

THE LAWS OF THE STATE OF MAINE
AFFECTING THE
UNIVERSITY OF MAINE SYSTEM

Updated through
the Second Regular Session of the 126th Legislature
Resolves - chapter 115
Private & Special Laws - chapter 30
Public Laws - chapter 608
May 2, 2014

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CHARTER OF THE UNIVERSITY OF MAINE SYSTEM

Last Revised

NOTES

1865
P.& S.L.,
c. 532.
As Revised
by P.& S.L.
1897,
Ch. 551*
Original
Legislation
read, "by the name
of the Trustees of
the State College
of Agriculture and
Mechanical Arts."

Section 1. Samuel F. Perley, N. T. Hill, Bradford Cummings, Thomas S. Lang, Dennis Moore, William D. Dana S.L. Goodale, Robert Martin, Alfred S. Perkins, Joseph Farwell, Seward Dill, Joseph Day, Ebenezer Knowlton, Hannibal Hamlin, Charles A. Everett and William Wirt Virgin, are hereby constituted a body politic and corporate, by the name of the University of Maine System, having succession as hereinafter provided, with power to establish and maintain, subject to the provisions and limitations of this Act, such a college as is authorized and provided for, by the Act of the Congress of the United States, passed on the second day of July, in the year eighteen and sixty two, entitled, "an act donating lands to the several states and territories, which may provide colleges, for the benefit of agriculture and the mechanic arts." They shall be entitled to receive from the state the income which shall accrue from the funds granted to the state by the act aforesaid, and shall apply the same, together with all such income as they shall receive from any other sources to the maintenance of the college in conformity with the Act of Congress.

*C. 551 also declares "and the said University of Maine System shall have all the rights, powers, privileges, property, duties and responsibilities, which belong to or have belonged to the Trustees."

1967,
P.& S.L.,
c. 229 as amended
by P.& S.L., 1970,
c. 238, and 1985
P.L. c. 779, eff.
July 16, 1986,
which changed the
name of the Univ.
to University
System. (Merger
effective 04-26-68)

Section 1-A. Establishment; purposes. To develop, maintain and support a cohesive structure of public higher education in the State of Maine and in full recognition of the principle that each institution of higher education shall have a proper measure of control over its own operations and that its faculty shall enjoy the academic freedoms traditionally accorded institutions of higher education in teaching, research, and expressions of opinions, a system unifying the University of Maine, Gorham State College, Farmington State College, Aroostook State College, Washington State College and Fort Kent State College is established under the name of the University of Maine "System." As used in this Act, unless the context otherwise indicates, "University" means the University of Maine System.

1865

Section 2. The Trustees shall annually elect one of their number to be

P.& S.L.,
c. 532.

president of the Board. They shall appoint a clerk and treasurer both of whom shall be sworn, and shall hold their offices at the pleasure of the Trustees. The clerk shall record all proceedings of the Board, and copies of their records certified by him shall be evidence in all cases in which the originals might be used. The treasurer shall be required to give suitable bond, and to renew the same, whenever the Trustees shall require.

1865
P.&S.L.,
c. 532., as
repealed 1997,
P. & S.L. , c. 37

Section 3. Power of Governor. (Repealed, 1997, P.L., c. 37)

1967, P. & S.L.
c. 229, as amended
1991 P.L. c. 147

Section 4. Board of Trustees. The Board of Trustees of the University of Maine System shall consist of 16 members.

1. Commissioner of Educational and Cultural Services. The Commissioner of Educational and Cultural Services shall serve as a voting member ex officio.

2. Members appointed by the Governor. Fourteen members shall be appointed for 5-year terms by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over education and confirmation by the Legislature. Each term shall expire on May 26th of the appropriate year, except that the retiring member shall serve until a successor is appointed by the Governor and confirmed by the Legislature. No person accepting such appointment may be a member of the State Board of Education. In making appointments, the Governor shall strive to achieve a membership which is representative of the population of this State. Insofar as feasible when selecting qualified nominees to the Board, the Governor shall consider affirmative action criteria, professional education and experience and an equitable geographical representation among the members. Trustees may serve a maximum of 2 terms, except that an individual appointed to fill an unexpired term of 3 years or less is eligible for appointment to 2 full terms. Vacancies shall be filled by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over education and confirmation by the Legislature, for the unexpired balance of the term. In order to restore and maintain rotation of terms of office of Trustees, an incumbent Trustee who was appointed for a term of 5 years at a time subsequent to the expiration of the term of his predecessor in office shall be deemed to have commenced his 5-

year term upon the date of the expiration of the term of office of his predecessor rather than from the date of his appointment and qualification. Trustees shall serve without compensation, but may be reimbursed for travel and other expenses incurred in the performance of their official duties.

As enacted, 1983,
PL c. 33 and
amended 1985, PL
c. 779 & 1987, PL
c. 735

3. Student member. One of the members shall be a full-time student at one of the campuses of the University of Maine System at the time of appointment and shall be a permanent resident of the State. To be eligible as a student member, a student must be enrolled for a minimum of 12 credit hours per semester. The student member shall be a full voting member of the Board of Trustees and shall serve for a 2-year term and until a successor is qualified. Sixty days prior to the expiration of the student member's term, the Governor shall solicit a list of 6 eligible students from the student senates from 6 of the campuses within the University of Maine System; the 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student member within 30 days of receiving the list of names and the nomination shall be subject to review by the Joint Standing Committee on Education and confirmation by the Legislature. The student representative shall not come from the same campus in any 2 consecutive terms. In the event that the student representative transfers from one campus to another during the student's term of appointment, the original campus of enrollment shall prevail in reference to the provisions of the subsection.

As enacted 1997,
P & SL c. 37

3-A. Alumni members. The Governor shall make every effort to appoint to the Board of Trustees, subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and confirmation by the Senate, 7 alumni members, one from each of the universities in the system.

Enacted 1991 PL
c. 147

4. Meetings of the Board of Trustees. The Board of Trustees shall meet from time to time at each of the various campuses of the University of Maine System whenever reasonably practical. Each meeting of the Board must include an opportunity for citizen input.

Each citizen must be permitted to address the Board for a period of time established by the Board.

5. Transition. In order to continue the staggered nature of the terms of the Board of Trustees during the transition from 7 to 5-year terms, one

of the successors to the 2 members whose terms expire in 1984 shall be appointed to a 3-year term and one to a 4-year term; and one of the successors to the 2 members whose terms expire in 1985 shall be appointed to a 4-year term and one to a 5-year term. The member appointed to the 3-year term is eligible for appointment to 2 full terms. The members appointed to 4-year terms are eligible for appointment to one full term.

1967 P & SL
c. 229 as amended
1987, PL 20

Section 4-A. Administration; Chancellor; campus heads; advisory committees. The Board of Trustees shall appoint a Chancellor of the University System who shall serve at its pleasure and be chief administrative and education officer thereof. The Chancellor may maintain an office at Augusta and such other offices as the Board of Trustees may designate. The Chancellor shall nominate and the Board of Trustees shall appoint the persons to head the various campuses and shall give the persons such titles as shall be deemed appropriate. The head of a campus shall not serve concurrently as Chancellor or as a member of the Board of Trustees. The Board of Trustees shall appoint such advisory committees on behalf of the various campuses and such other advisory committees as may appear desirable.

1967 P & SL
c. 229, as amended
1987 PL c. 20, and
further amended,
1997 P & SL, c.37

Section 4-B. Duties of the Board of Trustees, Chancellor and heads of the various campuses.

1. Board of Trustees; duties. The Board of Trustees, in consultation with the Chancellor, is the governing and planning body of the university and in addition has responsibility for preparing and approving the operating and capital budgets of the university and presenting them in accordance with the direction in the Maine Revised Statutes, Title 5, Section 1665, and Title 5, chapter 153. In fulfilling its duties, the Board of Trustees shall:

- A. Support and enhance the system and the mission of the system;
- B. Provide sound financial management of the system;
- C. Exercise prudent stewardship of the assets of the system;
- D. Evaluate the Chancellor and presidents appointed by the Board of Trustees pursuant to section 4-A;
- E. Plan strategies for programs and allocation of resources that most effectively serve the educational needs of the citizens of this State;
- F. Develop and maintain a strong system of accountability to the

public for performance results of the system;

G. Visibly advocate higher education as a means to strengthen the economy and communities of the State; and

H. Establish mechanisms for review and approval of system programs.

1967 P & SL,
c. 229 as amended
by 1987 P & SL,
c. 769, sec. 190 &
further amended
1997 P & SL,
c. 37

2. Chancellor and staff members; duties. The Chancellor shall exercise such powers and fulfill such responsibilities as are delegated by the Board of Trustees. The Chancellor may delegate any of such powers and responsibilities to members of the Chancellor's staff as necessary. The Chancellor is the chief administrative and education officer of the system and shall:

A. Provide leadership to the universities in the system in addressing the State's highest priority needs;

B. Establish a vision and planning for the system that:

(1) Provides quality education that is affordable and accessible for the students of this State; and

(2) Strengthens the State's economy for its citizens;

C. Promote system planning, in collaboration with university presidents, for academic affairs, student affairs, outreach and community services programs, financial operations, capital plans and resource allocations;

D. Prepare all operating and capital budgets, appropriation requests and bond issues;

E. Take an active role in the nomination, appointment and evaluation of persons to head the universities and to serve in other major staff positions in the system;

F. Develop and implement an effective statewide public relations and legislative program;

G. Provide a centralized management oversight of services;

H. Coordinate University of Maine System academic offerings to avoid duplication with private and public institutions in this State; and

Amended 1997,
P & SL, c. 37

I. Develop a method to transfer academic credits to all universities within the University of Maine System .

3. Head of each campus; duties. The head of each campus is the chief administrative and educational officer thereof and is responsible for the day-to-day operation and development of its academic program within the limits defined by the Board of Trustees and the Chancellor; and in addition, shall exercise such rights and privileges as are generally recognized in the administering of admissions, curriculum development, extracurricular programs, long- range planning within the framework of the overall university plan, and supervision of faculty.

As enacted 1997
P & SL

4. Administrative council. (Repealed, 1987, P.L., c. 20)

5. Boards of Visitors; membership; duties; reimbursement. Each of the 7 universities has a Board of Visitors.

A. Each Board of Visitors consists of up to 20 members recommended by campus presidents and confirmed by the Board of Trustees. Membership should reflect the mission of the university and the region it serves.

B. Each Board of Visitors shall:

(1) Advocate for the university;

(2) Raise private funds for the university;

(3) Advise the head of each campus on community and regional needs; and

(4) Review for final recommendation to the Board of Trustees tuition increases, new academic programs and the 5-year plan of the university.

Amended, 2003 P
& SL 14

(5) Submit an annual report of its activities to the Board of Trustees. The Board of Trustees shall submit a copy of the annual report of each Board of Visitors to the Legislature and to the Joint Standing Committee of the Legislature having jurisdiction over education matters annually in January as part of its report required in the Maine Revised Statutes, Title 20-A, section 10902-A.

C. Members of the Boards of Visitors may receive reimbursement for travel and other necessary expenses for attendance at meetings of the Board. Reimbursement expense for Board members must be absorbed within the existing budgeted revenues of the University of Maine System.

1967 P & SL
c. 229 as amended
1987 PL c. 735,
sec. 76

Section 4-C. Properties, assets and liabilities. Thirty days after the effective date of this Act all of the assets, tangible or intangible, as real, personal and mixed, of, or used in connection with, Gorham State College, Farmington State College, Aroostook State College, Washington State College, Fort Kent State College, respectively, except such as are in trust or are subject to limitations purporting to restrict their transferability or assignability, are transferred and assigned to the University System. Any gift, bequest, devise or other transfer or conveyance to any state college which takes effect after the date of transfer of assets of the colleges to the University System shall become the property of the University System. All moneys appropriated to the state colleges and unexpended as of thirty days after the effective date of this Act shall be transferred over to the University System. As a condition of continued receipt of public funds, the University System shall assume the care, control, and disposition of said property together with all the duties and legal obligations and management of the former affairs of the state colleges including any obligations in connection with indebtedness for dormitories and dining facilities.

Any student fees relating to said state colleges presently required to be paid into the General Fund of the State shall continue to be paid into the fund until June 30, 1969. The Attorney General of Maine is authorized and empowered to execute in the name of the State any documents necessary to effect the above transfers. The Attorney General is directed to institute any court actions necessary to effectuate the transfer of properties held in trust or subject to any limitations purporting to affect their transferability.

As amended 1987
PL c. 735

Any property previously or hereafter received by the University System which has been designated or limited for particular purposes or uses shall be used by the University System only for those purposes.

1973, P & SL,
c. 84 as amended
1979 PL c. 541,
sec. 71 of Part B

Ownership of any real property formerly held by Aroostook State College, Farmington State College, Fort Kent State College, Gorham State College or Washington State College, which is removed from educational use by the University of Maine System, may be sold by

the University of Maine System subject to the approval of the Governor or may be conveyed by gift by the University of Maine System to any entity in whose ownership and use it will be exempt from real estate taxation.

1967 P & SL

c. 229, as amended
by 1969, P & SL
c. 66

Section 4-D. Options for employment benefits of personnel. All personnel heretofore employed at the state colleges shall have the option of continuing their membership, if such exists, in the Maine State Retirement System or of becoming members of the retirement system in effect at the University System at the time the election is made. Such election shall be made within 6 months after the effective date of this Act on forms and in such manner as the Board of Trustees of the University of Maine System may direct. As to each such employee who elects to continue membership in the Maine State Retirement System, it shall thereafter be the responsibility of the University System to provide for payment from its appropriation to the Treasurer of the State of the amount which would have been the state's contribution to the retirement system for such employee had he remained in the state's service. Notwithstanding any other provisions of law, as to all such employees who elect to become members of the retirement system in effect at the University, such employees shall, within 90 days after such election, authorize the Maine State Retirement System to pay through the Treasurer of State into the retirement system in effect at the University System the total of the member's contributions for said employee. Any such employee electing to become a member of the retirement system in effect at the University System who has vested rights under the Maine State Retirement System may elect, notwithstanding the foregoing provision, to leave his contributions on deposit in said system. Within 6 months after the effective date of this Act, such employees shall exercise the option of determining whether they shall keep their personnel classification, salary level and tenure rights, to the extent they now exist, for their work with their present institutions, or adopt such benefits as they exist under the system in effect at the University System at the time election is made. The intent of the election herein provided is to assure that no employee's job classification, salary level and tenure rights shall be adversely affected solely as a result of the unification provided for in this chapter. The Board of Trustees shall have the final authority in their efforts to work out, as well as may be, uniform personnel policies and procedures for all employees of the University of Maine System, except that nothing contained herein in any way shall abrogate the options for employment fits in this section. No faculty member employed at one campus may be transferred to another campus without his consent.

1967 P & SL

Section 4-E. Student tuition. (Repealed, P. & S.L., 1970, c. 251, para. D.)

1969 P & SL
c. 117

Section 4-F. Contracts. The Board of Trustees of the University of Maine System shall have authority to authorize contracts with the State of Maine, or any department or agency thereof, or any city, town, district or other public instrumentality, on such terms and conditions as they shall approve for the furnishing to the University System of water and sewer services. The term of any such contract may not exceed 50 years.

Section 5. Power of Trustees to accept property. (Repealed, 1987, P.L., c.735)

Section 6. Governor & Council to sell land scrip. (Repealed, 1987, P.L., c. 735)

1865 P & SL
c. 532

Section 7. It shall be the duty of the Trustees, as soon as may be, after their organization, to procure a tract of land suitable as a site for the establishment of the college. If no other provision shall be made therefor, there shall be placed at the disposal of the Trustees for this purpose, such proportion as the governor may deem suitable, of that part of the fund, which is authorized by the fifth section of the act of congress to be expended for the purchase of lands for sites or experimental farms.

Section 8. Trustees to appoint staff, set qualifications for admission. (Repealed, 1987, P.L., c. 735)

1865 P & SL
c. 532 as amended
1991 PL c. 147,
548

Section 8-A. The Trustees of the University of Maine System, or such administrators of the University of Maine System as the Trustees may designate for this purpose, may appoint persons to act as police officers who, within the limits of the property owned by or under the control of the University of Maine System possess all of the powers of police officers in criminal cases and civil violations.

The Trustees may make rules and regulations for the control, movement and parking of vehicles within the limits of the property owned by or under the control of the University of Maine System. The rules and regulations have the same force and effect as municipal ordinances and District Courts are authorized to impose fines not to exceed \$50 for each parking violation. The Trustees, by resolution, may adopt the provisions of the Maine Revised Statutes, Title 30-A,

2003 PL c. 233

Section 3009 relating to prima facie evidence, the establishment of a waiver of court action by payment of specified fees and the establishment and policing of parking spaces for handicapped persons. Notwithstanding this paragraph, speed limits within the limits of the property owned by or under the control of the University of Maine System must be established by the Department of Transportation and the Maine State Police as provided in the Maine Revised Statutes, Title 29, section 1251 and the speed limits must be posted by the University of Maine System in accordance with written directions or policies of the Department of Transportation. The violation of any rules and regulations relating to the movement of vehicles is deemed to be a traffic infraction unless defined as a felony or misdemeanor under Title 29.

1865 P & SL
c. 532

The Trustees of the University of Maine System may authorize the University of Maine System's full-time police officers who have met the requirements of the Maine Revised Statutes, Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while outside of the limits of the property owned by or under control of the University of Maine System if the law enforcement agency of a foreign municipality in which the arrest is to be made has requested assistance in advance by cooperative agreement. When a University of Maine System police officer makes an arrest outside the limits of the property owned by or under control of the University of Maine System as authorized in this section, that police officer has the same immunity from tort liability and all of the pension, relief, disability, workers' compensation, insurance and any other benefits the police officer enjoys while performing duties within the limits of the property owned by or under control of the University of Maine System..

1951 P & SL
c. 97

Section 9. In addition to the instruction which is to be given by, classes, textbooks, lectures, and apparatus, in such branches of learning as are related to agriculture and the mechanic arts, the Trustees shall provide, as fully as may be for practical experiments and demonstrations of scientific principles and rules. They shall encourage, and for due proportions of time, at different seasons of the year, and with reference to other exercises, require all the students to engage in actual labor upon the lands and in the workshops with which the college may be furnished, and shall provide suitable oversight and direction in such labor, so that they may become habituated to skillful and productive industry.

Section 9-A. College of medicine authorized; standards of

1881 P & SL
c. 74

scholarship, degrees. The Board of Trustees of the University of Maine System is hereby authorized to locate, construct, equip, and operate a college of medicine and to set, establish and maintain standards of teaching and scholarship therefore; provided, nevertheless that the location, construction, and operation shall meet the approval of and that the standards of teaching and scholarship be at least equal to standards approved by the Council of Medical Education and Hospitals of the American Medical Association and of the Association of American Medical Colleges; and provided further, that the Board of Trustees shall be under no duty to perform any function under this section unless and until, in its opinion, the Board has received or is assured of sufficient funds either by gift from any source or by appropriation by the State of Maine to successfully construct and operate such college of medicine. The Board of Trustees is authorized to confer the degree of "Doctor of Medicine" upon such students of the college of medicine, when so established, as complete the 4-year course of said college to the satisfaction of said Board of Trustees.

2005 P & SL c. 28

Sec. 9-B. Graduate school of biomedical sciences. The Board of Trustees of the University of Maine System is authorized to establish a graduate school of biomedical sciences, referred to in this section as "the school," to educate and train students in basic and clinical fields of biomedicine and the biosciences. If the board establishes a graduate school of biomedical sciences, it must be in accordance with the following:

A. The school must be established in partnership with the Jackson Laboratory, the Maine Medical Center Research Institute and the Mount Desert Island Biological Laboratory, referred to in this section as "partner institutions."

B. The mission of the school is to administer a graduate education and fellowship program that is open on a competitive basis to its partner institutions, other Maine biomedical research institutions, Maine private education institutions and the University of Maine System.

C. To attract the most highly qualified graduate students from around the country and around the world, the school shall make every effort to ensure that the stipends offered by the school are sufficient to compete with the fellowship offers of the leading universities in the United States.

D. The Board of Trustees of the University of Maine System shall administer the school with the aid of an advisory committee composed of one representative from each of the partner institutions; one representative from the University of Southern Maine; one representative from the University of Maine System; and one representative from another research institution or institution of higher education in the State.

E. The school shall serve as the coordinating entity for interdisciplinary or interinstitutional graduate programs, including but not limited to doctoral programs in functional genomics, the Institute for Molecular Biophysics, cooperative doctoral programs in biochemistry and the Maine Institute for Human Genetics and Health.

1865 P & SL
c. 532

F. The school shall work towards developing a college of allied health professions.

1865 P & SL
c. 532

Section 10. Required military tactics for all students. (Repealed, 1963, P&SL, c.73)

1865 P & SL
c. 532

Section 11. Such other studies are to be taught within the limitations of the act of Congress, as the facilities of the college, and the periods of instruction will permit.

1865 P & SL
c. 532

Section 12. Students who satisfactorily complete any one or more of the prescribed courses of study, may receive public testimonials thereof, under the direction of the Trustees, stating their proficiency.

1865 P & SL
c. 532

Section 13. Tuition. (Repealed, 1997, P.L., c.37)

1865 P & SL
c. 532

Section 14. Morality and justice (Repealed, 1997, P.L., c.37)

1865 P & SL
c. 532

Section 15. Trustees may limit admissions. (Repealed, 1987, P.L., 735)

1865 P & SL
c. 532

Section 16. Trustees meetings and compensation. (Repealed, 1987, P.L., c.735)

1865 P & SL
c. 532. Amended
1997 P & SL c. 37

Section 17. Treasurer's Report. (Repealed, 1987, P.L., c.735)

Section 18. Rights of the Legislature reserved. The Legislature has the

right to grant any further powers, to alter, limit or restrain any of the powers vested in the Board of Trustees of the University of Maine System established by this Act, as may be judged necessary to promote the best interests thereof. And this act takes effect upon its approval by the Governor.

NOTE:

1997, P.L. c. 37 also provided for the following:

Board of Trustees; review and report.

1. Review. The Board of Trustees of the University of Maine System shall:

A. Conduct a review and evaluation of programs existing on the effective date of this Act. This review must identify which of the programs best address future educational and economic priorities of citizens of the State;

B. Review the current method of distributing state resources in light of distinctive missions, enrollment shifts, program priorities, changing program costs, demographic patterns and emerging needs of the State. As part of its review, the Board shall ensure that the needs of the State's nontraditional students are met in a more equitable manner;

C. Determine what savings result from reorganization of the system as set out in this Act and develop a mechanism to ensure that any such savings are used to reduce increases in tuition; and

D. Study methods employed in other jurisdictions and make recommendations to create a system that is substantially more market-driven.

2. Report. The Board of Regents shall report its findings and recommendations based on its work pursuant to subsection 1 to the Joint Standing Committee on Education by January 1, 1998. The Joint Standing Committee on Education may report out legislation it determines based on the report.

CONSTITUTION OF THE STATE OF MAINE

Article VIII

Part First - Education

Section 1. Legislature shall require towns to support public schools; duty of Legislature. A general diffusion of the advantages of education being essential to the preservation of the rights and

1967,
Constitutional
Resolution, as
amended 1982

liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State; provided, that no donation, grant or endowment shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in any such literary institution, as shall be judged necessary to promote the best interests thereof.

Section 2. Authority to pledge the credit of the State and to issue bonds for loans to Maine students in higher education and their parents. For the purpose of assisting the youth of Maine to achieve the required levels of learning and to develop their intellectual and mental capacities, the Legislature, by proper enactment, may authorize the credit of the State to be loaned to secure funds for loans to Maine students attending institutions of higher education, wherever situated, and to parents of these students. Funds shall be obtained by the issuance of state bonds, when authorized by the Governor, but the amount of bonds issued and outstanding shall not at one time exceed in the aggregate \$4,000,000. Funds loaned shall be on such terms and conditions as the Legislature shall authorize.

LAWS RELATING TO THE UNIVERSITY SYSTEM

Listed according to Title

TITLE 1

Uniform Flag Law

§252-A. Display

The United States flag and State of Maine flag may be flown at half staff only at such times as specified by the President of the United States or the Governor of the State of Maine. [2001, c. 162, §1 (amd).]

When the Governor considers it appropriate, the Governor may authorize the United States flag and the State of Maine flag to be flown at half staff throughout a political subdivision or a specified location or locations. [2001, c. 162, §1 (new).]

Any United States flag, except those flags having a historical significance, when being displayed must be in good condition at all times, not tattered, not torn and not discolored. [2001, c. 162, §1 (amd).]

Freedom of Access Law

§ 400. Short title

This subchapter may be known and cited as "the Freedom of Access Act." [2011, c. 662, §1 (new).]

§401. Declaration of public policy; rules of construction

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter. [1975, c. 758 (rpr).]

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. [2011, c. 320, Part B, §1 (new).]

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent. [1975, c. 758 (rpr).]

§402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued. [1975, c. 758 (new).]

1-A. Legislative subcommittee. "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee. [1991, c. 773, §1 (new).]

2. Public proceedings. The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees; [1975, c. 758 (new).]

B. Any board or commission of any state agency or authority, the Board of Trustees of the

University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [1989, c. 358, §1 (amd); c. 443, §1 (amd); c. 878, Pt. A, §1 (rpr); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; [1991, c. 848, §1 (amd).]

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1995, c. 608, §1 (amd).]

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [2009, c. 334, §1 (amd).]

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter: and [2009, c. 334, §2 (amd).]

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

- (1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and
- (2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [2009, c. 334, §3 (new).]

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these

entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute; [1975, c. 758 (new).]

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [1975, c. 758 (new).]

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [1991, c. 773, §2 (amd).]

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; [2011, c. 264, §1 (new).]

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [1989, c. 358, §4 (amd).]

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [1989, c. 358, §4 (amd); c. 443, §2 (amd); c. 878, Pt. A, §2 (rpr); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if

those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (amd).]

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (amd).]

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [1995, c. 608, §4 (amd).]

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [1999, c. 96, §1 (amd).]

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization; [2001, c. 675, §1 (amd).]

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [2003, c. 392, §1 (amd).]

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; [2003, c. 614, §1 (amd).]

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect

the information from further disclosure; [2011, c. 662, §2 (amd).]

N. Social security numbers; [2011, c. 320, Part E §1 (amd).]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [2009, Revisor's Report 1, §1 (amd).]

[2005, c. 381, §§1-3 (amd).]

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; [2011, c. 149, §1 (amd).]

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; [2013, c. 339, §1 (amd).]

R. Social security numbers in the possession of the Secretary of State; [2013, c. 518, §1 (amd).]

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications; and [2013, c. 518, §2 (amd).]

T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources. [2013, c. 518, §3 (new).]

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [2013, c. 267, Part B §1 (amd).]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, address of residence and dates of supervision; and [2013, c. 267, Part B §1 (amd).]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703 and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [2013, c. 267, Part B §1 (amd).]

[2001, c. 477, §1 (amd).]

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records. [2009, c. 334, §4 (new).]

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1. [2011, c. 662, §3 (new).]

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official. [2011, c. 662, §3 (new).]

Notes of Decision

Construction and application

Freedom of Access Act should be liberally construed and applied to promote its underlying purpose; corollary to such liberal construction is necessarily strict construction of any exceptions to required public disclosure. Guy Gannett Pub. Co. v. University of Maine, 555 A.2d 470 (1989 Me.)

§403. Meetings to be open to public

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. [2011, c. 320, Part C, §1 (rpr).]

Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public, any person must be permitted to attend any public proceeding and any public record or minutes of such proceedings that are required by law must be made promptly and must be open to public inspection. [2009, c. 240, §1 (amd).]

§404. Recorded or live broadcasts authorized

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all persons shall be entitled to attend public proceedings and to make written, taped or filmed records of the proceedings, or to live broadcast the same, provided the writing, taping, filming or broadcasting does not interfere with the orderly conduct of proceedings. The body or agency holding the public proceedings may make reasonable rules and regulations governing these activities, so long as these rules or regulations do not defeat the purpose of this subchapter. [1975, c. 758 (rpr).]

§405. Executive sessions

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [1975, c. 758 (new).]

1. Not to defeat purposes of subchapter. An executive session may not be used to defeat the purposes of this subchapter as stated in section 401. [2009, c. 240, §2 (amd).]

2. Final approval of certain items prohibited. An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session. [2009, c. 240, §2 (amd).]

3. Procedure for calling of executive sessions. An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies. [2009, c. 240, §2 (amd).]

4. Motion contents. A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent. [2003, c. 709, §1 (amd).]

5. Matters not contained in motion prohibited. Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session. [2009, c. 240, §2 (amd).]

6. Permitted deliberation. Deliberations on only the following matters may be conducted during an executive session:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

(1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;

(2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal; [2009, c. 240, §2 (amd).]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire.

[1979, c. 541, Pt.A, §3 (amd).]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [1987, c. 477, §3 (amd).]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [1999, c. 144, §1 (rpr).]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage. [2009, c. 240, §2 (amd).]

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute; [1999, c. 180, §1 (amd).]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [1999, c. 180, §2 (amd).]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [1999, c. 180, §3 (new).]

[1999, c. 144, §1 (amd); c. 180, §§1-3 (amd).]

§406. Public notice

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding. [1987, c. 477, § 4 (amd).]

§407. Decisions

1. Conditional approval or denial. Every agency shall make a written record of every decision involving the conditional approval or denial of an application, license, certificate or any other type of permit. The agency shall set forth in the record the reason or reasons for its decision and make finding of the fact, in writing, sufficient to appraise the applicant and any interested member of the public of the basis for the decision. A written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it. [1975, c. 758 (new).]

2. Dismissal or refusal to renew contract. Every agency shall make a written record of every decision involving the dismissal or the refusal to renew the contract of any public official, employee or appointee. The agency shall, except in case of probationary employees, set forth in the record the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the individual concerned and any interested member of the public of the basis for the decision. A written record or a copy thereof must be kept by the agency and made available to any interested member of the public who may wish to review it. [2009, c. 240, §3 (amd).]

§408. Public records available for public inspection and copying [2011, c. 662, §4 (REPEALED).]

§ 408-A. Public records available for inspection and copying

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record.

1. Inspect. A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

2. Copy. A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

A. A request need not be made in person or in writing.

B. The agency or official shall mail the copy upon request.

3. Acknowledgment; clarification; time estimate. The agency or official having custody or control of a public record shall acknowledge receipt of a request made according to this section within 5 working days of receiving the request, and may request clarification concerning which public record or public records are being requested. Within a reasonable time of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time within which the agency or official will comply with the request, as well as a cost estimate as provided in subsection 9. The agency or official shall make a good faith effort to fully respond to the request within the estimated time. [2013, c. 350, §1 (amd).]

4. Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide written notice of the denial, stating the reason for the denial, within 5 working days of the receipt of the request for inspection or copying. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409. [2013, c. 350, §2 (amd).]

5. Schedule. Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record

requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

6. No requirement to create new record. An agency or official is not required to create a record that does not exist.

7. Electronically stored public records. An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8.

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

8. Payment of costs. Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$15 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format.

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

9. Estimate. The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time necessary to complete the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than \$30, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 10 applies.

10. Payment in advance. The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:

- A. The estimated total cost exceeds \$100; or
- B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

11. Waivers. The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:

- A. The requester is indigent; or
- B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

[2011, c. 662, § 5 (new).]

§409. Appeals

1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408 - A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to any Superior Court within the State as a trial de novo. The agency or official shall file an answer within 14 calendar days. If a court, after a trial de novo, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. [2013, c. 350, § 3 (rpr).]

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals. [2007, c. 695, Part C, §1 (amd).]

3. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law. [2009, c. 240, §6 (amd).]

4. Attorney's fees. In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010. [2009, c. 423, §1 (new).]

§410. Violations

For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1987, c. 477, § 6 (rpr).]

§411. Right To Know Advisory Committee

1. Advisory committee established. The Right To Know Advisory Committee, referred to in this chapter as "the advisory committee," is established to serve as a resource for ensuring compliance with this chapter and upholding the integrity of the purposes underlying this chapter as it applies to all public entities in the conduct of the public's business.

2. __Membership.__ The advisory committee consists of the following members:

A. One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate;

B. One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House;

C. One representative of municipal interests, appointed by the Governor;

D. One representative of county or regional interests, appointed by the President of the Senate;

E. One representative of school interests, appointed by the Governor;

F. One representative of law enforcement interests, appointed by the President of the Senate;

G. One representative of the interests of State Government, appointed by the Governor;

H. One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the House;

I. One representative of newspaper and other press interests, appointed by the President of the Senate;

J. One representative of newspaper publishers, appointed by the Speaker of the House;

K. Two representatives of broadcasting interests, one appointed by the President of the Senate and one appointed by the Speaker of the House;

L. Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House; and

M. The Attorney General or the Attorney General's designee.

The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

3. Terms of appointment. The terms of appointment are as follows.

A. Except as provided in paragraph B, members are appointed for terms of 3 years.

B. Members who are Legislators are appointed for the duration of the legislative terms of office in which they were appointed.

C. Members may serve beyond their designated terms until their successors are appointed.

4. First meeting; chair. The Executive Director of the Legislative Council shall call the first meeting of the advisory committee as soon as funding permits. At the first meeting, the advisory committee shall select a chair from among its members and may select a new chair annually.

5. Meetings. The advisory committee may meet as often as necessary but not fewer than 4 times a year. A meeting may be called by the chair or by any 4 members.

6. Duties and powers. The advisory committee:

A. Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to

requests for interpretation and clarification of the laws;

B. Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a

wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and who to contact for specific inquiries;

C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as who to contact with complaints and concerns. The website must also include, or

contain a link to, a list of statutory exceptions to the public records laws;

D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question-and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required under section 412, subsection 3 and for making that information publicly available; [2007, c. 576, §1 (amd).]

E. Shall serve as a resource for the review committee under subchapter 1-A in examining public records exceptions in both existing laws and in proposed legislation;

F. Shall examine inconsistencies in statutory language and may recommend standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released;

G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations;

H. Shall serve as an adviser to the Legislature when legislation affecting public access is considered;

I. May conduct public hearings, conferences, workshops and other meetings to obtain information about, discuss, publicize the needs of and consider solutions to problems concerning access to public proceedings and records;

J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public; and

K. May undertake other activities consistent with its listed responsibilities.

7. Outside funding for advisory committee activities. The advisory committee may seek outside funds to fund the cost of public hearings, conferences, workshops, other meetings, other activities of the advisory committee and educational and training materials. Contributions to support the work of the advisory committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the advisory committee's activities.

Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the advisory committee.

8. Compensation. Legislative members of the advisory committee are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the advisory committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the advisory committee.

9. Staffing. The Legislative Council shall provide staff support for the operation of the advisory committee, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the advisory committee may contract for administrative, professional and clerical services if funding permits.

10. Report. By January 15, 2007 and at least annually thereafter, the advisory committee shall report to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Chief Justice of the Supreme Judicial Court about the state of the freedom of access laws and the public's access to public proceedings and records.

[2005, c. 631, §1 (new)]

§ 412. Public records and proceedings training for certain elected officials

1. Training required. A public access officer and an elected official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official or public access officer shall complete the training not later than the 120th day after the date the elected official takes the oath of office to assume the person's duties as an elected official or the person is designated as a public access officer pursuant to section 413, subsection 1.

2. Approval by advisory committee; minimum requirements. The training course under subsection 1 must be designed to be completed by an official or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

- A. The general legal requirements of this chapter regarding public records and public proceedings;
- B. Procedures and requirements regarding complying with a request for a public record under this chapter; and
- C. Penalties and other consequences for failure to comply with this chapter.

An elected official meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

3. Certification of completion. Upon completion of the training course required under subsection 1, the elected official or a public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The elected official shall keep the record or file it with the public entity to which the official was elected. A public access officer shall file the record with the agency or official that designated the public access officer.

4. Application. This section applies to a public access officer and the following elected officials:

- A. The Governor;
- B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;
- C. Members of the Legislature elected after November 1, 2008; and

D. REPEALED. [2007, c. 576, §2 (RP)]

E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;

F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments;

G. Officials of school administrative units; and

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

[2011, c. 662, §7 (amd)]

§ 413. Public access officer

1. Designation; responsibility. Each agency, county, municipality, school administrative unit and regional or other political subdivision shall designate an existing employee as its public access officer to serve as the contact person for that agency, county, municipality, school administrative unit and regional or other political subdivision with regard to requests for public records under this subchapter. The public access officer is responsible for ensuring that each public record request is acknowledged within a reasonable period of time and that a good faith estimate of when the response to the request will be complete is provided according to section 408-A. The public access officer shall serve as a resource within the agency, county, municipality, school administrative unit and regional or other political subdivision

concerning freedom of access questions and compliance.

2. Acknowledgment and response required. An agency, county, municipality, school administrative unit and regional or other political subdivision that receives a request to inspect or copy a public record shall acknowledge and respond to the request regardless of whether the request was delivered to or directed to the public access officer.

3. No delay based on unavailability. The unavailability of a public access officer may not delay a response to a request.

4. Training. A public access officer shall complete a course of training on the requirements of this chapter relating to public records and proceedings as described in section 412.

§ 414. Public records; information technology

An agency shall consider, in the purchase of and contracting for computer software and other information technology resources, the extent to which the software or technology will:

1. Maximize public access. Maximize public access to public records; and

2. Maximize exportability; protect confidential information. Maximize the exportability of public records while protecting confidential information that may be part of public records.

[2011, c. 662, §8 (new).]

Printing and Purchase of Documents and Laws

§501-A. Publications of state agencies

1. Definitions. As used in this section, the term "publications" includes periodicals; newsletters; bulletins; pamphlets; leaflets; directories; bibliographies; statistical reports; brochures; plan drafts; planning documents; reports; special reports; committee and commission minutes; informational handouts; and rules and compilations of rules, regardless of number of pages, number of copies ordered, physical size, publication medium or intended audience inside or outside the agency. [1997, c. 299, §1 (new).]

2. Production and distribution. The publications of all agencies, the University of Maine System and the Maine Maritime Academy may be printed, bound and distributed, subject to Title 5, sections 43 to 46. The State Purchasing Agent may determine the style in which publications may be printed and bound, with the approval of the Governor. [1997, c. 299, §1 (new).]

3. Annual or biennial reports. Immediately upon receipt of any annual or biennial report that is not included in the Maine State Government Annual Report provided for in Title 5, sections 43 to 46, the State Purchasing Agent shall deliver at least 55 copies of that annual or biennial report to the State Librarian for exchange and library use. The State Purchasing Agent shall deliver the balance of the number of each such report to the agency that prepared the report. [1997, c. 299, §1 (new).]

4. State agency and legislative committee publications. Except as provided in subsection 5, any agency or legislative committee issuing publications, including publications in an electronic format, shall deliver 18 copies of the publications in the published format to the State Librarian. These copies must be furnished at the expense of the issuing agency. Publications not furnished upon request will be reproduced at the expense of the issuing agency. The agency or committee preparing a publication may determine the date on which a publication may be released, except as otherwise provided by law. [1997, c. 299, §1 (new).]

5. Electronic publishing. An agency or committee that electronically publishes information to the public is only required to provide the State Librarian with one printed copy of an electronically published publication. An electronically published publication is not required to be provided to the State Librarian if the publication is also published in print or in an electronic format and is provided to the State Librarian in compliance with subsection 4 or the publication is:

A. Designed to provide the public with current information and is subject to frequent additions and deletions, such as current lists of certified professionals, daily updates of weather conditions or fire hazards; or [1997, c. 299, §1 (new).]

B. Designed to promote the agency's services or assist citizens in use of the agency's services, such as job advertisements, application forms, advertising brochures, letters and memos. [1997, c. 299, §1 (new).]

[1997, c. 299, §1 (new).]

6. Forwarding of requisitions. The State Purchasing Agent, Central Printing and all other printing operations within State Government shall forward to the State Librarian upon receipt one copy of all requisitions for publications to be printed. [1997, c. 299, §1 (new).]

Electronic Access to Public Information

§534. InforME Board

1. Membership. The InforME Board, as established in Title 5, section 12004-G, subsection 30-A, consists of 15 voting members and 2 nonvoting, advisory members as follows:

A. The Secretary of State or the Secretary of State's designee; [1997, c. 713, §1 (new).]

B. Three members who are chief executive officers of agencies of the executive branch that are major data custodians, who are appointed by the Governor and who serve at the pleasure of the Governor, or their designees; [1997, c. 713, §1 (new).]

C. A representative of each of the following:

(1) The University of Maine System, appointed by the chancellor;

(2) A statewide association of municipalities, appointed by the Governor from nominations made by the association's governing body;

(3) Nonprofit or user organizations advancing citizens' rights of access to information, appointed by the Governor; and

(4) A statewide association of public librarians, appointed by the Governor from nominations made by the association's governing body.

The term for members appointed pursuant to this paragraph is 3 years; [1997, c. 713, §1 (new).]

....

Notice of Information Practices

§541. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 321, Pt. B, §1 (new).]

1. Personal information. "Personal information" means information about a natural person that readily identifies that specific person. [2001, c. 321, Pt. B, §1 (new).]

2. Public entity. "Public entity" means:

A. The Legislature; [2001, c. 321, Pt. B, §1 (new).]

B. The Judicial Department; [2001, c. 321, Pt. B, §1 (new).]

C. A state agency or authority; [2001, c. 321, Pt. B, §1 (new).]

D. The University of Maine System, the Maine Maritime Academy and the Maine Community College System; [2001, c. 321, Pt. B, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

E. A county, municipality, school district or any regional or other political or administrative subdivision; and [2001, c. 321, Pt. B, §1 (new).]

F. An advisory organization established, authorized or organized by law or resolve or by executive order issued by the Governor. [2001, c. 321, Pt. B, §1 (new).]

[2001, c. 321, Pt. B, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

§542. Notice of information practices

Each public entity that has a publicly accessible site on the Internet associated with it shall develop a policy regarding its practices relating to personal information and shall post notice of those practices on its publicly accessible site on the Internet. The policy must include: [2001, c. 321, Pt. B, §1 (new).]

1. Information collected. A description of the personal information collected on the publicly accessible site on the Internet; [2001, c. 321, Pt. B, §1 (new).]

2. Use and disclosure of information. A summary of how the personal information is used by the public entity and the circumstances under which it may be disclosed to others; [2001, c. 321, Pt. B, §1 (new).]

3. Choice. The extent to which the user has a choice of whether to provide personal information via the publicly accessible site on the Internet and the consequences of refusing to give that information; [2001, c. 321, Pt. B, §1 (new).]

4. Procedures for access and correction. The procedures, if any, by which the user may request access to that user's personal information and request correction of that information; and [2001, c. 321, Pt. B, §1 (new).]

