A. Interfere with law enforcement proceedings;

B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

C. Constitute an unwarranted invasion of personal privacy;

D. Disclose the identity of a confidential source;

E. Disclose confidential information furnished only by the confidential source;

F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;

G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;

H. Endanger the life or physical safety of any individual, including law enforcement personnel;

I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;

J. Disclose information designated confidential by some other statute; or

K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

Sec. 2. 29-A MRSA §101, sub-§70, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

70. Special mobile equipment. "Special mobile equipment" means a ~~self-propelled device operated over the highways that is~~ motor vehicle with permanently mounted equipment not designed or used primarily for the transportation of persons or property~~,~~ ~~including~~. "Special mobile equipment" includes, but is not limited to, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, trucks used only to plow snow and to carry sand only for ballast, well drillers and wood-sawing equipment ~~used for hire~~ or similar types of equipment.

Special mobile equipment ~~that makes frequent movement over public ways, including, but not limited to, self-propelled well drillers or air compressors, is considered~~ is divided into Class A and Class B special mobile equipment. ~~All other~~ Well drillers must be registered as Class A special mobile equipment ~~may be considered~~. All other special mobile equipment may be registered either as Class A or Class B ~~equipment at the option of the registrant~~ special mobile equipment.

Sec. 3. 29-A MRSA §456-A, sub-§8, as amended by PL 2007, c. 383, §3, is repealed and the following enacted in its place:

8. Eligibility; trucks. A lobster registration plate may be issued for:

A. A vehicle that qualifies for a specialty license plate under section 468, subsection 8; and

B. A truck registered under section 504, subsection 1.

Sec. 4. 29-A MRSA §460-A is enacted to read:

§460-A. Honorary consul

1. Honorary consul registration plates authorized. The Secretary of State, on payment of taxes required in Title 36, section 1482, fees required in section 501, subsection 1 and an additional fee equal to the cost of producing the plates, rounded to the nearest dollar, and upon application shall issue one pair of specially designed number plates for one designated motor vehicle owned or controlled by each honorary consul who is a citizen or resident of the United States and authorized by the United States to perform consular duties. The cost of producing the special plates is determined by the bureau. A specially designed plate and its registration certificate may be used in place of the regular plate and registration.

2. Period of validity. Honorary consul plates issued pursuant to subsection 1 are valid only while the owner of the plates is authorized to perform consular duties.

3. Design. The Secretary of State shall determine the color, shape, size, lettering and numbering of the honorary consul registration plates issued pursuant to subsection 1, which must bear the words "Honorary Consul."

Sec. 5. 29-A MRSA §468, sub-§10, as enacted by PL 2007, c. 383, §5, is amended to read:

10. Additional versions or classes of the specialty plate. ~~All requirements set forth in this section must be followed for each additional class or version of~~ The Secretary of State may issue a specialty plate~~.~~ in a motorcycle or commercial vehicle class if:

A. At least 10,000 sets of the specialty plate have been issued for automobiles and pickup trucks;

B. The sponsor of the specialty plate under this subsection provides a list of 500 names, dated signatures and current plate numbers of supporters who have signed a statement declaring they intend to purchase and display the motorcycle or commercial vehicle class of specialty license plate; and

C. The sponsor collects from each supporter who signs the statement under paragraph B a contribution of $25 for each set of plates and provides to the Secretary of State the sum of these contributions in the amount of $12,500, which is nonrefundable.

Upon receipt of the $12,500 provided under paragraph C, the Secretary of State shall prepare enabling legislation and a proposed plate design for submission to the Legislature and shall deposit the $12,500 in the Specialty License Plate Fund established under section 469.

Sec. 6. 29-A MRSA §501, sub-§1, as amended by PL 2007, c. 647, §2 and affected by §8, is further amended to read:

1. Automobiles; pickup trucks. The fee for an automobile, pickup truck or sport utility vehicle used for the conveyance of passengers or interchangeably for passengers or property is $35.

An automobile or sport utility vehicle used for the conveyance of passengers or property is a "combination" vehicle and may be issued a special plate with the word "combination" instead of "Vacationland." A passenger vehicle used under contract with the State, a municipality or a school district to transport students must be designated as "combination." A vehicle owned or operated by parents or legal guardians is exempt from this subsection.

Commercial plates may not be issued for or displayed on an automobile.

A sport utility vehicle may be registered either as an automobile or a truck. A sport utility vehicle with a gross vehicle weight or combined gross vehicle weight in excess of 10,000 pounds and used in the furtherance of a commercial enterprise must be registered as a truck according to its actual gross weight as provided in section 504.

The gross weight of a pickup truck registered as provided by this subsection may not exceed 6,000 pounds. An owner of a pickup truck who operates the pickup truck with a gross weight in excess of 6,000 pounds or the pickup truck drawing a semitrailer with a combined gross weight in excess of 6,000 pounds must register the truck as provided in section 504.

A combination of vehicles consisting of a pickup truck as defined in section 101, subsection 55 and a semitrailer with a registered weight of 2,000 pounds or less may be operated at the combined gross weight of the pickup truck and the semitrailer.

A combination of vehicles consisting of a motor vehicle and a camp trailer is not required to be registered for the gross weight of the combination.

Beginning July 1, 2009, $10 of the fee must be transferred on a quarterly basis by the Treasurer of State to the TransCap Trust Fund established by Title 30-A, section 6006-G.

Sec. 7. 29-A MRSA §501, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 8. 29-A MRSA §510, sub-§5 is enacted to read:

5. Tow dollies. Registration is not required for a tow dolly.

Sec. 9. 29-A MRSA §513, sub-§1-A, as enacted by PL 2005, c. 501, §1, is amended to read:

1-A. Registration required. ~~Special~~ Except as provided in subsection 3, special mobile equipment used on public ways, including, but not limited to, equipment that is rented from a location in this State or outside this State, regardless of whether the main office or headquarters of the owner of the equipment is located in this State or outside this State, must be registered in this State in accordance with this chapter.

Sec. 10. 29-A MRSA §513, sub-§3 is enacted to read:

3. Exemption from registration. Special mobile equipment that is used exclusively on the closed portion of a public way for the limited purposes of constructing or repairing that public way and that is transported by another vehicle to and from the construction project is exempt from registration under this chapter. For purposes of this subsection, the special mobile equipment must be operated only within the boundaries of a closed way. Notwithstanding section 1601, the owner or operator of special mobile equipment that is exempt from registration pursuant to this subsection shall maintain the amounts of financial responsibility specified in section 1605.

Sec. 11. 29-A MRSA §515-B, sub-§4, as enacted by PL 1999, c. 734, §1, is amended to read:

4. Recognition plates. A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motorcycle or register a motorcycle and who otherwise qualifies for the issuance of special Purple Heart motorcycle registration plates may apply to the Secretary of State for a special single plate recognizing that award. The Secretary of State shall design and identify these special single plates for recognition purposes only. Special single plates may not be attached to a motorcycle. Only one plate may be issued to each recipient ~~and a one-time fee of $5 charged~~.

Sec. 12. 29-A MRSA §523, sub-§3-A, as amended by PL 2009, c. 80, §2, is further amended to read:

3-A. Motorcycle plates; veterans. In addition to any plate issued pursuant to subsection 3, the Secretary of State, on application and evidence of payment

of the excise tax required by Title 36, section 1482~~,~~ and the registration fee required by section 515, subsection 1 ~~and a one-time additional fee of $5~~, shall issue a registration certificate and a special veterans registration plate for ~~one~~ up to 3 designated ~~motorcycle~~ motorcycles owned or controlled by a person who has served in the United States Armed Forces and who has been honorably discharged or to a person who has served in the United States Armed Forces for at least 3 years and continues to serve.

Each application must be accompanied by the applicant's Armed Forces Report of Transfer or Discharge, DD Form 214, certification from the United States Department of Veterans Affairs or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge, or a letter from the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services verifying active duty military service and length of service.

The Secretary of State shall recall a special veterans registration plate of a recipient who has been less than honorably discharged from the United States Armed Forces.

All surplus revenue collected for issuance of the special veterans registration plates is retained by the Secretary of State to maintain and support this program.

Upon request the Secretary of State shall issue special veterans registration plates for a motorcycle that are also vanity plates. These plates are issued in accordance with this section and section 453. Vanity plates issued under this subsection may not duplicate vanity plates issued in another class of plate.

The surviving spouse of a recipient of a special veterans registration plate issued in accordance with this subsection may retain and ~~display~~ use the plate or plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the plate ~~on a motorcycle~~ or plates, but may retain ~~it as a keepsake~~ them. Upon the death of the surviving spouse, the family may retain the plate or plates, but may not use ~~it on a motorcycle~~ them.

The Secretary of State may not issue special commemorative decals under subsection 5 or 6 for use on special veterans registration plates for a motorcycle.

Sec. 13. 29-A MRSA §524, as amended by PL 2007, c. 383, §16, is further amended to read:

§524. Other special veterans registration plates

1. United States Medal of Honor recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and set of special designating plates, to be used in lieu of regular registration plates, to any Maine resident who has been awarded the Medal of Honor by the Congress of the United States when the application is accompanied by a copy of the military orders awarding the Medal of Honor.

These special designating plates must be of a design as determined by the Secretary of State.

The Secretary of State may issue Medal of Honor plates for display only on an automobile or truck registered for not more than 10,000 pounds.

2. Former prisoners of war; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any civilian citizen of the United States who was interned as a prisoner of war and to any person who served in the United States Armed Forces and who was a prisoner of war at any time during tenure of service, or the surviving spouse of a former prisoner of war who is deceased, when that application is accompanied by a copy of the appropriate military form or other official form issued by the Federal Government certifying that the person is a former prisoner of war. This special license plate is issued specifically to former prisoners of war and their spouses and the privilege of using the special plate is transferable only on the death of the former prisoner of war to the former prisoner's spouse. Upon the death of the former prisoner of war, the surviving spouse may retain and display the special license plate. Upon remarriage, the surviving spouse may not use the special license plate on a motor vehicle, but may retain it ~~as a keepsake~~. Upon the death of the surviving spouse, the family may retain the special license plate, but not use it on a motor vehicle.

These special designating plates must be of a design as determined by the Secretary of State that is unique and not duplicated by any other design.

The Secretary of State may issue prisoner of war plates for display only on an automobile or truck registered for not more than 10,000 pounds.

3. Pearl Harbor survivors; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section l482, shall issue, at no fee, a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any person who served in the United States Armed Forces and who was stationed at Pearl Harbor, Oahu, Hawaii during the attack by Japanese forces on December 7, l94l, when that application is accompanied by appropriate military certification verifying the applicant's service at Pearl Harbor during the attack. This special license plate is issued specifically to Pearl Harbor survivors and the privilege of using the special plate is not transferable.

These special designating plates must be of a design as determined by the Secretary of State.

The Secretary of State may issue Pearl Harbor survivor plates for display only on an automobile or truck registered for not more than 10,000 pounds.

4. Purple Heart medal recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue, at no fee, a registration certificate and a set of Purple Heart registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient.

An application for Purple Heart plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may issue Purple Heart plates for display only on an automobile or ~~pickup~~ truck registered for not more than 10,000 pounds. A Purple Heart recipient may be issued Purple Heart plates for no more than 2 vehicles.

The surviving spouse of a Purple Heart recipient issued plates in accordance with this subsection may retain and ~~display~~ use the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the Purple Heart plates on a motor vehicle, but may retain them ~~as a keepsake~~. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motor vehicle.

The Secretary of State shall determine the design of the Purple Heart plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee ~~of $15~~ for vanity plates required in section 453 is credited to the Highway Fund.

A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motor vehicle or register a motor vehicle and who otherwise qualifies for the issuance of special Purple Heart registration plates may apply to the Secretary of State for a special single plate recognizing that award.

The Secretary of State shall design and identify these single plates for recognition purposes only. Single Purple Heart plates may not be attached to a motor vehicle. Only one plate may be issued to each recipient ~~and a one-time fee of $5 charged~~.

~~The Secretary of State shall begin issuing Purple Heart plates in accordance with this subsection no later than November 1, 1995.~~

Sec. 14. 29-A MRSA §556, sub-§6, ¶E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

E. ~~Motor carriers transporting passengers that receive~~ A passenger motor carrier receiving state, municipal or federal subsidies ~~are~~ is required to submit ~~their~~ the passenger motor carrier operating name and list of equipment to the ~~bureau~~ department and ~~are~~ is subject to the rules of the ~~bureau~~ Bureau of State Police pertaining to safety ~~promulgated~~ adopted under section 555. For the purpose of this section, the term "subsidies" includes assistance that is provided by the State Government, municipal government or Federal Government ~~that is used for purposes of planning~~ to offset operating losses or to acquire capital equipment.

Sec. 15. 29-A MRSA §651, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Warranty title; antique auto; horseless carriage; antique motorcycle; classic vehicle. The Secretary of State may, on documented and notarized evidence of ownership and payment of a $40 fee, issue a warranty title to a Maine resident owner of an antique auto, horseless carriage, antique motorcycle or classic vehicle. A warranty title denotes that there are no known liens or encumbrances against the vehicle.

Sec. 16. 29-A MRSA §654, sub-§2, as amended by PL 2003, c. 652, Pt. A, §4 and affected by §7, is further amended to read:

2. Purchased from the dealer. If the application is for a vehicle purchased from a dealer, in addition to the requirement set forth in subsection 1, the application must be signed by the dealer and must contain the name and the address of any lienholder or assignee holding an interest created or reserved at the time of sale and the date of the lien. The dealer shall, within 30 days after the sale, deliver the application to the Secretary of State. The dealer must deliver a copy of the application to the lienholder.

Violation of this subsection is a traffic infraction for which a fine of not less than $100 and not more than $500 may be adjudged for each infraction.

Sec. 17. 29-A MRSA §705, sub-§6 is enacted to read:

6. Failure to satisfy security interests. If a licensed dealer takes a vehicle in trade on the purchase of another vehicle and there is an outstanding security interest, the licensed dealer shall satisfy all outstanding security interests within 10 days.

Violation of this subsection is a Class E crime.

Sec. 18. 29-A MRSA §1304, sub-§1, ¶F, as repealed and replaced by PL 1997, c. 393, Pt. A, §33 and affected by §34, is amended to read:

F. The Secretary of State may issue a restricted instruction permit to an applicant who is enrolled in a driver education program that includes practice driving. That permit is valid:

(1) For a school year or other specified period; and

(2) Only when the permittee is accompanied by a driver education teacher or a commercial driver education instructor, licensed by the Secretary of State under subchapter ~~III~~ 3.

An applicant with a physical, mental or emotional condition that impairs the safe operation of a motor vehicle may operate on a restricted instruction permit without being enrolled in a driver education program for the purpose of an initial behind-the-wheel assessment. The driver education teacher or commercial driver education instructor must be licensed as an occupational or physical therapist with the Department of Professional and Financial Regulation.

Sec. 19. 29-A MRSA §1406, sub-§4, as repealed and replaced by PL 2003, c. 434, §22 and affected by §37, is amended to read:

4. Renewals. Prior to the expiration of a license to operate a motor vehicle, the Secretary of State shall send the license holder a renewal ~~application~~ notice.

Sec. 20. 29-A MRSA §1412 is enacted to read:

§1412. Military service designation for active military personnel and veterans

The Secretary of State shall, at the request of an eligible applicant, issue a driver's license or nondriver identification card to that applicant with a military service designation that identifies the applicant as a person actively serving in the United States Armed Forces or as a veteran of the United States Armed Forces.

1. Eligibility. In order to make a determination of eligibility for a military service designation under this section, the bureau shall determine, based on an examination of an applicant's military identification, whether the following criteria are met:

A. The applicant is serving in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011); or

B. The applicant has served in the United States Armed Forces as defined in 10 United States Code, Section 101(a)(4) (2011) and has been honorably discharged. To receive the designation under this paragraph, the applicant must provide an Armed Forces Report of Transfer or Discharge, DD Form 214, or a certification from the United States Veterans Administration or the appropriate branch of the United States Armed Forces verifying the applicant's military service and honorable discharge.

2. Renewal. A license or nondriver identification card with a military service designation issued in accordance with subsection 1, paragraph A may be renewed upon verification of continuing eligibility.

3. Design and location. The Secretary of State shall determine the design and location on the license and nondriver identification card for the military service designation under this section.

Sec. 21. 29-A MRSA §2089-A, sub-§5, as enacted by PL 2009, c. 55, §5, is amended to read:

5. Repeal. This section is repealed 90 days after the adjournment of the First Regular Session of the ~~125th~~ 126th Legislature.

Sec. 22. 29-A MRSA §2354-C, sub-§1, ¶A, as enacted by PL 2009, c. 326, §2, is amended to read:

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~~ west to Main Street, also designated as Route 1, then north on Main Street approximately 1 1/2 miles from the border.

Sec. 23. 29-A MRSA §2382, sub-§5, as amended by PL 2007, c. 703, §25, is repealed and the following enacted in its place:

5. Long-term permits. The Secretary of State may grant permits for up to one year for trucks, truck tractors, semitrailers and Class A special mobile equipment. The fee for an overlimit permit is $25 per month.

Sec. 24. PL 2011, c. 134 is repealed.

Sec. 25. Moratorium on dealer plate reduction and dealer license denial. Notwithstanding the Maine Revised Statutes, Title 29-A, section 903, from the effective date of this section to December 31, 2012 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 solely because of a failure to meet minimum sales requirements under Title 29-A, section 903, subsection 3.

Emergency clause. In view of the emergency cited in the preamble, that section of this Act that imposes a moratorium on dealer plate reduction and dealer license denial and those sections of this Act that enact the Maine Revised Statutes, Title 29-A, section 1412 and repeal Public Law 2011, chapter 134 take effect when approved.

Effective June 15, 2011.

CHAPTER 357

S.P. 507 - L.D. 1575

An Act To Conform the Authority of the Department of Environmental Protection to Federal 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, a recent letter from the Attorney General has brought into question the eligibility of members of the Board of Environmental Protection to legally serve; and

Whereas, this uncertainty has a negative impact on the work of State Government; and

Whereas, the economic health of the State of Maine will suffer if this uncertainty is not remedied with all due speed; and

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

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

Sec. 1. 38 MRSA §341-A, sub-§3, ¶B, as amended by PL 1997, c. 794, Pt. A, §2, is further amended to read:

B. ~~When the State receives authority to issue permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not serve as commissioner who~~ The commissioner may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the commissioner receives, or during the previous 2 years ~~prior to appointment~~ has received, a significant portion of income directly or indirectly from ~~license or~~ National Pollutant Discharge Elimination System permit holders or applicants ~~for a license or permit under the Federal Water Pollution Control Act~~. If the commissioner's authority is restricted under this paragraph, the commissioner shall delegate duties related to the restricted matter to employees of the department who do not hold major policy-influencing positions pursuant to Title 5, section 938 and who do not receive or have not received during the previous 2 years a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Duties that must be delegated include National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency. If a person with a conflict under this paragraph is nominated for the position of commissioner, the Governor shall submit to the President of the Senate and Speaker of the House of Representatives a plan for delegating the duties required to be delegated under this paragraph. The plan must be submitted with the information packet required to be provided by the Governor to the President of the Senate and Speaker of the House of Representatives under Title 3, section 154.

Sec. 2. 38 MRSA §341-A, sub-§3, ¶D is enacted to read:

D. The commissioner is subject to the conflict-of-interest provisions of Title 5, section 18.

Sec. 3. 38 MRSA §341-C, sub-§8, as amended by PL 1997, c. 794, Pt. A, §3, is further amended to read:

8. Federal standards. ~~When the State receives authority to grant permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not~~

~~serve as a~~ A board member ~~who~~ may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the board member receives, or during the previous 2 years ~~prior to appointment~~ has received, a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit under the ~~Federal Water Pollution Control Act~~ National Pollutant Discharge Elimination System. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Board members whose participation is restricted under this paragraph shall recuse themselves and may not participate in any National Pollutant Discharge Elimination System matter as long as the restriction applies. The recusal must be from all National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this subsection may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency.

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

Effective June 15, 2011.

CHAPTER 358

H.P. 319 - L.D. 393

An Act To Implement the Recommendations Regarding the Legislative Review of the Allocation of Slot Machine Revenue

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

Sec. 1. 7 MRSA §82, sub-§5, as enacted by PL 2005, c. 563, §3, is amended to read:

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distribution of slot machine revenue in accordance with Title 8, section 1036, subsection 2 to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 7 MRSA §82, sub-§6 is enacted to read:

6. Report on revenues from the operation of slot machines. The commissioner shall coordinate with the executive director of the State Harness Racing Commission to submit a report regarding the distribution of slot machine revenues as required by Title 8, section 1037.

Sec. 3. 8 MRSA §263-A, sub-§1, ¶C, as enacted by PL 1997, c. 528, §6, is amended to read:

C. The licensing of individuals participating in harness racing and off-track betting facilities, including rules requiring applicants to submit information sufficient for the report required to be submitted by the executive director of the commission as required by section 1037;

Sec. 4. 8 MRSA §1036, sub-§2, ¶H, as amended by PL 2005, c. 663, §12, is further amended to read:

H. Four percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Fund to Encourage Racing at Maine's Commercial Tracks, established in section 299; however, the payment required by this paragraph is terminated when all commercial tracks have obtained a license to operate slot machines in accordance with this chapter, in which case, that 4% of the net slot machine income must be credited to the General Fund as undedicated revenue;

Sec. 5. 8 MRSA §1036, sub-§5, as enacted by PL 2009, c. 571, Pt. FFF, §1, is repealed.

Sec. 6. 8 MRSA §1037 is enacted to read:

§1037. Annual report on use of funds

Beginning February 15, 2012, the executive director of the State Harness Racing Commission, in consultation with the Commissioner of Agriculture, Food and Rural Resources, annually shall submit a report to the joint standing committees of the Legislature having jurisdiction over slot machines, harness racing, agricultural fairs and appropriations and financial affairs regarding the use of slot machine revenue deposited in funds under section 1036, subsection 2, paragraphs B, C, D, H and I. The executive director and the commissioner shall obtain the information as described in this section. The report required by this section must be completed using budgeted resources. The

executive director may not distribute funds listed under section 1036, subsection 2, as applicable, to harness racing tracks, off-track betting facilities, agricultural fairs or the Sire Stakes Fund under section 281 until the information required to submit the report required by this section is provided.

1. Commercial tracks. A report required by this section must include the following information from commercial tracks licensed in accordance with chapter 11 that receive a distribution of slot machine revenue under section 1036, subsection 2, paragraph B, D or H:

A. The total amount wagered on live harness races;

B. The total amount wagered on intrastate simulcast races;

C. The total amount wagered on interstate simulcast races;

D. The number of harness races originated in the State and made available for simulcast outside of the State;

E. The amount of the harness racing handle from wagers at the commercial track kept by that commercial track and the distribution of the handle to the State and industry recipients under section 286;

F. The amount received from the handle distribution from wagers at other tracks and off-track betting facilities under section 286;

G. The amount of revenue received in accordance with section 1036, subsection 2, paragraphs B, D and H;

H. The number of full-time and part-time employees at the commercial track;

I. The amount, if any, spent on capital improvements to the commercial track and related facilities and a description of those improvements. The first report must include the amount spent since November 2005, shown by year. Subsequent annual reports must include the amount spent on capital improvements the immediately preceding calendar year;

J. Operating costs for the commercial track;

K. Profit and loss or depreciation figures for the commercial track; and

L. Administrative costs to comply with reporting requirements and contributions to the State Harness Racing Commission's operating account described in section 267-A.

2. Agricultural fair that conducts harness racing. The report required by this section must include the following with regard to the use of slot machine revenue distributed to an agricultural fair that is licensed under chapter 11 to conduct harness racing:

A. An estimate of the number of people that attended the agricultural fair, including separate estimates of paid attendance, free-pass attendance, vendor attendance and attendance under a local campground pass;

B. The total amount wagered on harness races at the agricultural fair;

C. The number of harness races originated at the agricultural fair and made available for simulcast outside of the State;

D. The amount of the harness racing handle received by the agricultural fair under section 286;

E. The amounts, reported separately, of revenue received in accordance with section 1036, subsection 2, paragraphs B and D, the Stipend Fund under Title 7, section 86 and from any other source in accordance with rules adopted under section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Food and Rural Resources or the State Harness Racing Commission; and

F. The amount of revenue received to supplement harness racing purses, pay fair premiums, make capital improvements to fairground facilities, racing venues or grandstand operations and labor costs and operating expenses.

3. Agricultural fair that does not conduct harness racing. The report required by this section must include the following with regard to an agricultural fair:

A. The amount spent to pay fair premiums make capital improvements to fairground facilities and labor costs and operating expenses;

B. The amounts, reported separately, received from slot machine revenue in accordance with section 1036, subsection 2, paragraph D, the Stipend Fund under Title 7, section 86 and from any other source in accordance with rules adopted under section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Food and Rural Resources or the State Harness Racing Commission; and

C. An estimate of the number of people that attended the agricultural fair, including separate estimates of paid attendance, free-pass attendance, vendor attendance and attendance under a local campground pass.

4. Breeders and owners within the Maine Standardbred program. A report required by this section must include the following information from horse breeders and owners within the Maine Standardbred program established pursuant to section 281 who

receive a distribution under section 1036, subsection 2, paragraph C:

A. The number of mares bred by each Maine Standardbred stallion as reported to the State Harness Racing Commission;

B. An assessment of whether the number of Maine Standardbred horses in the State is sufficient to grow and sustain harness racing in the State;

C. The number of yearling horses eligible and nominated to participate in sire stakes racing;

D. The amount received from slot machine revenue in accordance with section 1036, subsection 2, paragraph C;

E. The total number of qualifying dashes for sire stakes races and the average purse for each dash sorted by the age of the horse and the average purse for each sire stakes final dash sorted by the age of the horse; and

F. An accounting of the Sire Stakes Fund, including the total amount of the fund at the beginning and end of the racing season and, reported separately, expenditures used to supplement purses, pay breeder promotional contracts, pay advertising costs, make payments to a statewide horsemen association, pay administrative costs and make contributions to the operating account described in section 267-A.

5. Off-track betting facility. The report required by this section must include, with regard to a facility licensed to conduct off-track betting on harness racing:

A. The number of individual wagers placed on intrastate and interstate simulcast races and the total amount for each;

B. The number of full-time and part-time employees of the off-track betting facility;

C. The operating costs for the off-track betting facility;

D. The name and primary location of the company licensed to operate the off-track betting facility;

E. The total number of races originating in the State received for simulcast as reported by the off-track betting facility;

F. The amount, if any, spent on capital improvements to the off-track betting facility and a description of those improvements. The first report must include the amount spent since November 2005, shown by year. Subsequent annual reports must include the amount spent on capital improvements the immediately preceding calendar year;

G. The amount of the harness racing handle kept by the off-track betting facility and the distribution of the handle to the State and industry recipients under section 286;

H. The amount received from the handle distribution from wagers at tracks and other off-track betting facilities under section 286; and

I. The amount of revenue received in accordance with section 1036, subsection 2, paragraph I.

6. Other recipients. The Fund for a Healthy Maine's program providing prescription drugs for adults who are elderly or disabled, the University of Maine System and the Maine Community College System shall submit reports that include the amount of slot machine revenue received under section 1036, subsection 2 and how that revenue was used to meet the statutory requirements cited in section 1036, subsection 2, paragraphs E, F and G, respectively.

See title page for effective date.

CHAPTER 359

S.P. 52 - L.D. 159

An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management

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

Sec. 1. 38 MRSA §420-D, sub-§7, ¶H is enacted to read:

H. Trail management activities that are part of the development and maintenance of the statewide snowmobile trail system developed as part of the Maine Trails System under Title 12, section 1892, including new construction and maintenance of trails, do not require review pursuant to this section if, for each trail being managed:

(1) The trail is constructed and maintained in accordance with best management practices for motorized trails established by the Department of Conservation;

(2) The trail is the minimum feasible width for its designated use; and

(3) No lane exceeds 12 feet in width and no trail includes more than 2 lanes.

Sec. 2. 38 MRSA §420-D, sub-§9, as amended by PL 2009, c. 602, §1, is further amended to read:

9. Rules. ~~Rules~~ With the exception of minor clerical corrections and technical clarifications that do not alter the substance of requirements applying to projects, rules adopted pursuant to this section after January 1, 2010 ~~and before January 1, 2012~~ are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. ~~Any rules adopted by the department pursuant to this section on or after January 1, 2012 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that those rules that qualify as state mandates pursuant to the Constitution of Maine, Article IX, Section 21 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 3. 38 MRSA §484, sub-§3, ¶H is enacted to read:

H. In making a determination under this subsection regarding a development's effects on significant vernal pool habitat, the department shall apply the same standards applied to significant vernal pool habitat under rules adopted pursuant to the Natural Resources Protection Act. The department may not require a buffer strip adjacent to significant vernal pool habitat unless the buffer strip is established for another protected natural resource as defined in section 480-B, subsection 8.

Sec. 4. 38 MRSA §489-E, as enacted by PL 2009, c. 602, §3, is repealed and the following enacted in its place:

§489-E. Rulemaking

Rules adopted by the department pursuant to this article are routine technical rules except that rules adopted by the department after January 1, 2010 pursuant to section 484, subsections 1, 3, 4, 4-A, 5, 6 and 7 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. High and moderate value waterfowl and wading bird habitat; rulemaking. The Department of Environmental Protection shall amend its rules concerning permit by rule under the Natural Resources Protection Act to allow an activity occurring in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for permit by rule. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 6. High and moderate value waterfowl and wading bird habitat. The Joint Standing Committee on Environment and Natural Resources may report out a bill relating to high and moderate value waterfowl and wading bird habitat to the Second Regular Session of the 125th Legislature.

See title page for effective date.

CHAPTER 360

S.P. 333 - L.D. 1100

An Act To Increase Transparency in Funding of Campaign Advertisements

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

Sec. 1. 21-A MRSA §1014, sub-§2, as amended by PL 2003, c. 510, Pt. F, §1 and affected by c. 599, §15, is further amended to read:

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than ~~10-point~~ 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

See title page for effective date.

CHAPTER 361

S.P. 389 - L.D. 1268

An Act To Allow the Repayment of Improperly Awarded Workers' Compensation Benefits

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

Sec. 1. 39-A MRSA §324, sub-§1, as amended by PL 2009, c. 129, §9 and affected by §13, is further amended to read:

1. Order or decision. The employer or insurance carrier shall make compensation payments within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation. If the board enters a decision awarding compensation, and a motion for findings of fact and conclusions of law is filed with the hearing officer or an appeal is filed with the Law Court pursuant to section 322, payments may not be suspended while the motion for findings of fact and conclusions of law or appeal is pending. The employer or insurer may recover from an employee payments made pending a motion for findings of fact and conclusions of law or appeal to the Law Court if and to the extent that the

hearing officer or the Law Court has decided that the employee was not entitled to the compensation paid. The board has full jurisdiction to determine the amount of overpayment, if any, and the amount and schedule of repayment, if any. The board, in determining whether or not repayment should be made and the extent and schedule of repayment, shall consider the financial situation of the employee and the employee's family and may not order repayment that would work hardship or injustice. The board shall notify the Commissioner of Health and Human Services within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation identifying the employee who is to receive the compensation. For purposes of this subsection, "employer or insurance carrier" includes the Maine Insurance Guaranty Association under Title 24-A, chapter 57, subchapter 3.

See title page for effective date.

CHAPTER 362

H.P. 765 - L.D. 1031

An Act To Amend the Laws Governing Significant Wildlife Habitat

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

Sec. 1. 38 MRSA §480-BB, sub-§2, as enacted by PL 2005, c. 116, §5, is repealed and the following enacted in its place:

2. Certain landowners not subject to regulation. Provide the following exemptions to regulation.

A. A landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat depression is not on property owned or controlled by that landowner.

B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property, only that portion of the vernal pool depression located on property owned or controlled by that landowner may be considered in determining whether the vernal pool is significant. A written department determination that a vernal pool is not significant pursuant to this paragraph remains valid regardless of timeframe;

Sec. 2. 38 MRSA §480-BB, sub-§4, as enacted by PL 2005, c. 116, §5, is amended to read:

4. Department of Environmental Protection may not assess fine in certain cases. Provide that the Department of Environmental Protection may not assess a fine against a landowner who acted in accordance with a written field determination if the fine would be based solely on information in the written field determination; ~~and~~

Sec. 3. 38 MRSA §480-BB, sub-§5, as enacted by PL 2005, c. 116, §5, is amended to read:

5. Process for voluntary identification. Include a process for a landowner to voluntarily identify the landowner's land as a significant vernal pool habitat and to provide the Department of Inland Fisheries and Wildlife the authority to map the significant vernal pool habitat~~.~~; and

Sec. 4. 38 MRSA §480-BB, sub-§6 is enacted to read:

6. Artificial vernal pool. Explicitly provide that an artificial vernal pool is exempt from regulation as long as the vernal pool was not created in connection with a compensation project pursuant to section 480-Z.

Sec. 5. PL 2007, c. 533, §3, sub-§1, ¶A is amended to read:

A. When a vernal pool habitat has not previously been determined to be significant and the Department of Environmental Protection or the Department of Inland Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat is significant, either department may determine that the vernal pool habitat is not significant if:

(1) The vernal pool is located in southern Maine and dries out after ~~spring~~ filling and before July 15th ~~based on winter, spring and early summer precipitation~~; or

(2) The vernal pool is located in northern Maine and dries out after ~~spring~~ filling and before July 31st ~~based on winter, spring and early summer precipitation~~.

Sec. 6. Routine technical rules. Notwithstanding the Maine Revised Statutes, Title 38, section 480-BB, rules adopted pursuant to this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 363

H.P. 822 - L.D. 1110

An Act Regarding the Attendance of Attorneys at Individualized Education Program Team Meetings

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

Sec. 1. 20-A MRSA §7202, sub-§9, as amended by PL 2005, c. 662, Pt. A, §23, is further amended to read:

9. Securing parental permission. For the agency conducting studies pursuant to Title 5, chapter 511:

A. Assist the agency in its studies; and

B. Facilitate access to relevant case records by:

(1) Notifying parents or guardians of the study; and

(2) Requesting parental consent for the agency to have access to case records; ~~and~~

Sec. 2. 20-A MRSA §7202, sub-§10, as amended by PL 2005, c. 662, Pt. A, §23, is further amended to read:

10. Department of Health and Human Services; authority to request convening of individualized education program team meeting. Notify in writing the individual designated by the Department of Health and Human Services that the Department of Health and Human Services has the authority to request the school administrative unit to convene ~~a pupil evaluation~~ an individualized education program team meeting and to attend and participate in any ~~pupil evaluation~~ individualized education program team meetings concerning a child with a disability who is a state ward. The written notice must indicate the time and place of the ~~pupil evaluation~~ individualized education program team meeting and a copy of the notice must be placed in the child's permanent record~~.~~; and

Sec. 3. 20-A MRSA §7202, sub-§11 is enacted to read:

11. Attorney's presence at team meeting. Provide that the school administrative unit may not have an attorney present at an individualized education program team meeting unless the school administrative unit has provided the parents of a child with a disability at least 7 days' written notice prior to the individualized education program team meeting that the school administrative unit will have an attorney present at the individualized education program team meeting. If the parent of a child with a disability has an attorney present at the individualized education program team meeting, the school administrative unit may have an attorney present without providing prior written notice.

Sec. 4. Rules. The Department of Education shall provisionally adopt rules to be submitted to the Legislature by January 13, 2012 that amend Chapter 101, Section VI of its rules to require inclusion in the notice notifying a parent of a child with a disability of an individualized education program team meeting whether the school administrative unit will have an attorney present at the meeting. Rules adopted pursuant to this section are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 364

H.P. 1140 - L.D. 1554

An Act To Implement the Requirements of the Federal Patient Protection and Affordable Care Act

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

Sec. 1. 24-A MRSA §2735-A, sub-§1, as amended by PL 2009, c. 244, Pt. C, §4, is further amended to read:

1. Notice of rate filing or rate increase on existing policies. An insurer offering individual health plans as defined in section 2736-C must provide written notice by first class mail of a rate filing to all affected policyholders at least 60 days before the effective date of any proposed increase in premium rates or any proposed rating formula, classification of risks or modification of any formula or classification of risks. ~~The~~ Except as otherwise provided in section 2736-C, subsection 2-B, the notice must also inform policyholders of their right to request a hearing pursuant to section 229. The notice must show the proposed rate and, unless otherwise provided in section 2736-C, subsection 2-B, state that the rate is subject to regulatory approval. ~~The~~ Except as otherwise provided in section 2736-C, subsection 2-B, the superintendent may not take final action on a rate filing until 40 days after the date notice is mailed by an insurer. An increase in premium rates may not be implemented until 60 days after the notice is provided or until the effective date under section 2736, whichever is later.

Sec. 2. 24-A MRSA §2736-A, first ¶, as amended by PL 2009, c. 439, Pt. C, §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~~,~~ or unfairly dis-

criminatory ~~or not in compliance with 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~~.

Sec. 3. 24-A MRSA §2736-C, sub-§2, ¶C, as amended by PL 2011, c. 90, Pt. A, §1, is further amended to read:

C. A carrier may vary the premium rate due to family membership to the extent permitted by the federal Affordable Care Act.