5. Security. The steps taken to protect personal information from misuse or unauthorized access. [2001, c. 321, Pt. B, §1 (new).]

TITLE 3

Lobbyist Disclosure Procedures

§311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process. [P.L. 1975, c. 724 (reen).]

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens. [P.L. 1975, c. 724 (reen).]

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed. [P.L. 1975, c. 724 (reen).]

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State. [P.L. 1975, c. 724 (reen).]

§312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [1983, c. 160, §1 (new).]

...

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State. [1993, c. 691, §8 (amd).]

17. State employee or state agency employee. "State employee or state agency employee" means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, chapter 379. [1993, c. 691, §9 (new).]

§ 313-A. Registration of state employees or state agency employees

Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission as described in section 316-A those officers or employees who will serve

as the department's or agency's legislative designees for the session. The department or agency shall file an updated registration form later in the session containing any changes of its designees within 15 business days of the change.

1. REPEALED. [2007, c. 630, §9 (RP).]

2. Lobbying requirements. An employee who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

[2007, c. 630, §9 (amd).]

§ 316-A. Registration forms for state employees or state agency employees

The commission shall prepare and make available registration forms for the registration of state employees or state agency employees required to register pursuant to section 313-A. These forms must include the following information:

1. Names. The name, business address and contact information of the employee and the department or agency the employee is representing and the address for the publicly accessible website of the department or agency the employee is representing;

2. Position description. A position description ;

3. Description of agency. A description of the department or agency the employee is representing, its jurisdiction and its activities; and

4. Legislative interests. The general subject areas of legislation that the department or agency is attempting to influence.

These forms must be signed by the employee and the signature serves as a certificate that the information on that form is true, correct and complete.

[2007, c. 630, §13 (amd).]

State Government Evaluation

§952. Scope

This chapter provides for a system of periodic review of agencies and independent agencies of State Government in order to evaluate their efficacy and performance. Only those agencies, independent agencies or parts of those agencies and independent agencies that receive support from the General Fund or that are established, created or incorporated by reference in the Maine Revised Statutes are subject to the provisions of this chapter. The financial and programmatic review must include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, statutory mandate and fiscal accountability. [1995, c. 488, §2 (new).]

§953. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 488, §2 (new).]

1. Agency. "Agency" means a governmental entity subject to review pursuant to this chapter, but not subject to automatic termination. [1995, c. 488, §2 (new).]

2. Committee or committee of jurisdiction. "Committee or committee of jurisdiction" means the joint standing committee of the Legislature having jurisdiction over the same policy and substantive matters as an agency subject to review under this chapter. [1995, c. 488, §2 (new).]

3. Independent agency. "Independent agency" means a governmental entity subject to review and to termination pursuant to this chapter. [1995, c. 488, §2 (new).]

§954. Designation by legislative policy committee

1. Authorization. On or before April 1st of any first regular session, the committee of jurisdiction shall review the list of agencies scheduled for review in section 959. [1995, c. 488, §2 (new).]

2. Waiver from review. The committee of jurisdiction may, with a 2/3 vote of all committee members, do one of the following with regard to an agency review:

A. Exempt an agency or independent agency from review and establish a new review date; [1995, c. 488, §2 (new).]

B. Establish a modified review process in which an agency or independent agency may be asked to provide less information than required by this section or additional information; or [1995, c. 488, §2 (new).]

C. Add an additional agency or independent agency for review, except that an agency that has been reviewed in accordance with this chapter in the legislative session immediately preceding the current legislative session may not be added for review. [1995, c. 488, §2 (new).] [1995, c. 488, §2 (new).]

§955. Committee schedule

1. Review established. The committee of jurisdiction shall establish its agency review schedule in accordance with this chapter and upon approval of the necessary resources by the Legislative Council. The committee of jurisdiction shall request from each agency and independent agency scheduled for review under section 959 a single-page list of organizational units and programs within each organizational unit by March 1st of the first regular session of the Legislature. The agency or independent agency shall provide the list to the committee of jurisdiction by April 1st of the first regular session of the Legislature. The committee of jurisdiction shall provide an agency or independent agency with a written notice of its intent to review the

agency or independent agency by May 1st of the first regular session of the Legislature. [2013, c. 307, §1 (amd).]

2. Submission of program evaluation report. Each agency and independent agency shall prepare and submit no later than November 1st prior to the second regular session of the Legislature, a program evaluation report as required in section 956, to the Legislature through the committee of jurisdiction. [1995, c. 488, §2 (new).]

3. Conduct review. The committee of jurisdiction shall begin its agency review process no later than February 1st of the second regular session of the Legislature and in accordance with this chapter. [1995, c. 488, §2 (new).]

4. Report issued. For those agencies and independent agencies selected for review by the committee of jurisdiction, the committee shall submit to the Legislature no later than March 15th of the second regular session of the Legislature the findings, administrative recommendations or legislation required to implement recommendations made as a result of its review, analysis and evaluation. [1995, c. 488, §2 (new).]

5. Follow-up review. The committee of jurisdiction shall establish in its final report a specified time in which the committee may review the progress of an agency in meeting the recommendations of the committee report. A follow-up review may consist of written progress reports, public hearings with the agency and committee or any other method approved by the committee of jurisdiction in its final report. [1995, c. 488, §2 (new).]

§956. Program evaluation report

1. Report required. Each agency and independent agency shall prepare and submit to the Legislature, through the committee of jurisdiction, a program evaluation report by a date specified by the committee. [1995, c. 488, §2 (new).]

2. Program evaluation report; contents. Each report must include the following information in a concise but complete manner:

A. Enabling or authorizing law or other relevant mandate, including any federal mandates; [1995, c. 488, §2 (new).]

B. A description of each program administered by the agency or independent agency, including the following for each program:

(1) Established priorities, including the goals and objectives in meeting each priority;

(2) Performance measures or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and

(3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance measures. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives; [2013, c. 307, §2 (amd).]

C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility; [1995, c. 488, §2 (new).]

D. [2013, c. 307, §3 (RP).]

E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years; [1995, c. 488, §2 (new).]

F. [2013, c. 307, §4 (RP).]

G. Identification of those areas where an agency has coordinated its efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements, including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements; [1999, c. 661, §1 (amd).]

H. Identification of the constituencies served by the agency or program, noting any changes or projected changes; [1995, c. 488, §2 (new).]

I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives; [1995, c. 488, §2 (new).]

J. Identification of emerging issues for the agency or program in the coming years; [1999, c. 661, §1 (amd).]

K. Any other information specifically requested by the committee of jurisdiction; [2001, c. 321, Pt. A, §1 (amd).]

L. A comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program; [2001, c. 495, §1 (amd).]

M. Agency policies for collecting, managing and using personal information over the Internet and nonelectronically, information on the agency's implementation of information technologies and an evaluation of the agency's adherence to the fair information practice principles of notice, choice, access, integrity and enforcement; [2013, c. 307, §5 (amd).]

N. A list of reports, applications and other similar paperwork required to be filed with the agency by the public. The list must include:

- (1) The statutory authority for each filing requirement;
- (2) The date each filing requirement was adopted or last amended by the agency;
- (3) The frequency that filing is required;
- (4) The number of filings received annually for the last 2 years and the number anticipated to be received annually for the next 2 years; and
- (5) A description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication; [2013, c. 588, §A-1 (rpr).]

O. Identification of provisions contained in the agency's or independent agency's enabling or authorizing statutes that may require legislative review to determine the necessity of amendment to align the statutes with federal law, other state law or decisions of the United States Supreme Court or the Supreme Judicial Court. [2013, c. 110, §4 (new).]

O. A list of reports required by the Legislature to be prepared or submitted by the agency or independent agency; and [2013, c. 307, §7 (new).]

P. A copy of the single-page list of organizational units and programs within each organizational unit required pursuant to section 955, subsection 1, placed at the front of the report. [2013, c. 307, §7 (new).]

§957. Committee analysis and recommendations; authority

For each agency or independent agency or a component part of each agency or independent agency subject to review pursuant to section 952, the committee of jurisdiction may conduct an analysis and evaluation that may include, but need not be limited to, an evaluation of the program evaluation report submitted pursuant to section 956, subsection 1, including:

1. Statutory authority. The extent to which the agency or independent agency operates in accordance with its statutory authority;
2. Goals and objectives. The degree of success in meeting the agency's or independent agency's goals and objectives for each program, including population served;
3. Statutory and administrative mandates. The degree of success achieved by the agency or independent agency in meeting its statutory and administrative mandates; and
4. Filing requirements. The extent to which the agency or independent agency has increased or reduced filing requirements and paperwork duplication burdens on the public.

In consultation with the Legislative Council, the committee of jurisdiction shall select agencies or independent agencies for review either in accordance with the scheduling guidelines provided in this chapter or at any time determined necessary by the committee. [2013, c. 307, §8 (rpr).]

§958. Termination of independent agencies

1. Termination process. The committee of jurisdiction may recommend to the Legislature that any independent agency be terminated if indicated or warranted by the committee's review, analysis and evaluation of the independent agency. An independent agency may be accorded a grace period of not more than one year from the effective date of the legislation approving termination in which to complete its business. During the grace period, the statutory powers and duties of the independent agency are not limited or reduced. [1995, c. 488, §2 (new).]

2. Disposition of property, funds and records. During the grace period, the Legislature shall determine the disposition of:

A. All property, including any land, buildings, equipment and supplies used by the independent agency; [1995, c. 488, §2 (new).]

B. All funds remaining in any account of the independent agency; and [1995, c. 488, §2 (new).]

C. All records resulting from the activities of the independent agency. [1995, c. 488, §2 (new).]

[1995, c. 488, §2 (new).]

3. Expiration of grace period. Upon the expiration of the grace period, the independent agency shall cease its activities and terminate. [1995, c. 488, §2 (new).]

§959. Scheduling guideline for review of agencies or independent agencies

1. Scheduling guidelines. Except as provided in subsection 2, reviews of agencies or independent agencies must be scheduled in accordance with the following. Subsequent reviews must be scheduled on an ongoing basis every 8 years after the dates specified in this subsection.

...

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs shall use the following list as a guideline for scheduling reviews:

...

(10) Board of Trustees of the University of Maine System in 2017; [2013, c. 505, §1 (amd).]

2. Waiver. Notwithstanding this list of agencies arranged by year, an agency or independent agency may be reviewed at any time by the committee pursuant to section 954. [1995, c. 488, §2 (new).]

Evaluation and Government Accountability

§991. Evaluation and Government Accountability

The Office of Program Evaluation and Government Accountability is created for the purpose of providing program evaluation of agencies and programs of State Government and, when determined necessary by the committee, local and county governments, quasi-municipal governments, special districts, utility districts, regional development agencies or any municipal or nonprofit corporation. The office also is established to ensure that public funds provided to local and county governments, quasi-municipal governments, special districts, utility districts, regional development agencies or any municipal or nonprofit corporation are expended for the purposes for which they were allocated, appropriated or contracted. When authorized by the committee, the office also may examine or direct an examination of any state contractor financed in whole or part by public funds and any expenditure by any public official or public employee during the course of public duty, including, but not limited to, any expenditure of private money for the purposes of the agency or other entity. [2003, c. 673, Pt. GGGG, §1 (amd).]

§992. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 702, §2 (new).]

1. Committee. "Committee" means a joint legislative committee established to oversee program evaluation and government accountability matters. [2001, c. 702, §2 (new).]

2. Director. "Director" means the Director of the Office of Program Evaluation and Government Accountability. [2001, c. 702, §2 (new).]

3. Office. "Office" means the Office of Program Evaluation and Government Accountability established in section 991. [2001, c. 702, §2 (new).]

4. Other entity. "Other entity" means any public or private entity in this State that may be subject to program evaluation under this chapter as the result of its receipt or expenditure of public funds. "Other entity" may include local and county governments, quasi-municipal governments, special districts, utility districts, regional development agencies or any municipal or nonprofit corporation. [2003, c. 673, Pt. GGGG, §2 (amd).]

5. Program evaluation. "Program evaluation" means an examination of any government program that includes performance audits, management analysis, inspections, operations, research or examinations of efficiency, effectiveness or economy. [2003, c. 673, Pt. GGGG, §3 (amd).]

5-A. Qualified auditor. "Qualified auditor" means an auditor who meets the education and experience requirements of the Office of State Auditor as defined in Title 5, section 241. [2003, c. 463, §2 (new).]

6. State agency. "State agency" means each state board, commission, department, program, office or institution, educational or otherwise, of this State. [2001, c. 702, §2 (new).]

7. Working paper. "Working paper" means all documentary and other information acquired, prepared or maintained by the office during the conduct of a program evaluation, including all intra-agency and interagency communications relating to a program evaluation and includes electronic messages and draft reports or any portion of a draft report. [2001, c. 702, §2 (new).]

§993. Committee membership; chairs

The membership of the committee and the selection of chairs are established by joint rule of the Legislature. [2001, c. 702, §2 (new).]

§994. Duties of committee

The committee has the following duties: [2001, c. 702, §2 (new).]

1. Director. To evaluate the director of the office and make a recommendation to the Legislative Council in writing regarding the reappointment of the director of the office before the Legislative Council considers the reappointment of the director of the office; [2001, c. 702, §2 (new).]

2. Annual work plan. To review and approve the annual work plan of the office; [2001, c. 702, §2 (new).]

3. Direct evaluations. To direct the office to conduct program evaluations; [2001, c. 702, §2 (new).]

3-A. Auditing services. When the committee determines that an examination as part of a program evaluation requires the services of a qualified auditor, to request the Department of Audit to conduct all or part of an examination or, if the Department of Audit is unable to perform the examination within the time frame established by the committee, to direct the office to obtain the services of a qualified auditor; [2003, c. 673, Pt. GGGG, §4 (new).]

4. Conduct hearings. To hold public hearings for the purpose of receiving reports from the office and questioning public officials about office findings and recommendations; [2001, c. 702, §2 (new).]

5. Examine witnesses. To examine witnesses and to order the appearance of any person or the appearance of any person for the purpose of production to the committee of papers or records, including books, accounts, documents, computer disks or memory or other electronic media and other materials regardless of their physical or electronic form; [2001, c. 702, §2 (new).]

6. Administer oaths. To administer oaths to witnesses appearing before the committee when, by a majority vote, the committee determines the administration of an oath necessary and advisable, to determine if there is probable cause that a witness has committed perjury by testifying falsely before the committee and to direct the Attorney General to institute legal proceedings as provided by law; [2001, c. 702, §2 (new).]

7. Vote on reports. To vote at the committee's discretion to endorse, to endorse in part or to release a report of the office without endorsement; [2001, c. 702, §2 (new).]

8. Subpoenas. To issue subpoenas upon a majority vote of the committee in the event of refusal to appear or to produce papers or records, including books, accounts, documents, computer disks or memory or other electronic media and other materials regardless of their physical or electronic form. A subpoena issued under this subsection must be issued pursuant to the provisions of section 165 and chapter 21; [2003, c. 451, Pt. KKK, §2 (amd).]

9. Meetings. To conduct meetings at such times as the cochairs determine necessary; [2003, c. 673, Pt. GGGG, §5 (amd).]

10. Adopt rules. To adopt rules, as long as the rules are not in conflict with the Joint Rules of the Legislature. By January 1, 2005, the committee must develop a mission statement to be included in the rules; [2005, c. 104, §1 (amd).]

11. Information available to committee. To receive certain information. Information that is made available to the committee is governed by chapter 21, which governs legislative investigating committees, and by Title 1, chapter 13, which governs public records and proceedings; and [2005, c. 104, §2 (amd).]

12. Immediate review system. To establish a system to provide immediate review of a program or function of a state agency or other entity in the event that there is a suspicion of a major mismanagement of public funds or functions. If the director determines to proceed under the immediate review system and the committee approves proceeding under that system, qualified auditors and investigators may be retained by the director for that purpose. The director shall coordinate efforts with the Attorney General, State Auditor, State Controller and others considered appropriate by the director. [2005, c. 104, §3 (new).]

§995. Director

1. Appointment. Not earlier than April 1, 2003, the Legislative Council shall appoint by an affirmative vote of 8 members of the Legislative Council a nonpartisan director of the office for the purposes of conducting program evaluations pursuant to this chapter. The director must be appointed to an initial 5-year term, which is subject to renewal by the Legislative Council every 5 years thereafter. During the term of the contract, the director may be terminated only for cause by an affirmative vote of 8 members of the Legislative Council. The Legislative Council shall establish the compensation of the director. The director's

duties must be performed independently and in a nonpartisan manner but under the general policy direction of the committee. [2003, c. 673, Pt. GGGG, §8 (amd).]

2. Duties. The director shall supervise the staff of the office in accordance with policies adopted by the committee and consistent with the policies of the Legislative Council. The director shall prepare and present a biennial budget to the committee for its approval. Money appropriated or allocated to the office must be expended in the discretion of the director and the committee only. The director also shall prepare and present an annual work plan to the committee for its consideration and approval. The director also may contract with private individuals or entities for the conduct of program evaluations under this chapter. The director may request the committee to issue subpoenas. [2001, c. 702, §2 (new).]

3. Employees. Employees must be nonpartisan. Employees of the office are employed by and are responsible to the director, who shall hire and fix the compensation of each employee, subject to the approval of the committee and within resources available in the biennial budget. Other than the director appointed pursuant to subsection 1, an employee of the office may not be employed prior to July 1, 2003. [2003, c. 673, Pt. GGGG, §8 (amd).]

4. Annual report. The director shall prepare an annual report of the office's activities for each calendar year and shall submit that annual report to the committee and the Legislature no later than January 15th of each calendar year. [2003, c. 463, §4 (amd).]

5. Coordination with State Auditor; complaints alleging fraud, waste, inefficiency or abuse. The director may access confidential information disclosed by the State Auditor under Title 5, section 244-D, subsection 3 in order to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under Title 5, section 244-D. [2005, c. 682, §1 (new)]

§996. Assistance to committee

The Department of the Attorney General, the State Auditor, the State Controller, the Commissioner of Administrative and Financial Services, the Director of the Office of Fiscal and Program Review and the Director of the Office of Policy and Legal Analysis shall assist the committee and office with program evaluations under this chapter if the committee and the director determine that such assistance is necessary. [2001, c. 702, §2 (new).]

The Commissioner of Administrative and Financial Services shall provide office space to house the office within the Burton M. Cross Building. This office space must be provided at no charge. [2003, c. 451, Pt. KKK, §3 (new).]

§997. Conduct and issuance of program evaluation reports

The director and the office shall adhere to the following provisions relative to conducting and issuing program evaluation reports under this chapter. [2001, c. 702, §2 (new).]

1. Review and response. Prior to the presentation of a program evaluation under this chapter to the committee by the office, the director of the evaluated state agency or other entity must have an opportunity to review a draft of the program evaluation report. Within 15 calendar days of receipt of the draft report, the director of the evaluated state agency or other entity may provide to the office comments on the draft report. If provided to the office by the comment deadline, the comments must be included in the final report when it is presented to the committee. Failure by the director of an evaluated agency or other entity to submit its comments on the draft report by the comment deadline may not delay the submission of a report to the committee or its release to the public.

All documents, writings, drafts, electronic communications and information transmitted pursuant to this subsection are confidential and may not be released to the public prior to the time the office issues its program evaluation report pursuant to subsection 3. A person violating the provisions of this subsection regarding confidentiality is guilty of a Class E crime. [2001, c. 702, §2 (new).]

2. Submission of final report to committee. The director shall notify the committee when each final program evaluation report under this chapter is completed. The report must then be placed on the agenda for a future committee meeting. At the meeting where a report appears on the agenda for the first time, the director will release that report to the committee and to the public simultaneously. The committee, at its discretion, may vote to endorse, to endorse in part or to decline to endorse the report submitted by the director. If the committee determines it is necessary, the committee may report out to the Legislature legislation to implement the findings and recommendations of any program evaluation report presented to it by the office. [2001, c. 702, §2 (new).]

3. Confidentiality. The director shall issue program evaluation reports, favorable or unfavorable, of any state agency or other entity, and these reports are public records, except that, prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting

materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and exempt from disclosure pursuant to Title 1, chapter 13. All other records or materials in the possession of the director or other entity charged with the preparation of a program evaluation report under this chapter that would otherwise be confidential or exempt from disclosure are exempt from disclosure pursuant to the provisions of Title 1, chapter 13. Prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and may not be released or disclosed by the director to the Legislative Council or an agent or representative of the Legislative Council. This subsection may not be construed to prohibit or prevent public access to the records of a state agency or other entity in the possession of the director that would otherwise be subject to disclosure pursuant to the provisions of Title 1, chapter 13. The director shall refer requests for access to those records directly to the state agency or other entity that is the official custodian of the requested records, which shall respond to the request for public records. [2001, c. 702, §2 (new).]

4. Information available to office. Upon request of the office and consistent with the conditions and procedures set forth in this section, state agencies or other entities subject to program evaluation must provide the office access to information that is privileged or confidential as defined by Title 1, chapter 13, which governs public records and proceedings.

A. Before beginning a program evaluation under this chapter that may require access to records containing confidential or privileged information, the office shall furnish a written statement of its determination that it is necessary for the office to access such records and consult with representatives of the state agency or other entity to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the state agency or other entity shall inform the office of all standards and procedures set forth in its policies or agreements to protect information considered to be confidential or privileged. The office shall limit its access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the source. [2003, c. 673, Pt. GGGG, §9 (amd).]

B. Documentary or other information obtained by the office during the course of a program evaluation under this chapter is privileged or confidential to the same extent under law that information would be privileged or confidential in the possession of the state agency or other entity providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of a state agency or other entity or its officers or employees applies equally to the office. Privileged or confidential information obtained by the office during the course of a program evaluation may be disclosed only as provided by law and with the agreement of the state agency or other entity subject to the program evaluation that provided the information. [2001, c. 702, §2 (new).]

C. If the office accesses information classified as privileged or confidential pursuant to state agency or other entity policy or procedures or by agreement, the office shall comply with the state agency's or other entity's standards or procedures for handling that information. The office may include in its working papers the excerpts from information classified as confidential or privileged as may be necessary to complete the program evaluation under this chapter, as long as the use does not infringe on department policies or procedures applicable to the original provision of information. [2001, c. 702, §2 (new).]

[2003, c. 673, Pt. GGGG, §9 (amd).]

5. Confidentiality of working papers. Except as provided in this subsection, working papers are confidential and may not be disclosed to any person. Prior to the release of the final program evaluation report, the director has sole discretion to disclose working papers to the state agency or other entity subject to the program evaluation when disclosure will not prejudice the program evaluation. After release of the final program evaluation report, working papers may be released as necessary to the state agency or other entity that was subject to the program evaluation under this chapter. [2001, c. 702, §2 (new).]

6. Confidential sources. If data supplied by an individual are needed to initiate, continue or complete a program evaluation under this chapter, the director may, by written memorandum to the file, provide that the individual's identity will remain confidential and exempt from disclosure under Title 1, chapter 13, and this written memorandum protects the identity of the person from disclosure under Title 1, chapter 13, notwithstanding any other provision of law to the contrary. [2001, c. 702, §2 (new).]

7. Disposition of final report. A final copy of a program evaluation report under subsection 2, including recommendations and the evaluated state agency's or other entity's comments, must be submitted to the commissioner or director of the state agency or other entity examined at least one day prior to the report's public release, and must be made available to each member of the Legislature no later than one day following the report's receipt by the committee. The office may satisfy the requirement to provide each Legislator a copy of the report by furnishing the report directly by electronic means or by providing notice to each Legislator of the availability of the report on the office's publicly accessible site on the Internet. [2001, c. 702, §2 (new).]

TITLE 4

State Court Library Committee

§191. State Court Library Committee

[2013, c. 533, §1 (RP).]

TITLE 5

State Officers and Employees Generally

§18. Disqualification of executive employees from participation in certain matters

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

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

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

(1) The Governor;

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

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

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

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

(6) Members of advisory boards as listed in chapter 379.

[1989, c. 443, §5 (rpr); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

....

§18-A. Conflict of interest; contract with the State

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

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

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

[2001, c. 203, §2 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Prohibition. An executive employee may not have any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from any contract made on

behalf of the State when the state entity that employs the executive employee is a party to the contract. [2001, c. 203, §2 (new).]

3. Violative contract void. Any contract made in violation of this section is void. [2001, c. 203, §2 (new).]

4. Exemptions. This section does not apply:

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

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

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

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

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

[2001, c. 203, §2 (new).]

Annual Reports of State Agencies

§43. Annual reports of state agencies

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

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

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

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

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

§44. Report provisions

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

1. Date of establishment. The date when the agency was established; [1973, c. 612, § 1 (new).]
2. Statutory authority. The statutory authority of the agency; [1973, c. 612, § 1 (new).]
3. Agency address. The address of the agency's central office; [1973, c. 612, § 1 (new).]
4. Administrative officers. The names, titles and telephone numbers of the principal administrative officers; [1973, c. 612, § 1 (new).]
5. Agency chart. An organizational chart of the agency; [1973, c. 612, § 1 (new).]
6. Number of employees. The average number of full-time employees; [1973, c. 612, § 1 (new).]
7. Authorized employees. The number of employees authorized by the previous Legislature and a summary by month of the actual number of employees; [1973, c. 612, § 1 (new).]
8. Recurring operating expenditures. Recurring operating expenditures; [1973, c. 612, § 1 (new).]
9. Fund and account identification. The identification of all funds and accounts relating to an agency, with their beginning and ending balances; this shall include all federal funds and all funds from any other source; [1973, c. 612, § 1 (new).]

10. Program description. A description of each program shall be provided and shall include a summary of major expenditures, goals and objectives and future plans. [1973, c. 612, § 1 (new).]

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

§45. Discontinuation of duplicate reports

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

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

Communication services for deaf persons

§48-A. Communication services for deaf persons and hard-of-hearing persons in court and other legal settings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Is a hearing person who:

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

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

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

and, by January 1, 2012, obtains the specialist certificate described in division (a); or

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

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

[2003, c. 685, §2 (new).]

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

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

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

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

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

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

[2003, c. 685, §2 (new).]

3. Interpreting services or CART for consultation with appointed attorneys. When a court appoints an attorney to represent a deaf person, hard-of-hearing person or late-deafened person or to represent a juvenile whose parent or guardian is a deaf person, hard-of-hearing person or late-deafened person, the court shall provide interpreting services or CART in accordance with this subsection to allow for effective consultation between the attorney and client. Interpreting services or CART provided under this subsection must be paid for directly by the court and is not the responsibility of the attorney. [2009, c. 174, §1 (amd).]

4. Legal interpreting fund for services of attorneys and advocates, generally. The bureau shall maintain a legal interpreting fund, which must be used to reimburse private attorneys and advocates for the cost of interpreting services or CART that assists the attorney or advocate in effectively representing deaf persons, hard-of-hearing persons or late-deafened persons in cases in which subsection 3 does not apply. This fund may not be used to cover interpreting services or CART for actual proceedings pursuant to subsection 2. [2009, c. 174, §1 (amd).]

5. Privileged communication. Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that privileged interpreter unless all clients of the privileged interpreter privy to that confidential communication consent to the disclosure. [2003, c. 685, §2 (new).]

6. Oath. Every qualified legal interpreter appointed under subsection 2 shall, before performing the qualified legal interpreter's duties, take an oath that the qualified legal interpreter will make a true interpretation in an understandable manner to the person for whom the qualified legal interpreter is appointed, and that the qualified legal interpreter will repeat the statements of the person in the English language to the best of the qualified legal interpreter's ability. [2003, c. 685, §2 (new).]

7. Provide information. With the cooperation of the Registry of Interpreters for the Deaf, Inc. or its successor, the bureau shall prepare and continually update a directory listing all qualified legal interpreters in the State. When requested by an agency or court, the bureau shall furnish the agency or court with the directory. The Division for the Deaf, Hard of Hearing and Late Deafened within the bureau shall also provide information to the public, including state agencies and individuals who work with interpreters, regarding the qualifications necessary to become a qualified legal interpreter. [2009, c. 174, §1 (amd).]

Advisory Committee on Fair Competition with Private Enterprise

§55. Advisory Committee on Fair Competition with Private Enterprise

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

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

A. Three members representing State Government, including:

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

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

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

(a) The Commissioner of Education or a designee;

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

(c) The Chancellor of the University of Maine System or a designee;

[1999, c. 566, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

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

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

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

[1999, c. 566, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

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

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

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

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

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

[1999, c. 566, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Duties of committee. The committee shall meet at least once annually to review complaints from private enterprise of potentially unfair competition practices by State Government and to make recommendations regarding the disposition of these complaints to the Governor and, when appropriate, to the Legislature. [1999, c. 566, §1 (new).]

4. Staffing of committee. The Department of Administrative and Financial Services shall provide administrative and staff support to the committee. [1999, c. 566, §1 (new).]

5. Report of committee. The committee shall report by January 15th of each year to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government matters on its activities and shall recommend changes in policies or practices that assist in achieving the purposes of this section. [1999, c. 566, §1 (new).]

§55-A. Unfair competition

1. Prohibition. A state agency may not sell goods or services to the public in competition with private enterprise unless it complies with this section. [2003, c. 238, §1 (new); §2 (aff).]

2. Prior approval required. Unless otherwise provided by law, before a state agency may sell goods or services to the public, that agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise, established in section 12004-I, subsection 2-E. If the Advisory Committee on Fair Competition with Private Enterprise finds that the proposed activity is not specifically authorized by law and that activity will result in unfair competition, the state agency may not sell those goods or services. [2003, c. 238, §1 (new); §2 (aff).]

3. Exceptions for emergencies. A state agency may immediately sell goods or services to the public in the event of an emergency as determined by the agency head. The agency must refer the matter for review and approval to the Advisory Committee on Fair Competition with Private Enterprise as soon as possible. If the committee finds the activity results in unfair competition, the state agency must suspend sale of those goods or services within 30 days of the notification of the finding. [2003, c. 238, §1 (new); §2 (aff).]

4. Exception for existing goods and services. This section does not apply to goods or services that a state agency began selling to the public on or before January 15, 2004. [2003, c. 238, §1 (new); §2 (aff).]

§58. Access to forms

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

State Archivist

§92-A. Definitions

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

1. Agency records. "Agency records" means records of government agencies to which they retain legal title, but that have been transferred to the custody of the Maine State Archives to effect economies and efficiency in their storage and use pending their ultimate disposition as authorized by law. [1997, c. 636, §2 (amd).]

2. Archives. "Archives" means government records that have been determined by the State Archivist to have sufficient value to warrant their continued preservation and that are in the physical and legal custody of the Maine State Archives. [1997, c. 636, §2 (amd).]

2-A. Local government. "Local government" means a municipality, county, school district or other special-purpose district or multi-purpose district. [1999, c. 12, §1 (amd).]

3. Record center. "Record center" means facilities maintained by the State Archivist for the storage, security, servicing and other processing of agency records that must be preserved for varying periods of time and need not be retained in office equipment and space. [1973, c. 625, §16 (new).]

4. State agency or agency. "State agency" or "agency" means any unit of State Government or local government, including any state board or commission, except the Legislature and its committees and subcommittees, the Judicial Department, the University of Maine System, the Maine Community College System and the Maine Maritime Academy. [1995, c. 148, §4 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

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

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.[2009, c. 509, §1 (amd).]

6. Electronic record. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player. [1997, c. 636, §4 (new).]

College savings bonds

§145-C. Capital appreciation bonds

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

A. "College savings bonds" means any general obligation bonds of the State that:

(1) The Treasurer of State is authorized to issue and sell;

(2) Are offered for initial sale at a substantial discount from face value with some or all of the payment to bondholders of principal or interest or both deferred until maturity; and

(3) Are designated by the Treasurer of State as college savings bonds.

[1991, c. 603, §1 (new).]

[1991, c. 603, §1 (new).]

2. Authorization. Any general obligation bonds of the State that the Treasurer of State now or after July 30, 1991 is authorized to issue and sell may be issued and sold by the Treasurer of State as college savings bonds. The Treasurer of State, after consultation with the advisory committee established in subsection 3, may offer college savings bonds in such amounts and form and on such terms and conditions as the Treasurer of State determines necessary. Notwithstanding any contrary provision of any general obligation bond act, the Treasurer of State is authorized to issue bonds in serial or term form in the name of

and on behalf of the State, in amounts that will raise usable bond proceeds equal to the total amount for the projects authorized by the general obligation bond act and approved at referendum. For purposes of determining the amount of bonds of the State being issued or outstanding as of any given time, the amount of capital appreciation bonds is the greater of the original issue amount and the accreted value, as determined by the Treasurer of State. [RR 1997, c. 2, §8 (cor).]

3. Advisory committee. There is established an advisory committee on college savings bonds to advise the Treasurer of State on the issuance of college savings bonds. The advisory committee consists of 3 ex officio members, the Commissioner of Administrative and Financial Services, the Commissioner of Education, the Chief Executive Officer of the Finance Authority of Maine; and one representative of the University of Maine System designated by the Governor for a 4-year term. The advisory committee shall consult with the Treasurer of State on the amount of college savings bonds to be issued by the State, their terms, maturities and structures and the marketing and availability of the bonds. [1991, c. 780, Pt. Y, §18 (amd).]

4. Sale of college savings bonds. College savings bonds may be sold by competitive or negotiated sale, provided that the Treasurer of State shall determine that the underwriter or underwriters to which the bonds are sold have sufficient capability to provide for broad retail distribution of the bonds to investors residing in the State. College savings bonds may be issued in certificate or book entry form, in face amounts as low as \$1,000 if determined advisable by the Treasurer of State. The Treasurer of State may covenant and consent to establish any sinking funds, reserve funds or other accounts necessary to pay the bonds at maturity. [1991, c. 603, §1 (new).]

Public Access Division; Public Access Ombudsman

§ 200-I. Public Access Division; Public Access Ombudsman

1. Public Access Division; Public Access Ombudsman. There is created within the Department of the Attorney General the Public Access Division to assist in compliance with the State's freedom of access laws, Title 1, chapter 13. The Attorney General shall appoint the Public Access Ombudsman, referred to in this section as "the ombudsman," to administer the division.

2. Duties. The ombudsman shall:

A. Prepare and make available interpretive and educational materials and programs concerning the State's freedom of access laws in cooperation with the Right To Know Advisory Committee established in Title 1, section 411;

B. Respond to informal inquiries made by the public and public agencies and officials concerning the State's freedom of access laws;

C. Respond to and work to resolve complaints made by the public and public agencies and officials concerning the State's freedom of access laws;

D. Furnish, upon request, advisory opinions regarding the interpretation of and compliance with the State's freedom of access laws to any person or public agency or official in an expeditious manner. The ombudsman may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under Title 1, chapter 13. Advisory opinions must be publicly available after distribution to the requestor and the parties involved; [2013, c. 229, §1 (amd)]

E. Make recommendations concerning ways to improve public access to public records and proceedings; and [2013, c. 229, §1 (amd)]

F. Coordinate with the state agency public access officers the compilation of data through the development of a uniform log to facilitate record keeping and annual reporting of the number of requests for information, the average response time and the costs of processing requests. [2013, c. 229, §2 (new)]

3. Assistance. The ombudsman may request from any public agency or official such assistance, services and information as will enable the ombudsman to effectively carry out the responsibilities of this section.

4. Confidentiality. The ombudsman may access records that a public agency or official believes are confidential in order to make a recommendation concerning whether the public agency or official may release the records to the public. The ombudsman's recommendation is not binding on the public agency or official. The ombudsman shall maintain the confidentiality of records and information provided to the ombudsman by a public agency or official under this subsection and shall return the records to the public agency or official when the ombudsman's review is complete.

5. Report. The ombudsman shall submit a report not later than March 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

- A. The total number of inquiries and complaints received;
- B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials;
- C. The number of complaints received concerning respectively public records and public meetings;
- D. The number of complaints received concerning respectively:
 - (1) State agencies;
 - (2) County agencies;
 - (3) Regional agencies;
 - (4) Municipal agencies;
 - (5) School administrative units; and
 - (6) Other public entities;
- E. The number of inquiries and complaints that were resolved;

F. The total number of written advisory opinions issued and pending; and

G. Recommendations concerning ways to improve public access to public records and proceedings.

6. Repeal. REPEALED. [2009, c. 240, §7 (RP)]

Pilot Project. Notwithstanding the Maine Revised Statutes, Title 5, section 200-I, subsection 1, the Department of the Attorney General may establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available.

[2007, c. 603, §1 (new).]

State Government Internship Program

§291. Creation

There is established the State Government Internship Program, referred to in this chapter as "the program," for attracting and placing qualified undergraduate and graduate college students temporarily within the State Government, to be administered by the Margaret Chase Smith Center for Public Policy within the University of Maine System. [1993, c. 78, §1 (amd).]

§292. Purposes

The purposes of this program are: [1967, c. 493 (new).]

1. Selection. To attract and select college students with ambition and talent for temporary internships within Maine State Government; [1967, c. 493 (new).]

2. Placement. To place each intern in a position of some responsibility where he can contribute ideas, enthusiasm and ingenuity while completing a project under the direction of a responsible state administrator; [1967, c. 493 (new).]

3. Liaison. To encourage liaison between State Government and the various institutions of higher learning located within the State; [1967, c. 493 (new).]

4. Recommendations. To formulate recommendations for improving the intern program and for attracting college graduates with outstanding potential into permanent positions of state employment. [1967, c. 493 (new).]

§294. Duties of the Margaret Chase Smith Center for Public Policy

The State Government Internship Program is administered by the Margaret Chase Smith Center for Public Policy, referred to in this section as "the center," within the University of Maine System. The center's duties include the following. [1993, c. 78, §2 (amd).]

1. General supervision. The center shall exercise general supervision over the operation of the program and shall develop and put into effect administrative guidelines for interns and state government personnel, formulate policies and establish and administer operational procedures. [1993, c. 78, §2 (amd).]

2. Promotion; recruitment. The center shall disseminate widely information and application forms and otherwise publicize the program so as to attract the attention and interest of as many college students as possible and shall receive the completed application blanks of those students interested, as well as answering inquiries for further details and information. [1993, c. 78, §2 (amd).]

3. Participation of state agencies. The center shall acquaint state department heads and administrators with the program and its advantages, encouraging the greatest possible participation by state departments and agencies. [1993, c. 78, §2 (amd).]

4. Selection. Applications of interested students received by the center must be processed in accordance with procedures to be established by the center. [1993, c. 78, §2 (amd).]

5. Placement. The center shall place students with participating agencies of State Government. [1993, c. 78, §2 (amd).]

6. Orientation. The center shall arrange an orientation for interns and supervising state personnel prior to commencement of student work within a state office, and may conduct special programs during the internship to insure that students obtain a broad understanding of State Government. [1993, c. 78, §2 (amd).]

7. Coordination. The center shall coordinate the activities of the interns with the various participating state agencies to the maximum advantage of the program. [1993, c. 78, §2 (amd).]

8. Annual report. The center shall render an annual report by the end of each calendar year on the operation of the State Government Internship Program which is a public document. Copies of the report must be filed with the Legislature. [1993, c. 78, §2 (amd).]

§295. Conditions of employment

1. Temporary unclassified service. Interns are considered temporary unclassified employees of the State. The employing department or agency may discharge an intern for cause with one week advance notice to the intern and the Margaret Chase Smith Center for Public Policy. The center may reassign an intern or release the intern from the program with one week advance notice to the intern and the state agency when it is considered in the best interest of the program. [1993, c. 78, §3 (amd).]

2. Salary. The Margaret Chase Smith Center for Public Policy shall determine from time to time an appropriate minimum salary for interns, which must be paid by the participating state department or agency. The Margaret Chase Smith Center for Public Policy may negotiate the placement of an intern within State Government, and to further the purposes of the intern program, may make funds from this chapter available to the intern. [1993, c. 78, §3 (amd).]

3. Internship training. Participating state departments and agencies shall release intern personnel to participate on duty time in orientation or training activities planned by the Margaret Chase Smith Center for Public Policy as part of the internship program. [1993, c. 78, §3 (amd).]

§296. Acceptance of gifts, bequests, grants, aid

The Margaret Chase Smith Center for Public Policy is authorized to accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter, and to accept federal, private foundation and other grants and matching funds when determined to be in the best interests of the program. [1993, c. 78, §3 (amd).]

County and Local Government Internship Program

§471. Creation

The County and Local Government Internship Program, referred to in this chapter as "the program," is established to attract and place qualified undergraduate and graduate college students temporarily within county and local governments. [2007, c. 466, §A-7 (amd).]

§472. Purposes

The purposes of this program are: [2005, c. 656, §1 (new).]

1. Selection. To attract and select college students with ambition and talent for temporary internships within county and local governments;[2005, c. 656, §1 (new).]

2. Placement. To place each program intern in a position of some responsibility where the intern can contribute ideas, enthusiasm and ingenuity while completing a project under the direction of a responsible county or local administrator;[2005, c. 656, §1 (new).]

3. Liaison. To encourage liaisons between county and local governments and the various institutions of higher learning located within the State; and[2005, c. 656, §1 (new).]

4. Recommendations. To formulate recommendations for improving the program and for attracting college graduates with outstanding potential into permanent positions of employment within county and local governments.[2005, c. 656, §1 (new).]

§473. Eligibility

To be eligible to participate in the program, a student must: [2005, c. 656, §1 (new).]

1. College. Have completed at least 2 years of college or have graduated from college within the past year; and[2005, c. 656, §1 (new).]

2. Residence. Be a state resident or attend a college in the State.[2005, c. 656, §1 (new).]

§474. Duties of the Margaret Chase Smith Center for Public Policy

The Margaret Chase Smith Center for Public Policy within the University of Maine System, referred to in this chapter as "the center," shall administer the program. The center's duties include the following: [2007, c. 466, §A-8 (rpr).]

1. General supervision. The center shall exercise general supervision over the operation of the program and shall develop and put into effect administrative guidelines for interns and county and local government personnel, formulate policies and establish and administer operational procedures.[2005, c. 656, §1 (new).]

2. Promotion; recruitment. The center shall disseminate widely information and application forms and otherwise publicize the program to attract the attention and interest of as many college students as possible and shall receive the completed application blanks of those students interested, as well as answering inquiries for further details and information.[2005, c. 656, §1 (new).]

3. Participation of county and local governments. The center shall acquaint officials and administrators with the program and its advantages, encouraging the greatest possible participation by county and local government offices.[2005, c. 656, §1 (new).]

4. Selection. Applications of interested students received by the center must be processed in accordance with procedures to be established by the center.[2005, c. 656, §1 (new).]

5. Placement. The center shall place students with participating county and local government offices.[2005, c. 656, §1 (new).]

6. Orientation. The center shall arrange an orientation for interns and supervising county and local personnel prior to commencement of intern work within a county or local government office and may conduct special programs during the internship to ensure that interns obtain a broad understanding of county and local governments.[2005, c. 656, §1 (new).]