Sec. 4. 24-A MRSA §2736-C, sub-§2, ¶D, as amended by PL 2011, c. 90, Pt. A, §3, is further amended to read:

D. A carrier may vary the premium rate due to age and ~~smoking status~~ tobacco use in accordance with the limitations set out in this paragraph.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between December 1, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and June 30, 2012, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 1, 2012 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2012, the maximum rate differential due to ~~smoking status~~ tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

Sec. 5. 24-A MRSA §2736-C, sub-§2, ¶I, as enacted by PL 2011, c. 90, Pt. A, §5, is amended to read:

I. A carrier that offered individual health plans prior to July 1, 2012 may close its individual book of business sold prior to July 1, 2012 and may establish a separate community rate for individuals applying for coverage under an individual health plan on or after July 1, 2012. If a carrier closes its individual book of business as permitted under this paragraph, the carrier may vary the premium rate for individuals in that closed book of business only as permitted in this paragraph and paragraphs C and C-1.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 1, 2012 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less

than 19 years of age or more than 65 years of age.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 2012, the maximum rate differential due to ~~smoking status~~ tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

~~The superintendent shall establish by rule procedures and policies that facilitate the implementation of this paragraph, including, but not limited to, notice requirements for policyholders and experience pooling requirements of individual health products. When establishing rules regarding experience pooling requirements, the superintendent shall ensure, to the greatest extent possible, the availability of affordable options for individuals transitioning from the closed book of business. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~ The superintendent shall direct the Consumer Health Care Division, established in section 4321, to work with carriers and health advocacy organizations to provide information about comparable alternative insurance options to individuals in a carrier's closed book of business ~~and upon request to assist individuals to facilitate the transition to an individual health plan in that carrier's or another carrier's open book of business~~.

Sec. 6. 24-A MRSA §2736-C, sub-§2, ¶J is enacted to read:

J. Except for enrollees in grandfathered health plans under the federal Affordable Care Act, beginning January 1, 2014, a carrier shall consider all enrollees in all individual health plans offered by the carrier to be members of a single risk pool to the extent required by the federal Affordable Care Act.

Sec. 7. 24-A MRSA §2736-C, sub-§2-B, as enacted by PL 2011, c. 90, Pt. D, §2, is amended to read:

2-B. Optional guaranteed loss ratio. Notwithstanding section 2736, subsection 1 and section 2736-A, at the carrier's option, rate filings for a carrier's credible block of individual health plans may be filed in accordance with this subsection. Rates filed in accordance with this subsection are filed for informational purposes unless rate review is required pursuant to the federal Affordable Care Act.

A. A carrier's individual health plans are considered credible if the anticipated average number of members during the period for which the rates will be in effect ~~is at least 1,000 in the aggregate or if the individual health plans in the aggregate meet credibility~~ meets standards ~~adopted by the superintendent by rule~~ for full or partial credibility pursuant to the federal Affordable Care Act. The rate filing must state the anticipated average number of members during the period for which the rates will be in effect and the basis for the estimate. If the superintendent determines that the number of members is likely to be less than ~~1,000 and the carrier does not satisfy any alternative credibility standards adopted by the superintendent by rule~~ needed to meet the credibility standard, the filing is subject to section 2736, subsection 1 and section 2736-A.

B. On an annual schedule as determined by the superintendent, the carrier shall file a report with the superintendent showing ~~aggregate earned premiums and incurred claims for the period the rates were in effect. Incurred claims must include claims paid to a date after the end of the annual reporting period and an estimate of unpaid claims. The report must state how the unpaid claims estimate was determined. The superintendent shall determine the reporting period and the paid to date; beginning January 1, 2011, both the reporting period and the paid to date must be consistent with those for the rebates required pursuant to the~~

~~federal Affordable Care Act and federal regulations adopted~~ the calculation of rebates as required pursuant to the federal Affordable Care Act, except that the calculation must be based on a minimum medical loss ratio of 80% if the applicable federal minimum for the individual market in this State is lower. If the calculation indicates that rebates must be paid, the carrier must pay the rebates in the same manner as is required for rebates pursuant to the federal Affordable Care Act.

Sec. 8. 24-A MRSA §2736-C, sub-§9, as enacted by PL 1995, c. 570, §7, is amended to read:

9. Exemption for certain associations. The superintendent may exempt a group health insurance policy or group nonprofit hospital or medical service corporation contract issued to an association group, organized pursuant to section 2805-A, from the requirements of subsection 3, paragraph A; subsection 6, paragraph A; and subsection 8 if:

A. Issuance and renewal of coverage under the policy or contract is guaranteed to all members of the association who are residents of this State and to their dependents;

B. Rates for the association comply with the premium rate requirements of subsection 2 or are established on a nationwide basis and substantially comply with the purposes of this section, except that exempted associations may be rated separately from the carrier's other individual health plans, if any;

C. The group's anticipated loss ratio, as defined in subsection 5, is at least 75%;

D. The association's membership criteria do not include age, health status, medical utilization history or any other factor with a similar purpose or effect;

E. The association's group health plan is not marketed to the general public;

F. The association does not allow insurance agents or brokers to market association memberships, accept applications for memberships or enroll members, except when the association is an association of insurance agents or brokers organized under section 2805-A;

G. Insurance is provided as an incidental benefit of association membership and the primary purposes of the association do not include group buying or mass marketing of insurance or other goods and services; and

H. Granting an exemption to the association does not conflict with the purposes of this section.

Except for individuals with grandfathered health plans under the federal Affordable Care Act, this subsection does not apply to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2014.

Sec. 9. 24-A MRSA §2808-B, sub-§1, ¶D, as repealed and replaced by PL 2003, c. 428, Pt. H, §5, is amended to read:

D. "Eligible group" means any person, firm, corporation, partnership, association or subgroup engaged actively in a business that employed an average of 50 or fewer eligible employees during the preceding calendar year.

(1) If an employer was not in existence throughout the preceding calendar year, the determination must be based on the average number of employees that the employer is reasonably expected to employ on business days in the current calendar year.

(2) In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one employer.

(3) A group is not an eligible group if there is any one other state where there are more eligible employees than are employed within this State and the group had coverage in that state or is eligible for guaranteed issuance of coverage in that state.

(4) An employer qualifies as an eligible group for 2-person coverage if the employer provides a carrier with the following information demonstrating that the employer's business and employees meet the minimum qualifications for group coverage in paragraph C:

(a) A copy of the most recent quarterly combined filing for income tax withholding and unemployment contributions, Form 941/C1-ME;

(b) For an employee claimed to be an employee eligible for group coverage whose name is not listed on Form 941/C1-ME, a copy of the employer's payroll records for the most recent 3 months showing tax withholding or a wage report from a payroll company showing wages paid to that employee for the most recent quarter with tax withholding;

(c) If an employer is exempt from filing Form 941/C1-ME for group coverage, documentation of that exemption and a copy of the employer's payroll records for the most recent 3 months showing tax withholding or a wage report from a payroll company showing wages paid to that

employee for the most recent quarter with tax withholding; or

(d) If the name of the business owner or employee does not appear on Form 941/C1-ME, a copy of one of the following:

(i) Federal income tax Form Schedule C or Schedule F;

(ii) Federal income tax Form 1120S, Schedule K-1;

(iii) Federal income tax Form 1065, Schedule K-1;

(iv) A workers' compensation insurance audit or evidence of a waiver of benefits under Title 39-A;

(v) A description of operations in a commercial general liability insurance policy or equivalent insurance policy providing coverage for the business; or

(vi) A signature card from a financial institution or credit union authorizing the employee to sign checks on a business checking or share draft account that is at least 6 months old; a notarized affidavit from the employer describing the duties of the employee and the average number of hours worked by the employee and attesting that the employer is not defrauding the carrier and is aware of the consequences of committing fraud or making a material misrepresentation to the carrier, including a loss of coverage and benefits; and, if the group coverage is purchased through a producer, a notarized affidavit from the producer affirming the producer's belief that the employer qualifies as an eligible group for coverage.

In determining if a new business or a business that adds an owner or a new employee to payroll during the course of a year qualifies as an eligible group for 2-person coverage under this subparagraph, the employer must submit an affidavit stating that all employees meet the criteria in this subparagraph and that the documentation and forms required under this subparagraph will be provided to the carrier when payroll records become available, when ownership distribution forms become available or the first renewal date of the coverage, whichever date is earlier. A false affidavit or misrepresentation on an affidavit submitted by an employer may result in the loss of group coverage and repayment of claims paid. This subparagraph may not be construed to prohibit a carrier from recognizing an employer as an eligible group if the employer has not produced the documentation required in this subparagraph.

This subparagraph applies only to an employer applying for group health insurance coverage as a 2-person group ~~on or after~~ from October 1, 2001 to December 31, 2013.

Sec. 10. 24-A MRSA §2808-B, sub-§2, ¶C, as amended by PL 2011, c. 90, Pt. A, §6, is further amended to read:

C. A carrier may vary the premium rate due to occupation and industry, family membership, participation in wellness programs and group size to the extent permitted by the federal Affordable Care Act. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts for participation in wellness programs and rating for occupation and industry and group size pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 24-A MRSA §2808-B, sub-§2, ¶D, as amended by PL 2011, c. 90, Pt. A, §8, is further amended to read:

D. A carrier may vary the premium rate due to age and ~~smoking status~~ tobacco use only under the following schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and September 30, 2011, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to ~~smoking status~~ tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

Sec. 12. 24-A MRSA §2808-B, sub-§2, ¶E, as amended by PL 2001, c. 258, Pt. E, §4, is further amended to read:

E. The superintendent may authorize a carrier to establish a separate community rate for an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806, as long as association group membership or eligibility for participation in the trustee group is not conditional on health status, claims experience or other risk selection criteria and all small group health plans offered by the carrier through that association or trustee group:

(1) Are otherwise in compliance with the premium rate requirements of this subsection; and

(2) Are offered on a guaranteed issue basis to all eligible employers that are members of the association or are eligible to participate in the trustee group except that a professional association may require that a minimum percentage of the eligible professionals employed by a subgroup be members of the association in order for the subgroup to be eligible for issuance or renewal of coverage through the association. The minimum percentage must not exceed 90%. For purposes of this subparagraph, "professional association" means an association that:

(a) Serves a single profession that requires a significant amount of education, training or experience or a license or certificate from a state authority to practice that profession;

(b) Has been actively in existence for 5 years;

(c) Has a constitution and bylaws or other analogous governing documents;

(d) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(e) Is not owned or controlled by a carrier or affiliated with a carrier;

(g) Has a least 1,000 members if it is a national association; 200 members if it is a state or local association;

(h) All members and dependents of members are eligible for coverage regardless of health status or claims experience; and

(i) Is governed by a board of directors and sponsors annual meetings of its members.

Producers may only market association memberships, accept applications for membership or sign up members in the professional association where the individuals are actively engaged in or directly related to the profession represented by the professional association.

Except for employers with plans that have grandfathered status under the federal Affordable Care Act, this paragraph does not apply to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2014.

Sec. 13. 24-A MRSA §2808-B, sub-§2, ¶H, as enacted by PL 2011, c. 90, Pt. A, §10, is amended to read:

H. A carrier that offered small group health plans prior to October 1, 2011 may close its small group book of business sold prior to October 1, 2011 and may establish a separate community rate for eligible groups applying for coverage under a small group health plan on or after October 1, 2011. If a carrier closes its small group book of business as permitted under this paragraph, the carrier may vary the premium rate for that closed book of business only as permitted in this paragraph and paragraphs C and C-1.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and December 31, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2013 and December 31, 2013, the maximum rate differential due to age filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to ~~smoking status~~ tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

Sec. 14. 24-A MRSA §2808-B, sub-§2, ¶I is enacted to read:

I. Except for plans that have grandfathered status under the federal Affordable Care Act, beginning January 1, 2014, a carrier shall consider all enrollees in all small group health plans offered by the carrier to be members of a single risk pool to the extent required by the federal Affordable Care Act.

Sec. 15. 24-A MRSA §2808-B, sub-§2-B, ¶C, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

C. When a filing is not accompanied by the information upon which the carrier supports the filing or the superintendent does not have sufficient information to determine whether the filing meets the requirements that rates not be excessive, inadequate~~,~~ or unfairly discriminatory ~~or not in compliance with section 6913~~, the superintendent shall require the carrier to furnish the information upon which it supports the filing.

Sec. 16. 24-A MRSA §2808-B, sub-§2-C, as amended by PL 2011, c. 90, Pt. D, §4, is further amended to read:

2-C. Guaranteed loss ratio. Notwithstanding subsection 2-B~~, at the carrier's option~~, rate filings for a credible block of small group health plans may be filed in accordance with this subsection instead of subsection 2-B. Rates filed in accordance with this subsection are filed for informational purposes.

A. A block of small group health plans is considered credible if the anticipated average number of members during the period for which the rates will be in effect ~~is at least 1,000 or if it~~ meets ~~credibility~~ standards ~~adopted by the superintendent by rule~~ for full or partial credibility pursuant to the federal Affordable Care Act. The rate filing must state the anticipated average number of members during the period for which the rates will be in effect and the basis for the estimate. If the superintendent determines that the number of members is likely to be less than ~~1,000 and the block does not satisfy any alternative credibility standards adopted by rule~~ needed to meet the credibility standard, the filing is subject to subsection 2-B~~, except as provided in paragraph A-1~~.

~~A-1. A carrier that elected to file rates in accordance with this subsection prior to September 1, 2004 may continue to file rates in accordance with this subsection as long as the anticipated number of member months for a 12-month period is at least 1,000.~~

~~B. On an annual schedule as determined by the superintendent, the carrier shall file a report with the superintendent showing aggregate earned premiums and incurred claims for the period the rates were in effect. Incurred claims must include claims paid to a date after the end of the annual reporting period and an estimate of unpaid claims. The report must state how the unpaid claims estimate was determined. The superintendent shall determine the reporting period and the paid to date; beginning January 1, 2011, both the reporting period and the paid to date must be consistent with those for the rebates required pursuant to section 4319 and to the federal Affordable Care Act and federal regulations adopted pursuant to the federal Affordable Care Act.~~

~~C. If incurred claims were less than 78% of aggregate earned premiums over a continuous 36-month period, the carrier shall refund a percentage of the premium to the current in-force policyholder. For the purposes of calculating this loss ratio percentage, any payments paid pursuant to former section 6913 must be treated as incurred claims. The excess premium is the amount of premium above that amount necessary to achieve a 78% loss ratio for all of the carrier's small group policies during the same 36-month period. The refund must be distributed to policyholders in an amount reasonably calculated to correspond to the aggregate experience of all policyholders holding policies having similar benefits. The total of all refunds must equal the excess premiums.~~

~~(1) For determination of loss ratio percentages in 2005, actual aggregate incurred claims expenses include expenses incurred in 2005 and projected expenses for 2006 and 2007. For determination of loss ratio percentages in 2006, actual incurred claims expenses include expenses in 2005 and 2006 and projected expenses for 2007.~~

~~(2) The superintendent may waive the requirement for refunds during the first 3 years after the effective date of this subsection.~~

~~D. The superintendent may require further support for the unpaid claims estimate and may require refunds to be recalculated if the estimate is found to be unreasonably large.~~

~~E. The superintendent may adopt rules setting forth appropriate methodologies regarding reports, refunds and credibility standards pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 17. 24-A MRSA §2808-B, sub-§6, ¶I, as enacted by PL 1993, c. 477, Pt. B, §3 and affected by Pt. F, §1, is amended to read:

I. Notwithstanding any other provision of this section, prior to January 1, 2014, a carrier may choose whether it will offer to groups having only one member coverage under the carrier's individual health policies offered to other individuals in this State in accordance with section 2736-C or coverage under a small group health plan in accordance with this section, or both, but the carrier need not offer to groups of one both small group and individual health coverage.

Sec. 18. 24-A MRSA §2850, sub-§2, ¶F is enacted to read:

F. Except for individual health plans in effect on March 23, 2010 that have grandfathered status under the federal Affordable Care Act, a carrier as defined in section 4301-A, subsection 3 offering a health plan as defined in section 4301-A, subsection 7 may not apply a preexisting condition exclusion to any enrollee under 19 years of age. A preexisting condition exclusion may not be imposed on any enrollee after January 1, 2014 to the extent prohibited by the federal Affordable Care Act.

Sec. 19. 24-A MRSA §4218-A is enacted to read:

§4218-A. Compliance with the Affordable Care Act

The superintendent may adopt and amend rules, establish standards and enforce federal statutes and regulations in order to carry out the purposes of the federal Affordable Care Act. Rules or amendments to rules adopted pursuant to this section, including amendments to major substantive rules, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 20. 24-A MRSA §4301-A, sub-§1, as amended by PL 2007, c. 199, Pt. B, §1, is further amended to read:

1. Adverse health care treatment decision. "Adverse health care treatment decision" means a health care treatment decision made by or on behalf of a carrier offering or renewing a health plan denying in whole or in part payment for or provision of otherwise covered services requested by or on behalf of an enrollee. "Adverse health care treatment decision" includes a rescission determination and an initial coverage eligibility determination, consistent with the requirements of the federal Affordable Care Act.

Sec. 21. 24-A MRSA §4301-A, sub-§3, ¶¶F and G, as enacted by PL 1999, c. 742, §3, are further amended to read:

F. A multiple-employer welfare arrangement licensed pursuant to chapter 81; ~~or~~

G. A self-insured employer subject to state regulation as described in section 2848-A~~.~~; or

Sec. 22. 24-A MRSA §4301-A, sub-§3, ¶H is enacted to read:

H. Notwithstanding any other provision of this Title, an entity offering coverage in this State that is subject to the requirements of the federal Affordable Care Act.

Sec. 23. 24-A MRSA §4301-A, sub-§7, as enacted by PL 1999, c. 742, §3, is amended to read:

7. Health plan. "Health plan" means a plan offered or administered by a carrier that provides for the financing or delivery of health care services to persons enrolled in the plan, other than a plan that provides only accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care or other limited benefit coverage not subject to the requirements of the federal Affordable Care Act. A plan that is subject to the requirements of the federal Affordable Care Act and offered in this State by a carrier, including, but not limited to, a qualified health plan offered on an American Health Benefit Exchange or a SHOP Exchange established pursuant to the federal Affordable Care Act, is a health plan for purposes of this chapter.

Sec. 24. 24-A MRSA §4302, sub-§6 is enacted to read:

6. Reporting required pursuant to the Affordable Care Act. Notwithstanding any other requirements of this Title, a carrier shall provide to the Secretary of the United States Department of Health and Human Services, and make available to the public when required by federal law, any information required by the federal Affordable Care Act. Carriers shall provide the information to the superintendent upon request.

Sec. 25. 24-A MRSA §4303, sub-§4, ¶E is enacted to read:

E. Health plans subject to the requirements of the federal Affordable Care Act must comply with federal claims and appeal requirements, including, but not limited to, the requirement that benefits for an ongoing course of treatment may not be reduced or terminated without advance notice and an opportunity for advance review, consistent with the requirements of the federal Affordable Care Act.

Sec. 26. 24-A MRSA §4303, sub-§15 is enacted to read:

15. Uniform explanation of coverage documents and standardized definitions. A carrier offering a health plan in this State shall:

A. Provide to applicants, enrollees and policyholders or certificate holders a summary of benefits and an explanation of coverage that accurately describe the benefits and coverage under the applicable plan or coverage. A summary of benefits and an explanation of coverage must conform with the requirements of the federal Affordable Care Act; and

B. Use standard definitions of insurance-related and medical-related terms in connection with health insurance coverage as required by the federal Affordable Care Act.

Sec. 27. 24-A MRSA §4303, sub-§16 is enacted to read:

16. Language and culture. All notices to applicants, enrollees and policyholders or certificate holders subject to the requirements of the federal Affordable Care Act must be provided in a culturally and linguistically appropriate manner consistent with the requirements of the federal Affordable Care Act.

Sec. 28. 24-A MRSA §4306, as amended by PL 2007, c. 199, Pt. B, §15, is further amended to read:

§4306. Enrollee choice of primary care provider

A carrier offering or renewing a managed care plan shall allow enrollees to choose their own primary

care providers, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A carrier shall allow physicians, including, but not limited to, pediatricians and physicians who specialize in obstetrics and gynecology, and certified nurse practitioners who have been approved by the State Board of Nursing to practice advanced practice registered nursing without the supervision of a physician pursuant to Title 32, section 2102, subsection 2-A, to serve as primary care providers for managed care plans. A carrier is not required to contract with certified nurse practitioners or physicians as primary care providers in any manner that exceeds the access and provider network standards required in this chapter or chapter 56, or any rules adopted pursuant to those chapters. A carrier shall allow enrollees in a managed care plan to change primary care providers without good cause at least once annually and to change with good cause as necessary. When an enrollee fails to choose a primary care provider, the carrier may assign the enrollee a primary care provider located in the same geographic area in which the enrollee resides.

Sec. 29. 24-A MRSA §4306-A is enacted to read:

§4306-A. Patient access to obstetrical and gynecological care

Notwithstanding any other requirements of this Title, a carrier offering a health plan in this State subject to the requirements of the federal Affordable Care Act:

1. Authorization or referral not required. May not require authorization or referral by the carrier or any other person, including a primary care provider, in the case of a female enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional as described in the federal Affordable Care Act who specializes in obstetrics or gynecology. The health care professional shall agree to otherwise adhere to the health plan's or carrier's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan, if any, approved by the carrier; and

2. Treated as primary care. Shall treat the provision of obstetrical and gynecological care by a participating health care professional as described in the federal Affordable Care Act who specializes in obstetrics or gynecology, pursuant to subsection 1, as authorized by the primary care provider and the authorization of related obstetrical and gynecological items and services by that professional as the authorization of the primary care provider.

Sec. 30. 24-A MRSA §4309-A is enacted to read:

§4309-A. Compliance with the Affordable Care Act

1. Carriers. A carrier shall comply with all applicable requirements of the federal Affordable Care Act.

2. Superintendent. The superintendent may enforce and administer this section through all powers provided under this Title and Title 24. The superintendent may adopt and amend rules, establish standards and enforce federal statutes and regulations in order to carry out the purposes of the federal Affordable Care Act. Rules or amendments adopted pursuant to this subsection, including amendments to major substantive rules, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 31. 24-A MRSA §4312, sub-§1, as enacted by PL 1999, c. 742, §19, is amended to read:

1. Request for external review. An enrollee or the enrollee's authorized representative shall make a written request for external review of an adverse health care treatment decision to the bureau. Except as provided in subsection 2, an enrollee may not make a request for external review under a group plan until the enrollee has exhausted all levels of a carrier's internal grievance procedure and may not make a request for external review under an individual plan until the enrollee has exhausted one level of a carrier's internal grievance procedure. A request for external review must be made within 12 months of the date an enrollee has received a final adverse health care treatment decision under a carrier's internal grievance procedure. An enrollee may not be required to pay any filing fee as a condition of processing a request for external review.

Sec. 32. 24-A MRSA §4312, sub-§2, as enacted by PL 1999, c. 742, §19, is amended to read:

2. Expedited request for external review. An enrollee or an enrollee's authorized representative is not required to exhaust ~~all levels of~~ a carrier's internal grievance procedure in accordance with subsection 1 before filing a request for external review if:

A. The carrier has failed to make a decision on an internal grievance within the time period required or has otherwise failed to adhere to all the requirements applicable to the appeal pursuant to state and federal law or the enrollee has applied for expedited external review at the same time as applying for an expedited internal appeal;

B. The carrier and the enrollee mutually agree to bypass the internal grievance procedure;

C. The life or health of the enrollee is in serious jeopardy; ~~or~~

D. The enrollee has died~~.~~; or

E. The adverse health care treatment decision to be reviewed concerns an admission, availability of care, a continued stay or health care services when the claimant has received emergency services but has not been discharged from the facility that provided the emergency services.

Sec. 33. 24-A MRSA §4318, sub-§4, as reallocated by RR 2009, c. 2, §70, is amended to read:

4. Disclosure. A health plan issued after the effective date of this section that includes an annual or lifetime maximum aggregate benefit limit as permitted under subsection 3 and under section 4320 must include a disclosure of the applicable limit on the face page of the individual policy or group certificate. The disclosure must be printed in a font that is larger or bolder than the font used in the body of the face page.

Sec. 34. 24-A MRSA §§4320 to 4320-G are enacted to read:

§4320. No lifetime or annual limits on health plans subject to the Affordable Care Act

Notwithstanding the requirements of section 4318, a carrier offering a health plan subject to the federal Affordable Care Act may not:

1. Establish lifetime limits. Establish lifetime limits on the dollar value of benefits for any participant or beneficiary; or

2. Establish annual limits. Establish annual limits on the dollar value of essential benefits, except that, prior to January 1, 2014, health plans may include restricted annual limits on essential benefits consistent with the requirements of the federal Affordable Care Act and may establish annual limits consistent with waivers granted by the Secretary of the United States Department of Health and Human Services.

§4320-A. Coverage of preventive health services

Notwithstanding any other requirements of this Title, a carrier offering a health plan subject to the federal Affordable Care Act shall, at a minimum, provide coverage for and may not impose cost-sharing requirements for preventive services as required by the federal Affordable Care Act.

§4320-B. Extension of dependent coverage

A carrier offering a health plan subject to the requirements of the federal Affordable Care Act that provides dependent coverage of children shall continue to make such coverage available for an adult child until the child turns 26 years of age, consistent with the federal Affordable Care Act.

§4320-C. Emergency services

If a carrier offering a health plan subject to the requirements of the federal Affordable Care Act provides or covers any benefits with respect to services in an emergency department of a hospital, the plan must cover emergency services in accordance with the requirements of the federal Affordable Care Act, including requirements that emergency services be covered without prior authorization and that cost-sharing requirements, expressed as a copayment amount or coinsurance rate, for out-of-network services are the same as requirements that would apply if such services were provided in network.

§4320-D. Comprehensive health coverage

Notwithstanding any other requirements of this Title, a carrier offering a health plan subject to the requirements of the federal Affordable Care Act shall, at a minimum, provide coverage that incorporates essential benefits and cost-sharing limitations consistent with the requirements of the federal Affordable Care Act.

§4320-E. Reinsurance, risk corridors and risk adjustment

1. Transitional reinsurance program. The superintendent shall establish a transitional reinsurance program for calendar years 2014, 2015 and 2016 as required by Section 1341 of the federal Affordable Care Act.

2. Risk corridors. A carrier shall make any payments required under the risk corridors program established by the Secretary of the United States Department of Health and Human Services for calendar years 2014, 2015 and 2016 as required by Section 1342 of the federal Affordable Care Act.

3. Risk adjustment. The superintendent shall establish a risk adjustment program as required by Section 1343 of the federal Affordable Care Act.

§4320-F. Oversight of plans offered on the American Health Benefit Exchange and the SHOP Exchange

1. Superintendent's authority preserved. Except as otherwise expressly provided by applicable law, the requirements established by this Title, Title 24 and rules adopted by the superintendent continue to apply to carriers and health plans and are not extinguished or modified in any way by:

A. Certification of a health plan as a qualified health plan or any other determination made by the American Health Benefit Exchange or the SHOP Exchange pursuant to the federal Affordable Care Act; or

B. Recognition by the applicable federal agency of a carrier as a qualified nonprofit health insurance issuer or as an issuer of multistate qualified health plans, or of a health plan as a multistate qualified health plan, pursuant to the federal Affordable Care Act.

2. Coordination with exchanges. The superintendent has all additional powers and duties conferred

upon a state insurance regulator with respect to the American Health Benefit Exchange and the SHOP Exchange by the federal Affordable Care Act. The superintendent may enter into agreements with the American Health Benefit Exchange and the SHOP Exchange relating to coordination of responsibilities, and such agreements may provide for the superintendent to assume additional authority relating to the certification of qualified health plans or the authorization of a carrier to participate in the American Health Benefit Exchange or the SHOP Exchange.

§4320-G. Applicability to health plans grandfathered under the Affordable Care Act

A health plan that is exempt from certain requirements of the federal Affordable Care Act because it has grandfathered status is also exempt, to the same extent, from substantially similar provisions in this Title and Title 24 enacted after January 1, 2011, except to the extent that those provisions state that they apply to grandfathered health plans.

Sec. 35. 24-A MRSA §6451-A, sub-§3-A is enacted to read:

3-A. Qualified nonprofit health insurance issuers. Qualified nonprofit health insurance issuers as defined in Section 1322 of the federal Affordable Care Act are considered health organizations for purposes of this chapter.

Sec. 36. Review of transitional reinsurance, risk corridors and risk adjustment programs. No later than January 1, 2013, the Department of Professional and Financial Regulation, Bureau of Insurance shall submit the bureau's proposed transitional reinsurance program and risk adjustment program established pursuant to the Maine Revised Statutes, Title 24-A, section 4320-E and any information related to the risk corridors program established pursuant to Section 1342 of the federal Affordable Care Act for review by the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters. The joint standing committee may report out a bill to the First Regular Session of the 126th Legislature based on the bureau's proposed transitional reinsurance program or risk adjustment program.

See title page for effective date.

CHAPTER 365

S.P. 374 - L.D. 1253

An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes

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

Whereas, immediate clarification and adjustments in the Maine Uniform Building and Energy Code are necessary to ensure that Maine's consumers, builders, contractors and lending community are able to build and sell high-quality buildings 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. 10 MRSA §9722, sub-§6, ¶J, as enacted by PL 2007, c. 699, §6, is amended to read:

J. In the adoption and amendment of the Maine Uniform Building and Energy Code, ensure that nontraditional or experimental construction, including but not limited to straw bale and earth berm construction, is permissible under the code; ~~and~~

Sec. 2. 10 MRSA §9722, sub-§6, ¶K, as enacted by PL 2007, c. 699, §6, is amended to read:

K. In the adoption and amendment of the Maine Uniform Building and Energy Code, ensure that building materials from local sawmills, including but not limited to nongraded lumber, are permissible under the code~~.~~; and

Sec. 3. 10 MRSA §9722, sub-§6, ¶L is enacted to read:

L. In the adoption and amendment of the Maine Uniform Building and Energy Code, adopt the standards for residential basement wall insulation under the 2006 edition of the International Energy Conservation Code published by the International Code Council.

Sec. 4. 10 MRSA §9724, sub-§3, as amended by PL 2009, c. 261, Pt. A, §9, is further amended to read:

3. Ordinances. Effective December 1, 2010, except as provided in subsection ~~4~~ 5 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void.

Sec. 5. 10 MRSA §9724, sub-§4, as enacted by PL 2007, c. 699, §6, is repealed.

Sec. 6. 10 MRSA §9724, sub-§5 is enacted to read:

5. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth the swimming pool fencing standards, without amendment, contained in Appendix G of the 2nd edition of the 2009 International Residential Code.

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

(1) Log homes or manufactured housing as defined in chapter 951;

(2) Post and beam or timber frame construction; or

(3) Warehouses or silos used to store harvested crops.

B. The requirements of the 2009 edition of the International Energy Conservation Code within the Maine Uniform Building and Energy Code do not apply to seasonally restricted cottages.

For the purposes of this paragraph, "seasonally restricted cottage" means a residential building unit made up of a room or group of rooms that provide sleeping accommodations, as well as accommodations for bathing and cooking, for not more than the entire summer season and that do not have water service after the summer season. This paragraph is repealed June 15, 2012.

Sec. 7. 25 MRSA §2357-A, first ¶, as amended by PL 2011, c. 94, §1, is further amended to read:

~~Subject to the provisions of Title 10, chapter 951, a~~ A building in a municipality of more than 2,000 inhabitants may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, ~~pursuant to~~ and in accordance with the required ~~inspections~~ enforcement and inspection options provided in section 2373 ~~that the building has been built in accordance with section 2353-A, and so as to be safe from fire~~. The building official may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken ~~to the municipal officers~~ pursuant to Title 30-A, section 4103, subsection 5 and, if on such appeal it is decided ~~by them~~ that ~~the~~ section 2353-A has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

Sec. 8. 25 MRSA §2361, sub-§1-A, as enacted by PL 2009, c. 261, Pt. B, §12, is amended to read:

1-A. Municipal enforcement. Effective December 1, 2010, duly appointed fire chiefs or their designees, municipal building officials and code enforcement officers, when authorized by their respective municipal employer, may bring a civil action in the name of the municipality to enforce any of the state laws, duly adopted state rules or local ordinances enacted pursuant to this Part and Title 10, chapter 1103; and

Sec. 9. 25 MRSA §2371, sub-§6, as enacted by PL 2007, c. 699, §11, is amended to read:

6. Third-party inspector. "Third-party inspector" means a person certified by the State to conduct inspections under Title 30-A, section 4451 for compliance with the code. A 3rd-party inspector may not hold a pecuniary interest, directly or indirectly, in any building for which the 3rd-party inspector issues an inspection report pursuant to section 2373 and may not ~~be~~ serve as a 3rd-party inspector in any municipality where that 3rd-party inspector has been appointed as a building official or code enforcement officer.

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

Effective June 16, 2011.

CHAPTER 366

H.P. 1148 - L.D. 1563

An Act To Regulate the Licensing and Oversight of Professional Investigators

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

Sec. 1. 5 MRSA §12004-G, sub-§29-D is enacted to read:

29-D.

Professional Investigators	Board of Licensure of Professional Investigators	Expenses Only	32 MRSA §8103-A

Sec. 2. 17-A MRSA §1057, sub-§1, ¶A, as enacted by PL 1989, c. 917, §2, is amended to read:

A. Not being a law enforcement officer or a ~~private~~ professional investigator licensed under Title 32, chapter 89 and actually performing as a ~~private~~ professional investigator, the person possesses any firearm on the premises of a licensed establishment posted to prohibit or restrict the possession of firearms in a manner reasonably likely to come to the attention of patrons, in violation of the posted prohibition or restriction; or

Sec. 3. 17-A MRSA §1057, sub-§5, as amended by PL 2009, c. 447, §20, 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 alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive alcohol level" means 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 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~~ professional investigator licensed to carry a concealed firearm pursuant to Title 32, chapter 89, is as provided in those chapters.

Sec. 4. 17-A MRSA §1057, sub-§6, ¶B, as enacted by PL 1989, c. 917, §2, is amended to read:

B. If the person so convicted is licensed as a ~~private~~ professional investigator, suspend for a period of 5 years that person's ~~right as a private investigator~~ permit to carry a concealed firearm.

Sec. 5. 25 MRSA §2002, sub-§9, ¶D, as enacted by PL 1997, c. 360, §3, is amended to read:

D. To a ~~private~~ professional investigator licensed under Title 32, chapter 89:

(1) The Chief of the State Police.

Sec. 6. 32 MRSA §8101, as enacted by PL 1981, c. 126, §2, is amended to read:

§8101. Short title

This chapter ~~shall be~~ is known and may be cited as the ~~Private~~ Professional Investigators Act.

Sec. 7. 32 MRSA §8102, as enacted by PL 1981, c. 126, §2, is amended to read:

§8102. Purpose

~~It is the~~ The purpose of this chapter is to regulate any person, firm, corporation or other legal entity ~~engaging~~ engaged in the business of private ~~investigating~~ investigation.

Sec. 8. 32 MRSA §8103, sub-§1, as amended by PL 2001, c. 298, §1, is repealed.

Sec. 9. 32 MRSA §8103, sub-§1-A is enacted to read:

1-A. Board. "Board" means the Board of Licensure of Professional Investigators under section 8103-A, as established under Title 5, section 12004-G, subsection 29-D.

Sec. 10. 32 MRSA §8103, sub-§1-B is enacted to read:

1-B. Chief. "Chief" means the Chief of the State Police or the chief's designee.

Sec. 11. 32 MRSA §8103, sub-§1-C is enacted to read:

1-C. Computer forensics. "Computer forensics" means the use of digital forensic science that involves the examination of digital media to identify, preserve, recover and analyze information related to legal matters.

Sec. 12. 32 MRSA §8103, sub-§2, as enacted by PL 1981, c. 126, §2, is amended to read:

2. Investigative assistant. "Investigative assistant" means a person who acts as a ~~private~~ professional investigator under the ~~direct~~ supervision of a licensed ~~private~~ professional investigator in accordance with this chapter.

Sec. 13. 32 MRSA §8103, sub-§3, as enacted by PL 1981, c. 126, §2, is amended to read:

3. Licensee. "Licensee" means any person licensed under this chapter as a ~~private~~ professional investigator or investigative assistant.

Sec. 14. 32 MRSA §8103, sub-§4-A is enacted to read:

4-A. Private investigation. "Private investigation" means for any consideration whatsoever, to agree to obtain, or to in fact obtain information with reference to any of the following:

A. A crime or other act committed or threatened against the laws or government of the United States, any state or territory or any political subdivision of a state or territory;

B. The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person;

C. The cause of or responsibility for libels, fires, losses, accidents or damage or injury to persons or property;

D. The location, disposition or recovery of lost or stolen property;

E. Evidence to be used before a court, board, officer or investigative committee, including evidence derived through computer forensics; or

F. The detection of surreptitiously installed devices designed for eavesdropping or observation, or both, for video and audio devices.

Sec. 15. 32 MRSA §8103, sub-§5, as enacted by PL 1981, c. 126, §2, is repealed and the following enacted in its place:

5. Professional investigator. "Professional investigator" means any person who engages in or solicits business or accepts employment to conduct private investigations.