7. Coordination. The center shall coordinate the activities of the interns with the various participating county and local government offices to the maximum advantage of the program.[2005, c. 656, §1 (new).]

8. Annual report. The center shall produce an annual report, which is a public document, by the end of each calendar year on the operation of the program. Copies of the report must be filed with the Legislature.[2005, c. 656, §1 (new).]

§475. Conditions of employment

1. Temporary unclassified service. Interns are considered temporary, unclassified employees of the county and local governments. The employing county or local government office may discharge an intern for cause with one week's advance notice to the intern and the center. The center may reassign an intern or release the intern from the program with one week's advance notice to the intern and the office when it is considered in the best interest of the program.[2005, c. 656, §1 (new).]

2. Salary. The center shall determine from time to time an appropriate minimum salary for interns, which must be paid by the participating county and local government offices. The center may negotiate the placement of an intern within county or local government and, to further the purposes of the intern program, may make funds from this chapter available to the intern.[2005, c. 656, §1 (new).]

3. Internship training. Participating county or local government offices shall release intern personnel to participate in paid orientation or training activities planned by the center as part of the internship program.[2005, c. 656, §1 (new).]

§476. Acceptance of gifts, bequests, grants, aid

The center may accept gifts, bequests and endowments for purposes consistent with the objectives of this chapter and may accept federal, private foundation and other grants and matching funds when determined to be in the best interests of the program. [2005, c. 656, §1 (new).]

Affirmative Action

§786. Training for job opportunities

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the State or state-related agency must be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry, age, physical handicap or mental handicap, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this chapter are complied with fully by such private employer or private educational institution. [RR 1993, c. 1, §7 (cor).]

University System Employees Exempt from State Classification

§931. Unclassified service

The unclassified service comprises positions held by officers and employees as follows. [1983, c. 729, §4 (new).]

1. Officers and employees. Certain elective, legislative, executive, judicial and other officers and employees as follows:

...

C. Heads of departments and members of boards and commissions required by law to be appointed by the Governor, some bureau directors and the Administrative Director of the Public Utilities Commission; [1983, c. 729, §4 (new).]

...

H. Officers and employees of the unorganized territory school system; the teachers, administrators and professional employees of the state community colleges and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf; and the teachers, administrators and professional employees of school systems in other state institutions; [2005, c. 279, §2 (amd).]

NOTE: Although reference to University of Maine was deleted, it is intended that those persons who elected to continue their membership in the Maine State Retirement System shall not lose any rights or benefits to such membership and shall continue to be eligible.

Financial Accounts and Control

§1547. Annual financial report of the State

The State Controller shall prepare a comprehensive annual financial report in accordance with standards established by a governmental accounting standards board. This report is the official annual financial report of the State Government as defined in section 1541, subsection 11. [1999, c. 731, Pt. RRR, §1 (rpr).]

1. Office of the State Controller shall complete financial statements, notes and other documentation. Following the official close of the State's fiscal year ending on June 30th, the Department of Administrative and Financial Services, Office of the State Controller, under the direction of the State Controller, shall

prepare and complete all financial statements, notes and other documentation as considered necessary by the State Controller in accordance with all governing rules, statutes and generally accepted accounting principles. This information must be made available to the Department of Audit no later than November 1st of that year. [1999, c. 731, Pt. RRR, §1 (new); 2003, c. 600, §4 (rev).]

2. State agencies shall adhere to guidelines and procedures. In order to ensure compliance with subsection 1, all state departments, agencies and component units as described in subsection 3 shall adhere to all established guidelines and procedures set forth by the State Controller to ensure the accurate reporting of the State's financial condition to the Department of Audit. [1999, c. 731, Pt. RRR, §1 (new).]

3. Component units. Component units of the State include, but are not limited to, the following organizations: the Loring Development Authority of Maine; the Finance Authority of Maine; the Maine Educational Loan Authority; the Maine Municipal Bond Bank; the Maine Health and Higher Education Facilities Authority; the Maine Governmental Facilities Authority; the Maine Maritime Academy; the Maine State Housing Authority; the University of Maine System; the Maine Community College System; and the Maine State Retirement System. The State Controller may identify additional component units in accordance with standards established by a governmental accounting standards board. [1999, c. 731, Pt. RRR, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

4. State departments and agencies shall submit financial statements. All state departments and agencies shall submit to the Department of Administrative and Financial Services, Office of the State Controller, no later than September 1st following the official close of the State's fiscal year, all financial statements and schedules of expenditures of federal awards and any other materials considered necessary by the State Controller. [1999, c. 731, Pt. RRR, §1 (new); 2003, c. 600, §4 (rev).]

5. Component units shall submit audited financial statements. All component units, as described in subsection 3, shall submit audited financial statements to the Department of Administrative and Financial Services, Office of the State Controller no later than October 15th following the official close of the State's fiscal year. [1999, c. 731, Pt. RRR, §1 (new); 2003, c. 600, §4 (rev).]

6. Maine Turnpike Authority. Notwithstanding any other provision of law, the Maine Turnpike Authority, beginning on July 1, 2012 and every July 1st thereafter, is directed to submit its annual financial report to the Department of Administrative and Financial Services, Office of the State Controller, the Department of Audit and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction

over transportation matters in accordance with all governing rules, statutes and generally accepted accounting principles. [1999, c. 731, Pt. RRR, §1 (new); 2003, c. 600, §4 (rev).]

7. Other related organizations. All legislatively created public instrumentalities and related organizations for which the State is financially accountable or that have a significant relationship with the State as defined by a governmental accounting standards board that are not included in subsection 3, including but not limited to eligible institutions as defined in section 13103, that receive funds from bond issues must comply with the fiscal reporting policies established by the State Controller. The fiscal and reporting policies must include:

A. Internal control standards required by section 1541, subsection 10-A; [2003, c. 451, Pt. F, §2 (new).]

B. Quarterly reporting to the State Controller that includes a detail of transactions and reconciliation of all accounts; [2003, c. 451, Pt. F, §2 (new).]

C. No later than October 15th annually, submission to the Department of Administrative and Financial Services, Office of the State Controller of all financial statements and schedules of expenditures of federal awards; [2003, c. 451, Pt. F, §2 (new); c. 600, §4 (rev).]

D. Financial statements that are prepared in accordance with the standards and requirements established by a governmental accounting standards board; and [2003, c. 451, Pt. F, §2 (new).]

E. Submission annually to the Department of Administrative and Financial Services, Office of the State Controller of a copy of the independent auditor's report, including any findings, recommendations and management letter comments, and any other materials considered necessary by the State Controller. [2003, c. 451, Pt. F, §2 (new); c. 600, §4 (rev).]

Legislatively created public instrumentalities and other related organizations required to comply under this subsection who must also comply with the federal Office of Management and Budget circulars, regulations issued by a governmental accounting standards board or other accounting, auditing and reporting requirements may submit that information to the State Controller to satisfy the requirements of this subsection. [2003, c. 451, Pt. F, §2 (new); c. 600, §4 (rev).]

8. Code of ethics for component units, public instrumentalities, related organizations and independent agencies. All component units and related organizations as defined by the governmental accounting standards board and legislatively created public instrumentalities and independent agencies are each required to develop a code of ethics to guide the operations and financial administration of each particular entity. The code of ethics must be disseminated to each employee of such an entity and be available for inspection by the State Controller and State Auditor and the general public. The code of ethics adopted by the executive branch may serve as a model. The State Controller may from time to time ensure that each entity is in compliance with its code of ethics as it applies to financial administration of the entity. [2007, c. 107, §1 (new).]

Payment of Invoices

§1552. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 655 (new).]

1. Business concern. "Business concern" means a person, partnership or corporation engaged in providing property, products or services for the purpose of gain, benefit or advantage, either direct or indirect, whether or not the concern is organized for profit or not for profit. [1983, c. 655 (new).]

2. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §44 (amd).]

3. Controller. "Controller" means the State Controller. [1983, c. 655 (new).]

4. Improper invoice. "Improper invoice" means an invoice which is:

A. Incorrectly calculated; [1983, c. 655 (new).]

B. Received for property, products or services that are unsatisfactory with respect to quantity or quality; or [1983, c. 655 (new).]

C. Received for property, products or services for which there is no request. [1983, c. 655 (new).]

[1983, c. 655 (new).]

5. Proper invoice. "Proper invoice" means an invoice for property, products or services deemed to be satisfactory in quality and quantity, in conformance with the request of the state agency and on which the amount due has been correctly calculated. [1983, c. 655 (new).]

6. State agency. "State agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term does not include the Governor, courts, University of Maine System, Maine Maritime Academy, school districts, special purpose districts or municipalities, counties or other political subdivisions of the State. [1985, c. 779, §15 (amd).]

Budget

§1665. Budget estimates

1. Expenditure and appropriation requirements. On or before September 1st of the even-numbered years, all departments and other agencies of the State Government and corporations and associations receiving or desiring to receive state funds under the provisions of law shall prepare, in the manner prescribed by the State Budget Officer, and submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium. The expenditure estimates must be classified to set forth the data by funds, organization units, character and objects of expenditure. The organization units may be subclassified by functions and activities, or in any other manner, at the discretion of the State Budget Officer. [2005, c. 601, §2 (amd)]

All departments and other agencies receiving or desiring to receive state funds from the Highway Fund shall submit to the officer estimates of their expenditure and appropriation requirements for each fiscal year of the ensuing biennium that do not exceed the Highway Fund appropriation of the previous fiscal year multiplied by one plus the average real personal income growth rate or 2.75%, whichever is less. The

Highway Fund highway and bridge improvement accounts are exempt from this spending limitation. [2005, c. 2, Pt. A, §7 (amd); §14 (aff).]

The State Budget Officer shall request that the Governor provide the budget proposal for the Maine Indian Tribal-State Commission developed pursuant to Title 30, section 6212, subsection 6. [2009, c. 636, Part C, §2 (new)]

2. Inclusion in estimate. REPEALED. [2005, c. 601, §3 (RP)]

3. Revenue estimates. The State Budget Officer shall use the revenue projections recommended by the Revenue Forecasting Committee in setting revenue estimates for inclusion in the budget. The revenue estimates must be classified so as to show the income by organization units, sources and funds, or in any other manner, at the discretion of the State Budget Officer. [1997, c. 655, §2 (amd).]

4. Additional data. Upon receipt of the budget estimates submitted in accordance with this section, the State Budget Officer may require the heads of departments and other agencies of the State Government and officers of organizations and associations receiving or desiring to receive state funds under the provisions of law to appear before said officer and present such additional data in support of their budget estimates as said officer may deem necessary. [1989, c. 501, Pt. P, §13 (new).]

5. [2013, c. 368, §R-2 (RP)]

6. Fiscal impact statements. Fiscal impact statements prepared by departments or agencies at the request of the State Budget Officer in response to legislative documents must include revenue and expenditure forecasts for each fiscal year of the current fiscal biennium and the following fiscal biennium in a form and method prescribed by the State Budget Officer. [1995, c. 368, Pt. EE, §3 (new).]

7. General Fund and Highway Fund revenue and expenditure forecasts. By September 30th of each even-numbered year, the State Budget Officer shall prepare and deliver a report to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs containing a forecast of revenue and expenditures for the following biennium. The forecast must assume the continuation of current laws and include reasonable and predictable estimates of growth in revenues and expenditures based on national and local trends and program operations. General Fund and Highway Fund revenue must be forecasted by income source as provided in chapter 151-B. Expenditure forecasts for the General Fund and the Highway Fund must be forecasted on the basis of current law and

assumed inflation variables related to program operations. The forecast for the General Fund and the Highway Fund must be presented in a budget fund flow statement and a comparative statement showing each income source for revenue projections and expenditure estimates for each major program category. [1999, c. 127, Pt. A, §6 (rpr); §7 (aff).]

Legislative Review of Grant Applications

§1706. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings: [1977, c. 378 (new).]

1. Federal grant application. "Federal grant application" shall mean any request or proposal for financial assistance made by a state agency or by an employee of such an agency acting in his official capacity to the United States Government, whether for a loan, grant, subsidy, augmentation, advance, reimbursement, or any other form where such financial assistance will be expended by the state agency or employee acting in his official capacity. The definition shall include initial requests or proposals and subsequent amendment requests or proposals. The definition shall not include federal pass-through funds which are received by the State Government and passed directly to local governments in those cases where the State is permitted no discretion with respect to disposition of the funds to local governments under the terms of the grant and federal law. [1977, c. 378 (new).]

2. State agency. "State agency" shall mean each department and agency of State Government required to comply with chapter 149, except that the term "state agency" shall not include the University of Maine System or the Maine Maritime Academy. [1985, c. 779, § 16 (amd).]

Revenue Forecasting Committee

§1710-E. Revenue Forecasting Committee; established; membership

There is established the Revenue Forecasting Committee, referred to in this chapter as the "committee," for the purpose of providing the Governor, the Legislature and the State Budget Officer with analyses, findings and recommendations relating to the projection of revenues for the General Fund and the Highway Fund based on economic assumptions recommended by the Consensus Economic Forecasting Commission. The committee includes the State Budget Officer, the State Tax Assessor, the State Economist,

an economist on the faculty of the University of Maine System selected by the chancellor, the Director of the Office of Fiscal and Program Review and another member of the Legislature's nonpartisan staff familiar with revenue estimating issues appointed by the Legislative Council. One of the 6 members must be selected by a majority vote of the committee members to serve as the chair of the committee. [2001, c. 2, §1 (amd).]

§1710-F. Duties of committee

1. Duties; use of economic assumptions. The committee shall develop current fiscal biennium and 2 ensuing fiscal biennia revenue projections using the economic assumptions recommended by the Consensus Economic Forecasting Commission. [1997, c. 157, §1 (amd).]

2. Biennial revenue projections. The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee. Revenue projections for the General Fund may not include revenue that accrues pursuant to Title 30-A, section 5250-I, subsection 14 and is deposited into the Pine Tree Development Zone Reserve Fund pursuant to Title 30-A, section 5250-J, subsection 4-B that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in Title 30-A, section 5250-I, subsection 17, paragraph A. [2009, c. 461, §1 (amd).]

3. Current and ensuing biennium adjustments. No later than May 1st and December 1st of each odd-numbered year and no later than March 1st and December 1st of each even-numbered year the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for adjustments to General Fund revenue and Highway Fund revenue for the current and ensuing fiscal biennia. In each report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue adjustments for other funds of the State may be included in the report at the discretion of the committee. [2007, c. 539, Part Q, §2 (amd).]

4. Appropriation limitation. The committee shall make all determinations necessary to make the appropriation limitation calculations required under chapter 142. [2005, c. 2, Pt. A, §8 (new); §14 (aff).]

Insurance on State-Owned Property

§1737. State-administered fund

1. Creation of state-administered fund. A reserve fund, referred to in this chapter as the "state-administered fund," is created to indemnify persons and entities eligible for participation pursuant to subsection 2 for losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program as recommended by the director and approved by the Commissioner of Administrative and Financial Services. With the approval of the commissioner, the state-administered fund may be used for loss prevention programs administered by the risk management division within the Bureau of General Services. The total amount of the state-administered fund provided for loss prevention programs in any given year may not exceed 5% of the state-administered fund as of July 1st of that fiscal year. The state-administered fund is a continuing fund and does not lapse. [1993, c. 470, §9 (new).]

2. Eligibility for participation in state-administered fund. The director may offer insurance advice and services to persons or entities other than state departments or agencies if:

A. The director has been authorized to do so by law; [1993, c. 470, §9 (new).]

B. The Governor has approved that person or entity for insurance advice and service; [1993, c. 470, §9 (new).]

C. Coverage is unavailable or is offered only at unreasonable cost to that person or entity; and [1993, c. 470, §9 (new).]

D. That person or entity has demonstrated a strong public need for the services provided by that person or entity. [1993, c. 470, §9 (new).]

[1993, c. 470, §9 (new).]

3. Interim coverage. The director may offer insurance advice and services for no more than 6 months when the Governor, in the absence of the Legislature, determines that it is appropriate to do so based on consideration of the risks involved and the governmental objectives served by that coverage. [1993, c. 470, §9 (new).]

4. Directed services. Notwithstanding the provisions of subsection 2, the director may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Community College System; the Maine Maritime Academy; and the State's local workforce investment areas designated under the federal Workforce Investment Act of 1998, Public Law 105-220. The director may provide insurance services for public schools as defined in Title 20-A, section 1, subsection 24 if the provisions of subsection 2 are met. Notwithstanding subsection 2, the director may provide insurance advice for public schools. [2007, c. 84, §1 (amd).]

5. Capitalization of state-administered fund. The state-administered fund is capitalized by payments from persons or entities insured by the fund, by returned premiums or claims proceeds paid pursuant to terms of any insurance contract and by other means the Legislature approves. In establishing the initial capitalization of the state-administered fund, the Commissioner of Administrative and Financial Services may transfer from the self-insurance fund established by section 1731 to the state-administered fund an amount that the commissioner determines to be the existing balance attributable to any risks formerly covered by the self-insurance fund that must be covered in the future by the state-administered fund. The commissioner shall deposit the state-administered fund with the Treasurer of State for investment. All proceeds of that investment accrue to the state-administered fund. The commissioner shall comply with applicable federal circulars and has the discretion to include public instrumentalities in the state-administered fund if the commissioner determines that the inclusion of these instrumentalities is necessary to allow the state-administered fund as a whole to offer insurance at affordable rates. [1993, c. 470, §9 (new).]

6. Limitation on use of state-administered fund. The state-administered fund may be used only for insurance purposes in accordance with this chapter and the assets of the state-administered fund may not be transferred to meet a budgetary shortfall or pay uninsured expenses. [1993, c. 470, §9 (new).]

7. No expansion of liability under the Maine Tort Claims Act. The insurance advice and services provided by the state-administered fund do not expand the limits of liability or abrogate immunities contained in the Maine Tort Claims Act or any other state or federal law. [1993, c. 470, §9 (new).]

8. Payments from state-administered fund. Pursuant to the recommendation of the director, the Commissioner of Administrative and Financial Services may cause payments from the state-administered fund or proceeds of insurance purchased in accordance with this section, or both, to be made available for repair or replacement of insured property and payment of losses and loss adjustment expenses. The rights of a person or entity insured under this section are limited to the extent specified in the contractual agreements or policies of insurance entered into between those persons or entities and the director and any involved insurance companies. Notwithstanding any contractual agreements or policies of insurance, persons or entities participating in the state-administered fund do not have a right of recovery except against the assets of the state-administered fund and do not have recourse against the General Fund, the assets of the State or the commissioner, the director or any other state employee. The commissioner shall establish procedures to ensure adequate disclosure of this limitation on rights of recovery to the entities insured under this section. [1993, c. 470, §9 (new).]

Public Improvements

§1742-C. Institutions of higher education

The Department of Administrative and Financial Services, through the Bureau of General Services, shall provide the following services to institutions of higher education. [2007, c. 466, Pt. A, §11 (amd).]

1. University of Maine System. Notwithstanding section 1742, the Bureau of Public Improvements is not required to provide services to the University of Maine System. [1989, c. 483, Pt. A, §16 (new).]

...

Water Conservation

§1762-A. Water conservation in state facilities

After January 1, 1992, unless otherwise required by law, or for reasons of health or safety, the Bureau of Public Improvements and the following departments and agencies may not purchase or install any

faucet, shower head, toilet or urinal that is not a low-flow faucet, a low-flow shower head, a water-saving toilet or a water-saving urinal: [1991, c. 246, §1 (new).]

...

2. University of Maine System. The University of Maine System under Title 20-A, chapter 411; [1991, c. 246, §1 (new).]

...

By January 1, 1992, the Bureau of Public Improvements shall adopt rules defining a "low-flow faucet," a "low-flow shower head," a "water-saving toilet" and a "water-saving urinal" that minimize water use to the maximum extent economically and technologically feasible. [1991, c. 246, §1 (new).]

§1770. Energy savings pilot program

1. Goal. The Legislature finds it is in the best interests of the State to significantly reduce its energy consumption to the extent possible without interfering with other goals, plans and policies of the State. The energy reduction goal, referred to in this section as the "goal," for facilities owned by the State is, by 2010, a 25% reduction in energy consumption relative to baseline consumption in 1998, as long as the achievement of the goal is accomplished in a manner that:

A. Is consistent with all applicable laws; and [1999, c. 735, §1 (new).]

B. Does not interfere with other goals, plans or policies of the State. [1999, c. 735, §1 (new).]

For purposes of this subsection, "facilities owned by the State" includes all facilities that consume energy and that are owned by the legislative, judicial or executive branches of government, any state department, agency or authority, the University of Maine System or the Maine Community College System. [1999, c. 735, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

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

A. "Department" means the Department of Administrative and Financial Services. [1999, c. 735, §1 (new).]

B. "Energy service company" means a company with the technical, operational, financial and managerial capabilities to implement performance-based contracts that result in energy and operational cost savings including the capability:

(1) To design, implement and install energy efficiency and facility improvement measures;

(2) To secure necessary financial measures to support energy savings guarantees; and

(3) To ensure energy and operational cost savings. [1999, c. 735, §1 (new).]

C. "Performance-based contract" means a contract with an energy service company for evaluation, recommendation or implementation of one or more energy-saving measures. A performance-based contract may be structured as:

(1) A guaranteed energy savings performance contract that includes the design and installation of equipment and, if applicable, operation and maintenance of any of the energy-saving measures implemented and that guarantees annual savings that meet or exceed the total annual contract payments made by the State under the contract;

(2) A shared savings contract that includes provisions mutually agreed upon by the State and the energy service company as to the negotiated rate of payments based upon energy and operational cost savings and a stipulated maximum energy consumption level over the life of the contract; or

(3) Any other form of performance-based contract established by the department by rule. [1999, c. 735, §1 (new).]

[1999, c. 735, §1 (new).]

3. Pilot project. The department shall develop an energy savings pilot project, referred to in this section as the "pilot project," designed to achieve by 2010 a 25% reduction in energy consumption relative to baseline consumption in 1998 by facilities included in the pilot project. The department shall use performance-based contracts to achieve the energy savings. By September 1, 2000, the department shall:

A. Identify at least 10 facilities that are over 40,000 square feet for inclusion in the pilot project. The 10 facilities may include facilities that through modifications or renovations could achieve reduced energy consumption and facilities that could be replaced by new facilities that will consume less energy; and [1999, c. 735, §1 (new).]

B. Establish a process for soliciting proposals from energy service companies and for selecting energy service providers. The process must include a requirement that an energy service provider who submits a proposal to undertake a project provide a feasibility analysis for that project. The process may also include a requirement that an energy service company initially selected to undertake a project provide, prior to contracting, a financial-grade energy audit. [1999, c. 735, §1 (new).]

[1999, c. 735, §1 (new).]

4. Plan development and implementation. The department shall use available data, including data collected from life-cycle cost evaluations undertaken pursuant to this chapter, and shall consult with agencies with relevant expertise to develop the pilot project and to choose facilities for inclusion in the pilot project. [1999, c. 735, §1 (new).]

5. Reporting. The department shall report annually to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by the first business day in February on:

A. The status of plans or efforts to achieve the goal and the extent of projected or actual energy savings relative to the goal; and [1999, c. 735, §1 (new).]

B. The status of the pilot project, including projected and actual energy savings for each facility included in the pilot project and the number and a description of the energy service companies that responded to the request for proposals and descriptions of all contracts entered into pursuant to the pilot project. [1999, c. 735, §1 (new).]

[1999, c. 735, §1 (new).]

6. Rules. The department may establish by rule procedures and policies that facilitate the implementation of the pilot project, including, but not limited to, a process for prequalifying energy service companies and procedures that encourage a comprehensive approach to the achievement of energy savings. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. The department shall submit to the Legislature provisionally adopted rules no later than the first business day in February 2001. [1999, c. 735, §1 (new).]

Purchasing

§1812. Scope of purchasing authority

...

The Trustees of the University of Maine System may authorize the Department of Administrative and Financial Services to act for them in any purchases. [1991, c. 780, Pt. Y, §67 (amd).]

...

Bids, Awards and Contracts

§1825-B. Bids, awards and contracts

1. Purchases by competitive bidding. The Director of the Bureau of General Services shall purchase collectively all goods and services for the State or any department or agency of the State in a manner that best secures the greatest possible economy consistent with the required grade or quality of the goods or services. Except as otherwise provided by law, the Director of the Bureau of General Services shall make purchases of goods or services needed by the State or any department or agency of the State through competitive bidding. [1991, c. 780, Pt. Y, §70 (amd).]

2. Waiver. The requirement of competitive bidding may be waived by the Director of the Bureau of General Services when:

A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served; [1999, c. 105, §1 (amd).]

B. The Director of the Bureau of General Services is authorized by the Governor or the Governor's designee to make purchases without competitive bidding because in the opinion of the Governor or the Governor's designee an emergency exists that requires the immediate procurement of goods or services; [1995, c. 119, §1 (amd).]

C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source; [1991, c. 780, Pt. Y, §70 (amd).]

D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products; [1989, c. 785, §2 (new).]

E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving:

(1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy or a private, nonprofit, regionally

accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs;

[2011, c. 555, §1 (amd).]

F. The procurement of goods or services involves expenditures of \$10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids; or [1999, c. 105, §2 (amd).]

G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need. [1999, c. 105, §3 (amd).]

[1999, c. 105, §§1-3 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

12. Vendor's fee. The State Purchasing Agent may collect a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or textiles with a winning bid under this section. The State Purchasing Agent shall apply the fee under this subsection to the costs of implementing and administering the state purchasing code of conduct under section 1825-L, including developing a consortium to monitor and investigate alleged violations of the code of conduct. The State Purchasing Agent shall adopt routine technical rules under chapter 375, subchapter 2-A to carry out the purposes of this subsection (2007, c. 193, § 1 (new)).

13. Vendor's fee report. By January 15th of each year the Director of the Bureau of General Services shall submit a report to the joint standing committee of the Legislature having jurisdiction over state and local government matters concerning revenue generated by the vendor's fee established in subsection 12. (2007, c. 193, §2 (new)).

14. Condition of doing business with the State. Notwithstanding any provision of law to the contrary, any purchase by the State of \$100,000 or more of tangible personal property, except for public utility purchases, as defined in Title 36, section 1752, subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from a person who is registered as a seller pursuant to Title 36, section 1754-B. As a condition of doing business with the State, the seller must collect, report and remit

taxes in accordance with Title 36, Part 3. As provided in this subsection, the State is prohibited from doing business with a person who is not registered as a seller pursuant to Title 36, section 1754-B and is not in compliance with the requirement to collect, report and remit taxes pursuant to Title 36, Part 3. After notification of the award, the seller must provide the State Purchasing Agent with a valid retailer certificate issued by the State Tax Assessor within 7 business days. If the seller fails to provide the registration certificate within 7 business days, the State Purchasing Agent may cancel the award and make a new award pursuant to subsection 7. The State Purchasing Agent shall provide the State Tax Assessor with a copy of all contracts awarded pursuant to this section. The State Tax Assessor shall notify the State Purchasing Agent if at any time during the term of the contract the person is no longer registered or is not collecting, reporting and remitting taxes in compliance with the requirements of Title 36, Part 3. Until the noncompliance is corrected, the State Purchasing Agent may withhold any payments to the person. (2007, c. 328, §1 (new)).

Office of Information Service

§1890. Intergovernmental cooperation and assistance (REPEALED) PL 2005, Ch. 12, §SS7 (RP).

Information Technology in Public Sector

§1892. Membership on board; appointment, terms of office and compensation (REPEALED) PL 2005, Ch. 12, §SS7 (RP).

Cooperative Education Support Program

§1901. Program

There is established a State Government cooperative education support program for the purpose of providing work opportunities in state institutions and agencies to Maine residents enrolled as full-time students in approved post-secondary universities, colleges or institutes in Maine. [1975, c. 211 (new).]

§1902. Purposes

1. Purposes. The purposes of the program are:

A. To permit state agencies to employ qualified students enrolled in post-secondary cooperative education programs without regard to personnel count; [1975, c. 211 (new).]

B. To provide students with practical experiences related to their field of study which can only be obtained through full-time employment; [1975, c. 211 (new).]

C. To assist students to defray higher education costs; [1975, c. 211 (new).]

D. To lessen the demand for work during the summer months and disperse it throughout the entire year; [1975, c. 211 (new).]

E. To provide department or agency heads with the opportunity of observing and evaluating potential employees on the job thus facilitating the recruitment and selection of personnel to fill state openings; [1975, c. 211 (new).]

F. To stimulate interest in employment in the State of Maine on the part of college educated students. [1975, c. 211 (new).]

[1975, c. 211 (new)]

§1903. Procedure

The employment of students enrolled in cooperative education programs in approved colleges, universities or institutes in the State of Maine is hereby authorized. Appropriate department, agency or institution heads may employ such students through the use of funds resulting from unfilled positions in their personal services budgets. [1975, c. 211 (new).]

Each student must be approved by the institution he attends and the agency, department or institution head. [1975, c. 211 (new).]

Appropriate department, agency or institution heads may request the employment of cooperative education students on a form provided by the Bureau of Human Resources. Approval by the Director of Human Resources and the State Budget Officer will constitute approval for a student to be employed. Only cooperative education programs that require full-time employment for a period of not less than 10 weeks shall be included. Cooperative education students will be classified as project employees and will be governed by all policies and entitled to all rights and privileges afforded such employees, except that they shall be paid at the prevailing minimum wage. [1985, c. 785, Pt. B, §33 (amd).]

The restrictions regarding full-time employment and payment at minimum wage shall not apply to the cooperative education support program between the Department of Health and Human Services and the University of Maine System for the training of psychologists. [1985, c. 779, §20 (amd); 1995, c. 560, Pt. K, §82 (amd); §83 (aff); 2001, c. 354, §3 (amd); 2003, c. 689, Pt. B, §6 (rev).]

Information Technology Services

§1983. Intergovernmental cooperation and assistance

The commissioner may enter into agreements with the Federal Government, the University of Maine System, the Maine Community College System and other agencies and organizations that will promote the objectives of this chapter and accept funds from the Federal Government, municipal and county agencies or any individual or corporation to be expended for purposes consistent with this chapter. [2005, c. 12, Pt. SS, §16 (new).]

Maine Library of Geographic Information

§2003. Maine Library of Geographic Information Board

1. Purposes and duties. The Maine Library of Geographic Information Board, as established by section 12004-G, subsection 30-B, has the following purposes and duties:

A. To oversee the Maine Library of Geographic Information to ensure that it operates as a coordinated, cost-effective electronic gateway providing public access to data custodians' public geographic information. Nothing in this paragraph may be construed to affect the rights of persons to inspect or copy public records under Title 1, chapter 13, subchapter 1, or the duty of data custodians to provide for public inspection and copying of those records; [2005, c. 12, Pt. SS, §16 (new).]

B. To establish and maintain standards, rules and policies for nonstate data custodians' geographic information that is incorporated into the Maine Library of Geographic Information. These standards, rules and policies must be consistent with the standards, rules and policies set by the Chief Information Officer that govern state data custodians' information technology. The geographic information board shall adopt rules to carry out this subchapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A. Standards and policies may concern, without limitation:

- (1) Methods of access and delivery of information held by the library;
- (2) Geographic information system technical specifications;
- (3) Data content, metadata and security, including guideline criteria for accepting 3rd-party data from data custodians or data volunteered by the private sector;
- (4) Privacy and privacy protection;
- (5) Mechanisms to correct inaccuracies; and
- (6) Data validation tools and processes; [2005, c. 12, Pt. SS, §16 (new).]

C. To reduce redundancies in the creation, verification and maintenance of public geographic information and to enhance its utility for complex analyses.

(1) Each state data custodian, or its designee, that acquires, purchases, verifies, maintains or produces geographic information with state funds or grants shall:

(a) Inform the geographic information board and the Office of Geographic Information Systems of the existence of this information and its geographic extent; and

(b) Upon request, provide to the library and office an electronic copy of all information classified as public, in a form compatible with standards set by the Chief Information Officer.

(2) Each nonstate data custodian, or its designee, that acquires, purchases, verifies, maintains or produces geographic information with state funds specifically provided for that purpose shall:

(a) Inform the geographic information board and the Office of Geographic Information Systems of the existence of this information and its geographic extent; and

(b) Upon request, provide to the library and Office of Geographic Information Systems an electronic copy of all information classified as public, in a form compatible with standards set by the Chief Information Officer; [2005, c. 12, Pt. SS, §16 (new).]

D. To set priorities and authorize the expenditure of state funds, including awarding of grants or subgrants to data custodians when available. The geographic information board may seek federal and other funding partners, accept gifts and grants and expend the funds acquired for purposes consistent with this subchapter; [2005, c. 12, Pt. SS, §16 (new).]

E. To promote innovative uses of geographic information through the provision of verified, coordinated, intergovernmental information via the Maine Library of Geographic Information. The geographic information board shall seek advice from the general public, professional associations, academic groups and institutions and individuals with knowledge of and interest in geographic information regarding needed information and potential innovative uses of geographic information; [2005, c. 12, Pt. SS, §16 (new).]

F. To enter partnerships to promote the purposes of this subchapter; [2005, c. 12, Pt. SS, §16 (new).]

G. To hear and resolve disputes that may arise between data custodians or with respect to information to be placed in the Maine Library of Geographic Information, enforcement of geographic information board standards, rules or policies or other related matters, all in accordance with the Maine Administrative Procedure Act. Complainants may directly present their case to the geographic information board, which has the power to hold investigations, inquiries and hearings concerning matters brought to its attention and to make decisions with respect to the case. All interested parties must be given reasonable notice of the hearing and an opportunity to be heard. Hearings must be open to the public; [2005, c. 12, Pt. SS, §16 (new).]

H. To conduct studies relating to the coordination, development and use of statewide geographic information; [2005, c. 12, Pt. SS, §16 (new).]

I. To report annually by January 1st to the joint standing committees of the Legislature having jurisdiction over natural resources matters, and state and local government matters. The report must provide a review of the past year's activities, including, but not limited to, a description of standards adopted, data added to the library, partnerships established, disputes addressed, studies conducted and financial activity. The library shall also make this report available to the public. This report may also include suggested legislative language intended to address geographic information issues needing legislative action; and [2005, c. 12, Pt. SS, §16 (new).]

J. To develop appropriate internal services to facilitate generalized access for and use of data by governmental agencies and the public. The library may not compete directly with private enterprise. The library shall work in partnership with nonstate data custodians to promote the purposes of this subchapter. [2005, c. 12, Pt. SS, §16 (new).]

[2005, c. 12, Pt. SS, §16 (new).]

2. Membership. The geographic information board consists of 15 voting members as follows:

A. The commissioner or the commissioner's designee; [2005, c. 12, Pt. SS, §16 (new).]

B. The Chief Information Officer or the Chief Information Officer's designee; [2005, c. 12, Pt. SS, §16 (new).]

C. Two members, or the members' designees, who are responsible for overseeing GIS functions of a state department that is a data custodian of geographic information, appointed by the Governor; [2005, c. 12, Pt. SS, §16 (new).]

D. Eight representatives as follows:

(1) A representative of the University of Maine System, appointed by the Chancellor of the University of Maine System;

(2) Two representatives of a statewide association of municipalities, one representative appointed by the President of the Senate from nominations made by the association's governing body and one representative appointed by the Speaker of the House from nominations made by the association's governing body;

(3) One representative of a statewide association of regional councils, appointed by the Speaker of the House from nominations made by the Executive Department, State Planning Office;

(4) One representative of a statewide association of counties, appointed by the Governor from nominations made by the association's governing body;

(5) One representative of a statewide association representing real estate and development interests, appointed by the President of the Senate;

(6) One representative of a statewide association representing environmental interests, appointed by the Speaker of the House; and

(7) One member representing public utilities, appointed by the Governor;

[2005, c. 12, Pt. SS, §16 (new).]

E. Two members of the private sector representing geographic information vendors, one member appointed by the President of the Senate and one member appointed by the Speaker of the House; and [2005, c. 12, Pt. SS, §16 (new).]

F. One public member, appointed by the President of the Senate. [2005, c. 12, Pt. SS, §16 (new).]

The terms for the members appointed pursuant to paragraphs C, D, E and F are 3 years. A member who designates another person to serve on the geographic information board as that member's designee shall provide written notice to the geographic information board's staff of the name and title of the designee. [2005, c. 12, Pt. SS, §16 (new).]

3. Board chair. The geographic information board shall annually elect a chair from its membership at the first meeting in each year. [2005, c. 12, Pt. SS, §16 (new).]

4. Staff. Staff support to the geographic information board is provided by the Department of Administrative and Financial Services. [2005, c. 12, Pt. SS, §16 (new).]

5. Quorum; action. Eight members of the geographic information board constitute a quorum. The affirmative vote of 7 members is necessary for any action taken by the geographic information board. A vacancy in the membership of the geographic information board does not impair the right of a quorum to exercise all the powers and perform the duties of the geographic information board. The geographic information board may use video conferencing and other technologies to conduct its business but is not exempt from Title 1, chapter 13, subchapter 1. [2005, c. 12, Pt. SS, §16 (new).]

6. Meetings. The geographic information board shall meet at the call of the chair but not less than quarterly. Notice must be provided no less than 5 working days prior to the meeting. Notice may be in writing by facsimile or electronic transmission. [2005, c. 12, Pt. SS, §16 (new).]

7. Memorandum of understanding. Information to be provided by a nonstate data custodian or its designee to the Maine Library of Geographic Information is governed by a memorandum of understanding between the geographic information board or its designee and the nonstate data custodian or its designee. [2005, c. 12, Pt. SS, §16 (new).]

8. Data custodian responsibilities. Federal and nonstate data custodians may voluntarily contribute data to the Maine Library of Geographic Information, except that data developed with state funds must be submitted to the library. Data custodians or their designees are responsible for:

A. Ensuring that the public information is accurate, complete and current through the creation of adequate procedures; [2005, c. 12, Pt. SS, §16 (new).]

B. Updating source data bases following verification of suggested corrections that users submit in accordance with geographic information board standards; [2005, c. 12, Pt. SS, §16 (new).]

C. Complying with standards adopted by the geographic information board; and [2005, c. 12, Pt. SS, §16 (new).]

D. Providing reasonable safeguards to protect confidentiality. [2005, c. 12, Pt. SS, §16 (new).]

[2005, c. 12, Pt. SS, §16 (new).]

Pharmaceutical Cost Management Council

§2031. Pharmaceutical Cost Management Council. (REPEALED) PL 2009, c. 369, Pt. A, §1 (RP)

Interchange of Government Employees

§3003. Authority to interchange employees

Any department, agency or instrumentality of the State, county, city, town, municipality, land-grant college, or college or university operated by the State or any local government is authorized to participate in a program of interchange of employees with departments, agencies or instrumentalities of the Federal Government, another state or locality, or other agencies, municipalities or instrumentalities of this State as a sending or receiving agency, or both. [1967, c. 266 (new).]

The period of individual assignment or detail under an interchange program shall not exceed 12 months, nor shall any person be assigned or detailed for more than 12 months during any 36-month period. Details relating to any matter covered in this chapter may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency. [1967, c. 266 (new).]

Maine Criminal Justice Commission

§3358. Maine Criminal Justice Commission. (REPEALED) [PL 2009, c. 213, Pt. Q §1 and c. 369, Pt. A, §2 (RP).]

Maine Human Rights Act - Equal Opportunity

§4551. Title

This Act may be known and cited as the Maine Human Rights Act. [1971, c. 501, § 1 (new).]

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin; and in employment, discrimination on account of age or because of the previous assertion of a claim

or right under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex, sexual orientation or physical or mental disability. [2005, c. 10, §1 (amd).]

§4553. Definitions

As used in this Act, unless the context or subchapter otherwise indicates, the following words have the following meanings. [1995, c. 393, §1 (amd).]

1. Commission. "Commission" means the Maine Human Rights Commission established by this Act. [1971, c. 501, §1 (new).]

1-A. Commercial facilities. "Commercial facilities" means facilities that are intended for nonresidential use. [1995, c. 393, §2 (new).]

1-B. Covered entity. For purposes of subchapter III, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter V, "covered entity" means any applicable private entity or public entity. [1995, c. 393, §2 (new).]

1-C. Direct threat. For purposes of subchapter III, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation. [1995, c. 393, §2 (new).]

2. Discriminate. "Discriminate" includes, without limitation, segregate or separate.

For purposes of subchapter III, "discriminate" also includes, as it relates to individuals with physical or mental disability:

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee; [1995, c. 393, §3 (new).]

B. Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs; [1995, c. 393, §3 (new).]

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of disability; or

(2) That perpetuate the discrimination of others who are subject to common administrative control; [1995, c. 393, §3 (new).]

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association; [1995, c. 393, §3 (new).]

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity; [1995, c. 393, §3 (new).]

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant; [1995, c. 393, §3 (new).]

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and [1995, c. 393, §3 (new).]

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except when the skills are the factors that the test purports to measure. [1995, c. 393, §3 (new).]

[1995, c. 393, §3 (amd).]

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes. [1995, c. 393, §4 (amd).]

3. Employee. "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee. [1995, c. 393, §5 (amd).]

4. Employer. "Employer" includes any person in this State employing any number of employees, whatever the place of employment of the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer. [1995, c. 393, §5 (amd).]

5. Employment agency. "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person. [1971, c. 501, §1 (new).]

5-A. Familial status. "Familial status" means that a family unit may contain one or more individuals who have not attained the age of 18 years and are living with:

A. A parent or another person having legal custody of the individual or individuals; or [1989, c. 245, §2 (new).]

B. The designee of the parent or other person having custody, with the written permission of the parent or other person. [1989, c. 245, §2 (new).]

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of 18 years. [1989, c. 245, §2 (new).]

6. Housing accommodation. "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes, excepting:

A. The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner; [1971, c. 501, §1 (new).]

B. The rental of not more than 4 rooms of a one-family dwelling which is occupied by the owner; or [RR 1999, c. 2, §2 (cor).]

C. The rental of any dwelling owned, controlled or operated for other than a commercial purpose, by a religious corporation to its membership unless such membership is restricted on account of race, color or national origin. [1973, c. 415, §1 (rpr).]

[RR 1999, c. 2, §2 (cor).]

6-A. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection may not be construed to require the mandatory retirement of a member

or to deny employment to any person based solely on that person's normal retirement age. [2005, c. 10, §2 (amd).]

7. Person. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, and includes the State and all agencies thereof. [1975, c. 182, §1 (amd).]

7-A. Physical or mental disability. "Physical or mental disability" has the meaning set forth in section 4553-A. [2007, c.385, §1 (rpr).]