Sec. 16. 32 MRSA §8103-A is enacted to read:

§8103-A. Board of Licensure of Professional Investigators

1. Establishment. The Board of Licensure of Professional Investigators, referred to in this chapter as "the board," is established pursuant to Title 5, section 12004-G, subsection 29-D to administer the provisions of this chapter to protect the public by improving the standards relative to the practice of private investigation and to protect the public from unqualified practitioners.

2. Duties. The board has the following powers and duties:

A. To provide advice regarding rules proposed by the chief;

B. At the request of the chief, to review written examinations for professional investigator applicants;

C. At the request of the chief, to advise the chief on granting, suspending and revoking the licenses of professional investigators;

D. To establish standards governing the safety and conduct of persons licensed under this chapter;

E. To recommend investigations regarding alleged violations of the provisions of this chapter and any rules adopted by the chief; and

F. To provide information to the chief on any matter as the board determines appropriate or necessary.

3. Members. The board consists of 7 members who must be residents of the State and are appointed by the Governor as follows:

A. Two members of the State Police recommended by the chief;

B. One member recommended by the Attorney General;

C. Three members of the public, with no more than 2 holding a license under this chapter, to be appointed to reflect a wide diversity of private investigation experience. At least one member must be chosen for the member's expertise in operating a private investigation company in this State and must have a minimum of 5 years of experience as a licensed private investigator; and

D. One administrator from a local or county law enforcement agency.

4. Terms; removal. Terms of the members of the board are for 3 years. The terms are governed by Title 10, section 8009. Members may be removed by the Governor for cause.

5. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be 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. Four members of the board constitute a quorum.

Sec. 17. 32 MRSA §8104, sub-§1, as enacted by PL 1981, c. 126, §2, is amended to read:

1. License. ~~No~~ A person may not act as a ~~private~~ professional investigator without first obtaining from the ~~commissioner~~ chief a license to be a ~~private~~ professional investigator or investigative assistant.

Sec. 18. 32 MRSA §8104, sub-§2, ¶A, as enacted by PL 1981, c. 126, §2, is amended to read:

A. A person employed by or on behalf of the ~~State,~~ Federal Government, any state or any political subdivision ~~thereof,~~ or ~~any~~ public instrumentality or a Canadian province, while in the performance of ~~his~~ the person's official duties;

Sec. 19. 32 MRSA §8104, sub-§2, ¶B, as enacted by PL 1981, c. 126, §2, is repealed.

Sec. 20. 32 MRSA §8104, sub-§2, ¶E, as enacted by PL 1981, c. 126, §2, is amended to read:

E. An insurance company~~, or agent thereof,~~ investigating the personal habits and financial responsibility of applicants for insurance or indemnity bonds;

Sec. 21. 32 MRSA §8104, sub-§2, ¶F, as enacted by PL 1981, c. 126, §2, is amended to read:

F. An attorney admitted to practice law in the State acting in a professional capacity;

Sec. 22. 32 MRSA §8104, sub-§2, ¶H, as enacted by PL 1981, c. 126, §2, is amended to read:

H. An insurance adjuster ~~or investigator~~, or an employee investigating claims for or against ~~his~~ the employee's employer;

Sec. 23. 32 MRSA §8104, sub-§2, ¶I, as enacted by PL 1981, c. 126, §2, is amended to read:

I. A person engaged in compiling genealogical information or otherwise tracing lineage or ancestry, by primarily using public records and historical information or databases;

Sec. 24. 32 MRSA §8104, sub-§2, ¶J, as enacted by PL 1981, c. 126, §2, is amended to read:

J. A person possessing a valid private investigator's license granted under any prior existing provision of law of this State, ~~provided that~~ as long as, upon expiration of the license, the person ~~shall be~~ is governed by this section; ~~or~~

Sec. 25. 32 MRSA §8104, sub-§2, ¶K, as enacted by PL 1981, c. 126, §2, is repealed and the following enacted in its place:

K. A person employed exclusively and regularly by an employer in connection with the affairs of the employer only, and there exists a bona fide employer-employee relationship in which the employee is reimbursed on an hourly basis;

Sec. 26. 32 MRSA §8104, sub-§2, ¶L is enacted to read:

L. A person acting within the scope of the person's professional practice to analyze facts, evidence or other data for the purposes of supplying expert testimony in a legal proceeding; or

Sec. 27. 32 MRSA §8104, sub-§2, ¶M is enacted to read:

M. An Internet research company or an individual who is solely engaged in the retrieval of data from an online source or database and who does not question individuals in person, by phone or by electronic means, when those electronic means are used as a tool to gather information for a fee.

Sec. 28. 32 MRSA §8105, first ¶, as enacted by PL 1981, c. 126, §2, is amended to read:

A person is qualified to be licensed as a ~~private~~ professional investigator who:

Sec. 29. 32 MRSA §8105, sub-§1, as enacted by PL 1981, c. 126, §2, is amended to read:

1. Age. Is at least ~~18~~ 21 years of age;

Sec. 30. 32 MRSA §8105, sub-§4, as amended by PL 1995, c. 694, Pt. D, §56 and affected by Pt. E, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

4. Character. Has demonstrated good moral character and has not been convicted of a crime ~~which~~ that is punishable by a maximum term of imprisonment equal to or exceeding one year, or a crime enumerated in this chapter. The determination of good moral character ~~shall~~ must be made in writing, based upon evidence recorded by a governmental entity. The ~~commissioner~~ chief shall consider matters recorded within the previous 5 years including, but not limited to, the following:

A. Records of incidents of abuse by the applicant of family or household members provided pursuant to Title 19-A, section 4012, subsection 1;

B. Records provided by the Department of Health and Human Services regarding the failure of the applicant to meet child or family support obligations;

C. Records of 3 or more convictions of the applicant for Class D or E crimes;

D. Records of 3 or more civil violations by the ~~applicants~~ applicant; or

E. Records that the applicant has engaged in recklessness or negligence that endangered the safety of others, including the use of weapons or motor vehicles;

Sec. 31. 32 MRSA §8105, sub-§5, as amended by PL 2009, c. 20, §1, is further amended to read:

5. Application. Submits an application approved by the chief that ~~contains~~, at a minimum, includes the following information:

A. ~~Full~~ The applicant's full name;

B. ~~Full~~ The applicant's full current residential address and the applicant's residential addresses ~~for~~ during the ~~prior~~ previous 5 years;

C. The applicant's date and place of birth, height, weight and color of eyes;

D. A written statement signed by the applicant granting the chief ~~of police~~ authority to check the criminal records of any law enforcement agency that pertains to any matter involving the applicant. The applicant must agree to submit to having the applicant's fingerprints taken by the issuing authority if it becomes necessary to resolve any question as to the applicant's identity; and

E. ~~Answers~~ The answers to the following questions:

(1) Are you currently under indictment or information for a crime for which the possible penalty is imprisonment for a period equal to or exceeding one year?

(2) Have you ever been convicted of a crime for which the possible penalty was imprisonment for a period equal to or exceeding one year?

(3) Are you a fugitive from justice?

(4) Are you an unlawful user of or addicted to marijuana or any other drug?

(5) Have you been adjudged mentally defective or been committed to a mental institution within the past 5 years? or

(6) Are you an illegal alien?

By affixing the applicant's signature, the applicant certifies that the information in the application provided by the applicant is true and correct ~~and,~~ that the applicant understands that an affirmative answer to any of the questions in paragraph E is cause for ~~refusal~~ a license to be denied and that any false statement may result in prosecution as provided in section 8114.

Sec. 32. 32 MRSA §8105, sub-§7-A, as amended by PL 2001, c. 298, §3, is further amended to read:

7-A. Experience. Meets at least one of the following criteria:

A. Has ~~been employed for consideration for a minimum of 1,700 hours as an~~ successfully completed an investigative assistant ~~possessing a valid license issued by the commissioner. The 1,700 hours must have been completed within 2 years after the date of issuance of the investigative assistant license but may not have been completed in less than one year after the date of issuance of the license~~ sponsorship program pursuant to section 8110-B and has earned a minimum of 60 academic credits of postsecondary education in a related field of study or an equivalent certificate of study for private investigation;

B. Has been employed for a minimum of ~~one year~~ 3 years as a member of an investigative service of the United States or as a sworn member of a branch of the United States Armed Forces or a federal investigative agency. For purposes of this paragraph, "a member of an investigative service of the United States" means a full-time federal investigator or detective of the United States Armed Forces;

B-1. Has held for a period of not less than 3 years a valid professional investigator's license granted under the laws of another state or territory of the United States if:

(1) The requirements of the state or territory for a professional investigator's license were, at the date of the licensing, substantially equivalent to the requirements of this chapter; and

(2) The other state or territory grants similar reciprocity to license holders in this State;

C. Has been employed for a minimum of ~~one year~~ 3 years as a law enforcement officer of a state or political subdivision of a state and has met the training requirements set forth in Title 25, section 2804-C~~,~~ or is qualified to receive a waiver from those requirements; or

D. Possesses a minimum of 6 years of preparation consisting of a combination of:

(1) Work experience, including at least 2 years in a nonclerical occupation related to law or the criminal justice system; and

(2) Educational experience, including at least:

(a) Sixty academic credits of ~~post-secondary~~ postsecondary education in a field of study listed in division (b) acquired at an accredited junior college, college or university; ~~or~~

(b) An associate degree ~~in law enforcement, based on 2 years of post secondary instruction, conferred by an established~~ acquired at an accredited junior college, college, university or technical college in police administration, security management, investigation, law, criminal justice or computer forensics or other similar course of study acceptable to the chief; ~~and~~ or

(c) An associate degree in any field of study that is acceptable to the chief; and

Sec. 33. 32 MRSA §8105, sub-§8, as enacted by PL 1981, c. 126, §2, is amended to read:

8. Examination. Has passed an examination administered by the ~~commissioner~~ chief covering subjects pertaining to private investigation to be prescribed by ~~him~~ the chief, ~~provided that~~ except that a person currently licensed, as described in section 8106, may at no time be required to take any such examination.

Sec. 34. 32 MRSA §8106, as enacted by PL 1981, c. 126, §2, is amended to read:

§8106. Acquisition of license by persons currently licensed

A person possessing, under Maine law, a valid private investigator's license on the effective date of this chapter whose license then expires, ~~shall~~ by application, compliance with section 8105, subsection 8 and payment of the required fee, ~~be~~ is entitled to a ~~private~~ professional investigator's license.

Sec. 35. 32 MRSA §8107, as enacted by PL 1981, c. 126, §2, is amended to read:

§8107. Application for original license

Applications for original licenses ~~shall~~ must be made to the ~~commissioner in writing~~ chief under oath on forms prescribed by ~~him with respect to the re-~~

~~quirements of section 8105~~ the chief demonstrating the qualifications required under this chapter. The application ~~shall~~ must be accompanied by the fee required under section 8117~~,~~ and by a certification~~,~~ by each of 3 reputable citizens of the State~~,~~ of the following:

1. Residence. That ~~he~~ the reputable citizen resides in the community in which the applicant resides, has a place of business or proposes to conduct ~~his~~ the applicant's private ~~investigator~~ investigation business;

2. Knowledge of applicant. That ~~he~~ the reputable citizen has personally known the applicant for at least 3 years;

3. Relation to applicant. That ~~he~~ the reputable citizen is not related to the applicant by blood or marriage;

4. Character of applicant. That the applicant is honest and of good moral character; and

5. Truth of statements in application. That ~~he~~ the reputable citizen has read the application and believes each statement in it to be true.

Sec. 36. 32 MRSA §8108, as enacted by PL 1981, c. 126, §2, is repealed.

Sec. 37. 32 MRSA §8109, as amended by PL 2003, c. 620, §1, is further amended to read:

§8109. Renewal of license

Each ~~private~~ professional investigator's license is valid for an initial term of 2 years ~~and is, unless.~~ Unless the license is revoked ~~or suspended~~, ~~renewable~~ the licensee may apply to renew the license every 4 years after the initial term.

Sec. 38. 32 MRSA §8110, sub-§2, as amended by PL 1983, c. 221, §1, is further amended to read:

2. Application. ~~Application~~ An application for an investigative assistant's license ~~shall~~ must be made to the ~~commissioner~~ chief in accordance with the requirements of ~~sections~~ section 8105, subsection 5 and section 8107. The application ~~shall~~ must be accompanied by the fee required under section 8117.

Sec. 39. 32 MRSA §8110, sub-§3, as amended by PL 2003, c. 620, §2, is further amended to read:

3. Term of license. The investigative assistant's license is valid for 2 years from the date of issuance and is not renewable. To qualify for a license as a professional investigator, within those 2 years the investigative assistant must complete 1,200 hours of training.

Sec. 40. 32 MRSA §8110, sub-§4 is enacted to read:

4. Sponsor. An investigative assistant may engage in the business of private investigating only when sponsored by a professional investigator licensed under this chapter.

Sec. 41. 32 MRSA §8110-A, as enacted by PL 1985, c. 207, §1, is amended to read:

§8110-A. Employment of investigative assistant

A ~~private~~ professional investigator duly licensed under this chapter whose primary place of business is located in the State may employ an investigative ~~assistants provided that~~ assistant pursuant to section 8110-B subject to the following:

1. Limit on number of investigative assistants. No more than ~~3~~ one investigative ~~assistants are~~ assistant is employed at one time; and

2. Investigative assistant to be licensed. ~~Each~~ The investigative assistant is ~~duly~~ licensed under this chapter.

Sec. 42. 32 MRSA §8110-B is enacted to read:

§8110-B. Sponsorship of investigative assistant

1. Supervision and documentation of investigative assistant's activities. The sponsoring professional investigator is responsible for overseeing and documenting the activities of the investigative assistant under the sponsoring professional investigator's supervision, including:

A. Keeping a record of all 1,200 training hours, including hours worked on specific activities performed by the investigative assistant; and

B. Providing specific training in areas determined by the chief by rule.

2. Distribute materials. The holder of an investigative assistant's license may not obtain or distribute any materials, such as a business card, letterhead, invoice or brochure, in any name other than that of the sponsoring professional investigator.

3. Termination of investigative assistant. A duly licensed professional investigator who terminates the sponsorship of a licensed investigative assistant must notify the chief of the termination immediately. The notification must be in writing and contain the cause of the termination. The chief shall immediately notify the investigative assistant that the investigative assistant must cease all licensed activity.

Sec. 43. 32 MRSA §8111, as enacted by PL 1981, c. 126, §2, is amended to read:

§8111. Bonding and insurance requirements

1. Bonding requirement. A person licensed as a ~~private~~ professional investigator shall give to the ~~commissioner~~ chief a bond in the sum of $10,000 if ~~he~~

the licensee is a resident of the State and in the sum of $50,000 if ~~he~~ the licensee is not a resident of the State.

A person licensed as an investigative assistant shall give to the ~~commission~~ chief a bond in the sum of $20,000.

2. Form of a bond. Each bond ~~shall~~ must:

A. Be in a form prescribed by the ~~commissioner~~ chief;

B. Be executed by the licensee as principal and by a surety company authorized to do business in this State as surety; and

C. Be conditioned upon the honest conduct of the business of the licensee and the right of any person, including the officer of any aggrieved labor union or association, whether or not incorporated, injured by the intentional, knowing, reckless or negligent act of the licensee to bring, in ~~his~~ the licensee's own name, an action on the bond.

3. Insurance requirement. A person licensed as a professional investigator shall provide to the chief proof of insurance naming the licensee as the insured issued by an insurer authorized to do business in the State in the amount of a minimum of $10,000 in property damages, $100,000 for injury or death of a person and $200,000 for injuries to or deaths of more than one person arising out of the operation of the licensed activity. Proof of insurance must be submitted to the chief annually.

Sec. 44. 32 MRSA §8113, as amended by PL 2011, c. 161, §§1 to 3, is further amended to read:

§8113. Refusal; suspension; revocation; grounds

~~The commissioner~~ In accordance with the Maine Administrative Procedure Act, the chief may~~, after notice of an opportunity for hearing in conformance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV,~~ refuse to issue or renew a license~~. The District Court may~~, suspend or revoke the license of any person licensed under this chapter~~. The following are grounds for an action to refuse to issue, suspend, revoke or refuse to renew the license of a person licensed under this chapter~~, impose probationary conditions, fines or costs of hearing and investigation or issue a written warning on the following grounds:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

2. Conviction of certain crimes. Conviction of a crime ~~which~~ that involves dishonesty or false statement or ~~which~~ that relates directly to the practice for which the licensee is licensed or ~~which~~ that is enumerated in this chapter~~,~~ or conviction of any crime for which incarceration for one year or more may be imposed;

3. Violation of chapter or rule. Any violation of this chapter or any rule adopted by the ~~commissioner~~ chief;

4. Aiding or abetting unlicensed practice of private investigation. Aiding or abetting the practice of private investigation by a person not duly licensed under this chapter and who represents ~~himself~~ to ~~be~~ others that the person is duly licensed;

5. Failure to maintain bond and insurance. Failure to maintain a bond and insurance as required by section 8111;

6. Incompetence. Incompetence in the practice for which ~~he~~ the person is licensed. A licensee ~~shall be deemed~~ is considered incompetent in the practice if the licensee has:

A. Engaged in conduct ~~which~~ that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or

B. Engaged in conduct ~~which~~ that evidences a lack of knowledge~~,~~ or an inability to apply principles or skills to carry out the practice for which ~~he~~ the person is licensed;

7. Employment of prohibited person. Employment, in connection with a private investigation business, in any capacity, of any person who has been convicted of a crime punishable by imprisonment for one year or more or any former licensee whose license has been revoked;

8. Representations that licensee is sworn peace officer. Representation by the licensee that suggests, or that would reasonably cause another person to believe, that the licensee is a sworn peace officer of this State, any political subdivision of this State, any other state or ~~of~~ the Federal Government; or

9. Unpermitted contact with a child. Contact or communication with a child who has not attained 14 years of age regarding a private investigation if that contact or communication includes conduct with the intent to harass, torment, intimidate or threaten a child.

10. Misstatement. Intentionally or knowingly making a material misstatement in filing an application for a license or renewal of a license;

11. Violation of standards of acceptable professional conduct. A violation of the standards of acceptable professional conduct adopted by rule by the chief; or

12. Cause for refusal. Committing an act that would have been cause for the refusal to issue a li-

cense had the act occurred and been known to the chief at the time of issuance of a license.

The chief may reconsider, modify or reverse probation, suspension or other disciplinary action.

Sec. 45. 32 MRSA §8113-A, as amended by PL 1995, c. 65, Pt. A, §132 and affected by §153 and Pt. C, §15, is further amended to read:

§8113-A. Suspension for refusal

1. Immediate suspension. If the ~~commissioner~~ chief has probable cause to believe that a person licensed pursuant to this chapter is required to submit to chemical testing for the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for conduct that occurs while the licensee is in possession of a loaded firearm and the licensee refuses to submit to the required testing, the ~~commissioner~~ chief shall immediately suspend the licensee's right to carry a concealed firearm.

2. Report to chief. ~~The~~ A law enforcement officer who has probable cause to require chemical testing of a licensee shall promptly notify the ~~commissioner~~ chief of ~~the~~ a licensee's refusal and provide the ~~commissioner~~ chief with a report of the facts and circumstances of the requirement to submit to chemical testing and of the licensee's refusal.

3. Suspension in effect during pendency. ~~The~~ A suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title 29-A, section 2483, that the law enforcement officer did not have probable cause to require the licensee to submit to chemical testing.

Sec. 46. 32 MRSA §8114, as corrected by RR 2003, c. 2, §98, is amended to read:

§8114. Unlawful acts

A person is guilty of improper conduct in private investigation if the person commits any of the acts described in this section. Improper conduct in private investigation is a Class D crime.

1. Acting without license; false representation. ~~It is a Class D crime for any person knowingly to commit any of the following~~ A person acts without a license or commits false representation if that person intentionally or knowingly:

A. ~~Subject to~~ Except as provided in section 8104, ~~to act~~ acts as a ~~private~~ professional investigator without a valid license;

B. ~~To falsely represent~~ Falsely represents that ~~he~~ the person is the holder of a valid license;

C. ~~To falsely represent~~ Falsely represents that any person in ~~his~~ the person's employ is a ~~private~~ professional investigator or investigative assistant; or

D. ~~To make~~ Makes any false statements or material omission in any application filed with the ~~commissioner~~ chief.

2. Representation as peace officer; employment of certain convicted persons; failure to surrender license. ~~It is a Class D crime for a~~ A licensed ~~private~~ professional investigator or investigative assistant ~~knowingly to commit any of the following acts~~ commits misrepresentation as a peace officer, employment of a certain convicted person or failing to surrender if that professional investigator or investigative assistant intentionally or knowingly:

A. ~~To make~~ Makes any representation, including, but not limited to, presentation of a badge, that suggests, or that would reasonably cause another person to believe, that the licensed ~~private~~ professional investigator or investigative assistant is a sworn peace officer of this State, any political subdivision ~~thereof~~ of this State, ~~or~~ any other state or ~~of~~ the Federal Government;

B. ~~To employ~~ Employs, in connection with a private ~~investigator~~ investigation business, in any capacity, ~~any~~ a former licensee whose license has been revoked or a person who has been convicted of ~~a felony or any former licensee whose license has been revoked; or~~:

(1) A crime in this State that is punishable by imprisonment for a term exceeding one year or more;

(2) A crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year;

(3) A crime under the laws of another state that, in accordance with the laws of that jurisdiction, is punishable by a term of imprisonment exceeding one year. This subparagraph does not include a crime under the laws of another state that is classified by the laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less; or

(4) A crime under the laws of another state that, in accordance with the laws of that jurisdiction, does not come within subparagraph (3) but is elementally substantially similar to a crime in this State that is punishable by a term of imprisonment for one year or more; or

C. ~~To fail~~ Fails or ~~refuse~~ refuses to surrender ~~his~~ the professional investigator's license to the ~~commissioner~~ chief following revocation or suspension.

3. Employing unlicensed individual. ~~It is a Class D crime for a~~ A licensed ~~private~~ professional investigator commits improper employment conduct if the professional investigator intentionally or knowingly ~~to employ or engage~~ employs or engages any other person to act as a ~~private~~ professional investigator unless the person so employed or engaged is licensed as a ~~private~~ professional investigator or investigative assistant.

~~**4. Failure of investigative assistant to return equipment.** It is a Class D crime for a licensed investigative assistant knowingly to fail to return immediately on demand, or within 7 days of termination of his employment any item of equipment issued to him by his employer.~~

5. Other unlawful acts. ~~It is a Class D crime for a~~ A person licensed under this chapter or any person employed by ~~him~~ the person commits improper investigative conduct if that person intentionally or knowingly ~~to commit any of the following acts~~:

A. ~~To incite~~ Incites, ~~encourage~~ encourages or ~~aid~~ aids any person who has become a party to any strike to commit any unlawful act against any person or property;

B. ~~To incite~~ Incites, ~~stir~~ stirs up, ~~create~~ creates or ~~aid~~ aids in the inciting of discontent or dissatisfaction among the employees of any person with the intention of having them strike;

C. ~~To interfere~~ Interferes with or ~~prevent~~ prevents lawful and peaceful picketing during strikes;

D. ~~To interfere~~ Interferes with, ~~restrain~~ restrains or ~~coerce~~ coerces employees in the exercise of their right to form, join or assist any labor organization of their ~~own~~ choosing;

E. ~~To interfere~~ Interferes with or ~~hinder~~ hinders lawful or peaceful collective bargaining between employers and employees;

F. ~~To pay, offer~~ Pays or offers to give any money, gratuity, consideration or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right to organize, form or assist any labor organization and to bargain collectively through representatives of their ~~own~~ choosing;

G. ~~To advertise~~ Advertises for, ~~recruit~~ recruits, ~~furnish~~ furnishes or ~~replace~~ replaces or ~~offer~~ offers to furnish or replace for hire or reward, within or outside the State, any skilled or unskilled help or labor, armed guards, other than armed guards employed for the protection of payrolls, property or premises, for service upon property ~~which~~ that is being operated in anticipation of or during the course of a strike;

H. ~~To furnish~~ Furnishes armed guards upon the highways for persons involved in labor disputes;

I. ~~To furnish~~ Furnishes or ~~offer~~ offers to furnish to employers or their agents any arms, munitions, tear gas implements or any other weapons;

J. ~~To send~~ Sends letters ~~of~~ or literature to employers offering to eliminate labor unions; or

K. ~~To advise~~ Advises any person of the membership of an individual in a labor organization for the purpose of preventing that individual from obtaining or retaining employment.

Sec. 47. 32 MRSA §8114-A is enacted to read:

§8114-A. Complaint investigation; disciplinary actions

1. Complaint investigation. The chief shall investigate a complaint, on the chief's own motion or upon receipt of a written complaint filed with the chief, regarding noncompliance with or violation of this chapter or of rules adopted by the chief. The chief may adopt rules regarding the receipt and investigation of complaints. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The chief shall notify the licensee of the content of the complaint filed against the licensee as soon as possible, but not less than 60 days after receipt of the information. The licensee shall respond within 30 days. If the chief determines that a violation took place but was not of a serious nature, the chief may issue a written warning to the licensee. A copy of the warning and licensee's response to the complaint must be placed in the licensee's permanent file.

The licensee may, within 30 days of receipt of a warning, file a request for a hearing. Upon receipt of the request, the chief shall set aside the written warning and set the matter for hearing in accordance with the provisions of the Maine Administrative Procedure Act.

2. Hearing. If an investigation under subsection 1 reveals evidence supporting the complaint, the chief shall set the matter for hearing in accordance with the provisions of the Maine Administrative Procedure Act before suspending or revoking a license or imposing probationary or supervisory conditions or a fine.

3. Aggrieved by disciplinary action. A licensee aggrieved by a disciplinary action of the chief may bring an appeal in accordance with the Maine Administrative Procedure Act.

4. Voluntary compliance. At any time during the investigative or hearing process under this section, the chief may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

Sec. 48. 32 MRSA §8115, as enacted by PL 1981, c. 126, §2, is repealed and the following enacted in its place:

§8115. Identification cards; badges prohibited

1. Issuance of identification cards. The chief shall design and issue to each person licensed under this chapter an identification card featuring a recent photograph of the licensee.

2. Use of badges prohibited. A person licensed under this chapter may not carry or present a badge that suggests, or that would reasonably cause another person to believe, that the licensed professional investigator or investigative assistant is a sworn peace officer of this State, any political subdivision of this State, any other state or the Federal Government.

Sec. 49. 32 MRSA §8116, as enacted by PL 1981, c. 126, §2, is amended to read:

§8116. Powers of the chief

1. Subpoenas. In any investigation conducted by the ~~commissioner~~ chief under this chapter, the ~~commissioner~~ chief may issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact in issue.

2. Contempt. If a witness refuses to obey a subpoena or to give any evidence ~~relevent~~ relevant to proper inquiry by the ~~commissioner~~ chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an order requiring ~~him~~ the witness to appear before the Superior Court to show cause why ~~he~~ the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant ~~him~~ the witness in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

3. Rules. The ~~commissioner shall~~ chief with the advice of the board may adopt ~~all~~ rules necessary to administer this chapter, including, but not limited to, ~~fixing application and license fees~~ rules regarding standards of acceptable professional conduct and ~~establishing a~~ training ~~requirement~~ requirements for and sponsorship of investigative assistants. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 50. 32 MRSA §8117, as amended by PL 2003, c. 620, §4, is further amended to read:

§8117. Fees

1. Amount. The fee for an original biennial license is ~~$400~~ $500, of which $50 must be submitted with the application and ~~$350~~ $450 must be submitted upon issuance of the license. The fee for a 4-year renewal is ~~$400~~ $500, which is refundable upon denial of renewal. The fee for an investigative assistant's license is $600, of which $200 must be submitted with the application and $400 must be submitted upon issuance of the license.

2. Expiration. If a previously issued license has expired and not been renewed within a period of 60 days, the application ~~shall~~ must be considered the original application and the same fees and all requirements of an original application ~~shall~~ apply.

3. Expenses. The fees required under this chapter ~~shall~~ must be applied to the expense of administering this chapter.

Sec. 51. 32 MRSA §8120-A, as enacted by PL 1997, c. 360, §5, is amended to read:

§8120-A. Firearms

A ~~private~~ professional investigator licensed under this chapter may carry a firearm while performing the duties of a ~~private~~ professional investigator only after being issued a concealed weapons permit by the ~~Chief of the State Police under~~ chief pursuant to Title 25, chapter 252 and passing the written firearms examination prescribed by the ~~commissioner~~ chief.

Sec. 52. 32 MRSA §8121, as enacted by PL 2003, c. 620, §5, is amended to read:

§8121. Confidentiality when under contract to law enforcement agency

A ~~private~~ professional investigator or investigative assistant who enters into a written contract with a law enforcement agency in this State to provide investigative services or consultation to the law enforcement agency is subject to the same provisions of law regarding confidentiality as are employees of the law enforcement agency with which the ~~private~~ professional investigator or investigative assistant is under contract.

Sec. 53. 32 MRSA §8122 is enacted to read:

§8122. Proof of valid professional investigator's license

A person or company soliciting work or employment as a professional investigator shall provide proof to any client that the professional investigator holds a valid professional investigator's license before entering into any agreement or contract to conduct investigations.

Sec. 54. 32 MRSA §8123 is enacted to read:

§8123. Violation

Except when a criminal penalty is otherwise provided, a person who violates this chapter or a rule adopted pursuant to this chapter commits a civil violation for which a fine of not less than $1,000 may be adjudged.

Sec. 55. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 32, section 8103-A, subsection 4, in appointing members to the Department of Professional and Financial Regulation, Board of Licensure of Professional Investigators, the Governor shall appoint one member of the Maine State Police for a one-year term and one member from the Maine State Police for a 2-year term and the first public member for a one-year term and the 2nd public member for a 2-year term. All other members are appointed for 3-year terms.

Sec. 56. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 89, in the chapter headnote, the words "private investigators" are amended to read "professional investigators" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 367

S.P. 309 - L.D. 989

An Act To Improve Transparency in Political Campaigns by Providing Quicker Access to Reports

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

Sec. 1. 21-A MRSA §1017-A, sub-§4-A, ¶A, as amended by PL 2009, c. 190, Pt. A, §11, is further amended to read:

A. Quarterly reports must be filed by 11:59 p.m.:

(1) On January 15th and must be complete up to December 31st;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to June 30th; and

(4) On October ~~10th~~ 5th and must be complete up to September 30th.

Sec. 2. 21-A MRSA §1059, sub-§2, ¶A, as amended by PL 2009, c. 190, Pt. A, §24, is further amended to read:

A. Quarterly reports must be filed:

(1) On January 15th and must be complete as of December 31st;

(2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of June 30th; and

(4) On October ~~10th~~ 5th and must be complete as of September 30th.

See title page for effective date.

CHAPTER 368

H.P. 978 - L.D. 1332

An Act To Amend the Maine Condominium Act

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

Sec. 1. 33 MRSA §1603-102, sub-§(a), ¶(14), as enacted by PL 1981, c. 699, is amended to read:

(14) Assign its right to future income, including the right to receive ~~common expense~~ assessments, but only ~~to the extent the declaration expressly so provides~~ if approval of a majority of unit owners is obtained;

Sec. 2. 33 MRSA §1603-102, sub-§(a), ¶(16), as enacted by PL 1981, c. 699, is amended to read:

(16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; ~~and~~

Sec. 3. 33 MRSA §1603-102, sub-§(a), ¶(17), as enacted by PL 1981, c. 699, is amended to read:

(17) Exercise any other powers necessary and proper for the governance and operation of the association~~.~~; and

Sec. 4. 33 MRSA §1603-102, sub-§(a), ¶(18) is enacted to read:

(18) Suspend any right or privilege of a unit owner that fails to pay an assessment, but may not:

(A) Deny a unit owner or other occupant access to the unit owner's unit; or

(B) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety or property of any person.

Sec. 5. 33 MRSA §1603-108, as enacted by PL 1981, c. 699, is amended to read:

§1603-108. Meetings

A meeting of the association ~~shall~~ must be held at least once each year. Special meetings of the association may be called as provided in the Maine Nonprofit Corporation Act. The bylaws must specify which of the association's officers, not less than 10 nor more than 60 days in advance of any meeting, shall cause notice to be hand delivered or sent prepaid by United States' mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes and any proposal to remove a director or officer.

The executive board shall give timely notice reasonably calculated to inform unit owners of the date, time and place of and topics proposed to be discussed at meetings of the executive board. The notice may be given by a posting in a prominent place in the common elements or elsewhere, by e-mail or by other means, but actual notice need not be delivered to each unit owner. Failure of a unit owner to receive notice does not invalidate any action taken by the executive board at the meeting. Unit owners have the right to attend meetings of the executive board, subject to reasonable rules established by the executive board.

The executive board may restrict or prohibit attendance by unit owners and others during executive sessions. An executive session may be held only to:

(a) Consult with the association's attorney concerning legal matters;

(b) Discuss existing or potential litigation or mediation, arbitration or administrative proceedings;

(c) Discuss labor or personnel matters;

(d) Discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or

(e) Prevent public knowledge of the matter to be discussed if the executive board determines that public knowledge would violate the privacy of any person.

A final vote or action may not be taken during an executive session.

Sec. 6. 33 MRSA §1603-116, sub-§(e), as enacted by PL 1981, c. 699, is amended to read:

(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within ~~3~~ 5 years after the full amount of the assessments ~~become~~ becomes due.

Sec. 7. 33 MRSA §1603-116, sub-§(j) is enacted to read:

(j) Assessments for common expenses accrue, free from the lien of a foreclosing first mortgagee, from and after the date of sale of a condominium unit pursuant to Title 14, section 6323.

Sec. 8. 33 MRSA §1603-118, as enacted by PL 1981, c. 699, is repealed and the following enacted in its place:

§1603-118. Association records

(a) An association must retain the following:

(1) Records of receipts and expenditures affecting the operation and administration of the association and other appropriate accounting records for the past 6 years;

(2) Minutes of all meetings of its unit owners and executive board other than executive sessions, a record of all actions taken by the unit owners or executive board without a meeting and a record of all actions taken by a committee in place of the executive board on behalf of the association;

(3) The names of current unit owners in a form that permits preparation of a list of the names of all unit owners and the addresses at which the association communicates with them, in alphabetical order showing the number of votes each unit owner is entitled to cast;

(4) Copies of its original or restated organizational documents and bylaws and all amendments to them and all rules currently in effect;

(5) All financial statements and tax returns of the association for the past 3 years;

(6) A list of the names and addresses of its current executive board members and officers;

(7) Its most recent annual report delivered to the Secretary of State;

(8) Financial and other records sufficiently detailed to enable the association to comply with section 1604-108;

(9) Copies of current contracts to which it is a party;

(10) Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners; and

(11) Ballots, proxies and other records related to voting by unit owners for one year after the election, action or vote to which they relate.

(b) Subject to subsections (c) and (d), all records retained by an association must be available for examination and copying by a unit owner or the unit owner's authorized agent:

(1) During reasonable business hours or at a mutually convenient time and location; and

(2) Upon 10 days' notice in writing reasonably identifying the specific records of the association requested.

(c) Records retained by an association may be withheld from inspection and copying to the extent that they concern:

(1) Personnel, salary and medical records relating to specific individuals;

(2) Contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated;

(3) Existing or potential litigation or mediation, arbitration or administrative proceedings;

(4) Existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the declaration, bylaws or rules;

(5) Communications with the association's attorney that are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;

(6) Information the disclosure of which would violate law other than this Act;

(7) Records of an executive session of the executive board; or

(8) Individual unit files other than those of the requesting unit owner.

(d) An association may charge a reasonable fee for providing copies of any records under this section and for supervising the unit owner's inspection.

(e) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner.

(f) An association is not obligated to compile or synthesize information.

(g) Information provided pursuant to this section may not be used for commercial purposes or any other purpose not reasonably related to the management of the association or the duties, rights or responsibilities of unit owners, officers or executive board members under this Act or the association's governing documents.

See title page for effective date.

CHAPTER 369

H.P. 551 - L.D. 744

An Act To Amend the Definition of "Service Animal" To Conform with Federal Law

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

Sec. 1. 5 MRSA §4553, sub-§9-D, as enacted by PL 2007, c. 664, §1, is repealed.

Sec. 2. 5 MRSA §4553, sub-§9-E is enacted to read:

9-E. Service animal. "Service animal" means:

A. For the purposes of subchapter 4:

(1) An animal that has been determined necessary to mitigate the effects of a physical or mental disability by a physician, psychologist, physician's assistant, nurse practitioner or licensed social worker; or

(2) An animal individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals who are deaf or hard of hearing to intruders or sounds, providing reasonable protection or rescue work, pulling a wheelchair or retrieving dropped items; and

B. For the purposes of subchapter 5, a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks, alerting an individual who is deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items such as medicine or a telephone, providing physical support and assistance with balance and stability to an individual with a mobility disability and helping a person with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors. The crime deterrent

effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition.

Sec. 3. 7 MRSA §3907, sub-§24-A, as enacted by PL 2007, c. 664, §10, is amended to read:

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

Sec. 4. 7 MRSA §3961-A, last ¶, as amended by PL 2007, c. 664, §13, is further amended to read:

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

Sec. 5. 17 MRSA §1011, sub-§24-A, as enacted by PL 2007, c. 664, §16, is amended to read:

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

Sec. 6. 17 MRSA §1312, sub-§7, as amended by PL 2007, c. 664, §20, is further amended to read:

7. Service dog; definition. As used in this section, "service dog" means a dog that meets the definition of "service animal" in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph B.