7-B. REPEALED. [2007, c. 385, §2]

8. Place of public accommodation. "Place of public accommodation" means a facility, operated by a public or private entity, whose operations fall within at least one of the following categories:

A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest; [1995, c. 393, §7 (new).]

B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink; [1995, c. 393, §7 (new).]

C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment; [1995, c. 393, §7 (new).]

D. An auditorium, convention center, lecture hall or other place of public gathering; [1995, c. 393, §7 (new).]

E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment; [1995, c. 393, §7 (new).]

F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment; [1995, c. 393, §7 (new).]

G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation; [1995, c. 393, §7 (new).]

H. A museum, library, gallery or other place of public display or collection; [1995, c. 393, §7 (new).]

I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health; [1995, c. 393, §7 (new).]

J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education; [1995, c. 393, §7 (new).]

K. A day-care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; [1995, c. 393, §7 (new).]

L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; [1995, c. 393, §7 (new).]

M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and [1995, c. 393, §7 (new).]

N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public. [1995, c. 393, §7 (new).]

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including rest rooms. [1995, c. 393, §7 (rpr).]

8-A. Private entity. "Private entity" means any entity other than a public entity. [1995, c. 393, §8 (new).]

8-B. Public accommodation. "Public accommodation" means a public or private entity that owns, leases, leases to or operates a place of public accommodation. [1995, c. 393, §8 (new).]

8-C. Public entity. "Public entity" means:

A. The State or any local government; [1995, c. 393, §8 (new).]

B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and [1995, c. 393, §8 (new).]

C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act, Section 103 (8). [1995, c. 393, §8 (new).]

[1995, c. 393, §8 (new).]

8-D. Qualified individual with a disability. "Qualified individual with a disability" applies to only:

A. Subchapter III (employment); and [1995, c. 393, §8 (new).]

B. Subchapter V (public accommodations) with regard to public entities only. [1995, c. 393, §8 (new).]

For purposes of subchapter III, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires.

For purposes of subchapter V, "qualified individual with a disability" means an individual with a disability who, with or without reasonable modification to rules, policies or practices, the removal of architectural, communication or transportation barriers or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. [1995, c. 393, §8 (new).]

9. Real estate broker and salesman. "Real estate broker" and "real estate salesman" have the same definitions as are given respectively in Title 32, section 4001, subsections 2 and 3; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed. [1971, c. 501, §1 (new).]

9-A. Reasonable accommodation. For purposes of subchapter III, "reasonable accommodation" may include, but is not limited to:

A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and [1995, c. 393, §8 (new).]

B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities. [1995, c. 393, §8 (new).]

[1995, c. 393, §8 (new).]

9-B. Undue hardship; undue burden. "Undue hardship" or "undue burden" mean an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

A. The nature and cost of the accommodation needed under this Act; [1995, c. 393, §8 (new).]

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility; [1995, c. 393, §8 (new).]

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities; [1995, c. 393, §8 (new).]

D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity; [1995, c. 393, §8 (new).]

E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for making public accommodations and places of employment accessible; [1995, c. 393, §8 (new).]

F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities; [1995, c. 393, §8 (new).]

G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities; [1995, c. 393, §8 (new).]

H. Documented good faith efforts to explore less restrictive or less expensive alternatives; [1995, c. 393, §8 (new).]

I. The availability of equipment and technology for the accommodation; [1995, c. 393, §8 (new).]

J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation; [1995, c. 393, §8 (new).]

K. Efforts to minimize costs by spreading costs over time; and [1995, c. 393, §8 (new).]

L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public. [1995, c. 393, §8 (new).]

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation. [1995, c. 393, §8 (new).]

9-C. Sexual orientation. "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression. [2005, c. 10, §3 (new).]

9-D. [2011, c. 369, §1 (REPEALED).]

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. [2011, c. 369, §2 (new).]

10. Unlawful discrimination. "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter III; [1971, c. 501, §1 (new).]

B. Unlawful housing discrimination as defined and limited by subchapter IV; [1971, c. 501, §1 (new).]

C. Unlawful public accommodations discrimination as defined by subchapter V; [1971, c. 501, §1 (new).]

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types of unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued in this subsection; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought in this subsection; [1983, c. 578, §2 (amd).]

E. In determining whether a person is acting as an agent or employee of another person so as to make such other person responsible for that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling; [2005, c. 10, §4 (amd).]

F. Unlawful educational discrimination as defined and limited by subchapter 5-B; and [2005, c. 10, §5 (amd).]

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

(1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;

(2) Housing, as is more fully set forth in section 4553, subsection 6, paragraph C; and

(3) Educational opportunity, as is more fully set forth in section 4602, subsection 4.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph. [2005, c. 10, §6 (new).]

[2005, c. 10, §§4-6 (amd).]

§ 4553-A. Physical or mental disability

1. Physical or mental disability, defined. "Physical or mental disability" means:

A. A physical or mental impairment that:

(1) Substantially limits one or more of a person's major life activities;

(2) Significantly impairs physical or mental health; or

(3) Requires special education, vocational rehabilitation or related services;

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; mental retardation; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;

C. With respect to an individual, having a record of any of the conditions in paragraph A or B; or

D. With respect to an individual, being regarded as having or likely to develop any of the conditions in paragraph A or B.

2. Additional terms. For purposes of this section:

A. The existence of a physical or mental disability is determined without regard to the ameliorative effects of mitigating measures such as medication, auxiliary aids or prosthetic devices; and

B. "Significantly impairs physical or mental health" means having an actual or expected duration of more than 6 months and impairing health to a significant extent as compared to what is ordinarily experienced in the general population.

3. Exceptions. "Physical or mental disability" does not include:

A. Pedophilia, exhibitionism, voyeurism, sexual behavior disorders, compulsive gambling, kleptomania, pyromania or tobacco smoking;

B. Any condition covered under section 4553, subsection 9-C; or

C. Psychoactive substance use disorders resulting from current illegal use of drugs, although this may not be construed to exclude an individual who:

(1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) Is participating in a supervised rehabilitation program and is no longer engaging in such use;

(3) Is erroneously regarded as engaging in such use, but is not engaging in such use; or

(4) In the context of a reasonable accommodation in employment, is seeking treatment or has successfully completed treatment.

[2007, c. 385, § 3 (new).]

§4554. Construction

1. Relationship to other laws. Nothing in this Act may be construed to invalidate or limit the remedies, rights and procedures of any law of any state or political subdivision of any state or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act may be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter III or in transportation or places of public accommodation covered by subchapter V.[1995, c. 393, §9 (new).]

2. Insurance. Subchapters III and V of this Act may not be construed to prohibit or restrict, with regard to individuals with disabilities:

A. An insurer, hospital, medical service company, health maintenance organization or any agent or entity that administers benefit plans or similar organizations from underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; [1995, c. 393, §9 (new).]

B. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; or [1995, c. 393, §9 (new).]

C. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide employee benefit plan that is not subject to state laws that regulate insurance. [1995, c. 393, §9 (new).]

Paragraphs A, B and C may not be used as a subterfuge to evade the requirements of subchapters III and V.
[1995, c. 393, §9 (new).]

3. Accommodations and services. Nothing in this Act may be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.[1995, c. 393, §9 (new).]

4. Physical or mental disability. The definition of "physical or mental disability" in section 4553-A is intended to be interpreted broadly to create greater coverage than under the federal Americans with Disabilities Act of 1990. [2007, c. 385, § 4 (new).]

§4572. Unlawful employment discrimination

1. Unlawful employment. It is unlawful employment discrimination, in violation of this Act, except when based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons, to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment; or, in recruiting of individuals for employment or in hiring them, to utilize any employment agency that the employer knows or has reasonable cause to know discriminates against individuals because of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of their previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

(1) This paragraph does not apply to discrimination governed by Title 39-A, section 353; [2005, c. 10, §11 (amd).]

B. For any employment agency to fail or refuse to classify properly, refer for employment or otherwise discriminate against any individual because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the individual's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the individual that are protected under Title 26, chapter 7, subchapter 5-B; or to comply with an employer's request for the referral of job applicants if a request indicates either directly or indirectly that the employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B; [2005, c. 10, §11 (amd).]

C. For any labor organization to exclude from apprenticeship or membership or to deny full and equal membership rights to any applicant for membership because of race or color, sex, sexual

orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons, to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of that labor organization or by a collective labor agreement or other contract; to fail or refuse to classify properly or refer for employment or otherwise discriminate against any member because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the member's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter 5-B; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it is lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs, if the employer or labor organization obtains prior approval from the Maine Human Rights Commission of any maximum age limitation employed in an apprenticeship program. The commission shall approve the age limitation if a reasonable relationship exists between the maximum age limitation employed and a legitimate expectation of the employer in receiving a reasonable return upon the employer's investment in an apprenticeship program. The employer or labor organization bears the burden of demonstrating that such a relationship exists; [2005, c. 10, §11 (amd).]

D. For any employer, employment agency or labor organization, prior to employment or admission to membership of any individual, to:

(1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

(2) Make or keep a record of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B, except under physical or mental disability when an employer requires a physical or mental examination prior to employment, a privileged record of that examination is permissible if made and kept in compliance with this Act;

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B. This section does not prohibit any officially recognized government agency from keeping records permitted to be kept under this Act in order to provide free services to individuals requesting rehabilitation or employment assistance;

(4) Print, publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B; or

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, the previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B, of that group; or

[2005, c. 10, §12 (amd).]

E. For an employer, employment agency or labor organization to discriminate in any manner against individuals because they have opposed a practice that would be a violation of this Act or because they have made a charge, testified or assisted in any investigation, proceeding or hearing under this Act. [1991, c. 99, §7 (amd).]

[2005, c. 10, §§11, 12 (amd).]

2. Unlawful discrimination against qualified individual with a disability. A covered entity may not discriminate against a qualified individual with a disability because of the disability of the individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment. A qualified individual with a disability, by reason of that disability, may not be excluded from participation in or be denied the benefits of the services, programs or activities of a public covered entity, or be subjected to discrimination

by any such covered entity relating to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

A. The prohibition of this subsection against discrimination includes medical examinations and inquiries. [1995, c. 393, §13 (new).]

B. Except as provided in paragraph C, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability. A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions. [1995, c. 393, §13 (new).]

C. A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination, if:

(1) All entering employees are subjected to the same examination regardless of disability;

(2) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(c) Government officials investigating compliance with this Act are provided relevant information on request; and

(3) The results of the examination are used only in accordance with this Act.

[1995, c. 393, §13 (new).]

D. A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity. [1995, c. 393, §13 (new).]

E. A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical condition or history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3). [1995, c. 393, §13 (new).]

F. For purposes of this subsection, a test to determine the illegal use of drugs may not be considered a medical examination.

(1) A covered entity:

(a) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(b) May require that employees may not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(c) May require that employees behave in conformance with the requirements established under the federal Drug-free Workplace Act of 1988, 41 United States Code, Section 701 et seq.; and

(d) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which that entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; provided that an employer shall make reasonable accommodation

to an alcoholic or drug user who is seeking treatment or has successfully completed treatment. [1995, c. 393, §13 (new).]

[1995, c. 393, §13 (new).]

§4572-A. Unlawful employment discrimination on the basis of sex

1. Sex defined. For the purpose of this Act, the word "sex" includes pregnancy and medical conditions which result from pregnancy. [1979, c. 79 (new).]

2. Pregnant women who are able to work. It shall be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is able to work in a different manner from other persons who are able to work. [1979, c. 79 (new).]

3. Pregnant women who are not able to work. It shall also be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is not able to work because of a disability or illness resulting from pregnancy, or from medical conditions which result from pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses. [1979, c. 79 (new).]

4. Employer not responsible for additional benefits. Nothing in this section may be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a woman because of pregnancy or other medical conditions that result from pregnancy, if the employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for the employer's other employees and is not otherwise required to provide those leaves or benefits under other state or federal laws. [1995, c. 393, §14 (amd).]

5. Small business exception. [1985, c. 119 (rp).]

§4573. Not unlawful employment discrimination

It shall not be unlawful employment discrimination: [1971, c. 501, §1 (new).]

1. Age. [1979, c. 350, §2 (rp).]

1-A. Age. To discriminate on account of age to:

A. Comply with the state or federal laws relating to the employment of minors; [1979, c. 350, §3 (new).]

B. Observe the terms of any bona fide employee benefit plan such as a retirement, pension or insurance plan that does not evade or circumvent the purposes of this chapter and that complies with the Federal Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended and the federal Americans with Disabilities Act, 42 United States Code, Section 12101, et seq., and federal administrative interpretations provided that:

(1) No employee benefit plan requires or permits any employer to refuse or fail to hire an applicant for employment, including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual; and

(2) No employee benefit plan requires or permits the denial or termination of employment of any individual including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual or after completion of a specified number of years of service. [1995, c. 393, §15 (amd).]

[1995, c. 393, §15 (amd).]

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records of features regarding physical or mental disability that are collected must be collected and

maintained on separate forms and in separate files and be treated as confidential records; [1995, c. 393, §16 (amd).]

3. Required records. To record any data required by law, or by the rules and regulations of any state or federal agency, provided the records are recorded and kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act; [1995, c. 393, §17 (amd).]

4. Discharge of or refusal to hire employee with physical or mental disability. [1995, c. 393, §18 (rp).]

5. Federal Indian policy. Nothing in this Act may be construed to prohibit any employment policy or action that is permitted under 42 United States Code, Section 2000e-2(i) (1982) of the federal Equal Employment Opportunity Act governing employment of Indians; [2013, c. 576, §1 (amd).]

6. Infectious and communicable diseases. Assignment of individuals with an infectious or communicable disease is governed by the following.

A. In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the United States Secretary of Health and Human Services under the federal Americans with Disabilities Act, Title I, Section 103(d)(1), and which can not be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign the individual a job involving food handling. [1995, c. 393, §20 (new).]

B. Nothing in this Act may be construed to preempt, modify or amend any state, county or local law, ordinance, rule or regulation applicable to food handling that is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which can not be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the United States Secretary of Health and Human Services; and [2013, c. 576, §2 (amd).]

7. Veteran preference. For a private employer to apply a voluntary veteran preference, pursuant to Title 26, chapter 7, subchapter 11, to employment decisions regarding hiring, promotion or retention during a reduction in workforce. [2013, c. 576, §3 (new).]

§4573-A. Defenses

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter. [1995, c. 393, §21 (new).]

1-A. Qualification standards defined. For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace. [1995, c. 511, §1 (new); §3 (aff).]

1-B. Physical or mental disability. This subchapter does not prohibit an employer from discharging or refusing to hire an individual with physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an individual with physical or mental disability, if the individual, because of the physical or mental disability, is unable to perform the duties or to perform the duties in a manner that would not endanger the health or safety of the individual or others or is unable to be at, remain at or go to or from the place where the duties of employment are to be performed. [1995, c. 511, §1 (new); §3 (aff).]

2. Religious entities. This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization. [1995, c. 393, §21 (new).]

§4574. Mandatory retirement age prohibited

1. Definition. As used in this section and section 4573, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Employer" shall mean any individual or type of organization, including domestic and foreign corporations and partnerships, doing business in the State. [1979, c. 350, § 4 (new).]

[1979, c. 541, Pt. B, § 4 (amd).]

2. Legislative findings and intent. The Legislature finds that many older Maine citizens are forced out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been forced out of the work force are fully capable of carrying out the duties and responsibilities required by their employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the private sector or who is already employed by a private employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks employment or wishes to continue employment in the private sector and who is capable of fulfilling the duties and responsibilities of this employment shall be treated like any other person who seeks employment or wishes to continue this employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the private sector from requiring employees to retire at a specified age, or after completion of a specified number of years of service. [1979, c. 350, § 4 (new).]

3. Unlawful employment discrimination. It shall be unlawful employment discrimination:

A. For any employer to fail or refuse to hire any applicant for employment because of the age of the individual; or [1979, c. 350, § 4 (new).]

B. For any employer to require or permit, as a condition of employment, any employee to retire at or before a specified age or after completion of a specified number of years of service. [1979, c. 350, § 4 (new).]

[1979, c. 350, § 4 (new).]

4. Normal retirement age. This section shall not be construed to prohibit the use of a "normal retirement age," as defined in section 4553, subsection 6-A, provided that normal retirement age and the

accrual or awarding of pension or retirement benefits shall not be used in any way to require the retirement of an employee or to deny employment to a person. [1979, c. 350, § 4 (new).]

5. Federal requirements. This subchapter shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself. [1979, c. 350, § 4 (new).]

6. Applicability. This section shall apply to all employers in the State. [1979, c. 350, § 4 (new).]

Maine Human Rights Act - Accessibility to Public Buildings

§4591. Equal access to public accommodations

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is recognized as and declared to be a civil right. [2005, c. 10, §16 (amd).]

§4592. Unlawful public accommodations

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services. [1995, c. 511, §2 (new); §3 (aff).]

It is unlawful public accommodations discrimination, in violation of this Act: [1991, c. 99, §21 (amd).]

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of

public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodation, advantages, facilities, goods, services and privileges may depend.

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered; [1995, c. 393, §22 (new).]

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations; [1995, c. 393, §22 (new).]

C. A failure to take steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden; [1995, c. 393, §22 (new).]

D. A private entity's failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals, not including barriers that can be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable;

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; and [1995, c. 393, §22 (new).]

E. A qualified individual with a disability, by reason of that disability, being excluded from participation in or being denied the benefits of the services, programs or activities of a public entity, or being subjected to discrimination by any such entity; [1995, c. 393, §22 (new).]

[2005, c. 10, §17 (amd).]

2. Communication, notice or advertisement. For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, sexual orientation, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor; [2005, c. 10, §17 (amd).]

3. Denial of lodging; children, exception. For any person who is the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation for lodging to directly or indirectly refuse or withhold from or deny to any person that lodging on the grounds that the person is accompanied by a child or children who will occupy the unit, unless the total number of persons seeking to occupy the unit exceeds the number permitted by local ordinances or reasonable standards relating to health, safety or sanitation.

This subsection does not apply to the owner of a lodging place:

A. That serves breakfast; [1989, c. 301 (new).]

B. That contains no more than 5 rooms available to be let to lodgers; and [1995, c. 393, §23 (amd).]

C. In which the owner resides on the premises; [1995, c. 393, §23 (amd).]

[1995, c. 393, §23 (amd).]

4. Participation. For a covered entity:

A. To subject an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of that entity; [1995, c. 393, §24 (new).]

B. To afford an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage or accommodation in a manner that is not equal to that afforded to other individuals; and [1995, c. 393, §24 (new).]

C. To provide an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with a good, service, facility, privilege, advantage or accommodation that is different or separate from that provided to other individuals, unless this action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage or accommodation or other opportunity that is as effective as that provided to others. [1995, c. 393, §24 (new).]

For purposes of this subsection, the term "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enters into a contractual, licensing or other arrangement; [1995, c. 393, §24 (new).]

5. Integrated setting; programs or activities not separate or different. For a covered entity to not afford goods, services, facilities, privileges, advantages and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability may not be denied the opportunity to participate in programs or activities that are not separate or different; [1995, c. 393, §24 (new).]

6. Association. For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association; [2007, c.664, §5 (amd).]

7. Administrative methods. For an individual or an entity, directly or through contractual or other arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or [1995, c. 393, §24 (new).]

B. That perpetuate the discrimination of others who are subject to common administrative control; and [2007, c.664, §6 (amd).]

8. Service animals. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal.

[2007, c.664, §7 (new).]

§4593. Existing facilities

1. Public accommodations. For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed \$250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide. [1991, c. 99, §23 (amd).]

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict. [1991, c. 99, §23 (amd).]

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high. [1991, c. 99, §23 (amd).]

D. Doors that are not intended for normal use, and that are dangerous if a blind person were to enter or exit by them, must be made identifiable to touch by knurling the handle or knob. [1991, c. 99, §23 (amd).]

E. There must be parking spaces designated for persons with physical disability set aside in adequate number and clearly marked for use only by the disabled. Set aside in adequate number means that, for every 25 parking spaces made available to the public on a public or private parking lot, at least one of those spaces must be made available in an appropriate location for parking exclusively used by persons with physical disability. [1991, c. 99, §23 (amd).]

In any building designed and constructed specifically for public accommodations, the bathroom facilities and all accompanying fixtures must be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. The units must be constructed on ground level and must comply with paragraph C. [1995, c. 393, §25 (amd).]

2. Places of employment. For any building or facility constructed specifically as a place of employment on or after September 1, 1974 but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed \$100,000 and the remodeling or enlarging is begun before January 1, 1982, the public accommodation provisions relating to walks, entries, rest room facilities and doors apply. [2011, c. 322, §1 (amd).]

Maine Human Rights Act - Educational Opportunity

§4601. Right to freedom from discrimination in education

The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, sexual orientation, a physical or mental disability, national origin or race is recognized and declared to be a civil right. [2005, c. 10, §20 (amd).]

§4602. Unlawful educational discrimination

1. Unlawful educational discrimination on the basis of sex. It is unlawful educational discrimination in violation of this Act, on the basis of sex, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity; [1985, c. 797, §1 (amd).]

B. Deny a person equal opportunity in athletic programs; [1983, c. 578, §3 (new).]

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions; [1983, c. 578, §3 (new).]

D. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or [1983, c. 578, §3 (new).]

E. Deny financial assistance availability and opportunity. [1983, c. 578, §3 (new).]

[1985, c. 797, §1 (amd).]

2. Unlawful educational discrimination on the basis of physical or mental disability. It is unlawful educational discrimination in violation of this Act solely on the basis of physical or mental disability to:

A. Exclude from participation in, deny the benefits of or subject to discrimination under any educational program or activity any otherwise qualified individual with physical or mental disability; [1991, c. 99, §28 (amd).]

B. Deny any person equal opportunity in athletic programs, provided that no educational institution may be required under this subsection to provide separate athletic programs to serve persons with physical or mental disability; [1991, c. 99, §28 (amd).]

C. Deny admission to any institution or program or fail to provide equal access to and information about an institution or program through recruitment; or [1987, c. 478, §4 (new).]

D. Deny financial assistance availability and opportunity. [1987, c. 478, §4 (new).]

Nothing in this subsection may be construed to cover the rights of children with disabilities to special education programs under state or federal law. [2005, c.662, Pt. A§ 1 (amd).]

3. Unlawful educational discrimination on the basis of national origin or race. It is unlawful educational discrimination in violation of this Act, on the basis of national origin or race, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity; [1989, c. 725, §2 (new).]

B. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or [1989, c. 725, §2 (new).]

C. Deny financial assistance availability and opportunity. [1989, c. 725, §2 (new).]

[1991, c. 100, §2 (amd).]

4. Unlawful education discrimination on the basis of sexual orientation. It is unlawful education discrimination in violation of this Act, on the basis of sexual orientation, to:

A. Exclude a person from participation in, deny a person the benefits of or subject a person to discrimination in any academic, extracurricular, research, occupational training or other program or activity; [2005, c. 10, §21 (new).]

B. Deny a person equal opportunity in athletic programs; [2005, c. 10, §21 (new).]

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of their sexual orientation; [2005, c. 10, §21 (new).]

D. Deny admission to the institution or program or to fail to provide equal access to any information about an institution or program through recruitment; or [2005, c. 10, §21 (new).]

E. Deny financial assistance availability and opportunity. [2005, c. 10, §21 (new).]

The provisions in this subsection relating to sexual orientation do not apply to any education facility owned, controlled or operated by a bona fide religious corporation, association or society. [2005, c. 10, §21 (new).]

§4603. Rulemaking

The Commissioner of Education shall have joint rule-making authority with the commission to effectuate this subchapter. [1989, c. 700, Pt. A, §18 (amd).]

§4604. Enforcement

The Commissioner of Education, or a designee, may participate in predetermination resolution and conciliation efforts of the commission as follows: [1989, c. 700, Pt. A, §18 (amd).]

1. Notification of results of preliminary investigations. The Commissioner of Education shall be informed of the results of preliminary investigations into complaints of unlawful educational discrimination concerning public schools and programs and private schools approved for tuition purposes. [1989, c. 700, Pt. A, §18 (amd).]

2. Notification of findings of unlawful educational discrimination; informal conciliation efforts. The Commissioner of Education shall be informed of any finding that unlawful educational discrimination has occurred in a public school or program or a private school or program approved for tuition purposes. The commissioner may participate in informal conciliation efforts made pursuant to section 4612, subsection 3 and shall, upon request, have access to all information concerning these conciliation efforts. [1989, c. 700, Pt. A, §18 (amd).]

Maine Human Rights Act - Miscellaneous

§4633. Prohibition against retaliation and coercion

1. Retaliation. A person may not discriminate against any individual because that individual has opposed any act or practice that is unlawful under this Act or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this Act. [1993, c. 303, §3 (new).]

2. Interference, coercion or intimidation. It is unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act or

because that individual has exercised or enjoyed, or has aided or encouraged another individual in the exercise or enjoyment of, those rights. [1993, c. 303, §3 (new).]

3. Remedies and procedures. The remedies and procedures available under sections 4611 to 4614, 4621, 4622 and 4623 are available to aggrieved persons for violations of subsections 1 and 2. [1993, c. 303, §3 (new).]

§4634. Right to breast-feed

Notwithstanding any other provision of law, a mother may breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be. [2001, c. 206, §1 (new).]

Maine Civil Rights Act

§4681. Violations of constitutional rights; civil action by Attorney General

1. Interference with rights; action by Attorney General. Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured. [2001, c. 50, §1 (new).]

2. Place and name of action. A civil action under subsection 1 must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred. [2001, c. 50, §1 (new).]

3. Jury trial. There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order. [2001, c. 50, §1 (new).]

4. Civil penalty for violation. Each violation of this section is a civil violation for which a civil penalty of not more than \$5,000 for each defendant may be adjudged. These penalties must be applied by the Attorney General in carrying out this chapter. [2001, c. 50, §1 (new).]

5. Service of order or injunction. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant. [2001, c. 50, §1 (new).]

6. Violation of restraining order or injunction. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime. [2001, c. 50, §1 (new).]

§4682. Violations of constitutional rights; civil actions by aggrieved persons

1. Remedy. [1991, c. 821, §2 (rp).]REALLOCATED TO T. 5, §4682, sub-§1-A

1. Interference with rights; private actions. [2001, c. 50, §2 (rpr); RR 2001, c. 1, §11 (ral).]REALLOCATED FROM T. 5, §4682, sub-§1

1-A. Interference with rights; private actions. Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief. [RR 2001, c. 1, §11 (ral).]

2. Place of action. The action under subsection 1 must be instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business. [2001, c. 50, §2 (new).]

3. Jury trial. There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order. [2001, c. 50, §2 (new).]

4. Service of order or injunction. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant. [2001, c. 50, §2 (new).]

5. Violation of restraining order or injunction. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime. [2001, c. 50, §2 (new).]

§4683. Attorney's fees and costs

In any civil action under this chapter, the court, in its discretion, may allow the prevailing party, other than the State, reasonable attorney's fees and costs, and the State shall be liable for attorney's fees and costs in the same manner as a private person. [1989, c. 582 (new).]

§4684. Application includes interference by private parties

For the purposes of this chapter and Title 17, section 2931, rights secured by the Constitution of the United States and the laws of the United States and by the Constitution of Maine and the laws of the State

include rights that would be protected from interference by governmental actors regardless of whether the specific interference complained of is performed or attempted by private parties. [1991, c. 821, §3 (new).]

§4684-A. Civil rights

For purposes of this chapter and Title 17, section 2931, a person has the right to engage in lawful activities without being subject to physical force or violence, damage or destruction of property, trespass on property or the threat of physical force or violence, damage or destruction of property or trespass on property motivated by reason of race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation. [1993, c. 379, §1 (new).]

§4684-B. Additional protections

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

A. "Building" means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed. [1995, c. 417, §3 (new).]

B. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body. [1995, c. 417, §3 (new).]

C. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous. [1995, c. 417, §3 (new).]

[1995, c. 417, §3 (new).]

2. Violation. It is a violation of this section for any person, whether or not acting under color of law, to intentionally interfere or attempt to intentionally interfere with the exercise or enjoyment by any

other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State by any of the following conduct:

A. Engaging in the physical obstruction of a building; [1995, c. 417, §3 (new).]

B. Making or causing repeated telephone calls to a person or a building, whether or not conversation ensues, with the intent to impede access to a person's or building's telephone lines or otherwise disrupt a person's or building's activities; [1995, c. 417, §3 (new).]

C. Activating a device or exposing a substance that releases noxious and offensive odors within a building; or [1995, c. 417, §3 (new).]

D. After having been ordered by a law enforcement officer to cease such noise, intentionally making noise that can be heard within a building and with the further intent either:

(1) To jeopardize the health of persons receiving health services within the building; or

(2) To interfere with the safe and effective delivery of those services within the building.
[1995, c. 417, §3 (new).]

[1995, c. 417, §3 (new).]

§4685. Short title

This chapter may be known and cited as the "Maine Civil Rights Act." [1991, c. 821, §3 (new).]

Employees in Military Service

§7051. General provisions

The following provisions apply to the classified and unclassified services or to the specific services as specified in this section. [1985, c. 785, Pt. B, §38 (new).]

...

4. Employees in military service; substitutes. Whenever any employee, regularly employed in other than a temporary position for a period of at least 6 months by the State or by any department, bureau, commission or office of the State, or by the University of Maine System, community colleges, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency, or by any county, municipality, township or school district within the State shall in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the Armed Forces of the United States or any branch or unit thereof, or shall be regularly drafted under federal manpower regulations, the employee shall not be deemed or held to have thereby resigned from or abandoned employment, nor shall be removable during the period of service. "Temporary," for the purpose of this section means employment based on a seasonal or on-call basis or employment based on a contract of less than 6 months' duration.

A. [2001, c. 662, §1 (rp).]

B. [2001, c. 662, §2 (rp).]

C. [2001, c. 662, §2 (rp).]

D. [2001, c. 662, §3 (rp).]

E. When a permanent classified employee is on extended leave, a substitute may be employed, subject to personnel rules, until return or separation of the incumbent. [1985, c. 785, Pt. B, §38 (new).]

[2001, c. 662, §1-3 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

...

§7054. Veterans' preference

In making appointments to and retention in any position on an open competitive basis in the classified service, preference shall be given to veterans of the Armed Forces of the United States, who have been honorably separated, or to their wives, husbands, widows, widowers, mothers or fathers as set forth in this section. [1985, c. 785, Pt. B, §38 (new).]

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

A. "Armed Forces" means the United States Army, Navy, Air Force, Marine Corps or Coast Guard. [1985, c. 785, Pt. B, §38 (new).]

B. "Honorable separation" means discharge or release from a continuous tour of active duty in any of the Armed Forces, the official records of which show the character of service or type of discharge to have been honorable. [1985, c. 785, Pt. B, §38 (new).]

C. "Veteran" means a person who served on full-time active duty, exclusive of active duty for training, in the Armed Forces of the United States. [1989, c. 20 (amd).]

D. [2001, c. 512, §1 (rp).]

[2001, c. 512, §1 (amd).]

2. Examination preference. Preference points shall be added to the earned qualifying rating in examinations, provided that a passing grade is attained, of veterans applying for positions in the state service in accordance with the following, provided that they have not been previously employed in the classified service after obtaining preference points. A veteran who is receiving a disability pension shall be entitled to preference points under this subsection, notwithstanding his previous employment in the classified service after obtaining preference points.

A. A veteran who served on active duty in any of the Armed Forces for at least 90 days consecutively and who was honorably separated must be accorded a 5-point preference. [2001, c. 512, §2 (amd).]

B. The widow or widower of a veteran, as defined in paragraph A, who has never remarried, shall be granted a 5-point preference. [1985, c. 785, Pt. B, §38 (new).]

C. A veteran who served on active duty in any of the Armed Forces for at least 90 consecutive days, at any time, was honorably separated, and who has a service-connected disability of 10% or more and receives compensation, pension or disability retirement under public laws administered by the Veterans Administration or by a branch of the Armed Forces shall be accorded a 10-point preference. [1985, c. 785, Pt. B, §38 (new).]

D. The spouse of a disabled veteran as defined in paragraph C, is entitled to a 10-point preference in lieu of the veteran when his or her service-connected disability disqualifies him or her for appointment in the classified service along the general lines of his or her usual occupation. [1985, c. 785, Pt. B, §38 (new).]

E. The widow or widower, who has never remarried, of a veteran who lost his or her life under honorable conditions while serving on active duty in any of the Armed Forces or who died as the result of service-connected disability must be accorded a 10-point preference. [2001, c. 512, §3 (amd).]

F. The natural mother or father of a deceased veteran who lost his or her life under honorable conditions while serving on active duty in any of the Armed Forces who is or was married to the father or mother of the veteran on whose service he or she bases his or her claim; and who is widowed, divorced or separated; or who lives with his or her totally and permanently disabled husband or wife, either the veteran's father or mother or the husband or wife of his or her remarriage, is entitled to a 10-point preference. [RR 2001, c. 2, Pt. A, §10 (cor).]

[RR 2001, c. 2, Pt. A, §10 (cor).]

3. Certification preference. Names of preference veterans shall be entered on appropriate registers as follows.

A. The names of 5-point preference veterans shall be entered on appropriate registers in accordance with their respective augmented ratings, but they shall be entered ahead of all nonveterans having the same rating. [1985, c. 785, Pt. B, §38 (new).]

B. The names of qualified 10-point preference veterans, who have a compensable service-connected disability of 10% or more, shall be placed at the top of the appropriate register in accordance with their respective augmented ratings, in nonprofessional and nonscientific classes below range 12 of the compensation plan. [1985, c. 785, Pt. B, §38 (new).]

[1985, c. 785, Pt. B, §38 (new).]

4. Retention preference. In any reduction in personnel in the state service, veteran preference employees shall be retained in preference to all other competing employees in the same classification with equal seniority, status and service ratings.

In determining qualifications for examination and appointment with respect to veteran preference eligibles under this section, the director or other examining agency may waive requirements as to age, height and weight, provided that any such requirement is not essential to the performance of the duties of the position for which examination is given. The director or other examining agency, after giving due consideration to the recommendation of any accredited physician, may waive the physical requirements in the case of any veteran, provided that the veteran is, in the opinion of the director or other examining agency, physically able to discharge efficiently the duties of the position for which the examination is given.

This section applies to all examinations for original positions in the State Police, Department of Inland Fisheries and Wildlife, Department of Marine Resources, University of Maine System, community colleges, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency.[1989, c. 443, §12 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

Personnel Records

§7070. Personnel records

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments shall be reported to the director at such time, in such form and together with such supportive or pertinent information as he shall by rule prescribe. [1985, c. 785, Pt. B, §38 (new).]

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data that the director considers pertinent. [2007, c. 466, Pt. A, § 21 (amd).]

Records of the Bureau of Human Resources shall be public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the director may provide. [1985, c. 785, Pt. B, §38 (new).]

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3: [1985, c. 785, Pt. B, §38 (new).]

1. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the State for use in the examination or evaluation of applicants for positions as state employees.

A. Notwithstanding any confidentiality provision other than this subsection, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [2007, c. 597, §5 (amd).]

B. Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference. [1989, c. 402, §1 (new).]

C. This subsection does not preclude union representatives from access to personnel records, consistent with subsection 4, which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [1989, c. 402, §1 (new).]

[1989, c. 402, §1 (rpr).]

2. Personal information. Records containing the following, except they may be examined by the employee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders; [1985, c. 785, Pt. B, §38 (new).]

B. Performance evaluations and personal references submitted in confidence; [1985, c. 785, Pt. B, §38 (new).]

C. Information pertaining to the credit worthiness of a named employee; [1985, c. 785, Pt. B, §38 (new).]

D. Information pertaining to the personal history, general character or conduct of members of the employee's immediate family; [1997, c. 124, §2 (amd).]

D-1. Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability and marital status; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and [2007, c. 597, §6 (amd).]

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; [1997, c. 770, §1 (amd).]

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection;

[1997, c. 770, §1 (amd).]

3. Other information. Other information to which access by the general public is prohibited by law. [1985, c. 785, Pt. B, §38 (new).]

4. Disclosure of certain information for grievance and other proceedings. The Director of Human Resources may release specific information designated confidential by this section to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the State is a party. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the Director of Human Resources. [1987, c. 673, §1 (new).]

B. REPEALED [2007, c. 240, Part HH §12.]

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [1987, c. 673, §1 (new).]

The State may use this confidential information in proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau Human Resources may not be open to public inspection and may not be "public records," as defined in Title 1, section 402, subsection 3. [2007, c. 240, Part HH §12 (amd).]

5. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding. [2013, c. 201, §1 (new).]

§7070-A. Personnel records; deadly force or physical force by law enforcement officer

The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving: [1991, c. 729, §2 (new).]

1. Deadly force. The use of deadly force by a law enforcement officer; or [1991, c. 729, §2 (new).]

2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [1991, c. 729, §2 (new).]

In cases specified in subsections 1 and 2, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case. [1991, c. 729, §2 (new).]

§7071. Employee right to review personnel file

The director shall, upon written request from an employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file. These reviews shall take place in the Bureau of Human Resources and during its normal office hours. Time spent by an employee in reviewing his personnel file shall not be considered as time worked. For the purposes of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the director has in his possession. [1985, c. 785, Pt. B, § 38 (new).]

Maine Commission for Community Service

§7501. Commission established

There is established the Maine Commission for Community Service, referred to in this chapter as the "commission," to foster the State's ethic of community service; encourage community service and volunteerism as a means of meeting critical human, environmental, educational and public safety needs throughout the State; serve as the State's liaison regarding national and community service and volunteer activities; foster collaboration among service agencies; receive gifts and grants, implement statewide service programs and make subgrants to state and local entities in accordance with the National and Community Service Trust Act of 1993, 42 United States Code, Sections 12501 to 12682 (1994). [1995, c. 625, Pt. A, §13 (amd).]

§7502. Membership; terms

....

The appointments may also include educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental or public safety services to communities and persons; representatives of Native American tribes and nations; out-of-school or at-risk youth; and representatives of programs that are administered or receive assistance under the federal Domestic Volunteer Service Act of 1973, 42 United States Code, Section 4951, et seq. (1973).

§7503. Duties

The commission shall: [1995, c. 54, §1 (new).]

....

5. Assist state education agencies. Assist the Department of Education and institutions of higher education in the preparation of applications for national and community service grants; [1995, c. 54, §1 (new).]

....

11. Coordination. Foster collaboration among state agencies, colleges, universities, municipalities, federal agencies and volunteer service programs; [1995, c. 54, §1 (new).]

....

Maine Administrative Procedure Act

§8002. Definitions

As used in this Act, unless the context otherwise indicates, the following words and phrases shall have the following meanings. [1977, c. 694, §29-B (amd).]

....

2. Agency. "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term does not include the Legislature, Governor, courts, University of Maine System, Maine Maritime Academy, community colleges, the Commissioner of Education for schools of the unorganized territory, school administrative units, community action agencies as defined in Title 22, section 5321, special purpose districts or municipalities, counties or other political subdivisions of the State. [1995, c. 246, §1 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

....

Boards and Commissions

§12001. Purpose

It is the purpose of this chapter to provide the State with a complete inventory and central listing of all boards, commissions, committees, councils, authorities and other similar organizations established by the Legislature as a means of controlling the proliferation of these organizations and as a means of reducing duplication and making the most efficient use of these organizations. It is also the purpose of this chapter to classify these organizations according to similarity of powers, duties and responsibilities in order to provide standards for the compensation and operation of these organizations. [1983, c. 812, § 39 (new).]

§12002. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 812, § 39 (new).]

1. Board. "Board" means any authority, board, commission, committee, council and similar organization, including independent organizations, established or authorized by the Legislature to fulfill specific functions the members of which do not serve full time. "Board" does not include:

A. Any informal advisory organization established exclusively by a state agency to advise the commissioner or director of that agency on an informal basis; [1983, c. 812, § 39 (new).]

B. Any authority, board, commission, committee, council and similar organization organized or appointed exclusively by a political subdivision of the State to include regional, county and local planning boards, economic development boards or district, or educational, cultural or recreational boards; [1983, c. 812, § 39 (new).]

C. Any authority, board, commission, committee, council and similar organization organized exclusively pursuant to federal law and which does not require authorization by the State; [1983, c. 862, § 39 (new).]

D. Any authority, board, commission, committee, council and similar organization organized or authorized exclusively by Executive Order; [1985, c. 295, § 3 (amd).]

E. Special study organizations as defined in subsection 4; [1993, c. 489, §1 (amd).]

F. A joint standing committee of the Legislature or any joint select committee, composed exclusively of Representatives and Senators; and [1993, c. 489, §2 (amd).]

G. The Maine Indian Tribal-State Commission, as established in Title 30, section 6212, subsection 1, as part of the Maine Indian Claims Settlement. [1993, c. 489, §3 (new).]

[1993, c. 489, §§1-3 (amd).]

2. Expenses. "Expenses" means travel, meals or lodging costs or other necessary costs incurred by a member of a board in the performance of his duties as a member of that board. Noonday meal expenses incurred while in attendance at a board meeting or hearing shall be deemed a reimbursable expense, but shall not exceed \$5 per meal. [1985, c. 295, §4 (amd).]

3. Legislative per diem. "Legislative per diem" means the per diem authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at meetings held when the Legislature is not in daily session. For the purpose of this subsection, "legislative per diem" does not mean the compensation authorized by Title 3, section 2, that is paid to Legislators for every day's attendance at special sessions of the Legislature. [1989, c. 600, Pt. B, §1 (amd).]

3-A. Personal care expenses. "Personal care expenses" means the cost of feeding, dressing, toileting, mobility and personal hygiene assistance provided to developmentally disabled or handicapped persons who are members or the children of members of boards established in this chapter. [1985, c. 295, §5 (new).]

4. Special study organization. "Special study organization" means any board established or authorized by the Legislature to undertake a study of a particular subject and which is required to complete its study during the biennium of the Legislature which created it. [1983, c. 812, §39 (new).]

§12002-A. Payment of expenses

1. Activities subject to reimbursement. Members of boards may be paid for expenses at a rate not to exceed the rate normally paid to state employees for the following:

A. Actual attendance at meetings called by the chairman of the board or a majority of members of the board; [1985, c. 295, § 6 (rpr).]

B. Actual attendance at public hearings held by the board necessary to fulfill the duties and responsibilities of the board; [1985, c. 295, § 6 (rpr).]

C. Actual attendance at meetings of groups advisory to the board; [1985, c. 295, § 6 (rpr).]

D. Actual attendance at a meeting held out-of-state which is necessary to the purpose of the board; or [1985, c. 295, § 6 (rpr).]

E. Participation in official business of the board required by law or by rule of the board or a procedure which is necessary to fulfill the statutory responsibilities of the board, but shall not

include any of the prohibited activities as defined in section 12002-B, subsection 2. Members of occupational and professional licensing boards, as defined in section 12004-A, may receive expenses for meetings relating to the occupations and professions regulated by each board and which meetings are held out of state. [1989, c. 503, Pt. B, §25 (amd).]

[1989, c. 503, Pt. B, §25 (amd).]

2. Child care and personal care expenses. Child care expenses and personal care expenses may be reimbursed only as provided in this subsection.

A. For those board members who hold their positions because state statute, federal statute or federal regulation requires membership of low income people, those members may be reimbursed for reasonable child care expenses incurred while engaged in the official business of the board. [1985, c. 295, § 6 (new).]

B. For those board members who are selected because they are developmentally disabled or handicapped or who are the parents or guardians of handicapped persons, those members may be reimbursed for reasonable child care expenses and personal care expenses incurred while engaged in the official business of the board. [1985, c. 295, § 6 (new).]

[1985, c. 295, § 6 (new).]

§12002-B. Compensation of board members

Members of boards shall be paid a legislative per diem, another specified daily rate of compensation, a salary, expenses only or no compensation, as established for each board in sections 12004-A to 12004-L. Any board for which a legislative per diem, another specified daily rate of compensation or a salary is specified shall also be authorized to receive expenses as provided in section 12002-A. If the rate of compensation specifies expenses only, the member shall receive expenses as provided in section 12002-A. If the rate of compensation specifies "not authorized," the member shall receive no compensation or expenses. [1989, c. 503, Pt. B, §26 (amd).]

1. Payment of compensation. The legislative per diem or any other specified daily rate of compensation or annual rate of compensation, as specified in sections 12004-A to 12004-K, may be paid only for a member's:

A. Actual attendance at meetings of the board within the State called by the chair or by a majority of the members of the board; [1989, c. 503, Pt. B, §27 (amd).]

B. Actual attendance at public hearings held by the board within the State to fulfill the duties and responsibilities of the board; [1983, c. 812, § 39 (new).]

C. Actual attendance at meetings within the State of groups advisory to the board; or [1983, c. 812, § 39 (new).]

D. Participation in official business of the board required by law or by rule of the board or a procedure which is necessary to fulfill the statutory responsibilities of the board, but shall not include any of the prohibited activities as defined in subsection 2. [1985, c. 295, § 7 (rpr).]

[1989, c. 503, Pt. B, §27 (amd).]

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§12002-C. Per diem and expense vouchers

In order to receive per diem compensation or reimbursement for expenses as authorized by this chapter, a member of a board that is required to submit expense vouchers to the Department of Administrative and Financial Services for reimbursement must complete and sign an expense voucher form to the satisfaction of the Commissioner of Administrative and Financial Services. Every board member shall certify in writing on the voucher form whether the per diem or expenses incurred for each item is an official meeting or hearing activity required by statute that has been called by the chair of the board or by a person authorized by statute to call the meeting or hearing. In the event that the requested per diem or expense reimbursement is not the result of an official meeting or hearing of the board, the board member shall explain on the voucher the reason for the claim. The Commissioner of Administrative and Financial Services may disapprove those expenses or portion of expenses that do not comply with this chapter. [1991, c. 780, Pt. Y, §101 (amd).]

§12003-A. Standards

Boards established by this chapter shall comply with the following standards. [1985, c. 295, §12 (new).]

1. Compensation of substantive boards. Compensation provided to members of boards that are not classified as advisory boards in sections 12004-A to 12004-L shall not exceed the legislative per diem rate defined in section 12002 for the purposes defined in section 12002-B.

A. The only exception to this policy applies to boards which require members with special expertise for which there is an extremely limited supply and which require members to undertake very difficult tasks and render decisions that have a significant impact upon the State. [1985, c. 295, §12 (new).]

[1989, c. 503, Pt. B, §28 (amd).]

2. Compensation of advisory boards. Compensation provided to members of boards, defined in section 12004-I as advisory boards or boards with minimal authority, shall not exceed \$25 per day and payment of expenses.

A. Advisory and other boards, as defined in section 12004-I, which are not authorized by law to be reimbursed for expenses shall not be eligible for this reimbursement. [1989, c. 503, Pt. B, §28 (amd).]

[1989, c. 503, Pt. B, §28 (amd).]

3. Compensation as provided in section 12004-A to 12004-K. Compensation to members of boards shall be in accordance with the rate established for each board in section 12004-A to 12004-K. The defined rate of compensation for each board in section 12004-A to 12004-K shall be in compliance with this section. [1989, c. 503, Pt. B, §28 (amd).]

4. Compensation of state employee members of boards. State employee members of boards may receive their regular wages or salaries or the authorized per diem compensation, but not both, as defined by this subsection.

A. Any state employee, classified or unclassified, who is a member of a board by virtue of the position held by that state employee or who has been designated by the commissioner or director of a state agency to represent the commissioner, director or agency shall not be paid compensation as provided in section 12002-B, subsection 1, for attendance at board meetings, hearings or other board activities. Any expenses incurred by this board member shall be paid from the budget of the agency or organization that the member represents. [1985, c. 295, §12 (new).]

B. Any state employee, classified or unclassified, who is a member of a board, who has been appointed at the request of the state employee or because of the personal interest of the state employee in the board's activities and who is not an ex officio member or a representative of a commissioner, director or state agency, shall not be paid his regular wages or salary for attendance at meetings or hearings of the board or for work performed for the board during the normal working hours of the state employee. [1985, c. 295, §12 (new).]

[1985, c. 295, §12 (new)]

5. Records of boards. Records and minutes of all boards shall be open and readily available in a place convenient and accessible to the public, unless the information is required by law to be kept confidential or is privileged information. [1985, c. 295, §12 (new).]

6. Meetings of boards. Meetings of boards shall be held in public places and whenever possible in a public building. [1985, c. 295, §12 (new).]

7. Prohibition of retirement benefits. No member of a board, as defined in this chapter, may be deemed eligible for state retirement and retirement benefits provided to classified and unclassified state employees pursuant to chapter 101. Any state employee member of a board shall be eligible for state retirement and retirement benefits by virtue of employment by the State and not as the result of membership of any board.

No person may accumulate time or credit for any state retirement or retirement benefits for time served on a board or commission.

[1985, c. 732, §2 (new).]

8. Accounting procedure. Every board defined in sections 12004-A to 12004-L has separate accounting activities as required and in the form prescribed by the Commissioner of Administrative and Financial Services. These accounting procedures must show the income, expenses and expenditures of the board as separate from the income and expenditures of the department with which the board is associated or separate from the expenditures of the staff associated with or employed by the board. The expenses of the board to be shown in the activity accounts, at a minimum, must include any per diem or rate of compensation paid to the board members, travel expenses in state and out of state of board members and any other expenses determined necessary or reasonable by the commissioner. [1991, c. 780, Pt. Y, §102 (amd).]

9. Compensation limited to one board meeting a day. No member of a board eligible for compensation for attendance at meetings, hearings or official business of the board may be compensated or reimbursed for expenses for more than one meeting, hearing or official board business per day. No person who is a member of more than one board may be compensated or reimbursed for expenses for attendance at more than one meeting, hearing or conduct of official business of one board per day. In the event that 2 boards meet, hold hearings or conduct official business on the same day, a person who is a member of both boards may only be compensated or reimbursed for expenses for the activity or business of one of the boards. [1985, c. 732, §2 (new).]

10. Advisory boards. Members of any board which serves exclusively as an advisory board, particularly those boards described in section 12004-I, shall be deemed not to be officers of the State within the meaning of the Constitution of Maine and shall not be required to be commissioned or certified by the Secretary of State as provided in section 84. [1987, c. 786, §3 (new).]

§12004-C. Educational policy boards

The primary responsibilities of the boards in this section include the formulation of educational policy; review and evaluation of educational policy; and the administration of educational institutions. [1987, c. 786, §5 (new).]

This classification includes the following. [1987, c. 786, §5 (new).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
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2. Board of Trustees, University of Maine System [1987, c. 786, §5 (new).]	Expenses Only	P&SL 1865, c. 532
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§12004-H. Commodity or product protection and promotion boards

The primary responsibility for commodity or product protection and promotion boards is to protect natural resources and agricultural products produced in the State and promote the sales of these goods in the State and outside the State. [1987, c. 786, §5 (new).]

The primary powers of these organizations may include the assessment and collection of industry taxes, quality control inspections, establishment of grades and classifications, advertising, the holding of hearings and the adoption of rules. [1987, c. 786, §5 (new).]

This classification includes the following. [1987, c. 786, §5 (new).]

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
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12. University of	Expenses	36 MRSA §4312
Maine System Blueberry	Only	
Advisory Committee		
[1987, c. 786, §5 (new).]		

13-A. Wild	Expenses	36 MRSA §4312-C
Blueberry Commission	Only	
of Maine		
[1997, c. 511, §2 (new).]		

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§12005-A. Report to Secretary of State

Every board listed in this chapter is required to appoint a clerk of the board who is responsible for submitting reports to the Secretary of State as required by this chapter. This clerk shall submit an annual report to the Secretary of State in a manner provided by the Secretary of State. This report must be submitted no later than December 31st of each calendar year and must include information required by this section and any other information determined necessary by the Secretary of State to fulfill the purposes of this chapter. This information must include: [2007, c. 623, §1 (amd).]

1. Clerk of board. The name, address, telephone number and e-mail address of the clerk of the board as well as an estimate of the number of hours spent annually working for the board; [2007, c. 623, §1 (amd).]

2. Names and addresses of members. The name of each member of the board on file with the Secretary of State and the current address of each member at the time of filing under this section; [2007, c. 623, §1 (amd).]

3. Date of appointment and expiration. The date of appointment of each member and the date of expiration of the term of each member on file with the Secretary of State; [2007, c. 623, §1 (amd).]

4. Dates and locations of all meetings. The dates and locations of all meetings or other activities of the board as specified in section 12002-B, subsection 1 during the calendar year for which the report is prepared.

A. In the event that a board reports no meetings for the calendar year of the report, the clerk shall indicate the last meeting of the board;

[2007, c. 623, §1 (amd).]

5. Attendance at and length of meetings. The number of members attending each meeting or activity of the board and the length of each meeting or activity of the board; [2007, c. 623, §1 (amd).]

6. Compensation. REPEALED. [2007, c. 623, §1 (RP).]

6-A. Expenses related to the meetings or activities of the board. The following expenses related to the meetings or activities of the board:

A. Total per diem compensation, if any, received by board members for each meeting or other activity of the board and the total received for the calendar year;

B. Total expenses for which board members were reimbursed, if any, for each meeting or other activity of the board and the total reimbursed for the calendar year;

C. Reimbursement other than per diem compensation or expenses such as a stipend; and

D. Total expenses related to the functioning of the board, if any, for each meeting or other activity of the board and the total received for the calendar year, including but not limited to:

- (1) Expenses related to facility rental costs;
- (2) Expenses related to refreshment costs for meetings or other activities;
- (3) Expenses related to holding public hearings; and
- (4) Other expenses not otherwise classified in this section.

[2007, c. 623, §1 (new).]

7. Expenses. REPEALED. [2007, c. 623, §1 (RP).]

7-A. Funding source for expenses. The funding source or sources for all expenses paid for the functioning of the board, including reimbursement to members incurred by the board; [2007, c. 623, §1 (new).]

8. Vacancies. The number of vacancies on the board on December 31st and the term of the each vacancy ; and [2007, c. 623, §1 (amd).]

9. Activities of the board related to its mission. A brief summary of the activities related to accomplishing the mission of the board. [2007, c. 623, §1 (new).]

The Secretary of State may not waive the requirements of this section. [RR 1993, c. 1, §15 (new).]

§12006. Penalty for failure to report

Members of any board that fails to report to the Secretary of State, as required by section 12005-A, are not eligible to receive any daily rate or annual rate of compensation or any money for expenses incurred in the work of the board until the report to the Secretary of State is complete to the satisfaction of the Secretary of State. The Commissioner of Administrative and Financial Services, the Secretary of State or the person authorized to pay compensation or expenses to members of the boards may not pay any rate of compensation or expenses to any member of a board that has failed to report to the Secretary of State. [1993, c. 349, §13 (rpr).]

1. Notice of failure to report. The Secretary of State shall send notice by certified mail on or before January 5th of each year to any board that has failed to report pursuant to section 12005-A [1999, c. 668, §47 (amd).]

2. Legislative repeal of inactive boards. The Secretary of State shall submit suggested legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before January 30th in the second regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A for both of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the second regular session of each biennium to repeal those boards. [2011, c. 344, §14 (amd).]

3. Repeal requirement. The Secretary of State may not include in the legislation required under subsection 2 and may not require an annual report as required under section 12005-A from any of the following boards and commissions that has been inactive during the preceding 24 months:

A. Mining Excise Tax Trust Fund Board of Trustees, as established in section 12004-G, subsection 33-B; [2003, c. 643, §6 (new).]

B. Facility Siting Board, as established in section 12004-D, subsection 4; [2003, c. 643, §6 (new).]

C. State Poet Laureate Advisory Selection Committee, as established in section 12004-I, subsection 5-A; [2009, c. 369, §A-12 (amd).]

D. Board of Emergency Municipal Finance, as established in Title 30-A, section 6101; [2009, c. 369, §A-13 (amd).]

E. State Compensation Commission, as established in Title 3, section 2-B; [2009, c. 369, §A-14 (new).]

F. Maine-Canadian Legislative Advisory Commission, as established in Title 3, section 227; [2009, c. 369, §A-15 (new).]

G. New England and Eastern Canada Legislative Commission, as established in Title 3, section 231; [2009, c. 369, §A-16 (new).]

H. State House and Capitol Park Commission, as established in Title 3, section 901-A; [2013, c. 533, §11 (amd).]

I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956; and [2013, c. 533, §12 (amd).]

J. Blaine House Commission.[2013, c. 533, §13 (new).]

§12007. Clerk of board

1. Appointment. Each board shall appoint a clerk who is responsible for submitting reports to and responding to the Secretary of State and the Commissioner of Administrative and Financial Services. Each clerk shall provide the Secretary of State and Commissioner of Administrative and Financial Services with the mailing address of the board and the clerk as required in this chapter. Each clerk shall respond and report in a timely manner as provided in this chapter. [1991, c. 780, Pt. Y, §104 (amd).]

2. Penalty. Any board which fails to appoint a clerk and report as required shall be subject to the penalties in section 12006. [1987, c. 786, §8 (new).]

§12008. Ad hoc advisory boards

The commissioner or chief executive officer of any state agency, as defined in section 8002, and the board of trustees of any state authority or organization may form informal, ad hoc advisory boards to advise the commissioner, director or board of trustees on any issue. In forming an ad hoc advisory board pursuant to this section, the commissioner, director or board of trustees shall make a reasonable effort to include a representative of all the interests that may be involved in or may be affected by the issue. [1987, c. 786, §8 (new).]

Any ad hoc advisory board shall be deemed an informal board and shall not be required to be listed in this chapter. A member of any ad hoc advisory board shall be deemed not to be an officer of the State within the meaning of the Constitution of Maine. [1987, c. 786, §8 (new).]

§12009. Duty of Secretary of State

The Secretary of State shall compile and maintain the information provided pursuant to section 12005-A. [1987, c. 786, §8 (new).]

1. Report to Commissioner of Administrative and Financial Services. The Secretary of State, by January 15th of each year, shall submit to the Commissioner of Administrative and Financial Services a list of the boards, with the name and address of each clerk who failed to report as required in section 12005-A. [1999, c. 668, §48 (amd).]

2. Report of board activities. The Secretary of State, by January 30th of each year, shall submit a report to the Governor and the joint standing committee of the Legislature having jurisdiction over state and local government. This report, at a minimum, must include the following information with respect to boards in the previous calendar year:

A. The average meeting length of each board; [1987, c. 786, §8 (new).]

B. The number of meetings of each board; [1987, c. 786, §8 (new).]

C. The total compensation paid to each board; [1987, c. 786, §8 (new).]

D. The total amount of expenses reimbursed to each board; and [1987, c. 786, §8 (new).]

E. The average rate of attendance for each board. [1987, c. 786, §8 (new).]

This report must also include a list of all boards that have failed to report as required in section 12005-A and from whom the Secretary of State is seeking a report. This report must also include a list of boards that have sought an exemption from the reporting or other requirement of this chapter.[1991, c. 844, §3 (amd).]

3. Report on appointments. By December 30th of each year, the Secretary of State shall submit a report to the Governor, the Speaker of the House and the President of the Senate. This report shall include the following information and any additional information deemed important by the Secretary of State:

A. A list of appointments, by board, which will expire in the ensuing calendar year and for which reappointments or new appointments are required. This list shall include the date of expiration of the term of each appointment due to expire and the length of any existing vacancy; [1987, c. 786, §8 (new).]

B. The appointing authority responsible for making the appointments or reappointments as described in paragraph A; [1987, c. 786, §8 (new).]

C. A list of appointments due to expire in the following year which, by law, require a new appointment rather than reappointment of the person in that position; and [1987, c. 786, §8 (new).]

D. A list of appointments due to expire in the following year for which confirmation by the Senate is required. [1987, c. 786, §8 (new).]

QUASI-INDEPENDENT STATE ENTITIES

§ 12021. Definitions

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

1. Competitive procurement. "Competitive procurement" means the transmission of a written request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers that is to be replied to at a stated time.

2. Contributions. "Contributions" means payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity.

3. Governing body. "Governing body" means a person or group of persons with the responsibility or authority to manage an entity.

4. Managing director. "Managing director" means the person with overall day-to-day responsibility for directing the operations of a quasi-independent state entity.

5. Quasi-independent state entity. "Quasi-independent state entity" means an organization that has been established by the Legislature as an independent board, commission or agency to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

6. Reporting entity. "Reporting entity" or "entity" means:

- A. The Child Development Services System under Title 20-A, section 7209;
- B. The ConnectME Authority under Title 35-A, section 9203;
- C. The Efficiency Maine Trust under Title 35-A, section 10103;
- D. The Finance Authority of Maine under Title 10, section 964;
- E. The Loring Development Authority of Maine under Title 5, section 13080;
- F. The Maine Community College System under Title 20-A, chapter 431;
- G. The Maine Educational Loan Authority under Title 20-A, section 11414;
- H. The Maine Governmental Facilities Authority under Title 4, section 1602;
- I. The Maine Health and Higher Educational Facilities Authority under Title 22, section 2054;
- J. The Maine Human Rights Commission under Title 5, section 4561;
- K. The Maine Maritime Academy under Private and Special Law 1941, chapter 37;
- L. The Maine Municipal and Rural Electrification Cooperative Agency under Title 35-A, section 4131;
- M. The Maine Municipal Bond Bank under Title 30-A, section 5951;
- N. The Maine Port Authority under Title 23, section 4420;
- O. The Maine Public Employees Retirement System under Title 5, section 17101;
- P. The Maine State Housing Authority under Title 30-A, section 4722;
- Q. The Maine Technology Institute under Title 5, section 15302;
- R. The Maine Turnpike Authority under Title 23, section 1963;
- S. The Midcoast Regional Redevelopment Authority under Title 5, section 13083-G;
- T. The Northern New England Passenger Rail Authority under Title 23, chapter 621, subchapter 2;
- U. The Small Enterprise Growth Board under Title 10, section 384;
- V. The University of Maine System under Private and Special Law 1865, chapter 532;
- W. The Washington County Development Authority under Title 5, section 13083-A; and
- X. The Workers' Compensation Board under Title 39-A, section 151.

§ 12022. Financial policies and procedures

A governing body of an entity:

1. Consistency with authorizing law. Shall ensure that all activities and expenditures of the entity are limited to those necessary to accomplish the entity's mission and to carry out the entity's duties consistent with the entity's authorizing law;

2. Compliance with financial policies and procedures. Shall ensure that the governing body, management and staff of the entity comply with financial policies and procedures established by the governing body;

3. Selection of vendors. Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the selection of vendors designed to ensure that the entity secures the best value in its procurements. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Establish competitive procurement as the standard procurement method;
- B. Specify the conditions under which competitive procurement may be waived; and
- C. For procurements exceeding \$10,000 that were not competitively procured, require that written justification for and evidence of approvals are maintained on file for 5 years;

4. Contributions. Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources for contributions. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Establish criteria to ensure that contributions are directly related to the entity's mission and activities;

- B. Require that for identification and reporting purposes contributions are budgeted and accounted for separately from other expenditures in the entity's records;
- C. Establish requirements for maintaining documentation to support each contribution; and
- D. Require that the governing body must approve the annual budget for contributions and be provided periodic reports on contributions made by the entity;

5. Travel, meals and entertainment. Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources to pay costs of travel, meals and entertainment. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

- A. Limit travel, meal and entertainment costs to those reasonable and necessary for accomplishing the entity's mission and activities;
- B. Describe the persons for whom the entity will pay travel, meal and entertainment costs and specify the conditions under which those costs will be paid and whether directly or through reimbursement;
- C. Establish the requirements for supporting documentation and approval of travel, meal and entertainment costs paid directly or through reimbursement;
- D. Require for identification and reporting purposes that travel, meal and entertainment costs are budgeted and accounted for separately from other expenditures in the entity's records; and
- E. Require that the governing body must approve the annual budget for travel, meal and entertainment costs and be provided periodic reports on actual costs paid directly or reimbursed; and

6. Lobbyists. May not retain any person, other than entity staff, that is required to register as a lobbyist as defined in Title 3, section 312-A, subsection 10.

§ 12023. Reports to the Legislature

1. Adoption and implementation. By February 1, 2013, a governing body shall submit a report to the Legislature on the adoption and implementation status of written policies and procedures required by section 12022 and describing the measures the governing body intends to use to monitor compliance with those policies and procedures. The report must be submitted to the Executive Director of the Legislative Council in a manner established by the executive director, who shall refer it to the appropriate joint standing committee or committees of the Legislature for review.

2. Ongoing reports. By February 1, 2014, and annually thereafter, a governing body shall submit a report to the Legislature containing the following information:

- A. A list of all procurements exceeding \$10,000 in the preceding year for which competitive procurement was waived under the policies adopted pursuant to section 12022, subsection 3, including procurements exceeding \$10,000 that were made under contracts previously entered into for which competitive procurement was not required. The list must include the names of the vendors and costs associated with those procurements;
- B. A list of all persons to which the entity made contributions greater than \$1,000 in the preceding year and the total amount contributed to each; and
- C. A description of changes made in the preceding year to the written policies and procedures required by section 12022 or to the procedures used by the governing body to monitor compliance with those policies and procedures.

For the purpose of this subsection, "the preceding year" means either the most recent January 1st to December 31st budget cycle or the most recent July 1st to June 30th budget cycle, depending on the fiscal year that the entity uses.

Reports to the Legislature required by this subsection must be submitted to the Clerk of the House, the

Secretary of the Senate and the Executive Director of the Legislative Council in a manner determined by the Executive Director of the Legislative Council. The Executive Director of the Legislative Council shall refer each report to the appropriate joint standing committee or committees of the Legislature.

[2011, c. 616, Part A (new).]

Economic and Community Development

§13053. Establishment

The Department of Economic and Community Development is established to encourage economic and community planning and development policies and programs of the State and to coordinate these programs and policies within the context of a state economic development strategy. The department is also established to work with municipalities and regional planning and economic development organizations to build strong local and regional economics and to implement programs and services through these local and regional organizations. [1987, c. 816, Pt. P, §6 (amd).]

The department shall encourage the creation and retention of quality jobs through increased private sector investment and to enhance the quality of life for all by assisting local governments to plan and implement comprehensive community planning and development strategies. [1987, c. 816, Pt. P, §6 (amd).]

§13058. Duties and responsibilities of commissioner

The department shall be administered by the commissioner. The commissioner shall have the following powers and duties. [1987, c. 534, Pt. A, §§17, 19 (new).]

1. Employ and remove staff. The commissioner shall employ and remove staff of the department. Persons employed in major policy-influencing positions, as defined in section 934-A, and professional staff whose positions were formerly located in the State Development Office serve at the pleasure of the commissioner. The office directors serve at the pleasure of the commissioner.

....

B. The commissioner may employ or engage such outside technical or professional consultants as may be necessary or appropriate to assist the office in carrying out its functions and may enter into contracts with other boards, commissions, departments and divisions of the State, with the University of Maine System or with private entities to assist the commissioner in carrying out the commissioner's duties under this chapter. [2005, c. 425, §4 (amd).]

....

Science and Technology

§§13121 - 13131. (REPEALED)[2003, c. 20, Pt. RR, @5 (rp); @18 (aff)]

Centers for Innovation Program

§13141. Centers for Innovation Program

The Centers for Innovation Program, referred to in this chapter as the "program," is established. The program shall administer and establish centers throughout the State to carry out the purposes of this chapter. [2001, c. 95, §5 (new).]

1. Centers for innovation. A center for innovation, referred to in this chapter as "center," represents a specific industry sector identified as offering significant potential for economic growth, employment and business development for the State. A center shall consult with state development agencies to carry out the purposes of this chapter. The centers established include:

A. The Center for Innovation in Biotechnology, which promotes the development of the biotechnology sector; and [2001, c. 95, §5 (new).]

B. The Aquaculture Innovations Center, which promotes the development of the aquaculture sector.
[2001, c. 95, §5 (new).]

[2001, c. 95, §5 (new).]

2. Purposes. A center has the following purposes:

A. To bring together a cluster of related experience, business activity and technology in order to promote economic growth and target assistance from government development agencies and resources; [2001, c. 95, §5 (new).]

B. To advise the Commissioner of Economic and Community Development, the Maine International Trade Center, the Maine Technology Institute and other state agencies of the needs of a targeted industry; [2001, c. 95, §5 (new).]

C. To serve as a facilitator of state, local and federal efforts directed at developing an industry sector; [2001, c. 95, §5 (new).]

D. To assist in the recruitment of businesses and personnel within an industry sector seeking to relocate to the State; and [2001, c. 95, §5 (new).]

E. To educate, inform and facilitate funding for emerging technologies that are the basis of an industry sector. [2001, c. 95, §5 (new).]

[2001, c. 95, §5 (new).]

Future for Youth in Maine State Work Action Tactics Team

§13161- §13163. REPEALED [2007, c.240, §RRRR-2; c. 395, §4 (RP)]

Research and Development

§15302. Maine Technology Institute

1. Establishment. The Maine Technology Institute, as established in section 12004-G, subsection 33-D, is a nonprofit corporation with public and charitable purposes. The duties, activities and operations of the institute are within the provisions of the federal Internal Revenue Code, Section 501(c)(3). [1999, c. 401, Pt. AAA, §3 (new).]

2. Purpose. The institute, through a public and private partnership, shall encourage, promote, stimulate and support research and development activity leading to the commercialization of new products and services in the State's technology-intensive industrial sectors to enhance the competitive position of those sectors and increase the likelihood that one or more of the sectors will support clusters of industrial activity and to create new jobs for Maine people. The institute is one element of the State's economic development strategy and will contribute to the long-term development of a statewide research, development and product deployment infrastructure. [1999, c. 401, Pt. AAA, §3 (new).]

3. Board of Directors of the Maine Technology Institute. The institute is governed and all of its powers exercised by a board of directors, referred to in this chapter as the "board," consisting of 13 voting members and 2 nonvoting members. [2007, c.466, §B-2 (amd).]

A. The Governor shall appoint 10 voting directors, 8 of whom must be representatives of targeted technologies. The other 2 directors must have demonstrated significant experience in finance, lending or venture capital. In making the appointments from targeted technologies, the Governor shall consider recommendations submitted by representatives of targeted technology sectors. Directors of the board appointed by the Governor are entitled to receive reimbursement at the legislative rate for necessary expenses for their attendance at authorized meetings of the board. [2005, c. 425, §19 (amd).]

B. The Commissioner of Economic and Community Development or the commissioner's designee, the President of the Maine Community College System or the president's designee and the Chancellor of the University of Maine System or the chancellor's designee are ex officio voting directors. [1999, c. 541, §1 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. The Director of the State Planning Office or the director's designee is an ex officio nonvoting director. [2005, c. 425, §19 (amd).]

D. The Maine Technology Institute Director is a nonvoting director. [1999, c. 401, Pt. AAA, §3 (new).]

[2005, c. 425, §19 (amd).]

4. Terms. Directors of the board appointed by the Governor are appointed for 3-year terms. The terms of the initial appointments are staggered as follows: Three are one-year terms, 3 are 2-year terms and 3 are 3-year terms. Those directors may serve no more than 2 consecutive terms. Directors who serve on the board by virtue of their offices serve terms coincident with their terms in office. [1999, c. 401, Pt. AAA, §3 (new).]

5. Chair; vice-chair; secretary; treasurer. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among its members. Each officer serves for a one-year term and is eligible for reelection. [1999, c. 401, Pt. AAA, §3 (new).]

6. President. The Maine Technology Institute Director at the Department of Economic and Community Development serves as president of the institute upon confirmation by the board. Once every 2 years, the Governor shall submit the Maine Technology Institute Director's name to the board for reappointment. Reappointment is subject to confirmation by the board. The president shall:

A. Serve as the liaison between the board and the targeted technology boards; [1999, c. 401, Pt. AAA, §3 (new).]

B. Manage the institute's programs, services and staff; and [1999, c. 401, Pt. AAA, §3 (new).]

C. Perform other duties the board considers appropriate. [1999, c. 401, Pt. AAA, §3 (new).]

[1999, c. 401, Pt. AAA, §3 (new).]

7. Quorum. A majority of the voting directors constitutes a quorum. [1999, c. 401, Pt. AAA, §3 (new).]

8. Executive committee. The board may elect an executive committee of not fewer than 6 members who, in intervals between meetings of the board, may transact such business of the institute as the board may authorize from time to time. [1999, c. 401, Pt. AAA, §3 (new).]

9. Annual report. By December 15th of each year, the institute shall provide an annual report, with audited financial reports, on its activities to the joint standing committee or joint select committee of the Legislature having jurisdiction over research and development matters. [2001, c. 562, §1 (amd).]

10. REPEALED. [2009, c. 337, §8 (RP).]

§15303. Duties of institute

1. Fiscal agent for public investments in private research and development. The institute is the fiscal agent of the State for all funds appropriated or allocated to the institute. Fiscal duties include the disbursement of funds through grants to private companies, targeted technology incubators and nonprofit research laboratories. Other duties include the accounting, evaluation and monitoring of all activities of the institute and all programs funded in whole or in part by grants from the institute. The institute may fund necessary precursors to commercialization of products and services, including the development of new technologies and processes, the development of product concepts and the manufacture of prototypes. [1999, c. 401, Pt. AAA, §3 (new).]

2. Targeted technology boards. The institute shall work directly with and provide staffing to targeted technology sectors to stimulate and manage the research and development grant process in private companies through technology-specific boards, which are subsidiaries of the board consisting of private sector representatives, scientists and others determined appropriate by representatives of the targeted technology sectors. If the institute's board determines it necessary, the institute shall provide start-up organizational and development grants to those targeted technology sectors. Each technology board may establish goals and objectives for its sector based on state economic development goals, establish research and development priorities, help companies network with each other and advise them on funding opportunities and on the availability of other support services, prepare criteria by which to evaluate

proposals, solicit and receive competitive funding proposals, arrange for peer reviews and screen proposals and select those to be forwarded to the board for final evaluation. The board may delegate, based on conditions it determines appropriate, partial or full regranting authority to those technology boards that have demonstrated capacity to execute grants that are likely to lead to commercialization of a new technology or product. [1999, c. 401, Pt. AAA, §3 (new).]

3. Measures of performance. The institute shall develop quantifiable measures of performance to which it will hold all grantees accountable, including, but not limited to, the number of new jobs created by the grant, the amount of sales generated, the number of patents produced and the amount of corporate income taxes paid, and shall require all grantees to report regularly to the institute on those measures during the grant period and for 5 years following the end of the grant period. [1999, c. 401, Pt. AAA, §3 (new).]

4. Adoption of bylaws. The institute shall adopt bylaws, through the board, consistent with this chapter for the governance of its affairs. [1999, c. 401, Pt. AAA, §3 (new).]

5. Employees. The institute shall fix, through the board, the compensation of all employees of the institute. [1999, c. 401, Pt. AAA, §3 (new).]

6. Cooperation with associated organizations and the University of Maine System. The institute, in implementing its powers and duties:

A. Shall foster strategic considerations of economic development in the allocation of resources among the targeted technology sectors and promote activities that cut across technologies and achieve competitive advantages for Maine; [1999, c. 401, Pt. AAA, §3 (new).]

B. Shall ensure that the institute's programs reflect the policies as described in the State's science and technology plan developed by the Maine Science and Technology Foundation and consult with the Maine Science and Technology Foundation in the formation of those programs; [1999, c. 401, Pt. AAA, §3 (new).]

C. Shall collaborate with the University of Maine System on the development and annual update of an outcome-based 5-year technology plan that integrates private sector commercialization in the targeted technologies with university-sponsored research and development; [1999, c. 401, Pt. AAA, §3 (new).]

D. Shall coordinate its priorities with the applied research and development efforts of the University of Maine System insofar as those efforts are in the targeted technologies and encourage, when possible and appropriate, companies and research laboratories receiving funds from the institute to establish joint ventures with the university system; and [1999, c. 401, Pt. AAA, §3 (new).]

E. Shall cooperate with the Department of Economic and Community Development, the Maine Science and Technology Foundation, the Maine Manufacturing Extension Program, the University of Maine System and others in their efforts to ensure that a complementary system of support services, including, as needed and appropriate, incubators, business assistance, technology transfer, market research, patent research and similar services, is in place and available to companies and research laboratories receiving funds from the institute. [1999, c. 401, Pt. AAA, §3 (new).]

[1999, c. 401, Pt. AAA, §3 (new).]

6-A. SBIR technical assistance program. The institute shall establish a program to provide technical assistance to small businesses based in the State, pursuant to the federal Small Business Innovation Development Act of 1982, Public Law 97-219, to develop competitive small business innovation research, or SBIR, proposals for submission to any of the federal agencies participating in the SBIR program.

A. The technical assistance program may include, but is not limited to, small grants to hire grant writers, networking with scientists and other successful SBIR awardees, seminars on agency-specific solicitations and grant writing. [1999, c. 608, §12 (new).]

B. The institute shall conduct a program to inform small businesses of the federal SBIR program and the state program in order to ensure that all firms have the opportunity to participate in these programs. [1999, c. 608, §12 (new).]

C. The institute shall establish eligibility requirements and award selection criteria to serve as the basis for technical assistance funding under this program. [1999, c. 608, §12 (new).]

This subsection is in effect if, and as long as, federal financial participation is available pursuant to the federal Small Business Innovation Development Act of 1982. [1999, c. 608, §12 (new).]

6-B. Maine Biomedical Research Board. The institute shall contract with the Maine Biomedical Research Board as established in section 12004-G, subsection 4-B to provide assistance in fulfilling the board's duties as the board may require. [2001, c. 196, §10 (new).]

6-C. Administer funds. The institute shall administer the Maine Technology Capacity Fund established under section 15303-A. [2003, c. 20, Pt. RR, §6 (new); §18 (aff).]

7. Other duties. The institute shall do all things necessary or convenient to carry out the lawful purposes of the institute under this chapter. [1999, c. 401, Pt. AAA, §3 (new).]

§15321. Technology centers. REPEALED. [2009, c. 369, §a-19 (RP).]

Social Security

§19001. Declaration of policy

In order to extend to employees of the political subdivisions of the State of Maine, and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., sec. 42), whether members of existing retirement or pension systems or not, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act. This chapter shall apply to employees of Maine Maritime Academy who are members of an existing retirement or pension system. This chapter shall not apply to teachers who are under a state or local government pension or retirement plan, except teachers at the Maine Maritime Academy. For the purposes of bringing sheriffs and their deputies under social security, these law enforcement officers shall be deemed policemen. [1985, c. 801, § 5, 7 (new).]

§19002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1985, c. 801, § 5, 7 (new).]

....

6. Political subdivision. The term "political subdivision" includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine System, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision. [1987, c. 402, Pt. A, § 75 (amd).]

....

Maine Children's Growth Council

§ 24001. Maine Children's Growth Council

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

A. "Council" means the Maine Children's Growth Council established in subsection 2.

B. "Young children" means children from birth through 5 years of age.

2. Establishment. The Maine Children's Growth Council, as established in section 12004-J, subsection 16, is created to develop, maintain and evaluate a plan for sustainable social and financial investment in healthy development of the State's young children and their families.

3. Membership. The council consists of the members listed in this subsection who must have a strong interest in early childhood and early care and education and must be influential in their communities:

A. Two members of the Senate, one from each of the 2 political parties having the greatest number of members in the Senate, appointed by the President of the Senate;

B. Two members of the House of Representatives, one from each of the 2 political parties having the greatest number of members in the House, appointed by the Speaker of the House;

C. The Governor or the Governor's designee and the Attorney General or the Attorney General's designee;

D. Three parents, at least one of whom has a young child, one each appointed by the Governor, the President of the Senate and the Speaker of the House;

E. Two persons with experience in public funding and philanthropy, appointed by the President of the Senate;

F. One person representing child abuse and neglect prevention, appointed by the Speaker of the House;

G. One person representing postsecondary education, appointed by the Governor;

H. Eight persons representing statewide, membership or constituent organizations that advance the well-being of young children and their families, nominated by their organizations and appointed by the Governor, of whom:

(1) Three must represent statewide organizations or associations involved in early care and education programs, child care centers, Head Start programs, family child care providers, resource development centers, programs for school-age children, child development services, physicians and child advocacy;

(2) One must represent a law enforcement organization involved with children;

(3) One must represent an organization that works on community organization and mobilization;

(4) One must represent public health;

(5) One must represent the Maine Economic Growth Council; and

(6) One must represent a labor organization.

I. One person representing a statewide association of business and industry and one person representing a business roundtable on early childhood investment, appointed by the Governor;

J. Up to 8 members of the public, appointed by the Governor;

K. Three ex-officio, nonvoting members: the Commissioner of Education or the commissioner's designee, a Department of Health and Human Services employee who works with early childhood programs including Head Start and a person representing the office within the Department of Health and Human Services that is the fiscal agent for the federal grant program for comprehensive early childhood initiatives; and

L. The director of the Head Start collaboration project within the Department of Health and Human Services, Office of Child Care and Head Start. [2009, c. 392, §1 (new).]

[2009, c. 392, §1 (amd).]

4. Terms of appointment. Except for ex-officio members, members of the council are appointed for terms of 3 years. Members who are Legislators are appointed for the duration of the legislative terms in which they were appointed. Members who are not Legislators may serve beyond their designated terms until their successors are appointed.

5. Cochairs. The Governor shall appoint cochair for the council.

6. Quorum; meetings. A majority of the voting members of the council constitute a quorum. The council may meet as often as necessary but shall meet at least 6 times a year. A meeting may be called by a cochair or by any 5 members. [2011, c. 388, §1 (amd).]

7. Compensation. Members of the council serve without compensation for their services, except that parents appointed under subsection 3, paragraph D who are not reimbursed by another organization may receive mileage reimbursement and a per diem to cover related costs such as child care, and Legislators are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at authorized meetings of the council.

8. Staffing; funding. The council may hire staff as necessary for its work and as resources permit. The council may accept grant funding and other funding as may be available for the work of the council. [2011, c. 388, §2 (amd).]

9. Logo. The council may develop, adopt and publicize a logo or slogan to identify its work.

§ 24002. Duties

1. Duties. The duties of the council include, but are not limited to:

A. Reviewing and addressing recommendations of legislative studies and advisory committees regarding young children and the Children's Cabinet;

B. Adopting and updating a long-term plan for investment in the healthy development of young children that will achieve sustainable social and financial investment in the healthy development of young children and their families.

(1) In adopting and updating the plan the council shall consult and coordinate with members of the public, the Children's Cabinet, the Department of Education, the Department of Health and Human Services and advocates, community agencies and

providers of early care and education and services to children and their families; monitor and evaluate progress in accomplishing the plan's vision, goals and performance indicators and best practice research; and consider the changing economic and demographic conditions and the effect of investments on economic growth and productivity.

(2) The plan must include strategies:

(a) To create and sustain a unified, statewide early childhood services system that provides essential resources for children, shares common standards for quality, respects the diversity and uniqueness of young children and their families, reflects a commitment to sustainable growth, includes family representation, recognizes the importance of child care in sustaining employment for parents and recognizes the value of new forms of cooperation among government, business and society in achieving the goals of the plan; and

(b) For overall investment and prioritization of early childhood and education programs, services and initiatives and to address workforce education and training issues, utilization of community partners across the state and investments in technology and infrastructure; and

C. Reporting by January 15, 2011 and every 2 years thereafter at the start of the first regular session of the Legislature to the Governor and the one or more joint standing committees of the Legislature having jurisdiction over health, human services, taxation and education matters on the activities and accomplishments of the council and its long-term plan for investment in the healthy development of young children, and issuing such other reports as the council determines to be appropriate. [2011, c. 388, §3 (amd).]

§ 24003. Records and meetings

1. Public records and meetings. The records of the council are public records and meetings of the council are public meetings for the purposes of the State's freedom of access laws.

§ 24004. Repeal. REPEALED. [2009, c. 392, §2 (RP).]

TITLE 7

Maine Agricultural Experiment Station

§121. Maine Agricultural Experiment Station

1. Establishment. The department of the University of Maine System known and designated as the Maine Agricultural Experiment Station, referred to in this section as the "station," established at the University of Maine at Orono in connection with the university and under the direction of the university, the director and the Board of Agriculture, for the purpose of carrying into effect an Act of the Congress of the United States, approved March 2, 1887, to establish agricultural experiment stations in connection with the colleges established in the several states under an Act approved July 2, 1862, and of the Acts supplementary thereto, must be maintained in accordance with the purposes for which it was originally established. [1997, c. 711, §3 (new).]

2. Director. The President of the University of Maine at Orono, in consultation with the Board of Agriculture, shall appoint for a term of 5 years the Director of the Maine Agricultural Experiment Station, referred to in this section as the "director." After the term has expired, the director is eligible for reappointment. The director may be removed by the President of the University of Maine at Orono, in consultation with the Board of Agriculture, for cause. The director shall work with the Board of Agriculture to oversee the work of the university faculty at the station. The director of the station is the executive and administrative officer of the station and shall exercise supervision, direction and control over the station in accordance with the programs and policies of the University of Maine System and those established by the Board of Agriculture. [1997, c. 711, §3 (new).]