Sec. 7. 17 MRSA §1313, as amended by PL 2007, c. 664, §21, is further amended to read:

§1313. Motor vehicle drivers

The driver of a vehicle approaching a totally or partially blind or otherwise physically disabled pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a service dog as defined in section 1312, subsection 7 shall take all necessary precautions to avoid injury to that blind or otherwise physically disabled pedestrian, and any driver who fails to take such precautions is liable in damages for any injury caused the pedestrian. A totally or partially blind or otherwise physically disabled pedestrian, not carrying such a cane or using a service dog in any of the places, accommodations or conveyances listed in section 1312, has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind or otherwise physically disabled pedestrian to carry such a cane or to use a service dog in any such places, accommodations or conveyances may not be held to constitute nor be evidence of contributory negligence.

Sec. 8. 17 MRSA §1314-A, as amended by PL 2007, c. 664, §22, is further amended to read:

§1314-A. Misrepresentation of service dog

A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of "service dog" as defined in section 1312, subsection 7 commits a civil violation for which a fine of not more than $500 may be adjudged.

Sec. 9. 17 MRSA §3966, last ¶, as amended by PL 2007, c. 664, §23, is further amended to read:

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection ~~9-D~~ 9-E, paragraph A or B.

See title page for effective date.

CHAPTER 370

H.P. 235 - L.D. 291

An Act Regarding the Moose Lottery and Moose Management

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

Sec. 1. 12 MRSA §10206, sub-§9, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §50 and affected by §422, is repealed.

Sec. 2. 12 MRSA §10263 is enacted to read:

§10263. Moose Research and Management Fund

The Moose Research and Management Fund, referred to in this section as "the fund," is established within the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding the research and the management of moose. One hundred dollars from each nonresident or alien moose hunting permit issued under section 11154, subsection 3 must be deposited in the fund. In addition, up to $25,000 may be deposited in the fund from the revenues generated by moose hunting application and permit fees to carry out the department's documented moose research. The commissioner may accept and deposit into the fund monetary gifts, donations or other contributions from public or private sources for the purposes specified in this section. The fund must be held separate and apart from all other money, funds and accounts.

Sec. 3. 12 MRSA §11109-A, sub-§1, as enacted by PL 2005, c. 477, §4, is amended to read:

1. Moose lottery chances. A super pack license includes, upon application, ~~6 chances~~ one chance in the moose lottery under section 11154, subsection 6.

Sec. 4. 12 MRSA §11154, sub-§3, as amended by PL 2009, c. 213, Pt. OO, §7, is further amended to read:

3. Moose hunting permit fee. The fee for a moose hunting permit is $52 for a resident and ~~$484~~ $585 for a nonresident or alien.

Sec. 5. 12 MRSA §11154, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Eligibility. Except as provided in this subsection, a resident, nonresident or alien who is eligible to obtain a Maine hunting license or who will be eligible to obtain a Maine hunting license by the opening day of the open moose season is eligible to apply for a moose hunting permit. ~~A~~ Beginning in 2011, a person who has obtained a moose hunting permit is ineligible to obtain another permit until ~~2~~ 3 years have elapsed after the issuance of the last permit. This limitation does not apply to subpermittees under subsection 7.

Sec. 6. 12 MRSA §11154, sub-§6, as amended by PL 2009, c. 186, §4, is further amended to read:

6. Application procedure. An eligible person wishing to apply for a permit must file a written application for a permit on a form furnished by the commissioner. The application fee is nonrefundable. A person may file no more than one application. A person who submits more than one application is disqualified from the selection of permittees. The application must be accompanied by an application fee of:

A. For a resident:

(1) ~~Seven~~ Fifteen dollars for a one-chance application; or

~~(2) Twelve dollars for a 3-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 3-chance application; and~~

~~(3) Twenty-two dollars for a 6-chance application. A resident must possess a valid big game hunting license to be eligible to purchase a 6-chance application; or~~

B. For a nonresident:

(1) Fifteen dollars for a one-chance application;

(2) Twenty-five dollars for a 3-chance application;

(3) Thirty-five dollars for a 6-chance application; and

(4) Fifty-five dollars for a 10-chance application; multiple 10-chance options may be purchased.

A clerk or agent appointed by the commissioner under section 10801 may process an application under this subsection. The clerk or agent shall charge a fee of $2 for each application under this subsection processed by that clerk or agent.

The commissioner shall allow an applicant to indicate that that applicant does not want to receive a moose permit pursuant to the application but wishes to receive the corresponding points under subsection 8 for that application.

Sec. 7. 12 MRSA §11154, sub-§7, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

7. Subpermittees. An applicant for a moose permit may indicate on the application filed pursuant to subsection 6 the name of a subpermittee-designate and the name of an alternate subpermittee-designate. If the applicant is issued a moose permit under subsection 9 and upon application to the commissioner, the permittee may change that person's subpermittee-designate or alternate subpermittee-designate until 30 days prior to the start of the moose hunting season for which the permit was issued. Thirty days prior to the start of the applicable moose hunting season, the subpermittee-designate becomes a subpermittee ~~and the~~. The permittee may authorize the subpermittee to participate in the moose hunt with the permittee. The permittee may authorize the alternate subpermittee-designate to participate in the hunt in place of the subpermittee-designate if the permittee notifies the department of the authorization at least 5 business days prior to the first day of the moose season, in which case the alternate subpermittee-designate becomes the subpermittee. The permittee may choose not to authorize a subpermittee to participate in the hunt.

A. A person may not sell a subpermittee or an alternate subpermittee designation.

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

Sec. 8. 12 MRSA §11154, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed and the following enacted in its place:

8. Point system for public chance drawing. A person accumulates points as follows for each consecutive year that person purchases an application for a moose hunting permit but is not selected to receive a permit:

A. One point each year for the first 5 years;

B. Two points each year for years 6 to 10;

C. Three points each year for years 11 to 15; and

D. Ten points each year after the 15th year.

Each point entitles an applicant to one chance in the public chance drawing. A person's accumulated points are eliminated and that person begins to accumulate points anew if in any year that person is selected to receive a moose hunting permit or if that person fails to purchase a new chance in any 2 consecutive years.

A person who is ineligible to receive a moose hunting permit as provided in subsection 5 may continue to purchase points for each year that person is ineligible to receive a moose hunting permit for the corresponding application fee under subsection 6.

Sec. 9. 12 MRSA §11154, sub-§11, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. A person who applies for a moose hunting permit under this subsection is subject to the eligibility provisions of subsection 5, except that a successful applicant is not required to wait ~~2~~ 3 years in order to obtain another permit.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Resource Management Services - Inland Fisheries and Wildlife 0534

Initiative: Establishes the Moose Research and Management Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$18,750	$25,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$18,750	$25,000

See title page for effective date.

CHAPTER 371

S.P. 392 - L.D. 1271

An Act To Require Use of the Electronic Death Registration System

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

Sec. 1. 22 MRSA §2845, as amended by PL 2003, c. 74, §3, is further amended to read:

§2845. Certificate of death typewritten or hand printed

~~Any~~ A death certificate required to be filed ~~by~~ under this chapter by an authorized person as described in section 2846 must be typewritten or legibly hand printed prior to such filing.

Sec. 2. 22 MRSA §2847 is enacted to read:

§2847. Electronic death registration system

Beginning July 1, 2012, a certificate of death required to be filed by any person authorized under section 2842 pursuant to this chapter may be filed using the electronic death registration system maintained by the State Registrar of Vital Statistics. This section does not apply to an authorized person under section 2846. The State Registrar of Vital Statistics shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 22, section 2845 takes effect July 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 372

H.P. 804 - L.D. 1069

An Act To Promote Visual and Digital Media Productions, Tourism and Job Creation in the State

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

Sec. 1. 5 MRSA §13090-M is enacted to read:

§13090-M. Visual and Digital Media Loan Program

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

A. "B-roll" means scenic background film footage that does not include actors and is not used in the final visual media production.

B. "Digital media project" has the same meaning as in section 13090-L, subsection 2-A, paragraph A.

C. "Fund" means the Visual and Digital Media Loan Fund, established pursuant to Title 10, section 1023-O.

D. "Program" means the Visual and Digital Media Loan Program established in subsection 2.

E. "Visual media production" has the same meaning as in section 13090-L, subsection 2-A, paragraph D.

2. Administration. The Visual and Digital Media Loan Program is established to promote digital media projects and visual media productions in the State that will assist in job creation and promote tourism in the State. The commissioner shall administer the program in accordance with this section.

3. Loan conditions. The commissioner may use the fund to provide loans for digital media projects or visual media productions of up to $500,000 per project or production, not to exceed 20% of the project's or production's proposed preproduction and production budget. A loan from the fund is subject to terms and conditions prescribed by rule by the commissioner and by the Finance Authority of Maine pursuant to Title 10, section 1023-O. The rules may also provide a mechanism for reserving funds for, or giving priority to, projects or productions determined by the commissioner to most effectively promote tourism and job creation in the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. When considering loans under this section, the commissioner shall consult with the Finance Authority of Maine.

4. Loan forgiveness criteria. A borrower under a loan under subsection 3 may apply to the commissioner for loan forgiveness upon completion of the digital media project or visual media production. The borrower must demonstrate to the satisfaction of the commissioner that the following criteria have been met:

A. The project or production has a total budget, including preproduction, production and postproduction costs and expenses, that exceeds $100,000;

B. Seventy-five percent of the completed project or production has been filmed in the State;

C. A marketing plan with respect to the project or production includes promotion and acknowledgment of the project's or production's filming in the State;

D. A signed agreement with the department provides the department with access to a film trailer and all b-roll footage, if applicable, provided free of charge to the State for tourism promotion activities; and

E. A signed agreement with the department provides that the project or production will not be the basis for a claim for an income tax credit under Title 36, section 5219-Y or reimbursement under Title 36, chapter 919-A.

5. Certification by commissioner. The commissioner must certify a digital media project's or visual media production's eligibility for a loan under subsection 3 to the Finance Authority of Maine prior to the disbursement of any funds by the authority pursuant to Title 10, section 1023-O.

6. Administration. The commissioner may contract with the Finance Authority of Maine to assist in the administration of this section.

7. Repeal. This section is repealed December 31, 2015.

Sec. 2. 10 MRSA §1023-O is enacted to read:

§1023-O. Visual and Digital Media Loan Fund

1. Fund established. The Visual and Digital Media Loan Fund, referred to in this section as "the fund," is established. The fund must be deposited with and maintained by the authority. The fund must be administered by the Commissioner of Economic and Community Development in accordance with Title 5, section 13090-M. The authority and the Department of Economic and Community Development may receive money for deposit into the fund from the Treasurer of State and from any other gift, grant or other source of revenue for use pursuant to this section. All money received by the authority from any source for the development and implementation of the fund must be credited to the fund. Repayment of loans and interest on loans from the fund must be credited to the fund and may be used for the purposes stated in Title 5, section 13090-M. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications. The authority may, in collaboration with the Commissioner of Economic and Community Development, establish by rule prudent terms and conditions for loans, including requiring adequate collateral for the loans.

2. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Repeal. This section is repealed December 31, 2015.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Office of Tourism 0577

Initiative: Allocates one-time funds for the start-up costs of the Visual and Digital Media Loan Program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	$5,000	$0

OTHER SPECIAL REVENUE FUNDS TOTAL	$5,000	$0

See title page for effective date.

CHAPTER 373

S.P. 414 - L.D. 1337

An Act To Ensure Patient Privacy and Control with Regard to Health Information Exchanges

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

Sec. 1. 22 MRSA §1711-C, sub-§7, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

7. Confidentiality policies. A health care practitioner ~~or,~~ facility or state-designated statewide health information exchange shall develop and implement policies, standards and procedures to protect the confidentiality, security and integrity of health care information to ensure that information is not negligently, inappropriately or unlawfully disclosed. The policies of health care facilities must provide that an individual being admitted for inpatient care be given notice of the right of the individual to control the disclosure of health care information. The policies must provide that routine admission forms include clear written notice of the individual's ability to direct that that individual's name be removed from the directory listing of persons cared for at the facility and notice that removal may result in the inability of the facility to direct visitors and telephone calls to the individual.

Sec. 2. 22 MRSA §1711-C, sub-§8, as enacted by PL 1997, c. 793, Pt. A, §8 and affected by §10, is amended to read:

8. Prohibited disclosure. A health care practitioner ~~or,~~ facility or state-designated statewide health information exchange may not disclose health care information for the purpose of marketing or sales without written or oral authorization for the disclosure.

Sec. 3. 22 MRSA §1711-C, sub-§18 is enacted to read:

18. Participation in a state-designated statewide health information exchange. The following provisions apply to participation in a state-designated statewide health information exchange.

A. A health care practitioner may not deny a patient health care treatment and a health insurer may not deny a patient a health insurance benefit based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange. Except when otherwise required by federal law, a payor of health care benefits may not require participation in a state-designated statewide health information exchange as a condition of participating in the payor's provider network.

B. Recovery for professional negligence is not allowed against any health care practitioner or health care facility on the grounds of a health care practitioner's or a health care facility's nonparticipation in a state-designated statewide health information exchange arising out of or in connection with the provision of or failure to provide health care services. In any civil action for professional negligence or in any proceeding related to such a civil action or in any arbitration, proof of a health care practitioner's, a health care facility's or a patient's participation or nonparticipation in a state-designated statewide health information exchange is inadmissible as evidence of liability or nonliability arising out of or in connection with the provision of or failure to provide health care services. This paragraph does not prohibit recovery or the admission of evidence of reliance on information in a state-designated statewide electronic health information exchange when there was participation by both the patient and the patient's health care practitioner.

C. A state-designated statewide health information exchange to which health care information is disclosed under this section shall provide an individual protection mechanism by which an individual may opt out from participation to prohibit the state-designated statewide health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility.

D. At point of initial contact, a health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall provide to each patient, on a separate form, at minimum:

(1) Information about the state-designated statewide health information exchange, including a description of benefits and risks of participation in the state-designated statewide health information exchange;

(2) A description of how and where to obtain more information about or contact the state-designated statewide health information exchange;

(3) An opportunity for the patient to decline participation in the state-designated statewide health information exchange; and

(4) A declaration that a health care practitioner, health care facility or other entity may not deny a patient health care treatment based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange.

The state-designated statewide health information exchange shall develop the form for use under this paragraph, with input from consumers and providers. The form must be approved by the office of the state coordinator for health information technology within the Governor's office of health policy and finance.

E. A health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall communicate to the exchange the decision of each patient who has declined participation and shall do so within a reasonable time frame, but not more than 2 business days following the receipt of a signed form, as described in paragraph D, from the patient, or shall establish a mechanism by which the patient may decline participation in the state-designated statewide health information exchange at no cost to the patient.

F. A state-designated statewide health information exchange shall process the request of a patient who has decided not to participate in the state-designated statewide health information exchange within 2 business days of receiving the patient's decision to decline, unless additional time is needed to verify the identity of the patient. A signed authorization from the patient is required before a patient is newly entered or reentered into the system if the patient chooses to begin participation at a later date.

Except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the state-designated statewide health information exchange is acting as the agent of a health care practitioner, health care facility or other entity, the state-designated statewide health information exchange shall remove health information of individuals who have declined participation in the exchange. In no event may health information retained in the state-designated statewide health information exchange as set forth in this paragraph be made available to health care practitioners, health care facilities or other entities except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the health care practitioner, health care facility or other entity is the originator of the information.

G. A state-designated statewide health information exchange shall establish a secure website accessible to patients. This website must:

(1) Permit a patient to request a report of who has accessed that patient's records and when the access occurred. This report must be delivered to the patient within 2 business days upon verification of the patient's identity by the state-designated statewide health information exchange;

(2) Provide a mechanism for a patient to decline participation in the state-designated statewide health information exchange; and

(3) Provide a mechanism for the patient to consent to participation in the state-designated statewide health information exchange if the patient had previously declined participation.

H. A state-designated statewide health information exchange shall establish for patients an alternate procedure to that provided for in paragraph F that does not require Internet access. A health care practitioner, health care facility or other entity participating in the state-designated statewide health information exchange shall provide information about this alternate procedure to all patients. The information must be included on the form identified in paragraph D.

I. A state-designated statewide health information exchange shall maintain records regarding all disclosures of health care information by and through the state-designated statewide health information exchange, including the requesting party and the dates and times of the requests and disclosures.

J. A state-designated statewide health information exchange may not charge a patient or an authorized representative of a patient any fee for access or communication as provided in this subsection.

K. Notwithstanding any provision of this subsection to the contrary, a health care practitioner, health care facility or other entity shall provide the form and communication required by paragraphs D and F to all existing patients following the effective date of this subsection.

L. A state-designated statewide health information exchange shall meet or exceed all applicable federal laws and regulations pertaining to privacy, security and breach notification regarding personally identifiable protected health information, as defined in 45 Code of Federal Regulations, Part 160. If a breach occurs, the state-designated statewide health information exchange shall arrange with its participants for notification of each individual whose protected health information has been, or is reasonably believed by the exchange to have been, breached. For purposes of this paragraph, "breach" has the same meaning as in 45 Code of Federal Regulations, Part 164, as amended.

M. The state-designated statewide health information exchange shall develop a quality management plan, including auditing mechanisms, in consultation with the office of the state coordinator for health information technology within the department, who shall review the plan and results.

Sec. 4. 22 MRSA §1711-C, sub-§20 is enacted to read:

20. Exemption from freedom of access laws. Except as provided in this section, the names and other identifying information of individuals in a state-designated statewide health information exchange are confidential and are exempt from the provisions of Title 1, chapter 13.

Sec. 5. Report. A state-designated statewide health information exchange under the Maine Revised Statutes, Title 22, section 1711-C shall by January 1, 2012 present a progress report to the office of the state coordinator for health information technology within the Department of Health and Human Services. The report must include the projected implementation date for the secure website required under Title 22, section 1711-C.

See title page for effective date.