§122. Orcharding and crops

The Maine Agricultural Experiment Station shall conduct scientific investigations in orcharding, corn and other farm crops and, to this end, shall maintain the farms purchased in the name of the State, and stocked and equipped for the use and benefit of the station. The Director of the Maine Agricultural Experiment Station, with the agreement of the Board of Agriculture, has the general supervision, management and control of those farms and of all investigations thereon. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [2005, c. 512, §2 (amd).]

§123. Animal husbandry

The Maine Agricultural Experiment Station shall conduct scientific investigations in animal husbandry, including experiments and observations on dairy cattle and other domestic animals, and these investigations are under the control of the director of the station with the agreement of the Board of Agriculture. The experiments in animal husbandry may be conducted at any of the farms owned by the State. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [1997, c. 711, §4 (amd).]

§124. Expenditure of appropriation

Sums that are appropriated in favor of the Maine Agricultural Experiment Station must be expended by the director of the station with the agreement of the Board of Agriculture in executing sections 121, 122 and 123. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [1997, c. 711, §4 (amd).]

§125. Board of Agriculture

1. Establishment; duties. The Board of Agriculture, referred to in this section as the "board," as established in Title 5, section 12004-G, subsection 4-A, is created within the University of Maine System. The board shall advise the Chancellor of the University of Maine System and the President of the University of Maine at Orono on matters concerning the operation and management of agricultural research conducted by the Maine Agricultural Experiment Station and university farm-based programs, including those of the University of Maine Cooperative Extension Service. The board's duties are limited to advising the chancellor and the president on research and programs relating to agriculture. The board does not advise the Director of the Maine Agricultural Experiment Station or have a role in the operation of research and programs within the Maine Agricultural Experiment Station that relate to forestry, wildlife, or fisheries and aquaculture. The board shall assist the chancellor and the president in articulating the mission of the Maine Agricultural Experiment Station as it pertains to agriculture. The director, with the agreement of the board, shall develop a budget for the station. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. The board may not interfere with funding and grants for commodity research programs brought to the University of Maine System directly or through the efforts of commodity groups. The board shall respect the expertise of the various commodity groups and shall maintain the integrity of the research being recommended and reviewed by specific commodity groups. The board shall assist in the coordination of activities with commodity groups interested in or supporting agricultural research. The board shall consult with the following agricultural commodity advisory committees on agricultural research and extension priorities:

A. The University of Maine System Wild Blueberry Advisory Committee; and [1997, c. 711, §5 (new).]

B. The Maine Potato Board Research and Product Development Committee. [1997, c. 711, §5 (new).]

2. Membership. The board consists of the following 20 members:

A. A designee of the President of the University of Maine at Orono; [1997, c. 711, §5 (new).]

B. A designee of the Chancellor of the University of Maine System; [1997, c. 711, §5 (new).]

C. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee; [1997, c. 711, §5 (new).]

D. The president of a statewide farm bureau or the president's designee; [2009, c. 393, §1 (amd).]

E. The president of a statewide agricultural council or the president's designee; [2009, c. 393, §1 (amd).]

F. Eight members representing the agricultural industry, one person designated by each of the following:

- (1) The Maine Potato Board;
- (2) The Wild Blueberry Commission of Maine;
- (3) A statewide pomological society;
- (4) A statewide vegetable and small fruit growers association;
- (5) A statewide dairy industry association;

(6) A statewide landscape and nursery association;

(7) A statewide florist and growers association; and

(8) A statewide organic farmers and gardeners association; [1997, c. 711, §5 (new).]

G. Two members of the joint standing committee of the Legislature having jurisdiction over agricultural matters, one appointed by the President of the Senate and one appointed by the Speaker of the House; [1997, c. 711, §5 (new).]

H. One farmer with livestock experience in an area other than dairy farming, chosen from a list of 3 nominees submitted by a statewide beef and sheep producers association, appointed by the Governor; [1997, c. 711, §5 (new).]

I. Two research faculty members associated with agricultural research at the University of Maine at Orono, appointed by the Board of Trustees of the University of Maine System; [2009, c. 393, §1 (amd).]

J. The Director of the University of Maine Cooperative Extension Service; and [2009, c. 393, §1 (amd).]

K. One member representing the aquaculture industry designated by a statewide aquaculture industry association. [2009, c. 393, §1 (new).]

3. Terms. Each member serves a term of 5 years, except that the terms of legislative members expire the first Wednesday in December of even-numbered years. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. [1997, c. 711, §5 (new).]

4. Chair; secretary. The board shall select annually one of its members to serve as chair. The Director of the Agricultural Experiment Station shall serve as secretary to the board but the director is not a member of the board and has no vote. [1997, c. 711, §5 (new).]

5. Compensation. The board members are entitled to legislative per diem compensation for attendance at board meetings in accordance with Title 5, chapter 379. [1997, c. 711, §5 (new).]

6. Report. The Board of Agriculture shall report at least annually to the joint standing committee of the Legislature having jurisdiction over agricultural matters and to the Board of Trustees of the University of Maine System. The report must include an accounting of meetings and actions of the Board of Agriculture, including agreements entered into, status of demonstration projects, research findings, informational activities and an evaluation of the Maine Agricultural Experiment Station and Cooperative Extension Service programs, with recommendations regarding changes or improvements in the programs and the budget. The Board of Agriculture shall submit annually to the Board of Trustees of the University of Maine System proposals for additional funding for capital building projects at the research farms. [1997, c. 711, §5 (new).]

7. Long-range plan. By January 15, 2000, the board shall establish a long-range plan for operation of the Agricultural Experiment Station and the Cooperative Extension Service programs that includes but is not limited to plans for each of the research farms, joint appointments for experiment station and extension faculty, better utilization of research farms and objectives for research for each agricultural commodity in the State. The plan developed by the board does not include operations, research and programs relating to forestry, wildlife, aquaculture and fisheries. [1999, c. 72, §1 (amd).]

Note - Maine Agriculture Experiment Station; budget. Beginning with fiscal year 1999-2000, the Board of Trustees of the University of Maine System shall strive to allocate funds for the experimental farms within the Maine Agricultural Experiment Station at or above the fiscal year 1995-96 funding level. For fiscal years 2000-01 to 2001-02, the Board of Trustees shall strive to increase the funding for each experimental farm by a minimum of 5 per year above that farms 1995-96 funding. Capital building projects must be funded from within the university facilities management budget.

Extension Work With State University

§191. Purpose

In order to aid in diffusing among the people of this State useful and practical information on subjects relating to agriculture and natural resources, youth development, and home economics and community life and to encourage the application of the same, there may be inaugurated in each of the several counties of the State extension work which shall be carried on in cooperation with the Trustees of the University of Maine System and the University of Maine. [1985, c. 779, § 26 (amd).]

§192. Demonstrations and information

Cooperative extension work shall consist of the giving of practical demonstrations in agriculture and natural resources, youth development, and home economics and community life and imparting information on those subjects through field demonstrations, publications and otherwise. This work shall be carried on in each county in such manner as may be mutually agreed upon by the executive committee of the county extension association provided for in section 193, and the trustees of the University of Maine System, the University of Maine, or their duly appointed representatives. [1985, c. 779, § 27 (amd).]

§193. County extension associations

For the purpose of carrying out this chapter, there may be created in each county or combination of 2 counties within the State an organization to be known as a "county extension association," and its services available to all residents of a county. Such county extension association shall have adopted a constitution and set of bylaws acceptable to the University of Maine and they shall be recognized as the official body within that county or counties for carrying on extension work in agriculture and natural resources, youth development, and home economics and community life within that county or counties in cooperation with the University of Maine. The county extension is viewed as a unique and important educational program of county government. The county extension association may make such regulations and bylaws for its government and the carrying on of its work as are not inconsistent with that chapter, provided that one such organization shall be formed in each county. [1985, c. 779, § 28 (amd).]

§194. Budget and taxes

The executive committee of each county extension association shall prepare an annual budget as requested, showing in detail its estimate of the amount of money to be expended under this chapter within the county or counties for the fiscal year, shall submit the same to a vote of the association at the regular annual meeting and, if the budget is approved by a majority vote of the members of the association present at such meeting, the executive committee shall submit the same to the board of county commissioners on a date requested by the county commissioners, and the county commissioners may, if they deem it justifiable, adopt an appropriate budget for the county extension program and levy a tax therefor. The amount thus raised by direct taxation within any county or combination of counties for the purposes of this chapter shall be used for the salaries of clerks, provision of office space, supplies, equipment, postage, telephone, a contribution toward the salaries of county agents and such other expenses as necessary to maintain an effective county extension program. Whenever the inhabitants of 2 counties shall unite for organization in one association, the executive committee shall present its budget to the county commissioners of both counties. The county commissioners of those counties shall meet jointly to consider and adopt a budget for

each county. The amount and proportion of the budget shall be shared in a manner determined by mutual agreement at a joint meeting of the county commissioners. [1985, c. 283, § 4 (amd).]

§195. Annual reports

A county extension association, annually present to the University of Maine and the county commissioners its plan its plan of extension work for the ensuing year and a full detailed report of its extension activities for the preceding fiscal year, including a detailed report of its receipts and expenditures from all sources. The financial report of a county extension association must be on forms prescribed by the University of Maine and the county commissioners. [2005, c. 512, §3 (amd).]

§196. Building associations authorized

The county commissioners of a county or combination of 2 counties in which there is a county extension association may form a county extension building association pursuant to this section and Title 13, chapter 81. In addition to the powers and authority granted and duties and limitations imposed under Title 13, chapter 81, the county extension building association has all the powers and authority granted under this section and is subject to all the duties and limitations imposed under this section, except that, in the case of any conflict between this section and Title 13, chapter 81, this section controls. A county extension building association is a political subdivision of the State and a constituted authority for purposes of the United States Internal Revenue Code of 1986, Section 103. [2001, c. 594, §1 (new).]

1. Purpose. The purpose of a county extension building association is to acquire, by purchase, lease or otherwise, buildings and other real and personal property to be used by a county extension association in carrying out its public purposes under this chapter. [2001, c. 594, §1 (new).]

2. Directors. The county commissioners of the county or counties forming the county extension building association shall determine the method of choosing the building association's directors. A majority of the directors of a county extension building association must be appointed by the county commissioners of the county or counties comprising the affiliated county extension association. [2001, c. 594, §1 (new).]

3. Borrowing. In order to carry out its purpose, a county extension building association by a vote of the directors may borrow money on behalf of the county or of either or both of the counties comprising the affiliated county extension association by the issuance of bonds or notes and grant mortgages and security interest in the county extension building association's property to secure the obligations. All bonds or notes

must be for a term not to exceed 30 years and contain such terms and conditions as the directors of the county extension building association determine. The bonds or notes may not be an obligation of or pledge the faith and credit of the State or any county or political subdivision other than the county extension building association. Bonds or notes may be issued by the county extension building association under this section without obtaining the consent of any commission, board, bureau or agency of the State or of the county or counties comprising the affiliated county extension association and without any other proceeding or conditions than those proceedings or conditions that are specifically required by this section. [2001, c. 594, §1 (new).]

4. Limitations; dissolution. No part of the net earnings of a county extension building association may inure to the benefit of any member, director or officer of the county extension building association or any private individual, except that reasonable compensation may be paid for services rendered, and a member, director or officer of a county extension building association or any private individual is not entitled to share in the distribution of any of the corporate assets on dissolution of the county extension building association. On the dissolution of a county extension building association or on the termination of its activities, the assets of the county extension building association remaining after the payment of its liabilities must be distributed to the county in which the county extension building association is housed. [2001, c. 594, §1 (new).]

Purchases of Foodstuffs from Maine Concerns

§214. Coordination of purchases of foodstuffs from Maine concerns

1. Food purchasing coordinator. The commissioner shall designate an employee of the department to serve as a food purchasing coordinator to assist in the development of connections between state and school purchasers, Maine food producers and brokers and wholesalers of food. [2005, c. 382, Pt. C, §2 (amd).]

2. Annual meeting. The food purchasing coordinator shall cause to be held an annual meeting that brings together producers, wholesalers, buyers and food service professionals to enhance opportunities for cooperation and expand the purchase of local foodstuffs by state institutions and public schools. [2005, c. 382, Pt. C, §2 (amd).]

3. Advisory committee. The commissioner shall establish an advisory committee to discuss possibilities and review proposals for expanding purchases of local foodstuffs. The commissioner shall invite one or more representatives from each of the following agencies to serve on the advisory committee:

the Department of Education; the Department of Marine Resources; the Department of Corrections; the Department of Administrative and Financial Services, Bureau of Purchases; the Executive Department, State Planning Office; the Department of Health and Human Services; the University of Maine System; and the Maine Community College System. [2005, c. 382, Pt. C, §2 (amd).]

Maine Agricultural Internship and Training Program

§221. Establishment of Maine Agricultural Internship and Training Program

The commissioner shall establish a Maine Agricultural Internship and Training Program. [1987, c. 520 (new).]

§222. Responsibilities of the commissioner

The commissioner shall:

1. Information. Conduct studies and otherwise gather, maintain and disseminate information concerning farmland transfers, availability of farm labor, existence of farm internship and training programs, persons desiring to participate in that training, farmers retiring or otherwise ceasing farming operations, persons desiring to enter farming or associated employment and all other information deemed necessary to carry out this chapter; [1987, c. 520 (new).]

2. Training. Provide and supervise opportunities for on-farm and off-farm training, through state-sponsored programs or in cooperation with other appropriate agencies and organizations. Training may include on-site experience under the guidance of approved farmer-supervisors or classroom instruction in farm management, finance, equipment use and maintenance, production and marketing principles and techniques and other relevant subjects; [1987, c. 520 (new).]

3. Assistance. Provide assistance in matching retiring farmers with persons desiring to enter farming and recruit and place interns with farmer-supervisors; [2001, c. 168, §1 (amd).]

4. Cooperation. Cooperate with appropriate local, state and federal agencies and institutions and with farm organizations and interested individuals, including the Department of Education, the Department of Labor, the University of Maine and the Cooperative Extension Service, in carrying out this chapter; and [2013, c. 29, §1 (amd).]

5. Staff support. Designate an employee of the department to oversee the Maine Agricultural and Internship Training Program. [2013, c. 29, §2 (amd).]

6. [2013, c. 29, §3 (RP).]

Agricultural Technology Transfer and Special Research Projects

§306-A. Agricultural Development Fund

1. Agricultural Development Fund. The commissioner shall establish an agricultural development fund to accelerate new market development, adoption of advantageous technologies and promotion of state agricultural products by state producers. [1999, c. 72, §5 (new).]

2. Fund operation. The commissioner shall utilize the agricultural development fund to:

A. Provide grants to individuals, firms or organizations to conduct market research or to undertake market promotion activities for the purpose of expanding existing markets and developing new markets for state agricultural products; and [1999, c. 72, §5 (new).]

B. Test and demonstrate new technologies related to the production, storage and processing of state agricultural commodities. [1999, c. 72, §5 (new).]

[1999, c. 72, §5 (new).]

3. Rulemaking. The commissioner shall establish, by rule, in a manner consistent with Title 5, chapter 375, subchapter 2-A criteria for the allocation of grant money, application requirements consistent with the provisions of this section, a schedule for accepting and reviewing applications, reporting requirements on grant expenditures and project results and any other administrative requirements necessary for the efficient implementation of this program. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is guided by the following criteria: [2013, c. 64, §1 (amd).]

A. Applications may be submitted by individuals, firms or organizations in response to a request for proposals for competitive grants. The commissioner may also contract directly with individuals, firms or organizations for a special project under section 307; [2013, c. 64, §1 (amd).]

B. A percentage of the total cost of any project must be funded by the applicant or applicants and a percentage of the total cost must be funded from nonpublic sources. These percentages must be established by rule. A single grant may not exceed 50% of the total funds available to be granted in a given year; [2013, c. 64 §1 (amd).]

C. Information relative to market research or development activities provided to the commissioner prior to formal application, included in grant applications or provided to the commissioner to fulfill reporting requirements is confidential information and may not be publicly disclosed by the commissioner as long as:

(1) The person to whom the information belongs or pertains has requested that certain information be designated as confidential; and

(2) The commissioner has determined that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to the information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; and [1999, c. 72, §5 (new).]

D. When possible, the commissioner shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State. [1999, c. 72, §5 (new).]

[1999, c. 72, §5 (new).]

4. Advisory committee. The commissioner shall establish the Agricultural Development Committee to evaluate market and production development competitive grant applications and review project results. [2013, c. 64, §2 (amd).]

307. Special projects

The commissioner may contract directly with the University of Maine System or qualified individuals, firms or organizations for market research, for testing new technologies and for research on technical problems related to the production, marketing, storage and processing of agricultural commodities. [2013, c. 64, §3 (amd).]

§308. Special revenues

Interest in the Agricultural Marketing Loan Fund, established in Title 10, section 1023-J, and funds contributed by individuals, firms or organizations for special projects or for competitive agricultural development projects must be deposited in a dedicated account that does not lapse. Individuals, firms or organizations may specify that funds contributed to this account may be used to initiate projects affecting specific commodities. [1999, c. 72, §6 (amd).]

§309. Annual review

The commissioner and the Agriculture Development Committee shall, on an annual basis, review the effectiveness of the programs operated under the provisions of this chapter and provide a summary of the review to the Commissioner of Economic and Community Development. [2009, c. 337, §9 (amd).]

Aroostook Water and Soil Management Board

§332. Aroostook Water and Soil Management Board. REPEALED. [2009, c. 369, §A-21 (RP).]

Marketing and Advertising Farm Products

§401-B. Responsibilities of the commissioner

To further the purposes of this Part, the commissioner shall initiate and implement programs necessary to facilitate the effective, profitable marketing of Maine agricultural products. For the purposes of this subchapter, the terms "agricultural products" and "farm products" include, but are not limited to, products of aquaculture as defined in Title 12, section 6001, subsection 1. These programs include, but are not limited to, the following. [2003, c. 660, Pt. A, §1 (amd).]

1. Research. The commissioner, in conjunction with the Maine Agricultural Experiment Station and the Cooperative Extension Service, shall conduct, assist and foster research to improve the marketing, handling, storage, processing, transportation and distribution of agricultural products in order to develop new and wider markets and reduce distribution costs. [1983, c. 563, §1 (new).]

2. Information to producers. The commissioner, in conjunction with the Maine Agricultural Experiment Station and the Cooperative Extension Service and other public or private agencies, shall provide producers information regarding current market conditions and such other information as may be needed to maintain quality control and promote quality improvement for Maine agricultural products. [1983, c. 563, §1 (new).]

3. Information to consumers. The commissioner, in conjunction with the Cooperative Extension Service, shall provide for the dissemination of information to consumers about Maine agricultural products. [1983, c. 563, §1 (new).]

4. Organization. The commissioner shall aid Maine producers and consumers by assisting cooperative societies of buyers and sellers, encouraging direct marketing and by facilitating the efficient distribution of farm products. [1983, c. 563, §1 (new).]

5. Coordination and assistance. The commissioner shall consult with, coordinate and assist producer and dealer organizations and other groups interested in the production, processing and packing, grading, promotion and sale of agricultural goods. [1983, c. 563, §1 (new).]

6. Monitoring consumption of Maine-produced food. By November 1, 2000, the commissioner shall develop a method and baseline research to estimate the percentage of food consumed in Maine that is produced within Maine. The commissioner shall update the methodology and estimate every 2 years and include the latest estimate in the biennial report submitted to the Legislature pursuant to section 2, subsection 5. [1999, c. 769, §3 (new).]

Direct Marketing of Agricultural Commodities

§412. Research and preparation of information

The commissioner shall research and prepare information designed to develop and promote direct-marketing. The commissioner shall consult with the farm community, with the faculty of the College of Natural Sciences, Forestry and Agriculture of the University of Maine System, and with the various county extension agents in compiling information under this section. The information must include, but not be limited to, the following: [2013, c. 65, § 1 (amd).]

....

§414. Assistance

The commissioner shall assist and advise individual farmers or groups of farmers in their efforts to market more effectively directly to consumers by; [1977, c. 505 (new).]

1. Soliciting participation. Informing farmers of, and soliciting their participation in, any proposed method of direct-marketing; and [2013, c. 65 § 2 (amd).]

2. [2013, c. 65 § 2 (RP).]

3. Referral. Referring farmers to other appropriate sources of assistance. [2013, c. 65, § 2 (amd).]

Adulterated or Misbranded Goods

§485. Annual analysis. REPEALED[2005, c.512, §20 (RP)]

§486. Place of analysis. REPEALED[2005, c.512, §21 (RP)]

§487. Certificates. REPEALED [2005, c.512, §22 (RP)]

§607 Integrated Pest Management

...

6. Registration fee; programs funded. The applicant desiring to register a pesticide must pay an annual registration fee of \$160 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later. The board shall monitor fee revenue and expenditures under this subsection to ensure that adequate funds are available to fund board and related department programs and, to the extent funds are available, to provide grants to support stewardship programs. The board shall use funds received under this subsection to provide:

A. An annual grant of no less than \$135,000 to the University of Maine Cooperative Extension, on or about April 1st, for development and implementation of integrated pest management programs. The University of Maine may not charge overhead costs against this grant; and

B. Funding for public health-related mosquito monitoring programs or other pesticide stewardship and integrated pest management programs, if designated at the discretion of the board, as funds allow after expenditures under paragraph A. The board shall seek the advice of the Integrated Pest Management Council established in section 2404 in determining the most beneficial use of the funds, if available, under this subsection.

By February 15th annually, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the grants funded by the fee under this subsection. The annual report must include a recommendation by the board as to whether the amount of the fee is adequate to fund the programs described in this subsection. The joint standing committee may report out a bill to the Legislature based on the board's recommendations. [2013, c.290, §1 (amd)]

Potato Marketing Improvement Committee

§972. Potato Marketing Improvement Committee (REPEALED) [PL 2005, Ch. 335, §2 (RP)]

Livestock and Poultry

§1309. Maine cattle health assurance program

The commissioner shall develop a Maine cattle health assurance program to ensure the highest quality of products by encouraging all livestock producers in this State to use best management practices. The department shall develop a farm assessment plan that provides for on-site evaluations of farms to assess and suggest ways to improve the health of herds, protect the health and safety of herds from disease and protect farms from environmental liability. [2003, c. 386, §2 (new).]

The commissioner in consultation with the University of Maine Cooperative Extension, state and federal veterinarians and livestock producers in this State shall adopt rules for the administration of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 386, §2 (new).]

§1758. Salmonella enteritidis risk reduction and surveillance program

The commissioner, in cooperation with the University of Maine Cooperative Extension Service, shall develop a Salmonella enteritidis risk reduction and surveillance program for poultry. The commissioner shall adopt rules to implement the program. The rules must define the term "commercial egg producer" and establish requirements for participating in the program and a process for monitoring compliance with the program. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [2001, c. 91, §1 (new).]

Upon final adoption of the rules, participation in the program is mandatory for all commercial egg producers in the State. A commercial egg producer who fails to comply with the requirements of this section and rules adopted pursuant to this section commits a civil violation for which a forfeiture of no more than \$1,000 may be adjudged. [2001, c. 91, §1 (new).]

Plant Industry

§2103-B. Foundation seed potato production areas

The commissioner may, upon the request of potato growers in a specified area and in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, designate "foundation seed potato production areas" and, in consultation with the Seed Potato Board, Cooperative Extensive Service, University of Maine System Agricultural Experiment Station and appropriate industry organizations, establish within these areas such certified seed production practices as he deems beneficial to the industry. [1985, c. 779, § 36 (amd).]

§2154. Powers; rules

1. Production, distribution and sales. The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may produce, or cause to be produced through contract or otherwise, seed potatoes for distribution and sale. The seed board, in consultation with the Maine Potato Board, shall determine the varieties and acreages of each variety to produce. The seed board shall oversee seed production facilities and make recommendations to the Maine Potato Board regarding the production, distribution and sales of seed potatoes. The production program developed by the seed board with approval and oversight by the Maine Potato Board must include, but is not limited to, long-range projections of industry trends and needs, contracting with growers to reproduce nuclear seed stock grown at the seed board's seed potato farm, a determination of the varieties and volume of seed to be grown at seed production facilities and allocation of seed to growers for the benefit of the entire state potato industry.

2. Use of funds. The seed board may not commit funds that exceed the amount of funds approved by the Maine Potato Board as established in Title 36, section 4603. The Maine Potato Board may pay from the seed potato account to the Town of Masardis in lieu of taxes a sum, in the discretion of the Maine Potato Board, that compensates the town in whole or in part for loss of real estate taxes due to tax exempt status of real estate used for seed potato purposes.

3. Authority to acquire, hold and convey property. The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may purchase, own or otherwise acquire farm real estate and farm equipment necessary to produce acreages of seed potatoes or for the testing of seed potatoes. The seed board, with the approval of the Maine Potato Board, may sell or otherwise convey farm real estate and farm equipment no longer required for the purposes of this chapter. Proceeds from the sale must be credited to an operating account for the seed board established in accordance with Title 36, section 4604, subsection 4.

4. Cooperation with the University of Maine System. The seed board is advisory to and may work with and through the Maine Agricultural Experiment Station of the University of Maine System and other public and private agencies to annually conduct a program for the production of seed potatoes. If a program for the standardized testing of new varieties of commercial seed does not exist under the auspices of the Maine Agricultural Experiment Station, the seed board shall provide the Maine Potato Board as established in Title 36, section 4603 with a recommendation for developing such a program.

REPEALED & REPLACED. [2009, c. 379, §4]

§2157. Potato Variety Development Program

1. Promotion. The Maine Potato Board shall be responsible for developing, each year, a program to promote new potato varieties. [1987, c. 813, §1 (new).]

2. Breeding. The Maine Agricultural Experiment Station shall be responsible for breeding and testing of new potato varieties. [1987, c. 813, §1 (new).]

3. Testing. The Maine Agricultural Experiment Station shall hire an agronomist to work with the Maine Potato Breeding Program in Presque Isle to test new potato varieties. The agronomist shall be responsible for:

A. Developing the best cultural practices for new varieties; [1987, c. 813, §1 (new).]

B. Promoting new varieties of Maine seed potatoes to farmers in Maine and other areas; [1987, c. 813, §1 (new).]

C. Establishing field trials of new varieties; and [1987, c. 813, §1 (new).]

D. Monitoring the sales and performance of the new varieties. [1987, c. 813, §1 (new).]

[1987, c. 813, §1 (new).]

4. Multiplication. The Seed Potato Board shall be responsible for multiplying seedstocks of advanced selections from breeding programs. The board shall establish an isolated facility at the Porter Farm to produce a sufficient volume of pathogen-free seedstocks of advanced selections from breeding programs, in order to:

A. Provide extensive and rigorous pathogen testing on the seedstocks introduced, cultured and multiplied in the facility; [1987, c. 813, §1 (new).]

B. Establish systematic production of pathogen-free seedstocks by meristem culture after heat therapy to free the stocks of any infectious viruses; and [1987, c. 813, §1 (new).]

C. Provide limited increase of the pathogen-free seedstocks in the field to produce quality seed potatoes for further evaluation by breeders and growers. [1987, c. 813, §1 (new).]

[1987, c. 813, §1 (new).]

5. Challenge grants. The commissioner shall establish a challenge grant program to help in establishing field trials for new potato varieties. Grant proposals shall be approved by the commissioner after review and recommendation by the Potato Plant Breeder at the Maine Agricultural Experiment Station in Presque Isle, the Director of the Division of Plant Industry, the chairman of the seed grower's executive council of the Maine Potato Board and the Director of the Seed Potato Board. Grants may be given to farmers outside of this State. Grants may consist of seed, and assistance in determining cultural practices, and a percentage of the farmer's production costs to be determined by the commissioner. Those receiving grants shall cooperate with the agronomist of the Maine Agricultural Experiment Station in developing the best cultural practices and sharing production and marketing information. [1987, c. 813, §1 (new).]

6. Reporting. The agronomist of the Maine Agricultural Experiment Station shall monitor the sales and performance of new potato varieties and shall report annually to the commissioner and the joint standing committee of the Legislature having jurisdiction over agriculture. The report shall summarize the field trial program and address total sales of new seedstock, adoption of new varieties by the State's farmers, yields, quality and other indicators of performance. [1987, c. 813, §1 (new).]

7. Potato Variety Development Fund. There is established a nonlapsing Potato Variety Development Fund. The Commissioner of Agriculture, Food and Rural Resources may accept money for this fund from the Federal Government or any public or private source and make expenditures from this fund in order to carry out activities relative to the program. Any General Fund money appropriated for potato variety development shall be deposited into the Potato Variety Development Fund. [1987, c. 813, §1 (new).]

8. Rules. The commissioner shall adopt rules, according to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, for the interpretation and implementation of this section. [1987, c. 813, §1 (new).]

Hemp

§ 2231. Industrial hemp

1. Definition. As used in this chapter, unless the context otherwise indicates, "industrial hemp" means any variety of *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in compliance with this chapter.

2. Growing permitted. Notwithstanding any other provision of law, a person may plant, grow, harvest, possess, process, sell and buy industrial hemp if that person holds a license issued pursuant to subsection 4.

3. Application. A person desiring to grow industrial hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner. The application must include the name and address of the applicant, the legal description of the land area to be used for the production of industrial hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating the production fields. Except for employees of the Maine Agricultural Experiment Station and the University of Maine System involved in research and related activities, an applicant for an initial licensure must submit a set of the applicant's fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history record check by the Department of Public Safety, State Bureau of Identification and the Federal Bureau of Investigation. All costs associated with the criminal history record check are the responsibility of the applicant and must be submitted with the fingerprints. Criminal history records provided to the commissioner under this section are confidential. The results of

criminal records checks received under this subsection may only be used in determining an applicant's eligibility for licensure. A person with a prior criminal conviction is not eligible for licensure.

4. License issued. Upon review and approval of an application, the commissioner shall notify the applicant and request that the application fee determined under subsection 7 be submitted. Upon receipt of the appropriate fee and in accordance with subsection 8, the commissioner shall issue a license, which is valid for a period of one year and only for the site or sites specified in the license.

5. Documentation. A licensee shall file with the commissioner documentation indicating that the seeds planted were of a type and variety of hemp approved by the commissioner as having a concentration of no more than 0.3% delta-9-tetrahydrocannabinol by dry weight and a copy of any contract to grow industrial hemp. A licensee shall notify the commissioner of the sale or distribution of industrial hemp grown by the licensee and the name of each person to whom the industrial hemp was sold or distributed.

6. Rules. The commissioner shall adopt rules to establish approved varieties of industrial hemp, protocols for testing plant parts during growth for delta-9-tetrahydrocannabinol levels and guidelines for monitoring the growth and harvest of industrial hemp. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Fees. The commissioner shall establish through rulemaking under subsection 6 an application fee, a license fee and per acre fees for monitoring, sampling and testing that are reasonable and necessary to cover the costs of the department.

All fees received pursuant to this subsection must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this subsection must be used for the expenses of administering this chapter.

8. Licensing contingent upon action by Federal Government. A license may not be issued under this section unless:

A. The United States Congress excludes industrial hemp from the definition of "marihuana" for the purpose of the Controlled Substances Act, 21 United States Code, Section 802(16); or

B. The United States Department of Justice, Drug Enforcement Administration takes affirmative steps towards issuing a permit under 21 United States Code, Chapter 13, Subchapter 1, Part C to a person holding a license issued by a state to grow industrial hemp.

The commissioner shall notify the Revisor of Statutes and the Commissioner of Public Safety when the requirements of either paragraph A or B have been met. [2009, c. 320, (new).]

Integrated Pest Management

§2401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 609, §2 (new).]

1. Integrated pest management. "Integrated pest management" means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:

A. Understanding the system in which the pest exists; [1991, c. 609, §2 (new).]

B. Establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control; [1991, c. 609, §2 (new).]

C. Monitoring pests and natural enemies; [1991, c. 609, §2 (new).]

D. When needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression; and [1991, c. 609, §2 (new).]

E. Systematically evaluating the pest management approaches utilized. [1991, c. 609, §2 (new).]
[1991, c. 609, §2 (new).]

§2402. Integrated Pest Management Fund (REPEALED) [PL 2001, Ch. 497, §2 (RP)]

§2403. Integrated Pest Management Advisory Committee (REPEALED) [PL 1993, Ch. 251, §B3 (RP)]

§2404. Integrated Pest Management Council

1. Establishment; meetings. The Integrated Pest Management Council, referred to in this section as the "council," as established in Title 5, section 12004-G, subsection 3-C, is created within the department and is administered jointly by the department and the University of Maine Cooperative Extension Pest Management Office. Members of the council must be jointly appointed by the commissioner and the Director of the University of Maine Cooperative Extension. The council must meet at least 2 times a year. Members are entitled to reimbursement for expenses only in accordance with Title 5, chapter 379. [2001, c. 667, Pt. B, §4 (amd); §5 (aff).]

2. Membership. The council consists of the following 11 members:

A. Three members representing agricultural pest management; [2001, c. 497, §3 (new).]

B. One member representing a citizen interest organization; [2001, c. 497, §3 (new).]

C. One member representing the interest of forestry; [2001, c. 497, §3 (new).]

D. One member representing organic growers and producers; [2001, c. 497, §3 (new).]

E. One member representing structural pest management; [2001, c. 497, §3 (new).]

F. One member representing rights-of-way vegetation management; [2001, c. 497, §3 (new).]

G. One member representing turf or landscape management; [2001, c. 497, §3 (new).]

H. One member representing a nonprofit environmental organization; and [2001, c. 497, §3 (new).]

I. One member representing integrated pest management research. [2001, c. 497, §3 (new).]

[2001, c. 497, §3 (new).]

3. Term of office. The term of office for members is 3 years except that, of the original members appointed, the appointing authority shall appoint members to serve one-year, 2-year and 3-year terms to establish staggered terms. [2001, c. 497, §3 (new).]

4. Coordinators. The commissioner and the Director of the University of Maine Cooperative Extension shall each appoint one member of the council to serve as a cocoordinator of the council. [2001, c. 497, §3 (new).]

5. Duties; responsibilities. The council shall facilitate, promote, expand and enhance integrated pest management adoption in all sectors of pesticide use and pest management within the State. Specifically, the council shall:

A. Identify long-term and short-term priorities for integrated pest management research, education, demonstration and implementation; [2001, c. 497, §3 (new).]

B. Serve as a communication link for the development of coordinated multidisciplinary partnerships among researchers, educators, regulators, policymakers and integrated pest management users; [2001, c. 497, §3 (new).]

C. Identify funding sources and cooperate on obtaining new funding for on-site trials, education and training programs and other efforts to meet identified goals for expanding, advancing and implementing integrated pest management; [2001, c. 497, §3 (new).]

D. Establish measurable goals for expansion of integrated pest management into new sectors and advancing the level of integrated pest management adoption in sectors where integrated pest management is already practiced; and [2001, c. 497, §3 (new).]

E. Cooperate with appropriate organizations to establish protocols for measuring and documenting integrated pest management adoption in the State. [2001, c. 497, §3 (new).]

[2001, c. 497, §3 (new).]

6. Report. The council shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters annually on all of the council's activities during the year. [2001, c. 497, §3 (new).]

§2406. University of Maine Cooperative Extension integrated pest management programs

The University of Maine Cooperative Extension shall develop and implement integrated pest management programs. The extension may seek the advice of the Integrated Pest Management Council established in section 2404 in establishing the programs. The extension shall use the funds deposited pursuant to section 607 for the purposes of this section. The extension shall administer the grant pursuant to section 607, subsection 6, paragraph A. [2013, c. 290, §2 (new).]

Maine pesticide education fund

§ 2421. Fund established

The Maine Pesticide Education Fund, referred to in this chapter as "the fund," is established. The fund consists of any funds received as contributions from private and public sources. The fund, to be

accounted within the department, 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 any fiscal year must be carried forward to the next fiscal year.

§ 2422. Expenditures from fund; distribution

Funds in the Maine Pesticide Education Fund must be distributed by the department as follows:

1. Integrated Pest Management Fund. Three percent of the money in the fund to the Integrated Pest Management Fund established under section 2405;

2. Pesticide education and pesticide pick-up program. Forty-seven percent of the money in the fund to the Board of Pesticides Control for pesticide education programs, applicator licensing and obsolete pesticide collection programs; and

3. Pest management education. Fifty percent of the money in the fund to the University of Maine Cooperative Extension for pest management and pesticide education programs, including, but not limited to, homeowner integrated pest management, school pest management, medical and veterinary facility pest management, pesticide application and use education and community health-related pest management programs. [2007, c. 302, §1(new).]

Research Institutions

§3991-A. Regulation of research institutions

1. License necessary. A research or teaching institution of higher education may not employ live animals in scientific investigation, experiment or instruction or for the testing of drugs or medicines without first having been issued a license under this section by the commissioner. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

2. Application. A research or teaching institution desiring to obtain a license shall make application to the commissioner. On receipt of the application, the commissioner shall investigate as necessary to determine whether the public interest will be served by the issuance of the license. The commissioner may

issue the license as long as the research or teaching institution, by reason of its standards, facilities, practices or activities, is a fit and proper institution to receive the license and that its issuance is in the public interest. The standards for licensure are those contained in United States Code, Title 7, Section 2143 and any federal regulations issued pursuant to that law. This chapter may not be construed to be more restrictive than federal law. In the case of conflict between state law and federal law or a mandatory rule, regulation or order of the Federal Government or its agencies, the federal law, rule, regulation or order governs. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

3. Fees; license renewal. Before issuance of a license, each research or teaching institution licensed under this chapter shall pay to the commissioner a license fee of \$200. A license expires on June 30th next following the date of issue. The commissioner shall annually renew each license upon the application of the licensee, unless, after notice and hearing as provided in this chapter, the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the renewal is not in the public interest. The commissioner, after notice and hearing as provided in this chapter, may modify, fail to renew, suspend or revoke any license if the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the continuation of the license is not in the public interest. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

4. Noncompliance. If, in the opinion of the commissioner, there is or may be noncompliance with or a violation of this chapter or of a rule adopted by the commissioner that is of sufficient gravity to warrant further action, the commissioner may request an informal conference with the licensee. The commissioner shall provide the licensee with adequate notice of the conference and the issues to be discussed.

If the commissioner finds that the factual basis of the alleged noncompliance with or violation of this chapter is true and may warrant further action, the commissioner:

A. With the consent of the licensee, may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the health and welfare of animals and to rehabilitate or educate the licensee; [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

B. In consideration for acceptance of a voluntary surrender of the license, may negotiate stipulations, in a consent decree to be signed by the commissioner, the licensee and the Office of the Attorney General, that ensure protection of the health and welfare of animals and that serve to rehabilitate or educate the licensee; [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

C. If the commissioner concludes that modification or nonrenewal of the license may be in order, shall hold an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4; or [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

D. If the commissioner concludes that suspension or revocation of the license is in order, shall file a complaint in the District Court in accordance with Title 4, chapter 5. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

5. Grounds for discipline. Grounds for an action to modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter are:

A. 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; [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

B. A violation of this chapter or a rule adopted by the commissioner; and [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

C. Conviction of a crime involving cruelty to animals. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

6. Violation; penalty. A person may not knowingly violate this chapter or the rules issued pursuant to this chapter. The following penalties apply.

A. A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not more than \$250 may be adjudged. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

7. Rules. The commissioner may adopt rules that are necessary to carry out the purposes of this chapter. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

8. Inspection. In connection with the granting, continuance or renewal of a license and in connection with an investigation of alleged cruelty or alleged violation of this chapter or the rules issued pursuant to this chapter, the commissioner, at least annually, may visit and inspect the research and teaching institutions or animal research and care facilities of any licensee or of any research or teaching institution that has applied for a license. [2003, c. 452, Pt. B, §23 (new); Pt. X, §2 (aff).]

Nutrient Management Act

§4203. Nutrient Management Review Board

The Nutrient Management Review Board is established pursuant to Title 5, section 12004-D, subsection 5. [1997, c. 642, §2 (new).]

1. Duties. The board's duties are as follows:

A. The board shall review and approve all proposed amendments to the original rules adopted in accordance with this chapter; [2003, c. 283, §2 (amd).]

B. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding a livestock operations permit under section 4205, a request for a variance under section 4204, subsection 8 or a certification under section 4210, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter 4. The board may affirm, amend or reverse a permit or certification decision made by the commissioner. The board's decision is a final agency action; and [2003, c. 283, §2 (amd).]

C. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding site-specific best management practices prescribed for a farm or other issue governed under section 156 or Title 17, section 2701-B, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter 4. The board may affirm, amend or reverse a decision made by the commissioner. The board's decision is a final agency action. The board may also conduct an information-gathering meeting at the request of the department or any party with a legitimate interest to facilitate the complaint resolution process under section 156 or Title 17, section 2701-B. [2007, c. 649, §4 (amd).]

[2003, c. 283, §2 (amd).]

2. Membership. The board consists of 7 members appointed as follows:

A. One member from the University of Maine Cooperative Extension Service with expertise in agricultural production appointed by the Director of the Cooperative Extension Service; [1997, c. 642, §2 (new).]

B. The Commissioner of Environmental Protection or the commissioner's designee; [1997, c. 642, §2 (new).]

C. The commissioner or the commissioner's designee; and [1997, c. 642, §2 (new).]

D. Four other persons appointed by the Governor, consisting of:

(1) One member with expertise in nutrient management or soil science;

(2) One member actively involved in a livestock production operation with less than 300 animal units;

(3) One member actively involved in a livestock production operation with more than 300 animal units; and

(4) One member with an interest in nutrient management issues representing the general public. [1997, c. 642, §2 (new).]

[1997, c. 642, §2 (new).]

2-A. Temporary membership. When the subject matter of an appeal or complaint resolution process under this section is other than manure or nutrient management, the commissioner may appoint up to 3 temporary board members for the purpose of hearing an appeal, conducting an information-gathering meeting or facilitating the complaint resolution process under section 156. At least one temporary member must have expertise with the subject matter of the complaint or problem and one temporary member must represent the agricultural sector involved. The terms for temporary members expire when the board determines that it has taken final action on the appeal or complaint resolution process. [2007, c. 649, §5 (amd).]

3. Terms of membership; chair. Except for initial appointees, each member appointed by the Governor serves for a term of 4 years. In the case of a vacancy, the Governor shall appoint a member to fill the unexpired term. The Governor shall determine initial appointment terms to stagger term expirations. The board shall annually elect one of its members as chair. [1997, c. 642, §2 (new).]

4. Compensation. Members of the board are entitled to expenses only. [1997, c. 642, §2 (new).]

5. Staff. The department shall provide staff to the board. [1997, c. 642, §2 (new).]

6. Meetings. The board shall meet twice a year with the commissioner to discuss the implementation and enforcement of the provisions of this chapter and as needed to perform its duties. [1997, c. 642, §2 (new).]

TITLE 8

Slot Machine Operation; Allocation of Funds

§1036. Allocation of funds

1. Distribution for administrative expenses of board. A slot machine operator licensed under section 1011, subsection 2 or a casino operator that is a commercial track that was licensed to operate slot machines under section 1011, subsection 2 on January 1, 2011 shall collect and distribute 1% of gross slot machine income to the Treasurer of State for deposit in the General Fund for the administrative expenses of the board. [2011, c. 417, §7 (amd)]

2. Distribution from commercial track. A slot machine operator licensed under section 1011, subsection 2 or a casino operator that is a commercial track that was licensed to operate slot machines under section 1011, subsection 2 on January 1, 2011 shall collect and distribute 39% of the net slot machine income from slot machines operated by the slot machine operator to the board for distribution by the board as follows: [2011, c. 417, §8 (amd)]

....

F. Two percent of the net slot machine income must be forwarded by the board to the University of Maine System Scholarship Fund created in Title 20-A, section 10909 and to the Board of Trustees of the Maine Maritime Academy to be applied by the board of trustees to fund its scholarship program. The slot machine income under this paragraph must be distributed as follows:

(1) The University of Maine System share is the total amount of the distribution multiplied by the ratio of enrolled students in the system to the total number of enrolled students both in the system and at the Maine Maritime Academy; and

(2) The Maine Maritime Academy share is the total amount of the distribution multiplied by the ratio of enrolled students at the academy to the total number of enrolled students both in the system and at the academy; [2013, c. 118, §1 (amd).]

....

2-A. Distribution from casino of slot machine income. A casino operator shall collect and distribute 46% of the net slot machine income from slot machines operated by the casino operator to the board for distribution by the board as follows:

A. Twenty-five percent of the net slot machine income must be forwarded directly by the board to the Treasurer of State, who shall credit the money to the Department of Education, to be used to supplement and not to supplant funding for essential programs and services for kindergarten to grade 12 under Title 20A, chapter 606B;

B. Four percent of the net slot machine income must be forwarded by the board to the University of Maine System Scholarship Fund created in Title 20A, section 10909 and to the Board of Trustees of the Maine Maritime Academy to be applied by the board of trustees to fund its scholarship program. The slot machine income under this paragraph must be distributed as follows:

(1) The University of Maine System share is the total amount of the distribution multiplied by the ratio of enrolled students in the system to the total number of enrolled students both in the system and at the Maine Maritime Academy; and

(2) The Maine Maritime Academy share is the total amount of the distribution multiplied by the ratio of enrolled students at the academy to the total number of enrolled students both in the system and at the academy. [2013, c. 118, §2 (amd).]

C. Three percent of the net slot machine income must be forwarded by the board to the Board of Trustees of the Maine Community College System to be applied by the board of trustees to fund its scholarships program under Title 20A, section 12716, subsection 1;

D. Four percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall distribute the funds to the tribal governments of the Penobscot Nation and the Passamaquoddy Tribe;

E. Three percent of the net slot machine income must be deposited to the General Fund for administrative expenses of the board, including gambling addiction counseling services, in accordance with rules adopted by the board;

F. Two percent of the net slot machine income must be forwarded directly to the municipality in which the casino is located;

G. One 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 Agricultural Fair Support Fund established in Title 7, section 91;

H. One 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 established in section 298 to supplement harness racing purses;

I. One percent of the net slot machine income must be credited by the board to the Sire Stakes Fund created in section 281;

J. One percent of the net slot machine income must be forwarded directly to the county in which the casino is located to pay for mitigation of costs resulting from gaming operations; and

K. One 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 Department of Agriculture, Food and Rural Resources to fund dairy farm stabilization pursuant to Title 7, section 3153B.

If a recipient of net slot machine income in paragraph D, H or I owns or receives funds from a slot machine facility or casino, other than the casino in Oxford County or the slot machine facility in Bangor, then the recipient may not receive funds under this subsection, and those funds must be retained by the Oxford County casino operator. [2011 IB 2, §45 (new)]

....

3. Failure to deposit funds. A slot machine operator or casino operator who knowingly or intentionally fails to comply with this section commits a Class C crime. In addition to any other sanction available by law, the license of the operator may be revoked by the board and the slot machines or table games operated by that slot machine operator or casino operator may be disabled, and the slot machines or table games, slot machines' or tables games' proceeds and associated equipment may be confiscated by the board and are subject to forfeiture under Title 17-A, section 959 or 960. [2011 IB 2, §46 (amd)]

4. Late payments. The board may adopt rules establishing the dates on which payments required by this section are due. All payments not remitted when due must be paid together with interest on the unpaid balance at a rate of 1.5% per month. [2003, c. 687, Pt. A, §5 (new); Pt. B, §11 (aff).]

TITLE 9

Charitable Solicitations Act

....

§5006. Exemptions from registration requirements

1. Exemption. The following charitable organizations, persons and institutions are exempt from the license requirements of section 5004:

A. Organizations that solicit primarily within their membership and do not contract with a professional solicitor. For purposes of this paragraph, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation; [2013, c. 539, §10 (amd).]

B. [1983, c. 277, § 3 (rp).]

C. Persons soliciting contributions for the relief of any individual specified by name at the time of the solicitation, when all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary for that individual's use; [1999, c. 386, Pt. A, §15 (amd).]

D. Charitable organizations that do not intend to solicit and receive and do not actually solicit or receive contributions from the public in excess of \$35,000 during a calendar year or do not receive contributions from more than 35 persons during a calendar year, the charitable organizations do not contract with professional solicitors and if no part of the assets or income inures to the benefit of or is paid to any officer or member. If a charitable organization that does not intend to solicit or receive contributions from the public in excess of \$35,000 or does not intend to receive contributions from more than 35 persons during a calendar year does actually solicit or receive contributions in excess of that amount, whether or not all such contributions are received during a calendar year, or actually receives contributions from more than 35 persons during a calendar year, the charitable organization within 30 days after the date contributions reach \$35,000 or the number of contributors reaches 35, must be licensed with the director as required by this Act; [2013, c. 539, §11 (amd).]

E. Educational institutions, the curriculums of which in whole or in part are registered or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and organizations operated by the student bodies of such institutions; [2013, c. 60, §2 (amd).]

F. Hospitals that are nonprofit and charitable; and [2013, c. 60, §3 (amd).]

G. Free clinics. [2013, c. 60, §4 (new).]

[1999, c. 386, Pt. A, §15 (amd).]

2. Exemption statement. [1989, c. 55, §3 (rp).]

3. [2013, c. 539, §12 (RP).]

....

TITLE 9-A

Maine Consumer Credit Code

§1-202. Exclusions

This Act does not apply to: [1973, c. 762, §1 (new).]

1. Extensions of credit primarily for business, commercial or agricultural purposes or from governments or governmental agencies, instrumentalities or organizations; [1987, c. 396, §1 (amd).]

1-A. Transactions for which the administrator, by rule, determines that coverage under this Title is not necessary to carry out the purposes of this Title; [1997, c. 155, Pt. C, §1 (new).]

2. Except as otherwise provided in the Article on Insurance (Article 4), the sale of insurance by an insurer if the insured is not obliged to pay instalments of the premium and the insurance may terminate or be canceled after nonpayment of an instalment of the premiums; [1973, c. 762, §1 (new).]

3. An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, radio or similar transmission, including extensions of these facilities, if the charges for service, delayed payments or any discounts for prompt payment are filed with or regulated by any subdivision or agency of this State or of the United States. This exemption does not apply to financing of goods or home improvements by a public utility; [1987, c. 129, §9 (rpr).]

4. Ceilings on rates and charges or limits on loan maturities of a credit union organized under the laws of this State or of the United States if these ceilings or limits are established by these laws; [1979, c. 127, §51 (amd).]

5. Ceilings on rates and charges of a licensed pawnbroker if these ceilings are established by statute; [1973, c. 762, §1 (new).]

6. Transactions in securities or commodities accounts with a broker-dealer registered with either the Securities and Exchange Commission or the Commodities Futures Trading Commission; [1979, c. 127, §52 (amd).]

7. A loan or consumer credit sale made exclusively for the purpose of deferring or financing educational expenses and on which the finance charge does not exceed that rate per year on the unpaid balances of the amount financed, as established by federal law, or, for loans or consumer credit sales for which federal law does not establish a rate, the highest rate established for educational loans under any federal program and which is insured, guaranteed, subsidized or made directly by the Federal Government, a state, a nonprofit private loan guaranty or organization, by the educational institution itself or through an endowment or trust fund affiliated with such an institution; [2005, c. 55, §1 (amd).]

8. A loan or credit sale made by a creditor to finance or refinance the acquisition of real estate or the initial construction of a dwelling, or a loan made by a creditor secured by a first mortgage on real estate, if the security interest in real estate is not made for the purpose of circumventing or evading this Act, provided that:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion applies only to advances made:

(1) Pursuant to the terms of a construction financing agreement;

(2) To protect the security or to perform the covenants of the consumer;

(3) As negative amortization of principal under the terms of the financing agreement;

(4) From funds withheld at consummation pending the resolution of matters that otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards; or

(5) Pursuant to the terms of a reverse mortgage transaction, as defined in the Federal Truth and Lending Act, 15 United States Code, Section 1601, et seq., if the transaction is made pursuant to a commitment to purchase issued by, or is in a form approved for purchase by, any state or federal agency, instrumentality or government-sponsored enterprise, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; [2011, c. 427, Part D §1 (amd).]

B. The exemption provided by this subsection does not apply to the requirements on servicing of assigned supervised loans, section 2-310; and [1987, c. 129, §11 (new).]

C. With respect to a creditor other than a supervised financial organization, the exemption provided by this subsection applies to Articles 2, 3, 4 and 5 only; or [2005, c. 55, §2 (amd).]

[2005, c. 55, §2 (amd).]

8-A. [1987, c. 129, §12 (rp).]

9. [1979, c. 541, §87 (rp).]

10. A no-interest loan or credit sale by a nonprofit organization that assists in building or renovating housing for those in need. The exclusion in this subsection does not apply to Article 6, Part 1; section 6-201; section 6-202; section 6-203, subsection 1; section 6-204; or Article 8-A. [2011, c. 427, Part D §2 (amd).]

The exclusions set forth in subsection 1 relating to extensions of credit to consumers by governments or governmental agencies, instrumentalities or organizations, and in subsections 2, 4, 5, 7 and 8, do not apply to the Maine Consumer Credit Code, Truth-in-lending, Article 8-A.[2011,c. 427 §D-3(amd).]

TITLE 10

Small Enterprise Growth Program

§389. Cooperation and coordination

The University of Maine System, the Small Business Development Center Program, the Maine World Trade Association and the Maine Science and Technology Foundation shall provide such support and assistance as the board may request, within the expertise of each. [1995, c. 699, §3 (new).]

Maine Health Data Processing Center

§684. General powers (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 9/1/09)

The center may: [2001, c. 456, §1 (new).]

1. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity by way of grant, donation or loan or in any other manner; [2001, c. 456, §1 (new).]

2. Real and personal property. Purchase, receive, hold, lease or acquire by foreclosure and operate, manage, license and sell, convey, transfer, grant or lease real and personal property together with such rights and privileges as may be incidental and appurtenant to the real and personal property and the use of the real and personal property, including, but not limited to, any real or personal property acquired by the center from time to time in the satisfaction of debts or enforcement of obligations; [2001, c. 456, §1 (new).]

3. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in the real and personal property acquired by the center; [2001, c. 456, §1 (new).]

4. Contracts and liabilities. Make contracts, including contracts for services, and incur liabilities for any of the purposes authorized in the contracts; [2001, c. 456, §1 (new).]

5. Cooperation with agencies and organizations. Cooperate with and avail itself of the services of government agencies and the University of Maine System and cooperate, assist and otherwise encourage organizations, local or regional, private or public, in the various communities of the State in the collection and processing of health care data; [2005, c. 565, §1 (amd).]

6. Bylaws. Adopt bylaws that are consistent with this chapter for the governance of the affairs of the center, have the general powers accorded corporations under Title 13-C, section 302 and do all other things necessary or convenient to carry out the lawful purposes of the center; and [2005, c. 565, §2 (amd).]

7. Process data on behalf of entities outside State. Enter, to offset its operating costs, into contracts under subsection 4 with governmental or private entities outside the State to collect and process health care

data for those entities. Data collected and processed by the center under contract are subject to the terms of the contract and the provisions of this chapter. Notwithstanding section 682, data collected under this subsection remain the sole and exclusive property of the entity contracting with the center. [2005, c. 565, §3 (new).]

Maine Development Foundation

§917-A. Purpose

The Maine Development Foundation shall foster, assist and participate in efforts for economic growth and revitalization, in coordination with existing state, regional and local agencies, such efforts to include, but not be limited to, providing for or stimulating the following provisions. [1987, c. 534, Pt. B, § 4, 23 (new).]

....

6. Attract and retain youth in the State. The Maine Development Foundation shall establish and oversee an initiative to develop, recommend and implement specific strategies and efforts to attract and retain youth in this State. For the purposes of this subsection, "youth" means persons 20 to 40 years of age. The initiative must be guided by an independent steering committee selected by the Maine Development Foundation Board of Directors that is composed of youth with a diverse representation of gender, race, geography, professional sector and education and including representation from regional young persons groups and networks across the State. The Maine Development Foundation shall perform activities to advance this initiative, including but not limited to:

- A. The support of regional efforts in this State to connect, attract and retain youth. Areas of support include professional and leadership development, social networking and community building and collaboration between regional groups for the purpose of promoting best practices;
- B. The support and promotion of existing and emerging economic development, public policy and community initiatives that expand opportunities for youth in this State; and
- C. The development and oversight of a comprehensive website linking youth to professional, educational, social, recreational, cultural and civic opportunities in this State. (2007, c. 240, §RRRR-3)

§918. Corporators

Corporators, who shall elect members of the board of directors as provided in section 919, shall consist of individuals and organizations classified as private sector corporators, public sector corporators and ex officio corporators. [1977, c. 548, §1 (new).]

1. Private sector corporators. Private sector corporators are those individuals, partnerships, firms, corporations and other organizations providing support annually to the foundation at a level determined by the board of directors. [1997, c. 662, §1 (amd).]

2. Public sector corporators. Public sector corporators are those agencies of government and other organizations providing support annually to the foundation, at a level determined by the board of directors. For the purposes of this chapter, public sector corporators include: municipal and county government; councils of government; local and area development corporations; regional planning commissions; development districts; state agencies; higher educational facilities, including the components of the state university system, the Maine Maritime Academy, private colleges and postsecondary schools, and community colleges; and such other public or quasi-public entities as may be approved by the directors of the foundation. [1997, c. 662, §2 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Ex officio corporators. Ex officio corporators consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine System. State department and agency heads include the following:

Treasurer of State;

Director of the State Planning Office;

Commissioner of Economic and Community Development;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Professional and Financial Regulation;

Commissioner of Conservation;

Commissioner of Education;

Commissioner of Environmental Protection;

Commissioner of Administrative and Financial Services;

Commissioner of Health and Human Services;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Labor;

Commissioner of Marine Resources;

Commissioner of Transportation;

Chief Executive Officer of the Finance Authority of Maine;

Executive Director of the Maine Municipal Bond Bank; and

Executive Director of the Maine State Housing Authority. [RR 2003, c. 2, §14 (cor).]

4. Voting rights. Each corporator shall have a vote in such affairs of the foundation as may involve the corporators, provided that, in the case where the corporator is an organization and not an individual, the governing body of that organization shall designate the individual who is to exercise the voting right. [1977, c. 548, §1 (new).]

Maine International Trade Center

§945. Establishment

The Maine International Trade Center, referred to in this chapter as the "center," is established to enhance the competitive advantage of state businesses desiring to compete in the international market. The center provides a source of leadership, coordination and a shared vision for international trade development in the State. The purpose of the center, through its cooperative public and private board, is to refine, revise and implement the State's international strategic plan by providing and enhancing services in coordination with the economic development activities of the private sector, community and regional agencies and State Government. [1995, c. 648, §5 (new).]

The center is a private nonprofit corporation with a public purpose and the exercise by the center of the powers conferred by this chapter is held to be an essential governmental function. [1995, c. 648, §5 (new).]

....

§945-B. Members of center

Members of the center are individuals and organizations that pay dues to the center or are state agencies as specified in subsection 1. Memberships may be set at different levels. Members shall elect 7 members to the board of directors of the center pursuant to section 945-C. [1995, c. 648, §5 (new).]

1. Members. Members are the private individuals, partnerships, firms, corporations, governmental entities and other organizations who pay dues to the center. For the purposes of this chapter, members may include, but are not limited to, municipal and county government, councils of government, local and area development corporations, regional planning commissions, development districts, state agencies, higher educational facilities, including the components of the University of Maine System, the Maine Maritime Academy, private colleges and postsecondary schools and community colleges, and other public or quasi-public entities. The following 7 public organizations are granted membership by virtue of the State's

contribution to the organization and are exempt from dues requirements and each is entitled to designate one individual to exercise its voting right: the Department of Agriculture, Conservation and Forestry, the State Planning Office, the Finance Authority of Maine, the Department of Labor, the Department of Marine Resources, the Department of Economic and Community Development and the Department of Transportation. [1995, c. 648, §5 (new); 2013, c. 405, Pt. D, §5 (amd).]

2. Voting rights. All members have a vote in the affairs of the center as set forth in the bylaws of the center, except that when the member is an organization and not an individual the governing body of that organization shall designate the individual who is to exercise the voting right. [1995, c. 648, §5 (new).]

....

Maine Economic Improvement Fund

§946. Establishment

The Maine Economic Improvement Fund is established to administer investments in targeted research and development and product innovation and to provide the basic investment necessary to obtain matching funds and competitive grants from private and federal sources. [1997, c. 556, §3 (new).]

§947. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 556, §3 (new).]

1. Fund. "Fund" means the Maine Economic Improvement Fund. [1997, c. 556, §3 (new).]

2. Research and development. "Research and development" means applied scientific research and related commercial development conducted by the University of Maine System, its member institutions and its employees and students in the target areas. [1997, c. 556, §3 (new).]

3. Target areas. "Target areas" means the targeted technologies identified in Title 5, chapter 407 for which applied research and development is considered most likely to produce significant benefits to the people and economy of the State.

....

[1999, c. 401, Pt. AAA, §4 (amd).]

§948. Administration of fund

1. Administration of fund. The Board of Trustees of the University of Maine System shall administer the fund. The board may utilize the assets of the fund to carry out and effectuate the purposes, duties and responsibilities of this chapter, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Invest in applied research and development in the target areas within the University of Maine System; and

(2) Support the development of private enterprise based upon research and development performed within the University of Maine System;

[1997, c. 683, Pt. A, §4 (rpr).]

B. Receiving money from any public or private source to augment state contributions to the fund; [1997, c. 683, Pt. A, §4 (rpr).]

C. Approving an annual budget for the fund and investing and expending money from within the fund; [1997, c. 683, Pt. A, §4 (rpr).]

D. Contracting with public entities as necessary to further the directives of this section; [1997, c. 683, Pt. A, §4 (rpr).]

E. Carrying forward any unexpended state appropriations into succeeding fiscal years; [1997, c. 683, Pt. A, §4 (rpr).]

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature setting forth:

(1) The operations of the fund during the fiscal year;

(2) The assets and liabilities of the fund at the end of its most recent fiscal year; [2011, c. 698, §1 (amd).]

(3) The annual measurable goals and objectives of the fund, as established by the board, and an assessment of the achievement of those goals and objectives. The goals and objectives must include, but may not be limited to, education, research and development; and [1999, c. 401, Pt. AAA, §5 (amd).]

to (4) A summary of the research and development projects that have been funded pursuant paragraph H, including any external funding sources that have been leveraged as a result of these awards; [2011, c. 698, §1 (new).]

G. Protecting all intellectual property in accordance with the "University of Maine System Statement of Policy Governing Patents and Copyrights," including, but not limited to, proprietary information contained in proposals, grants, contracts or other legal agreements. Publication of information may be reasonably delayed until appropriate measures have been taken to protect the intellectual property; and [2011, c. 698, §2 (amd).]

H. Apportioning a minimum percentage of the annual disbursements from the fund among the University of Maine at Augusta, the University of Maine at Farmington, the University of Maine at Fort Kent, the University of Maine at Machias, the University of Maine at Presque Isle and the Maine Maritime Academy to support research and development as follows: beginning July 1, 2013 a minimum of 2.5% and beginning July 1, 2015 a minimum of 3%. [2013, c. 225, §2 (amd).]

[1999, c. 401, Pt. AAA, §5 (amd).]

Finance Authority of Maine

§1013. Program established

The authority shall administer a program of comprehensive, consolidated student financial assistance for Maine students and their families. The authority is authorized to carry out various programs

making financial and other assistance available to borrowers, institutions, or both, to finance costs of attendance at institutions of higher education. The authority is further authorized to issue its bonds, lend the proceeds of the bonds and exercise any other power set forth in this subchapter for these purposes. In carrying out its responsibilities, the authority shall be responsible for administering: [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

1. Maine State Grant Program. The Maine State Grant Program, pursuant to Title 20-A, chapter 419-A; [2001, c. 70, §1 (amd).]

2. Teachers for Maine Program. The Teachers for Maine Program, as established in Title 20-A, chapter 428; [1997, c. 97, §1 (rpr).]

3. State Osteopathic Loan Fund. The State Osteopathic Loan Fund, as established in Title 20-A, chapter 423; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

4. Postgraduate medical education program. The postgraduate medical education program, as established in Title 20-A, chapter 421; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

5. Loan insurance programs. The Robert T. Stafford Loan Program, the Parent Loans to Undergraduate Students Program and the Supplemental Loans for Students Program pursuant to Title 20-A, chapter 417, subchapter I; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

6. Robert C. Byrd Honors Scholarship Program. The Robert C. Byrd Honors Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

7. Paul Douglas Teacher Scholarship Program. The Paul Douglas Teacher Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

8. Supplemental loan program. The supplemental loan program as established in Title 20-A, chapter 417-B; [1991, c. 603, §3 (amd).]

9. Tuition waiver program. The tuition waiver program pursuant to Title 20-A, chapter 429; [1989, c. 559, §8 (new); c. 698, §10 (rpr).]

10. Student financial assistance counseling and outreach program. The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B; [1997, c. 97, §2 (amd).]

11. Student Educational Enhancement Deposit Plan. [1991, c. 824, Pt. B, §4 (rp).]

12. Maine Choice Program. [1995, c. 462, Pt. A, §18 (rp).]

13. Higher Education Loan Program. The Higher Education Loan and Loan Insurance Program, as established in Title 20-A, chapter 417-C; [2013, c.34, §3 (amd).]

14. University of Maine System Scholarship Fund. REPEALED [2005, c. 683, Pt. A, §14 (RP).]

15. Scholarships for Maine Fund. The Scholarships for Maine Fund, as established in Title 20-A, chapter 419-C; [2001, c. 417, §11 (amd).]

16. Maine College Savings Program. The Maine College Savings Program, as established in Title 20-A, chapter 417-E; and [2001, c. 417, §12 (amd).]

17. Maine Dental Education Loan Program. The Maine Dental Education Loan Program as established in Title 20-A, chapter 426. [2001, c. 417, §13 (new).]

Nursing Education Loan Repayment Program

§1019. Nursing education loan repayment program

1. Nursing education loan repayment program. The nursing education loan repayment program is established for the purpose of increasing the number of nursing faculty in nursing education programs in the State. [2005, c. 417, §1 (new).]

2. Criteria. For an applicant to participate in the nursing education loan repayment program established under subsection 1, the applicant must:

A. Be a nurse; [2005, c. 417, §1 (new).]

B. Complete a master's or doctoral degree in nursing; [2005, c. 417, §1 (new).]

C. Possess an outstanding education loan relating to the master's or doctoral nursing degree; and [2005, c. 417, §1 (new).]

D. Sign a statement of intent in a form acceptable to the authority to work as nursing faculty in a nursing education program in the State for a minimum of 3 years after acceptance into the nursing education loan repayment program. [2005, c. 417, §1 (new).]

[2005, c. 417, §1 (new).]

3. Nursing education loan repayment fund. The nursing education loan repayment fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests, loans and donations in addition to money appropriated or allocated by the State. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter. [2005, c. 417, §1 (new).]

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the nursing education loan repayment program may be paid out of amounts in the fund. [2005, c. 417, §1 (new).]

[2005, c. 417, §1 (new).]

4. Administration. The nursing education loan repayment program and the nursing education loan repayment fund are administered by the authority. The authority shall repay the loan of an applicant who meets the criteria in subsection 2 in the amount of up to \$4,500 for a master's degree and up to \$6,000 for a doctoral degree. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. [2005, c. 417, §1 (new).]

Truth in Music Advertising

§ 1156. Short title

This chapter is known and may be cited as "the Truth in Music Advertising Act." [2007, c. 171, §1 (new)]

§ 1157. Definitions

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

1. Performing group. "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.
2. Person. "Person" means any individual, partnership, corporation or association.
3. Recording group. "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.
4. Sound recording. "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a disc, tape or other phonorecord, in which the sounds are embodied. [2007, c. 171, §1 (new)]

§ 1158. Production

A person may not promote, advertise or conduct a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group unless:

1. Authorized; federal service mark. The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;
2. Legal right. At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;
3. Salute or tribute. The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or

similar to the name used by the recording group that it would tend to confuse or mislead the public;
and

4. Expressly authorized. The performance or production is expressly authorized by the recording group. [2007, c. 171, §1 (new)]

§ 1159. Restraining prohibited acts

1. Injunction. Whenever the Attorney General or a district attorney has reason to believe that a person is promoting, advertising or conducting or is preparing to promote, advertise or conduct a live musical performance or production in violation of section 1158 and that proceedings would be in the public interest, the Attorney General or district attorney may bring an action in the name of the State against the person to restrain that practice by temporary or permanent injunction.

2. Payment of costs and restitution. Whenever any court issues a permanent injunction to restrain and prevent violations of this chapter as authorized in subsection 1, the court may in its discretion direct that the defendant restore to the recording group any money or property, real or personal, that has been acquired by means of any violation of this chapter, under terms and conditions to be established by the court. [2007, c. 171, §1 (new)]

§ 1160. Penalty

In addition to any other relief that may be granted under section 1159, a person who violates section 1158 commits a civil violation for which a fine of not less than \$500 per violation may be adjudged. Each performance or production advertised or conducted in violation of section 1158 constitutes a separate violation. [2007, c. 171, §1 (new)]

§ 1160-A. Exemption

This chapter does not apply to any nonprofit corporation incorporated under the laws of this State and subject to the provisions of Title 13, chapter 81 or 93 or the Maine Nonprofit Corporation Act. [2007, c. 171, §1 (new)]

Refusal to Provide Social Security Number

§1272-B. Refusal to provide social security number

1. No denial of goods or services. Except as otherwise provided in federal or state law, a person, corporation or other entity may not deny goods or services to an individual because the individual refuses to provide a social security number. [2003, c. 512, §1 (new).]

2. Exemptions. This section does not apply to:

A. A person, corporation or other entity requesting disclosure of the social security number to obtain a consumer report for any purpose permitted under the Fair Credit Reporting Act or the United States Fair Credit Reporting Act; [2003, c. 512, §1 (new).]

B. A supervised lender as defined in Title 9-A, section 1-301; [2003, c. 512, §1 (new).]

C. A supervised financial organization as defined in Title 9-A, section 1-301; [2003, c. 512, §1 (new).]

D. An affiliate or subsidiary of a supervised lender as defined in Title 9-A, section 1-301 or of a supervised financial organization as defined in Title 9-A, section 1-301; [2003, c. 512, §1 (new).]

E. A person, corporation or other entity that provides goods or services to the individual on behalf of or in conjunction with a supervised financial organization as defined in Title 9-A, section 1-301; [2003, c. 512, §1 (new).]

F. A person, corporation or other entity engaged in the business of insurance and all acts necessary or incidental to that business including insurance applications, enrollment, coverage and claims; [2003, c. 512, §1 (new).]

G. A person, corporation or other entity if the social security number is used in conjunction with the provision of and billing for health care or pharmaceutical-related services, including the issuance of identification cards and account numbers for users of health care or pharmaceutical-related services; [2003, c. 512, §1 (new).]

H. A person, corporation or other entity if the social security number is used in conjunction with a background check of the individual conducted by a landlord, lessor, employer or volunteer service organization; or [2003, c. 512, §1 (new).]

I. A person, corporation or other entity if the social security number is necessary to verify the identity of the individual to effect, administer or enforce a specific transaction requested or authorized by the individual or to prevent fraud. [2003, c. 512, §1 (new).]

[2003, c. 512, §1 (new).]

Notice of Risk to Personal Data

§1346. Short title

This chapter may be known and cited as "the Notice of Risk to Personal Data Act." [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

§1347. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

1. Breach of the security of the system. "Breach of the security of the system" or "security breach" means unauthorized acquisition, release or use of an individual's computerized data that includes personal information that compromises the security, confidentiality or integrity of personal information of the individual maintained by a person. Good faith acquisition, release or use of personal information by an employee or agent of a person on behalf of the person is not a breach of the security of the system if the personal information is not used for or subject to further unauthorized disclosure to another person. [2009, c. 161, §1 (amd).]

2. Encryption. "Encryption" means the disguising of data using generally accepted practices.

[2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF) .]

3. Information broker. "Information broker" means a person who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring or communicating information concerning individuals for the primary purpose of furnishing personal information to nonaffiliated 3rd parties. "Information broker" does not include a governmental agency whose records are maintained primarily for traffic safety, law enforcement or licensing purposes. [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF) .]

4. Notice. "Notice" means:

A. Written notice; [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

B. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 United States Code, Section 7001; or [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

C. Substitute notice, if the person maintaining personal information demonstrates that the cost of providing notice would exceed \$5,000, that the affected class of individuals to be notified exceeds 1,000 or that the person maintaining personal information does not have sufficient contact information to provide written or electronic notice to those individuals. Substitute notice must consist of all of the following:

(1) E-mail notice, if the person has e-mail addresses for the individuals to be notified;

(2) Conspicuous posting of the notice on the person's publicly accessible website, if the person maintains one; and

(3) Notification to major statewide media. [2005, c. 583, §2 (AMD); 2005, c. 583, §14 (AFF).]

[2005, c. 379, §1 (NEW); 2005, c. 583, §2 (AMD); 2005, c. 379, §4 (AFF); 2005, c. 583, §14 (AFF) .]

5. Person. "Person" means an individual, partnership, corporation, limited liability company, trust, estate, cooperative, association or other entity, including agencies of State Government, the University of Maine System, the Maine Community College System, Maine Maritime Academy and private colleges and universities. "Person" as used in this chapter may not be construed to require duplicative notice by more than one individual, corporation, trust, estate, cooperative, association or other entity involved in the same transaction. [2005, c. 583, §3 (AMD); 2005, c. 583, §14 (AFF) .]

6. Personal information. "Personal information" means an individual's first name, or first initial, and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

A. Social security number; [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

B. Driver's license number or state identification card number; [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

C. Account number, credit card number or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes or passwords; [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

D. Account passwords or personal identification numbers or other access codes; or [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

E. Any of the data elements contained in paragraphs A to D when not in connection with the individual's first name, or first initial, and last name, if the information if compromised would be sufficient to permit a person to fraudulently assume or attempt to assume the identity of the person whose information was compromised. [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

"Personal information" does not include information from 3rd-party claims databases maintained by property and casualty insurers or publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media.

[2005, c. 583, §4 (AMD); 2005, c. 583, §14 (AFF) .]

7. System. "System" means a computerized data storage system containing personal information.

[2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF) .]

8. Unauthorized person. "Unauthorized person" means a person who does not have authority or permission of a person maintaining personal information to access personal information maintained by the person or who obtains access to such information by fraud, misrepresentation, subterfuge or similar deceptive practices.

[2005, c. 583, §5 (AMD); 2005, c. 583, §14 (AFF) .]

§ 1347-A. Release or use of personal information prohibited

It is a violation of this chapter for an unauthorized person to release or use an individual's personal information acquired through a security breach. [2009, c. 161, §2 (new).]

§1348. Security breach notice requirements

1. Notification to residents. The following provisions apply to notification to residents by information brokers and other persons.

A. If an information broker that maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the information broker shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State whose personal information has been, or is reasonably believed to have been, acquired by an unauthorized person. [2005, c. 583, §6 (NEW); 2005, c. 583, §14 (AFF).]

B. If any other person who maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the person shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State if misuse of the personal information has occurred or if it is reasonably possible that misuse will occur. [2005, c. 583, §6 (NEW); 2005, c. 583, §14 (AFF).]

The notices required under paragraphs A and B must be made as expeditiously as possible and without unreasonable delay, consistent with the legitimate needs of law enforcement pursuant to subsection 3 or with measures necessary to determine the scope of the security breach and restore the reasonable integrity, security and confidentiality of the data in the system.

[2005, c. 583, §14 (AFF); 2005, c. 583, §6 (RPR) .]

2. Notification to person maintaining personal information. A 3rd-party entity that maintains, on behalf of a person, computerized data that includes personal information that the 3rd-party entity does not own shall notify the person maintaining personal information of a breach of the security of the system immediately following discovery if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person. [2005, c. 583, §7 (AMD); 2005, c. 583, §14 (AFF) .]

3. Delay of notification for law enforcement purposes. If, after the completion of an investigation required by subsection 1, notification is required under this section, the notification required by this section

may be delayed, for no longer than 7 business days after a law enforcement agency determines that the notification will not compromise a criminal investigation. [2009, c. 161, §3 (amd).]

4. Notification to consumer reporting agencies. If a person discovers a breach of the security of the system that requires notification to more than 1,000 persons at a single time, the person shall also notify, without unreasonable delay, consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 United States Code, Section 1681a(p). Notification must include the date of the breach, an estimate of the number of persons affected by the breach, if known, and the actual or anticipated date that persons were or will be notified of the breach. [2005, c. 583, §8 (AMD); 2005, c. 583, §14 (AFF) .]

5. Notification to state regulators. When notice of a breach of the security of the system is required under subsection 1, the person shall notify the appropriate state regulators within the Department of Professional and Financial Regulation, or if the person is not regulated by the department, the Attorney General. [2005, c. 583, §9 (AMD); 2005, c. 583, §14 (AFF) .]

§1349. Enforcement; penalties

1. Enforcement. The appropriate state regulators within the Department of Professional and Financial Regulation shall enforce this chapter for any person that is licensed or regulated by those regulators. The Attorney General shall enforce this chapter for all other persons. [2005, c. 583, §10 (AMD); 2005, c. 583, §14 (AFF) .]

2. Civil violation. A person that violates this chapter commits a civil violation and is subject to one or more of the following:

A. A fine of not more than \$500 per violation, up to a maximum of \$2,500 for each day the person is in violation of this chapter, except that this paragraph does not apply to State Government, the University of Maine System, the Maine Community College System or Maine Maritime Academy; [2005, c. 583, §11 (AMD); 2005, c. 583, §14 (AFF).]

B. Equitable relief; or [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

C. Enjoinment from further violations of this chapter. [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF).]

[2005, c. 583, §11 (AMD); 2005, c. 583, §14 (AFF) .]

3. Cumulative effect. The rights and remedies available under this section are cumulative and do not affect or prevent rights and remedies available under federal or state law. [2005, c. 379, §1 (NEW); 2005, c. 379, §4 (AFF) .]

4. Exceptions. A person that complies with the security breach notification requirements of rules, regulations, procedures or guidelines established pursuant to federal law or the law of this State is deemed to be in compliance with the requirements of section 1348 as long as the law, rules, regulations or guidelines provide for notification procedures at least as protective as the notification requirements of section 1348.

[2009, c. 161, §4 (amd).]

§1350-A. Rules; education and compliance

The following provisions govern rules and education and compliance. [2005, c. 583, §13 (NEW); 2005, c. 583, §14 (AFF).]

1. Rules. With respect to persons under the jurisdiction of the regulatory agencies of the Department of Professional and Financial Regulation, the appropriate state regulators within that department may adopt rules as necessary for the administration and implementation of this chapter. With respect to all other persons, the Attorney General may adopt rules as necessary for the administration and implementation of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 583, §13 (NEW); 2005, c. 583, §14 (AFF) .]

2. Education and compliance. The appropriate state regulators within the Department of Professional and Financial Regulation shall undertake reasonable efforts to inform persons under the department's jurisdiction of their responsibilities under this chapter. With respect to all other persons, the Attorney General shall undertake reasonable efforts to inform such persons of their responsibilities under this chapter. [2005, c. 583, §13 (NEW); 2005, c. 583, §14 (AFF) .]

§ 1350-B. Reporting of identity theft; mandatory police report and possible investigation

A person who knows or reasonably believes that the person's personal information has been misused in violation of Title 17-A, section 905-A may report the misuse and obtain a police report by contacting the local law enforcement agency that has jurisdiction over the person's actual residence or place of business. That law enforcement agency shall make a police report of the matter and provide the complainant with a copy of that report. At its discretion, the law enforcement agency may undertake an investigation of the matter or refer it to another law enforcement agency. If the suspected crime was committed in a jurisdiction outside of the State, the local law

enforcement agency shall refer the report to the law enforcement agency where the suspected crime was committed. [2007, c. 634, §1 (NEW).]

Mandatory Energy Standards for Publicly Funded Buildings

§1412. Legislative findings and purpose

[2013, c. 120, § 1 (RP).]

....

§1414-A. Adoption of energy performance building standards by state agencies

[2013, c. 120, §9 (RP).]

....

§1415-D. Mandatory standards for commercial construction

Except as provided in this section, new construction or substantial renovation of any commercial building undertaken after January 1, 2004 must conform to ASHRAE Standard 62-2001 and either ASHRAE Standard 90.1-2001 or the 2003 edition of the International Energy Conservation Code published by the International Code Council under any of the compliance methods specified in the standards. For the purpose of this section, "substantial renovation" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation. [2005, c. 350, §9 (amd).]

1. Construction in anticipation of future sale or rental. Any person who constructs any commercial building after January 1, 1989 with the intent to sell or lease the building to another party whose energy requirements are unknown at the time of construction is subject to the following provisions.

A. The person constructing the building shall employ construction techniques and design features that permit the ready installation of energy efficient equipment and materials sufficient to meet the

standards established under this section that are applicable to all reasonably foreseeable uses of the building. [2005, c. 350, §9 (amd).]

B. The person to whom the building is sold or leased is responsible for promptly installing the materials and equipment necessary for the building to conform with the standards established under this section. [1987, c. 818, §4 (new).]

2. Repeal. This section is repealed December 1, 2010. [2009, c. 216, §A-2 (amd).]

Trademarks and Names - Oils

§1660. Enforcement

The Director of the Maine Agricultural Experiment Station shall analyze or cause to be analyzed such samples of internal combustion engine fuels, lubricating oils and other like products at such time and to such extent as the Attorney General may determine. The Attorney General shall enforce this chapter and for that purpose shall have full access at all reasonable hours to any place in which internal combustion engine fuels, lubricating oils and other like products are stored, transported, sold, offered or exposed for sale. The Attorney General may open any case, package or other container, tank, pump, tank car or storage tank and enter upon any barge, vessel or other vehicle of transportation and may, upon tendering the market price, take samples for analysis. The expense of such analysis and of the administration of this chapter shall be included in the expense of the administration of the tax on gasoline. [1979, c. 407, § 2 (amd).]

Maine Patent Program

§1921. Maine Patent Program

The Maine Patent Program, referred to in this chapter as the "program," is administered by the University of Maine System, Center for Advanced Technology Law and Management. The program's purpose is to support the commercialization and manufacturing of innovations in the State by providing education and assistance with the patent process of the United States Patent and Trademark Office to companies, inventors and entrepreneurs in the State. [1999, c. 731, Pt. WWW, §1 (new).]

1. Program components. The program must:

A. Provide at least 4 workshops each year on general topics concerning the patent process of the United States Patent and Trademark Office; [1999, c. 731, Pt. WWW, §1 (new).]

B. Provide at least 4 workshops each year on focused topics and specific training concerning the patent process of the United States Patent and Trademark Office; [1999, c. 731, Pt. WWW, §1 (new).]

C. Conduct innovation screening of 50 to 100 preliminary potential patent applications and patent searches on 25 to 50 potential patent applications each year; [1999, c. 731, Pt. WWW, §1 (new).]

D. Prepare 10 to 20 patent applications per year; [1999, c. 731, Pt. WWW, §1 (new).]

E. Provide licensing assistance; and [1999, c. 731, Pt. WWW, §1 (new).]

F. Provide other assistance concerning the patent process of the United States Patent and Trademark Office as needed. [1999, c. 731, Pt. WWW, §1 (new).]

[1999, c. 731, Pt. WWW, §1 (new).]

2. Applicant's costs and duties. An applicant accepted by the program shall pay the costs of the patent search and opinion and for patent prosecution if the final product is manufactured or licensed out of state. An applicant shall pay to the program a reasonable percentage of the royalties for any successful innovation patented through the program. [1999, c. 731, Pt. WWW, §1 (new).]

3. Staffing. The University of Maine System, Center for Advanced Technology Law and Management shall hire a director for the program. The director must be a professional who:

A. Is a registered patent attorney or patent agent; [1999, c. 731, Pt. WWW, §1 (new).]

B. Has experience in commercialization, such as working as an in-house patent professional for a large company or an academic or nonprofit technology transfer operation; [1999, c. 731, Pt. WWW, §1 (new).]

C. Has relevant experience working directly with manufacturers; [1999, c. 731, Pt. WWW, §1 (new).]

D. Has relevant experience working directly with entrepreneurial startups; [1999, c. 731, Pt. WWW, §1 (new).]

E. Has relevant experience working directly with independent inventors; [1999, c. 731, Pt. WWW, §1 (new).]

F. Has experience with equity and royalty offerings; [1999, c. 731, Pt. WWW, §1 (new).]

G. Has experience with successful licensing; and [1999, c. 731, Pt. WWW, §1 (new).]

H. Has experience in educating the general public through workshops, seminars and continuing education courses. [1999, c. 731, Pt. WWW, §1 (new).]

[1999, c. 731, Pt. WWW, §1 (new).]

4. Fund. The Maine Patent Fund, referred to in this chapter as the "fund," is established as a revolving, nonlapsing fund to supplement the Maine Patent Program. All money from royalties received from applicants pursuant to this chapter must be credited to the fund. Money in the fund not currently needed to meet expenses of the program must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund. Money in the fund may only be expended in accordance with allocations approved by the Legislature. [1999, c. 731, Pt. WWW, §1 (new).]