CHAPTER 374

H.P. 1045 - L.D. 1419

An Act To Improve the Coordination of County Correctional Services

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

Sec. 1. 30-A MRSA §406, sub-§1, as enacted by PL 2007, c. 653, Pt. A, §6, is amended to read:

1. Managing jail and prison capacity and offender placement. Consistent with the board's determination of facility use and purpose under Title 34-A, section 1803, subsection 2, paragraph A, the sheriffs shall assist the Commissioner of Corrections with respect to the daily management of offender bed space throughout the ~~unified~~ coordinated correctional system pursuant to Title 34-A, section 1801, subsection 1. The sheriffs shall daily provide the following information to the Commissioner of Corrections:

A. Facility population by gender; classification; legal status, including pretrial or sentenced; special needs; and any other parameters determined by the Commissioner of Corrections; and

B. Facility capacity and available bed space or bed space needs by the reportable parameters under paragraph A.

Sec. 2. 30-A MRSA §406, sub-§1-A is enacted to read:

1-A. Accepting transferred inmates. A correctional facility shall accept any inmate transferred to it by the Commissioner of Corrections pursuant to Title 34-A, sections 1404 or 1405 if:

A. Such transfer is consistent with policies established by the board pursuant to Title 34-A, section 1803; and

B. There are sufficient vacant and budgeted beds in that facility appropriate for the security classification and any special needs or circumstances of the transferred inmate.

Sec. 3. 30-A MRSA §406, sub-§2, as enacted by PL 2007, c. 653, Pt. A, §6, is amended to read:

2. Coordinated correctional system plan. The sheriffs may recommend a downsizing plan, a plan for capital construction and a reinvestment ~~strategies~~ strategy to the board.

Sec. 4. 30-A MRSA §709, as enacted by PL 2007, c. 653, Pt. A, §11, is amended to read:

§709. County correctional services budgets presented to State Board of Corrections

Notwithstanding any other provision of law, beginning July 1, ~~2008~~ 2012 and for all subsequent fiscal years, ~~4~~ 12 months prior to the beginning of the ~~fiscal year the county clerk from~~ next biennium each county shall submit ~~that county's annual~~ its proposed biennial correctional services budget ~~for the state fiscal year~~ to the State Board of Corrections established in Title 5, section 12004-G, subsection 6-C. The proposed budget submitted must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. The budget must include specific amounts for each correctional services related expenditure.

Sec. 5. 30-A MRSA §710, sub-§§1 to 3, as enacted by PL 2007, c. 653, Pt. A, §12, are amended to read:

1. Budget growth guidance and proposed budget. At least ~~6~~ 14 months before the beginning of ~~each state fiscal year~~ the first year of the next biennium, the ~~State Board of Corrections, established in Title 5, section 12004-G, subsection 6-C and referred to in this section as "the board,"~~ corrections working group established in Title 34-A, section 1804 shall ~~set a growth limitation~~ provide biennial budget growth guidance for the correctional services expenditures in the new fiscal year for each county biennial budget. The county commissioners shall submit proposed itemized correctional services budgets to the board in a format and by a date to be determined ~~annually~~ by the board, but no later than 12 months before the beginning of the next biennium.

2. Review of county correctional services budgets. The board shall review, amend if necessary and approve each county correctional services budget submitted under subsection 1. ~~If the county correctional services budget submitted to the board does not exceed the growth limitation established under subsection 1 and is consistent with board directives under Title 34-A, section 1803, the board must accept the county commissioners' approval of the county's correctional services budget.~~

~~If the county correctional services budget submitted exceeds the growth limitation established under subsection 1 or is inconsistent with board directives under Title 34-A, section 1803, the board must further review, amend and adopt a correctional services budget for the county under subsections 3, 4 and 5.~~

3. Hearing on county commissioners' budget. ~~If a county correctional services budget submitted to the board exceeds the growth limitation established under subsection 1 or is inconsistent with a directive of the board under Title 34-A, section 1803, the board must further review the proposed budget together with any supplementary material prepared by the county commissioners, county correctional services administrators, the Department of Corrections or any other person or entity from whom the board chooses to receive supplementary material.~~ The board may hold a hearing under this subsection, except that it shall hold a hearing on a county correctional services budget when the county requests a hearing. If the board holds a hearing under this subsection, the provisions of Title 5, chapter 375, subchapter 4 apply.

Sec. 6. 34-A MRSA §1404, sub-§§1 and 2, as enacted by PL 2007, c. 653, Pt. A, §28, are amended to read:

1. Managing facility capacity and inmate placement. Consistent with the board's determination of facility use and purpose under section 1803, subsection 2, paragraph A, the commissioner is responsible for the daily management of inmate bed space throughout the ~~unified~~ coordinated correctional system and shall direct the transfer of inmates between facilities in order to fulfill this responsibility. The commissioner shall develop a process for information sharing between the correctional facilities and the county jails, which must include at a minimum:

A. Daily reporting to the department by county jails of:

(1) Facility population by gender; classification; legal status, including pretrial or sentenced; special needs; and any other parameters determined by the commissioner; and

(2) Facility capacity and available bed space or bed space needs by the reportable parameters under subparagraph (1); and

B. Regular consultation with sheriffs.

2. Coordinated correctional system plan. The commissioner may recommend a downsizing plan and a reinvestment ~~strategies~~ strategy to the board.

Sec. 7. 34-A MRSA §1801, sub-§1, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

1. Purpose of the board. The purpose of the board is to develop and implement a ~~unified~~ coordinated correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities.

Sec. 8. 34-A MRSA §1801, sub-§2, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

2. State goals. The board shall develop goals to guide the development of and evaluate the effectiveness of a ~~unified~~ coordinated correctional system. The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The goals must include benchmarks for performance in the following areas:

A. Recidivism reduction;

B. Pretrial diversion; and

C. Rate of incarceration.

Sec. 9. 34-A MRSA §1802, sub-§1, ¶¶A and B, as enacted by PL 2007, c. 653, Pt. A, §30, are amended to read:

A. ~~One member must be a sitting sheriff~~ Two members selected from a list of 3 nominations submitted to the Governor by a statewide organization representing sheriffs, at least one of whom must be a county sheriff;

B. ~~One member must be a sitting county commissioner~~ Two members selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county commissioners, at least one of whom must be a county commissioner;

Sec. 10. 34-A MRSA §1802, sub-§1, ¶E, as amended by PL 2009, c. 89, §1, is further amended to read:

E. ~~Four~~ Two members must be broadly representative of the public ~~and the geographical regions of the State. One of the 4 members appointed under this paragraph must be selected from a list of 3 nominations submitted to the Governor by a statewide organization representing county commissioners~~. A member appointed under this paragraph may not be an elected state or county offi-

cial or municipal officer and may not derive income in substantial portion from work as an employee of a state, county or municipal government or in the field of corrections.

Sec. 11. 34-A MRSA §1803, first ¶, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

~~The~~ In addition to other duties and powers set out in this Title, the board is charged with the following responsibilities and duties.

Sec. 12. 34-A MRSA §1803, sub-§1, as amended by PL 2009, c. 391, §§11 to 13, is further amended to read:

1. Manage the cost of corrections. The board shall develop a plan to achieve systemic cost savings and cost avoidance throughout the ~~unified~~ coordinated correctional system with the goal of operating efficient correctional services. Additionally, the board shall:

A. ~~Set and enforce a yearly growth limitation for~~ Review, amend if necessary and adopt the correctional services expenditures in each county budget under Title 30-A, section 710;

B. Develop reinvestment strategies within the ~~unified~~ coordinated correctional system to improve services and reduce recidivism;

C. Establish boarding rates for the ~~unified~~ coordinated correctional system, except boarding rates for federal inmates; ~~and~~

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~~.~~;

E. Develop parameters for facility population, including but not limited to gender; classification; legal status, including pretrial or sentenced; and special needs; and

F. Enter into contracts on behalf of and with the consent of the county commissioners and sheriffs in the case of county jails, and with the consent of the board of directors of the regional jail authority in the case of a regional jail, for goods and services when such contracts will:

(1) Lower the cost of providing correctional services;

(2) Improve delivery of correctional services; or

(3) Otherwise help to achieve the goals of the board pursuant to section 1801.

Sec. 13. 34-A MRSA §1803, sub-§3, ¶C, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

C. Coordinate transportation of inmates in the ~~unified~~ coordinated correctional system.

Sec. 14. 34-A MRSA §1803, sub-§10, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

10. Reporting. The board shall make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the ~~unified~~ coordinated correctional system or the board.

Sec. 15. 34-A MRSA §1803-A is enacted to read:

§1803-A. Office of executive director

1. Appointment. The Commissioner of Corrections, with the advice and the consent of the board, and on a timetable directed by the board, shall hire an executive director who serves at the pleasure of the board.

2. Qualifications. To qualify for appointment as executive director, a person must have training and experience commensurate with the duties and powers assigned to the position as determined by the board.

3. Duties and powers of executive director. The Executive Director of the State Board of Corrections shall perform administrative duties and exercise the powers consistent with policies established by the board.

Sec. 16. 34-A MRSA §1804, last ¶, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

The corrections working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the ~~unified~~ coordinated correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the ~~unified~~ coordinated correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

Sec. 17. Transition of membership of State Board of Corrections. Notwithstanding the Maine Revised Statutes, Title 34-A, section 1802, subsection 1, a member of the State Board of Corrections who is serving on the effective date of this Act continues to serve until the expiration of that member's term and until that member's replacement is appointed and confirmed.

See title page for effective date.

CHAPTER 375

H.P. 533 - L.D. 703

An Act To Amend the Laws Governing Licensure Compliance Methods for Camping Areas, Recreational Camps, Youth Camps and Eating Establishments

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

Sec. 1. 22 MRSA §2494, last ¶, as amended by PL 2007, c. 539, Pt. F, §1, is further amended to read:

All such fees are for the license, ~~2~~ one licensure ~~inspections~~ inspection and one follow-up inspection. When additional inspections are required to determine an applicant's eligibility for licensure, the department is authorized through its rules to charge an additional fee not to exceed $100 to cover the costs of each additional inspection or visit. Failure to pay such charges within 30 days of the billing date constitutes grounds for revocation of the license, unless an extension for a period not to exceed 60 days is granted in writing by the commissioner.

Sec. 2. 22 MRSA §2497, as amended by PL 1991, c. 528, Pt. J, §4 and affected by Pt. RRR and amended by c. 591, Pt. J, §4, is further amended to read:

§2497. Right of entry, inspection and determination of compliance

The department and any duly designated officer or employee of the department have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules in force pursuant to this chapter. ~~The department shall make an inspection of the premises of any establishment licensed under this chapter at least once in each year.~~ Such right of entry and inspection extends to any premises ~~which~~ that the department has reason to believe is being operated or maintained without a license but no such entry and inspection of any premises may be made without the permission of the owner or person in charge unless a search warrant is obtained authorizing entry and inspection. The department and any duly designated officer or employee of the department do not have the right to enter, for inspection under this chapter, upon and into the premises of any establishment that is licensed under chapter 551, subchapter ~~I~~ 1.

Determination of compliance with this chapter and any rules adopted pursuant to this chapter must be made at least once every 2 years by inspection or other method as determined by the department.

See title page for effective date.

CHAPTER 376

S.P. 442 - L.D. 1428

An Act To Amend the Laws Governing Self-service Storage in the State

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

Sec. 1. 10 MRSA §1372, sub-§1-A is enacted to read:

1-A. Abandoned leased space. "Abandoned lease space" means a leased space that the operator finds unlocked and empty or unlocked and containing personal property with a value less than $750 or a leased space possession of and all rights to which and any personal property within which have been surrendered to the operator by the occupant.

Sec. 2. 10 MRSA §1372, sub-§1-B is enacted to read:

1-B. Electronic mail. "Electronic mail" means electronic mail sent or delivered by transmission over the Internet.

Sec. 3. 10 MRSA §1372, sub-§6, as enacted by PL 1989, c. 62, is amended to read:

6. Personal property. "Personal property" means movable property, not affixed to land. Personal property includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, all-terrain vehicles, off-road vehicles, recreational vehicles and household items and furnishings.

Sec. 4. 10 MRSA §1372, sub-§9 is enacted to read:

9. Verified mail. "Verified mail" means any method of mailing that is offered by the United States Postal Service and provides evidence of mailing.

Sec. 5. 10 MRSA §1374, sub-§1, as enacted by PL 1989, c. 62, is amended to read:

1. Lien created. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor or other charges, and for expenses reasonably incurred in its sale, as provided in this Act. The lien attaches as of the date the occupant leases the space.

Sec. 6. 10 MRSA §1375, sub-§1, as amended by PL 2009, c. 525, §3, is further amended to read:

1. Sale; use of proceeds. Except as provided in subsection 1-A, if the occupant is in default for a period of more than 45 days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale for cash. Proceeds must then be applied to satisfy the lien, with any surplus disbursed as provided in subsection 5. The sale must take place at least 15 days after the provision of notice under subsection 2.

Sec. 7. 10 MRSA §1375, sub-§§1-C and 1-D are enacted to read:

1-C. Personal property with value less than $750. If the occupant is in default for a period of more than 45 days, the operator may remove the occupant's lock to verify that the personal property in the leased space has a value greater than or equal to $750. If the personal property has a value greater than or equal to $750, the operator may enforce a lien pursuant to subsection 1. If the personal property has a value less than $750, the personal property and leased space may be considered an abandoned leased space and the personal property may be disposed of pursuant to section 1378.

1-D. Motor vehicles. If the personal property in the leased space is a motor vehicle, the operator may have the motor vehicle towed with no liability to any party.

Sec. 8. 10 MRSA §1375, sub-§2, as enacted by PL 1989, c. 62, is amended to read:

2. Notice. As soon as the occupant is in default and before conducting a sale under subsection 1, the operator shall:

A. Send a notice of default by ~~regular mail and by certified mail~~ verified mail and by either first-class mail or electronic mail to the occupant at the occupant's last known address or other address set forth by the occupant in the rental agreement ~~which~~ that includes:

(1) A statement that the contents of the occupant's leased space are subject to the operator's lien. The sale must take place at least 15 days after the provision of notice under subsection 2;

(2) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges ~~which shall~~ that become due before the date of sale and the date those additional charges ~~shall~~ become due;

(3) A demand for payment of the charges due within a specified time, not less than 14 days after the date of the notice;

(4) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold, specifying the time and place; and

(5) The name, street address and telephone number of the operator, or the operator's designated agent, whom the occupant may contact to respond to the notice~~; and~~.

~~B. Publish an advertisement of the sale once a week for 2 consecutive weeks in a newspaper of general circulation in the city or town where the sale is to be held. The advertisement must include a general description of the property as set forth in the rental agreement, the name of the person on whose account it is being held and the time and place of the sale. The sale must take place at least 15 days after the first publication.~~

Sec. 9. 10 MRSA §1375, sub-§5, ¶B, as enacted by PL 1989, c. 62, is amended to read:

B. Hold the balance, if any, for 90 days from the date of sale for delivery on demand to the occupant or any other recorded lienholders. If the balance is not claimed after 90 days, it becomes the property of the operator.

Sec. 10. 10 MRSA §1375, sub-§10, as enacted by PL 1989, c. 62, is amended to read:

10. Notices; mail. Unless otherwise specifically provided, all notices required by this Act ~~shall~~ must be sent ~~by certified or registered mail~~ as described in subsection 2, paragraph A.

A. Notices sent to the operator ~~shall~~ must be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant ~~shall~~ must be sent to the occupant at the occupant's last known address. Notices ~~shall be~~ are deemed delivered when deposited with the United States Postal Service, properly addressed as provided in subsection 2, with postage paid.

Sec. 11. 10 MRSA §1375, sub-§13 is enacted to read:

13. Value of stored property. If a rental agreement contains a limit on the value of personal property that may be stored in the occupant's leased space, the limit is deemed to be the maximum value of the stored personal property and the maximum liability of the operator for any claim.

Sec. 12. 10 MRSA §1378 is enacted to read:

§1378. Abandonment

In the case of an abandoned leased space, the operator has the right to immediately take possession of the leased space and dispose of any personal property in the leased space by any means at the operator's discretion.

See title page for effective date.

CHAPTER 377

S.P. 405 - L.D. 1308

An Act To Strengthen Computer Privacy

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

Sec. 1. 17-A MRSA §435 is enacted to read:

§435. Added jurisdiction to prosecute

1. In addition to the State's having jurisdiction pursuant to section 7 to convict a person under section 432 or 433, the State has jurisdiction to convict a person under this chapter when that person is physically located outside of this State and the prohibited conduct:

A. Occurs outside of this State and the victim of the crime is a resident of this State at the time of the crime; and

B. Is sufficient under this section to constitute a crime in this State.

2. As used in this section, "resident" means a person who lives in this State either permanently or for an extended period. "Extended period" includes, but is not limited to, the period of time a student attends a school or college and the period of time a person serving in the Armed Forces of the United States is stationed in this State.

See title page for effective date.

CHAPTER 378

H.P. 1100 - L.D. 1499

An Act Concerning Fees for Users of County Registries of Deeds

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 registry of deeds offices provide a valuable public service in recording and maintaining the land records of the State; and

Whereas, current law allows the county commissioners to set fees for copying at only the cost of providing the copies; and

Whereas, the cost to the counties to maintain the information and to make it accessible cannot be adequately reimbursed by fees defined by copying cost; 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. 33 MRSA §751, sub-§14, as amended by PL 2009, c. 575, §2, is repealed.

Sec. 2. 33 MRSA §751, sub-§§14-B and 14-C are enacted to read:

14-B. Abstracts and copies. Making abstracts and copies of records at the office of the register of deeds as follows:

A. Five dollars per page for paper abstracts and copies of plans;

B. One dollar per page for other paper abstracts and copies; and

C. Fifty cents per page for digital abstracts and copies, except that the fee is 5¢ per page for copies of 1,000 or more digital abstracts and copies of consecutive records.

This subsection is repealed July 31, 2012;

14-C. Abstracts and copies. Beginning August 1, 2012, making abstracts and copies from the records, a reasonable fee as determined by the county commissioners for each category of abstracts and copies, such as paper copies, attested copies, copies obtained online and bulk transfers of copies. In setting a reasonable fee for each category of abstracts and copies, the commissioners shall consider factors relating to the cost of producing and making copies available, which may include, but are not limited to: the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs or other transmitting costs; amortized infrastructure costs; any direct equipment operating and maintenance costs; costs associated with media processing time; personnel costs, including actual costs paid to private contractors for copying services; contract and contractor costs for database maintenance and for online provision and

bulk transfer of copies in a manner that protects the security and integrity of registry documents; and a reasonable rate for the time a computer server is dedicated to fulfilling the request; and

Sec. 3. Legislative intent; retroactivity. The Legislature finds that the following fees charged by an office of a register of deeds for making abstracts and copies from records, whether in paper or digital form, including for bulk copies or transfers of such copies, between September 1, 2009 and the effective date of this Act are reasonable and in accordance with the legislative intent of Public Law 2009, chapter 575, section 2 and are expressly authorized: a fee of up to $1.50 per page for paper copies and a fee of up to $1.50 per page for digital copies. Nothing in this section may be interpreted as a legislative finding that a higher fee charged by an office of a register of deeds between September 1, 2009 and the effective date of this Act to persons who were not subscribers to the online services of a register of deeds is unreasonable. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this section applies retroactively to September 1, 2009.

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

Effective June 16, 2011.