TITLE 12

Off-shore Wind Energy Test Areas

§ 1868. Identification of offshore wind energy test areas

1. Site identification process. No later than December 15, 2009, following consultation with the Department of Environmental Protection, the Public Utilities Commission, the Department of Inland Fisheries and Wildlife, the Maine Land Use Regulation Commission, the Department of Marine Resources, the Maine Historic Preservation Commission and the University of Maine System and opportunity for public comment, the department, in conjunction with the Executive Department, State Planning Office, shall identify and map up to 5 specific offshore wind energy test areas. An offshore wind energy test area identified under this subsection must be a geographic area on state-owned submerged lands suitable for offshore wind energy demonstration projects constructed and operated in accordance with Title 38, section 480-HH. In identifying each such area, the department must consider existing information regarding pertinent ecological, environmental, social and development-related factors, including but not limited to:

A. Potential adverse effects on a protected natural resource, as defined by Title 38, section 480-B, subsection 8, or a scenic resource of state or national significance, as defined by Title 35-A, section 3451, subsection 9;

B. Potential adverse effects on species listed as threatened or endangered under section 6975 or section 12803, subsection 3; avian species, including seabirds, passerines, raptors, shorebirds, water birds and waterfowl; bats; and marine mammals;

C. Potential adverse effects on commercial fishing, recreation, navigation, existing public access ways to intertidal and subtidal areas and other existing uses;

D. Proximity to deep water port facilities, rail transportation, transmission infrastructure facilities and existing ocean-based environmental monitoring devices;

E. Data regarding wind speed, ocean wave height and period, ocean currents and water depth;

F. Geology, including substrate type and other seafloor characteristics;

G. Public support in pertinent coastal communities; and

H. Historic sites and archaeological resources of state or national significance.

2. Maine Offshore Wind Energy Research Center. The department shall designate one of the areas identified under subsection 1 as the Maine Offshore Wind Energy Research Center for use by offshore wind energy demonstration projects conducted by or in cooperation with the University of Maine System and on terms and in a manner that the University of Maine System considers consistent with and in furtherance of its offshore wind energy research and development-related objectives, including but not limited to any such objectives to be supported with state bond revenues.

3. Modification of identified offshore wind energy test areas. Following the identification of offshore wind energy test areas under subsection 1, the department may, following notice and opportunity for public comment, add to, remove or otherwise modify the list of offshore wind energy test areas identified under subsection 1. In making modifications under this subsection, the department is subject to the site identification criteria under subsection 1, except that modifications under this subsection may result in more than 5 identified areas.

4. Judicial review. The identification of an offshore wind energy test area or areas under subsection 1 or subsection 3 constitutes final agency action.

[2009, c. 270, Pt.C (new).]

Department of Conservation

§5012. Duties of commissioner

....

The commissioner may work with representatives from the College of Forest Resources and the College of Business Administration in the University of Maine System, representatives from the forest industry and representatives from the business and finance community to develop curricula for a joint Master of Business Administration and Master of Science in Forestry degree program and to develop initiatives for forest products marketing, including continuing education courses for foresters in marketing and finance and to establish a faculty position in forest products marketing. [1989, c. 875, Pt. J, §1 (new).]

....

§6141. Lobster research program

The commissioner shall establish a program of lobster research within the Bureau of Resource Management. The purpose of this program is to develop reliable scientific information for use in management decisions. [1995, c. 665, Pt. M, §1 (amd).]

1. Research. The lobster research program shall include investigation of lobster population dynamics, reproductive behavior and migration patterns. Specific attention shall be given to evaluating the impacts of the State's v-notch program on the reproductive potential of lobster stocks. [1985. c. 677, §1 (new).]

2. Policy investigations. The commissioner shall develop in the lobster research program the capacity to systematically analyze the effects of conservation and management options. The analysis includes both the biological and economic components of the fishery. Options for policy analysis include, without limitation, changes in the lobster measures, seasons, limitations on effort and limitations on entry to the fishery. Analysis of these options shall be conducted cooperatively with the industry and the Lobster Advisory Council. [1985. c. 677, §1 (new).]

3. Data collection. The commissioner shall continue the lobster fisheries data collection project undertaken by the department since 1967. Continuity of data collection shall be ensured. [1985. c. 677, §1 (new).]

4. Cooperation. The commissioner shall cooperatively develop and coordinate the lobster research program with the University of Maine and the lobster industry. [1985. c. 677, §1 (new).]

5. Report. The commissioner shall prepare an annual report to the Legislature setting out the accomplishments of the previous year and an updated, 5-year research plan for future activities with proposed budget requirements. The report shall be reviewed by the Lobster Advisory Council prior to submission to the Legislature. The report shall be submitted to the joint standing committee of the Legislature having jurisdiction over marine resources on or before March 15th of each year. [1987, c. 694, § 2 (amd).]

6. Funds. All federal and state funds obtained and used by the department for lobster research shall be utilized to achieve the objectives of this subchapter. [1985. c. 677, §1 (new).]

TITLE 13

Uniform Prudent Management of Institutional Funds Act

§ 5101. Short title

This chapter may be known and cited as "the Uniform Prudent Management of Institutional Funds Act."

§ 5102. Definitions

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

1. Charitable purpose. "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose or any other purpose the achievement of which is beneficial to the community.

2. Endowment fund. "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.

3. Gift instrument. "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to or held by an institution as an institutional fund.

4. Historic dollar value. "Historic dollar value" means the aggregate value in dollars of:

A. Each endowment fund at the time it became an endowment fund;

B. Each subsequent donation to the fund at the time the donation is made; and

C. Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

An institution's determination of historic dollar value made in good faith is conclusive.

5. Institution. "Institution" means:

A. A person, other than an individual, organized and operated exclusively for charitable purposes;

B. A government or governmental subdivision, agency or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

C. A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

6. Institutional fund. "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include:

A. Program-related assets;

B. A fund held for an institution by a trustee that is not an institution; or

C. A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

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

8. Program-related asset. "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

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

§ 5103. Standard of conduct in managing and investing institutional fund

1. Consideration of purposes. Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

2. Loyalty; good faith; care. In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

3. Costs; facts. In managing and investing an institutional fund, an institution:

A. May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution and the skills available to the institution; and

B. Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

4. Pooling funds. An institution may pool 2 or more institutional funds for purposes of management and investment.

5. Rules. Except as otherwise provided by a gift instrument, the following rules apply.

A. In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences, if any, of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(5) The expected total return from income and the appreciation of investments;

(6) Other resources of the institution;

(7) The needs of the institution and the fund to make distributions and to preserve capital;
and

(8) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

B. Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

C. Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with this section.

D. An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

E. Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

F. A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

G. An institution shall track the historic dollar value of its institutional funds. For purposes of this paragraph, "historic dollar value" means the aggregate value in dollars of:

(1) Each endowment fund at the time it became an endowment fund;

(2) Each subsequent donation to the fund at the time the donation is made; and

(3) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund.

§ 5104. Appropriation for expenditure or accumulation of endowment fund; rules of construction

1. Appropriate; accumulate; donor-restricted; good faith; care. Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- A. The duration and preservation of the endowment fund;
- B. The purposes of the institution and the endowment fund;
- C. General economic conditions;
- D. The possible effect of inflation or deflation;
- E. The expected total return from income and the appreciation of investments;
- F. Other resources of the institution; and
- G. The investment policy of the institution.

2. Limitation. To limit the authority to appropriate for expenditure or accumulate under subsection 1, a gift instrument must specifically state the limitation.

3. Terms. Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends" or "rents, issues or profits," or "to preserve the principal intact" or words of similar import:

A. Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

B. Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1.

4. Track historic dollar value. An institution shall track the historic dollar value of its institutional funds.

5. Aggregate value of \$2,000,000 or more. An institution administering endowment funds with an aggregate value of \$2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of this Act.

6. Aggregate value of less than \$2,000,000. An institution administering endowment funds with an aggregate value of less than \$2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds. During the 60-day period, the Attorney General may require the institution to obtain court approval for the proposed expenditure.

7. Rebuttable presumption. The appropriation for expenditure in any year of an amount greater than 7% of the fair market value of an endowment fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than 3 years immediately preceding the year in which the appropriation for expenditure is made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for less than 3 years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument.

§ 5105. Delegation of management and investment functions

1. Delegation. Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An

institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

A. Selecting an agent;

B. Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

C. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

2. Agent's duty. In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

3. Liability of institution. An institution that complies with subsection 1 is not liable for the decisions or actions of an agent to which the function was delegated.

4. Submits to jurisdiction. By accepting delegation of a management or investment function from an institution that is subject to the laws of this State, an agent submits to the jurisdiction of the courts of this State in all proceedings arising from or related to the delegation or the performance of the delegated function.

5. Committees; officers; employees. An institution may delegate management and investment functions to its committees, officers or employees as authorized by the laws of this State other than provisions of this chapter.

§ 5106. Release or modification of restrictions on management, investment or purpose

1. Release or modification of restriction with consent. If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

2. Modification of restriction by court. The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the

fund or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the Attorney General of the application and the Attorney General must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

3. Modification by court when unlawful, impracticable, impossible or wasteful restriction. If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the Attorney General of the application and the Attorney General must be given an opportunity to be heard.

4. Release or modification by institution. This subsection governs the release or modification of a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund that the institution determines is unlawful, impracticable, impossible to achieve or wasteful.

A. If an institution determines that a restriction contained in a gift instrument on the management, investment or purpose of an institutional fund is unlawful, impracticable, impossible to achieve or wasteful, the institution, 60 days after notification to the Attorney General and if the Attorney General does not object, may release or modify the restriction, in whole or part, if:

(1) The institutional fund subject to the restriction has a total value of less than \$25,000, except that the dollar limit established in this paragraph must be adjusted to reflect changes in the Consumer Price Index for all Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics, or its successor index, using 2009 as the base year. On or before January 1, 2011, and each odd-numbered year thereafter, the dollar value must be adjusted for the next 2-year cycle if the cumulative percentage of change in the index, from the base year or from a later year that was the basis of an adjustment of this amount pursuant to this subparagraph, rounded to the nearest whole percentage point, is in excess of 10%. The adjusted exemption must be rounded upward to the nearest \$5,000 increment. The dollar value must not be reduced below \$25,000;

(2) More than 20 years have elapsed since the fund was established; and

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

B. If the Attorney General objects under paragraph A, the institution may seek to release or modify the restriction in court pursuant to subsection 3.

§ 5107. Reviewing compliance

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken and not by hindsight.

§ 5108. Application to existing institutional funds

This chapter applies to institutional funds existing on or established after July 1, 2009. As applied to institutional funds existing on July 1, 2009, this chapter governs only decisions made or actions taken on or after that date.

§ 5109. Relation to federal Electronic Signatures in Global and National Commerce Act

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede 15 United States Code, Section 7001(a), or authorize electronic delivery of any of the notices described in 15 United States Code, Section 7003(b).

§ 5110. Uniformity of application and construction

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5111. Effective date

This chapter takes effect July 1, 2009.

[REPEALED & REPLACED, 2009, c. 450.]

TITLE 14

Immunity for Charitable Directors, Officers and Volunteers

§158-A. Immunity for charitable directors, officers and volunteers

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

A. "Charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State:

(1) That is exempt from federal income taxation under the United States Internal Revenue Code, Section 501(a), because it is described in Section 501(c)(3), (4), (6) as it pertains to chambers of commerce only, (10), (13), (14)(A) or (19), including all subsequent amendments to those paragraphs. An organization is included in this subparagraph if it would be exempt from taxation under Section 501(c)(3) but for its engaging in attempting to influence legislation to the extent that it is disqualified from tax exemption under Section 501(c)(3); or

(2) That is:

(a) Organized under the Maine Nonprofit Corporation Act for any of the purposes listed in Title 13-B, section 201, subsection 1, paragraph A;

(b) Organized under the provisions set forth in Title 13-B, section 201, subsection 2, paragraph A;

(c) Organized under the provisions of Title 13-B, section 201, subsection 3, paragraph D or E;

(d) Organized in Maine as a nonprofit corporation before January 1, 1978, for any of the purposes listed in Title 13-B, section 201, subsection 1, paragraph A, and to which the Maine Nonprofit Corporation Act applies; or

(e) Organized as a rural electrification cooperative under the provisions of Title 35-A, chapter 37.

This subparagraph applies to all subsequent amendments to the statutes covered by divisions (a), (b), (c), (d) and (e). [2007, c. 366, §1 (amd).]

B. "Director" means a person who serves without compensation, except that the person may be paid for expenses, on the board of trustees or board of directors of a charitable organization. [1987, c. 646, §2 (new).]

C. "Officer" means a person who serves without compensation, except that the person may be paid for expenses, as an officer of a charitable organization. [1987, c. 646, §2 (new).]

D. "Volunteer" means a person who provides services without compensation, except that the person may be paid for expenses, to a charitable organization. [1987, c. 646, §2 (new).]

[1991, c. 795, §1 (amd).]

2. Immunity. A director, officer or volunteer is immune from civil liability for personal injury, death or property damage, including any monetary loss:

A. When the cause of action sounds in negligence and arises from an act or omission by the director, officer or volunteer which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves; or [1987, c. 646, §2 (new).]

B. Arising from any act or omission, not personal to the director, officer or volunteer, which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves. [1987, c. 646, §2 (new).]

[1987, c. 646, §2 (new).]

3. Limited waiver of immunity while operating vehicles, vessels or aircraft. Notwithstanding any immunity granted in subsection 2, a director, officer or volunteer is considered to have waived immunity from liability when the cause of action arises out of the director's, officer's or volunteer's operation of a motor vehicle, vessel, aircraft or other vehicle for which the operator or the owner of the vehicle, vessel or craft is required to possess an operator's license or maintain insurance. The amount of damages in an action authorized by this section may not exceed the combined limits of coverage of any applicable insurance policies other than umbrella insurance coverage and the courts shall abate a verdict in an action to the extent that it exceeds such limits. A provision in a policy of insurance that attempts to exclude coverage for claims that are authorized by this section is void as contrary to public policy. [1999, c. 572, §1 (new); §2 (aff).]

Good Samaritan Law

§164. Immunity from civil liability

Notwithstanding any inconsistent provisions of any public or private and special law, any person who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, shall not be liable for damages for injuries alleged to have been sustained by such person nor for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance, unless it is established that such injuries or such death were caused willfully, wantonly or recklessly or by gross negligence on the part of such person. This section shall apply to members or employees of nonprofit volunteer or governmental ambulance, rescue or emergency units, whether or not a user or service fee may be charged by the nonprofit unit or the governmental entity and whether or not the members or employees receive salaries or other compensation from the nonprofit unit or the governmental entity. This section shall not be construed to require a person who is ill or injured to be administered first aid or emergency treatment if such person objects thereto on religious grounds. This section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic. [1977, c. 69 (amd).]

Maine Tort Claims Act

§8101. Title

This chapter shall be known and may be cited as the "Maine Tort Claims Act." [1977, c. 2, § 2 (new).]

§8102. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [1977, c. 2, §2 (new).]

1. Employee. "Employee" means a person acting on behalf of a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216; members of the Maine National Guard but only while performing state active service pursuant to Title 37-B; sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135; and persons while performing a search and rescue activity when requested by a state, county or local governmental entity, but the term "employee" does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity. [2003, c. 489, §1 (amd).]

1-A. Emergency medical service. "Emergency medical service" means:

A. A nonprofit, incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B, receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30-A, chapter 115 or 119, except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30-A, chapter 115 or 119; and [2005, c. 398, §1 (new).]

B. A for-profit, incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B only when the emergency medical service is acting within the scope of emergency response activities expressly authorized by a contract between the emergency medical service and the State, municipality, county or entity created under Title 30-A, chapter 115 or 119. [2005, c. 398, §1 (new).]

[2005, c. 398, §1 (rpr).]

2. Governmental entity. "Governmental entity" means and includes the State and political subdivisions as defined in subsection 3. [1977, c. 2, §2 (new).]

2-A. Permitted by this chapter or permitted under this chapter. "Permitted by this chapter" or "permitted under this chapter," as applied to claims or actions against a governmental entity or its

employees, shall be construed to include all claims or actions expressly authorized by this Act against a governmental entity and all common law claims or actions against employees for which immunity is not expressly provided by this Act. [1985, c. 599, §§1, 4 (new).]

3. Political subdivision. "Political subdivision" means any city, town, plantation, county, administrative entity or instrumentality created pursuant to Title 30-A, chapters 115 and 119, incorporated fire-fighting unit that is organized under Title 13-B and is officially recognized by any authority created by statute, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district, school district of any type, an airport authority established pursuant to Title 6, chapter 10, any volunteer fire association as defined in Title 30-A, section 3151, a transit district as defined in Title 30-A, section 3501, subsection 1, a regional transportation corporation as defined in Title 30-A, section 3501, subsection 2, and any emergency medical service. [2007, c. 563, §2 (amd).]

4. State. "State" means the State of Maine or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Community College System, the Maine Veterans' Homes, the Maine State Retirement System, the Maine Military Authority and all such other state entities. [2001, c. 374, §5 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

§8103. Immunity from suit

1. Immunity. Except as otherwise expressly provided by statute, all governmental entities shall be immune from suit on any and all tort claims seeking recovery of damages. When immunity is removed by this chapter, any claim for damages shall be brought in accordance with the terms of this chapter. [1977, c. 578, § 1 (rpr).]

2. Examples. [1987, c. 740, §1 (rp).]

3. Personal liability; employee of a governmental entity. [1987, c. 740, §2 (rp).]

§8104-A. Exceptions to immunity

Except as specified in section 8104-B, a governmental entity is liable for property damage, bodily injury or death in the following instances. [1987, c. 740, §4 (new).]

1. Ownership; maintenance or use of vehicles, machinery and equipment. A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or use of any:

A. Motor vehicle, as defined in Title 29-A, section 101, subsection 42; [1995, c. 65, Pt. A, §43 (amd); §153 (aff); Pt. C, §15 (aff).]

B. Special mobile equipment, as defined in Title 29-A, section 101, subsection 70; [1995, c. 65, Pt. A, §43 (amd); §153 (aff); Pt. C, §15 (aff).]

C. Trailers, as defined in Title 29-A, section 101, subsection 86; [1995, c. 65, Pt. A, §43 (amd); §153 (aff); Pt. C, §15 (aff).]

D. Aircraft, as defined in Title 6, section 3, subsection 5; [1987, c. 740, §4 (new).]

E. Watercraft, as defined in Title 12, section 1872, subsection 14; [1997, c. 678, §18 (amd).]

F. Snowmobiles, as defined in Title 12, section 13001, subsection 25; and [2003, c. 414, Pt. B, §27 (amd); c. 614, §9 (aff).]

G. Other machinery or equipment, whether mobile or stationary. [1987, c. 740, §4 (new).]

The provisions of this section do not apply to the sales of motor vehicles and equipment at auction by a governmental entity. [2003, c. 414, Pt. B, §27 (amd); c. 614, §9 (aff).]

2. Public buildings. A governmental entity is liable for its negligent acts or omissions in the construction, operation or maintenance of any public building or the appurtenances to any public building. Notwithstanding this subsection, a governmental entity is not liable for any claim which results from:

A. The construction, ownership, maintenance or use of:

(1) Unimproved land;

(2) Historic sites, including, but not limited to, memorials, as defined in Title 12, section 1801, subsection 5;

(3) Land, buildings, structures, facilities or equipment designed for use primarily by the public in connection with public outdoor recreation; or

(4) Dams; [1997, c. 678, §19 (amd).]

B. The ownership, maintenance or use of any building acquired by a governmental entity for reasons of tax delinquency, from the date of foreclosure and until actual possession by the delinquent taxpayer or the taxpayer's lessee or licensee has ceased for a period of 60 days; or [1987, c. 740, §4 (new).]

C. The ownership, maintenance or use of any building acquired by a governmental entity by eminent domain or by condemnation until actual possession by the former owner or the owner's lessee or licensee has ceased for a period of 60 days; [1987, c. 740, §4 (new).]

[1997, c. 678, §19 (amd).]

3. Discharge of pollutants. A governmental entity is liable for its negligent acts or omissions in the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalines, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water, but only to the extent that the discharge, dispersal, release or escape complained of is sudden and accidental. [1987, c. 740, §4 (new).]

4. Road construction, street cleaning or repair. A governmental entity is liable for its negligent acts or omissions arising out of and occurring during the performance of construction, street cleaning or repair operations on any highway, town way, sidewalk, parking area, causeway, bridge, airport runway or taxiway, including appurtenances necessary for the control of those ways including, but not limited to, street signs, traffic lights, parking meters and guardrails. A governmental entity is not liable for any defect, lack of repair or lack of sufficient railing in any highway, town way, sidewalk, parking area, causeway, bridge, airport runway or taxiway or in any appurtenance thereto. [1987, c. 740, §4 (new).]

§8104-B. Immunity notwithstanding waiver

Notwithstanding section 8104-A, a governmental entity is not liable for any claim which results from: [1987, c. 740, §4 (new).]

1. Undertaking of legislative act. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve; [1987, c. 740, §4 (new).]

2. Undertaking of judicial act. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial; [1987, c. 740, §4 (new).]

3. Performing discretionary function. Performing or failing to perform a discretionary function or duty, whether or not the discretion is abused and whether or not any statute, charter, ordinance, order, resolution or policy under which the discretionary function or duty is performed is valid or invalid, except that if the discretionary function involves the operation of a motor vehicle, as defined in Title 29-A, section 101, subsection 42, this section does not provide immunity for the governmental entity for an employee's negligent operation of the motor vehicle resulting in a collision, regardless of whether the employee has immunity under this chapter; [2005, c. 448, §1 (amd).]

4. Performing prosecutorial function. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; [1987, c. 740, §4 (new).]

5. Activities of state military forces. The activities of the state military forces when on duty pursuant to Title 37-B or 32 United States Code; [1995, c. 196, Pt. D, §2 (amd).]

6. Leasing of governmental property. The leasing of governmental property, including buildings, to other organizations; [1999, c. 456, §1 (amd).]

7. Certain services. A decision not to provide communications, heat, light, water, electricity or solid or liquid waste collection, disposal or treatment services; and [1999, c. 456, §1 (amd).]

8. Failure or malfunction of computer. The direct or indirect failure or malfunction of computer hardware, computer software or any device containing a computer processor or chip that fails to accurately or properly recognize, calculate, display, sort or otherwise process dates or times as a result of the Year 2000 problem. This provision applies to failures or malfunctions occurring before January 2, 2001.

For purposes of this section, the "Year 2000 problem" means complications associated with using a 2-digit field to represent a year and its result on the year change from 1999 to 2000. These complications may include, but are not limited to:

A. Erroneous date calculations; [1999, c. 456, §2 (new).]

B. An ambiguous interpretation of the term "00"; [1999, c. 456, §2 (new).]

C. The failure to recognize the year 2000 as a leap year; [1999, c. 456, §2 (new).]

D. The use of algorithms that use the term "99" or "00" as a flag for another function; [1999, c. 456, §2 (new).]

E. Problems arising from the use of applications, software or hardware that are date sensitive; and [1999, c. 456, §2 (new).]

F. The inability to distinguish between centuries. [1999, c. 456, §2 (new).]

[1999, c. 456, §2 (new).]

§8104-C. Wrongful death action

Subject to any immunity provided by this chapter or otherwise provided by law, actions for the death of a person brought by the personal representatives of the deceased person against a governmental entity or employee shall be brought in the same manner that is provided for similar actions in Title 18-A, section 2-804 and amounts recovered shall be disposed of as required in that section; provided that the limitations of sections 8104-D and 8105 shall apply. [1987, c. 740, §4 (new).]

§8104-D. Personal liability of employees of a governmental entity

Except as otherwise expressly provided by section 8111 or by any other law, and notwithstanding the common law, the personal liability of an employee of a governmental entity for negligent acts or omissions within the course and scope of employment shall be subject to a limit of \$10,000 for any such claims arising out of a single occurrence and the employee is not liable for any amount in excess of that limit on any such claims. [1987, c. 740, §4 (new).]

§8105. Limitation on damages

1. Limit established. In any claim or cause of action permitted by this chapter, the award of damages, including costs, against either a governmental entity or its employees, or both, may not exceed \$400,000 for any and all claims arising out of a single occurrence. [1999, c. 460, §1 (amd); §2 (aff).]

2. Costs. Court costs, prejudgment interest and all other costs that a court may assess must be included within the damage limit specified by this section. Accrued post-judgment interest may not be included within the damage limit. [1995, c. 61, §1 (amd).]

3. Claims in excess of limit. When a claimant or several claimants believe they may have a claim against the State in excess of the limit established in subsection 1, or for a claim for which the State is immune, they may apply to the Legislature for special authorization to proceed within another specified limit. [1977, c. 2, §2 (new).]

4. Apportionment of claims. 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 his equitable share of the total, limited as required by this section.

A. Any award by the court in excess of the maximum liability limit specified by subsection 1 shall be automatically abated by operation of this section to the maximum limit of liability. [1977, c. 2, §2 (new).]

[1977, c. 2, §2 (new).]

5. Exclusion from judgment or award. No judgment or award against a governmental entity shall include punitive or exemplary damages. [1977, c. 2, §2 (new).]

§8106. Jurisdiction of the court

1. Original jurisdiction. The Superior Court shall have original jurisdiction over all claims permitted under this chapter and not settled in accordance with section 8109. [1977, c. 78, § 114 (amd).]

2. Appeals.

A. Copies of each notice of appeal filed in an action arising under this chapter shall be served on the Attorney General at the same time as such notice is served upon the parties to the action. [1977, c. 2, § 2 (new).]

B. The Attorney General shall have the right to appear before the Supreme Judicial Court by brief and oral argument as a friend of the court in any appeal in an action arising under this chapter where the Attorney General is not appearing representing a party to the action. [1977, c. 2, § 2 (new).] [1977, c. 2, § 2 (new).]

§8107. Notice to governmental entity

1. Notice requirements for filing. Within 180 days after any claim or cause of action permitted by this chapter accrues, or at a later time within the limits of section 8110, when a claimant shows good cause why notice could not have reasonably been filed within the 180-day limit, a claimant or a claimant's personal representative or attorney shall file a written notice containing:

A. The name and address of the claimant, and the name and address of the claimant's attorney or other representative, if any; [1989, c. 327 (amd).]

B. A concise statement of the basis of the claim, including the date, time, place and circumstances of the act, omission or occurrence complained of; [1977, c. 2, §2 (new).]

C. The name and address of any governmental employee involved, if known; [1977, c. 2, §2 (new).]

D. A concise statement of the nature and extent of the injury claimed to have been suffered; and [1977, c. 2, §2 (new).]

E. A statement of the amount of monetary damages claimed. [1977, c. 2, §2 (new).]

[1989, c. 327 (amd).]

2. Incapacity. If the claimant is incapacitated and thereby prevented from presenting and filing the claim within the time prescribed or if the claimant is a minor, the claim may be presented and filed on behalf of the claimant by any relative, attorney or agent representing the claimant. If the claimant is a minor when the cause of action accrues, the notice may be presented within 180 days of the minor's attaining 18 years of age. [2001, c. 249, §1 (amd).]

3. Notices.

A. If the claim is against the State or an employee thereof, copies of the notice shall be addressed to and filed with the state department, board, agency, commission or authority whose act or omission is said to have caused the injury and the Attorney General. [1977, c. 2, §2 (new).]

B. Notice of claims against any political subdivision or an employee thereof shall be addressed to and filed with one of the persons upon whom a summons and complaint could be served under the Maine Rules of Civil Procedure, Rule 4, in a civil action against a political subdivision. [1977, c. 578, §3 (amd).]

[1979, c. 578, §3 (amd).]

4. Substantial notice compliance required. No claim or action shall be commenced against a governmental entity or employee in the Superior Court unless the foregoing notice provisions are substantially complied with. A claim filed under this section shall not be held invalid or insufficient by reason of an inaccuracy in stating the time, place, nature or cause of the claim, or otherwise, unless it is shown that the governmental entity was in fact prejudiced thereby. A claim filed under this section shall not be held invalid solely because a claim based on the same facts was filed under a different statutory procedure and was disallowed. [1977, c. 591, §3 (amd).]

5. Definition of good cause. "Good cause" as used in subsection 1 includes but is not limited to any cases in which any official of the governmental entity whose duties and authority include the settlement of tort claims or any tort liability insurer of the governmental entity makes direct oral or written contacts with the claimant or the claimant's personal representative or attorney, including payments to or on behalf of the

claimant, that contain or imply a promise of coverage sufficient to cause a reasonable person to believe that the losses for which no timely notice claim is filed would be covered.

If oral or written contact is limited to coverage for specific injuries or damage, a claimant is not excused from filing the notice required by this section in relation to other claims or causes of action permitted by this chapter that arise out of the same incident or event.

Nothing in this subsection prevents the injured party and an agent or insurer of the governmental entity from entering into a consensual agreement pursuant to which the injured party releases the governmental entity from any further liability in exchange for an agreed upon consideration.

[1991, c. 460 (new).]

§8108. Time for allowance or denial of claims

Within 120 days after the filing of the claim with the governmental entity, the governmental entity shall act thereon and notify the claimant in writing of its approval or denial of the monetary damages claimed. A claim shall be deemed to have been denied if at the end of the 120-day period the governmental entity has failed to approve or deny the claim. [1977, c. 2, § 2 (new).]

§8109. Compromise and settlement

1. Procedures for State. The State has authority to settle claims filed against it pursuant to sections 8104A, 8104B, 8104C and 8104D in accordance with the following procedures.

A. Any agency may settle any claim for an amount of \$1,500 or less when such settlement is approved by the appropriate department or agency head in accordance with rules adopted by the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §114 (amd).]

B. Any other claim may be settled when such settlement is approved by the head of the department or agency against which the claim is filed, the Commissioner of Administrative and Financial Services and the Attorney General. [1991, c. 780, Pt. Y, §114 (amd).]

[2009, c. 652, Pt. B, §4 (amd).]

2. Procedures for political subdivisions. Any political subdivision may settle claims filed against it pursuant to sections 8104A, 8104B, 8104C and 8104D in accordance with procedures duly promulgated by its governing body. [2009, c. 652, Pt. B, §5 (amd).]

3. Limitations on payment under settlement. When the State or a political subdivision becomes obligated to pay a claim as a result of a settlement, the limitations on payment provided by sections 8105 and 8115 shall apply in the same manner as if the State or political subdivision in question became obligated to pay the funds as a result of a judgment of the court. [1977, c. 2, §2 (new).]

4. Release. The acceptance by a claimant of any settlement under this section shall be final and conclusive on the claimant and shall constitute a complete release of any further claims against the governmental entity and against any employees of the governmental entity whose acts or omissions gave rise to the claim. [1987, c. 740, §7 (new).]

§8110. Limitation of actions

Every claim against a governmental entity or its employees permitted under this chapter is forever barred from the courts of this State, unless an action therein is begun within 2 years after the cause of action accrues, except that, if the claimant is a minor when the cause of action accrues, the action may be brought within 2 years of the minor's attaining 18 years of age. [2001, c. 249, §2 (amd).]

§8111. Personal immunity for employees; procedure

1. Immunity. Notwithstanding any liability that may have existed at common law, employees of governmental entities shall be absolutely immune from personal civil liability for the following:

A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve; [1987, c. 740, §8 (rpr).]

B. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial; [1987, c. 740, §8 (rpr).]

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid; [1987, c. 740, §8 (rpr).]

D. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; [2001, c. 662, §7 (amd).]

E. Any intentional act or omission within the course and scope of employment; provided that such immunity does not exist in any case in which an employee's actions are found to have been in bad faith; or [2001, c. 662, §8 (amd).]

F. Any act by a member of the Maine National Guard within the course and scope of employment; except that immunity does not exist when an employee's actions are in bad faith or in violation of military orders while the employee is performing active state service pursuant to Title 37-B. [2001, c. 662, §9 (new).]

The absolute immunity provided by paragraph C shall be applicable whenever a discretionary act is reasonably encompassed by the duties of the governmental employee in question, regardless of whether the exercise of discretion is specifically authorized by statute, charter, ordinance, order, resolution, rule or resolve and shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties. [2001, c. 662, §§7-9 (amd).]

2. Attachment and trustee process. Attachment, pursuant to Rule 4A, Maine Rules of Civil Procedure, and trustee process, pursuant to Rule 4B, Maine Rules of Civil Procedure, shall not be used in connection with the commencement of a civil action against an employee of a governmental entity based on any act or omission of the employee in the course and scope of employment. [1987, c. 740, §9 (amd).]

§8112. Defense and indemnification of employees

1. When a governmental entity is not liable. A governmental entity, with the consent of the employee, shall assume the defense of and, in its discretion, may indemnify any employee against a claim which arises out of an act or omission occurring within the course and scope of employment and for which the governmental entity is not liable. Except as otherwise provided herein, in lieu of assuming the defense of an employee, a governmental entity may pay the reasonable attorneys' fees and court costs of the employee. If the defense of its employee creates a conflict of interest between the governmental entity and the employee, the governmental entity shall pay the reasonable attorneys' fees and court costs of the employee.

A governmental entity is not liable for the attorneys' fees and defense costs of its employee under this subsection in the event that the employee is determined to be criminally liable for the acts or omissions in question. In addition, after the litigation against the employee is concluded, a governmental entity may recoup any attorneys' fees and costs paid to outside counsel on behalf of the employee if the governmental entity proves that the employee acted in bad faith.

This subsection does not apply if the employee settles the claim without the consent of the governmental entity.

This subsection does not apply if notice is not required to have been filed as provided in section 8107 or if the employee does not notify the governmental entity within 30 days after receiving actual written notice of the claim or within 15 days after the service of a summons and complaint, if the governmental entity is prejudiced by the lack of such notice. [1987, c. 740, §10 (rpr).]

2. When the governmental entity is liable. A governmental entity shall, with the consent of the employee, assume the defense of and shall indemnify any employee against a claim which arises out of an act or omission occurring within the course and scope of employment and for which sovereign immunity has been waived under section 8104-A, under another law or by legislative authorization. Except as otherwise provided herein, in lieu of assuming the defense of an employee, the governmental entity may pay the reasonable attorneys' fees and court costs of the employee. If the defense of its employee creates a conflict of interest between the governmental entity and the employee, the governmental entity shall pay the reasonable attorneys' fees and court costs of the employee.

A governmental entity shall not be required to indemnify its employee and is not liable for the attorneys' fees and court costs of its employee under this subsection in the event that the employee is determined to be criminally liable for the acts or omissions in question. In addition, after the litigation against the employee is concluded, a governmental entity shall be relieved of any obligation to indemnify the employee for punitive damages and may recoup any attorneys' fees and costs paid to outside counsel if the governmental entity proves that the employee acted in bad faith.

This subsection does not apply if the employee settles the claim without the consent of the governmental entity.

This subsection does not apply if notice is not required to have been filed as provided in section 8107 or if the employee does not notify the governmental entity within 30 days after receiving actual written notice of the claim or within 15 days after the service of a summons and complaint if the governmental entity is prejudiced by the lack of such notice. [1987, c. 740, §11 (rpr).]

2-A. Suits against employees under federal law. A governmental entity, with the consent of the employee, shall assume the defense of and, in its discretion, may indemnify any employee against any claim

that is brought against the employee under any federal law and that arises out of an act or omission occurring within the course and scope of employment. Except as otherwise provided herein, in lieu of assuming the defense of an employee, the governmental entity may pay the reasonable attorneys' fees and court costs of the employee. If the defense of its employee creates a conflict of interest between the governmental entity and the employee, the governmental entity shall pay the reasonable attorneys' fees and court costs of the employee.

A governmental entity is not liable for the attorneys' fees and court costs of its employee under this subsection in the event that the employee is determined to be criminally liable for the acts or omission in question. In addition, after the litigation against the employee is concluded, a governmental entity may recoup any attorneys' fees and costs paid to outside counsel if the governmental entity proves the employee acted in bad faith.

This subsection does not apply if the employee settles the claim without the consent of the governmental entity.

This subsection does not apply if the employee does not notify the governmental entity within 15 days after the service of a summons and complaint if the governmental entity is prejudiced by the lack of such notice.

[1987, c. 740, §12 (new).]

3. Act or omission outside course or scope of employment. In cases when a governmental entity is obligated to indemnify an employee under subsection 2, the governmental entity may refuse to indemnify its employee if a court determines that the act or omission of the employee occurred outside the course and scope of that employment. [1987, c. 740, §13 (amd).]

4. Conditions under which discontinuation prohibited. [1987, c. 427, §5 (rp).]

5. Consent to suit; limit on recovery from employee. In any action on a claim against the State:

A. Which is in excess of the limit established in section 8105, subsection 1 and for which the Legislature has granted special authorization to proceed within a specified limit; or [1977, c. 578, §4 (new).]

B. For which the State is immune and for which the Legislature has granted special authorization to proceed within a specified limit; [1977, c. 578, §4 (new).]

The award of damages, including costs, against both the State and its employee shall not exceed the limit established by the Legislature. If, however, it is found that the act or omission occurred outside the course or scope of employment, the award of damages against that employee may exceed the limit specified by the Legislature. [1977, c. 578, §4 (new).]

6. This action shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance. [1977, c. 578, §4 (new).]

7. Independent contractors; leases. A governmental entity may, in its discretion, assume the defense of and may indemnify any person who is providing services to the governmental entity pursuant to a written contract or with whom the governmental entity has entered into an agreement for the lease of premises. [1977, c. 578, §4 (new).]

8. Liability under section 8104-D. A governmental entity shall purchase insurance or self-insure on behalf of its employees to insure them against their personal liability to the limit of their liability under section 8104-D and, to the extent that insurance coverage is not available, shall assume the defense of and indemnify those employees to the limit of their liability under section 8104-D. [1987, c. 740, §14 (new).]

9. Certain suits arising out of use of motor vehicles. A governmental entity is not required to assume the defense of or to indemnify an employee of that governmental entity who uses a privately owned vehicle, while acting in the course and scope of employment, to the extent that applicable liability insurance coverage exists other than that of the governmental entity. In such cases, the employee of the governmental entity and the owner of the privately owned vehicle may be held liable for the negligent operation or use of the vehicle but only to the extent of any applicable liability insurance, which constitutes the primary coverage of any liability of the employee and owner and of the governmental entity. To the extent that liability insurance other than that of the governmental entity does not provide coverage up to the limit contained in section 8105, the governmental entity remains responsible for any liability up to that limit. [1995, c. 462, Pt. C, §1 (ren); §§2,3 (aff).]

§8113. Liability not expanded, other remedies are exclusive

1. Liability not expanded unless chapter expressly provides. Except as expressly provided herein, nothing in this chapter shall enlarge or otherwise adversely affect the liability of an employee or a governmental entity. Any immunity or other bar to a civil lawsuit under Maine or federal law shall, where applicable, remain in effect. [1977, c. 2, § 2 (new).]

2. Effect of other statutes concerning immunity. When any other statute expressly provides a waiver of governmental, sovereign or official immunity, the provisions of that statute shall be the exclusive method for any recovery of funds in any fact situation to which that statute applies. [1977, c. 2, § 2 (new).]

§8114. Judgment against governmental entity or employee; effect

1. Separate action against governmental employee. Any judgment against a governmental entity shall constitute a complete bar to a separate action for damages by the claimant, by reason of the same subject matter, against any public employee whose act or omission gave rise to the claim. [1977, c. 2, § 2 (new).]

2. Separate action against governmental entity. Any judgment against any public employee whose act or omission gave rise to the claim shall constitute a complete bar to a separate action for injury by the claimant, by reason of the same subject matter, against a governmental entity. [1977, c. 2, § 2 (new).]

3. Joinder. Nothing contained in this section shall be construed as preventing the joinder of any governmental entity or employee of such governmental entity in the same action. [1977, c. 2, § 2 (new).]

§8115. Payment of claims or judgments when no insurance

1. Payment from next appropriation. In the event no insurance has been procured by the State to pay a claim or judgment arising under this chapter, and no appropriated funds are reasonably available, as determined by the Commissioner of Administrative and Financial Services, the claim or judgment must be paid from the next appropriation to the state instrumentality whose action or omission, or the action or omission of whose employee, gave rise to the claim. [1991, c. 780, Pt. Y, §115 (amd).]

2. Subdivision's plan for payment. In the event that a political subdivision has not procured insurance, the trial judge may accept a reasonable plan for the payment of the amount of the judgment. A payment plan may not exceed 5 years and may include interest at the rate provided in section 1602-C. [2003, c. 460, §8 (amd).]

§8116. Liability insurance

The legislative or executive body or any department of the State or any political subdivision may procure insurance against liability for any claim against it or its employees for which immunity is waived under this chapter or under any other law. If the insurance provides protection in excess of the limit of liability imposed by section 8105, then the limits provided in the insurance policy shall replace the limit imposed by section 8105. If the insurance provides coverage in areas where the governmental entity is immune, the governmental entity shall be liable in those substantive areas but only to the limits of the insurance coverage. Reserve funds, excess insurance or reinsurance contracts maintained by a governmental

entity, by an insurer providing liability insurance or by a public self-funded pool to meet obligations imposed by this Act shall not increase the limits of liability imposed by section 8105. [1987, c. 740, §15 (amd).]

A governmental entity or a public self-funded pool, which self-insures against the obligations and liabilities imposed by this Act, shall designate funds set aside to meet such obligations and liabilities as self-insurance funds. Any such governmental entity which self-insures under this Act or any entity that is a member of a public self-funded pool shall maintain as part of its public records a written statement which shall include a provision setting forth the financial limits of liability assumed by the governmental entity, those limits to be no less than the limits imposed in this Act, and a provision setting forth the scope of the liability assumed by the governmental entity, or the pool, that scope to be no less than that imposed in this Act. [1985, c. 713, § 2 (amd).]

A governmental entity may purchase insurance or may self-insure on behalf of its employees to insure them against any personal liability for which a governmental entity is obligated or entitled to provide defense or indemnity under section 8112. [1987, c. 740, §16 (rpr).]

Any insurance purchased by the State under this section must be purchased through the Department of Administrative and Financial Services, Risk Management Division. [2007, c. 466, Part A, §37 (amd).]

Note: This section not repealed, A.G.'s opinion per John Selser, August 27, 1982. PL 1979, c. 663, § 244 amended PL 1977, c. 578.

§8117. Prior claims

This chapter does not apply to any claim against any governmental entity or employee arising before its effective date. Any such claim may be presented and enforced to the same extent and be subject to the same defenses and limitations on recovery as if this chapter had not been adopted and as though any statute repealed by this chapter had remained in effect, and as though the doctrines of sovereign, governmental and official immunity had remained in full force and effect. Nothing herein shall be construed as denying a governmental entity the right or authority to defend or settle any claim either against it or against any of its employees pending at the time of the effective date of this chapter. [1977, c. 2, § 2 (new).]

§8118. Eleventh amendment

Nothing in this chapter or any other provision of state law shall be construed to waive the rights and protections of the State under the Eleventh Amendment of the United States Constitution, except where such waiver is explicitly stated by law and actions against the State for damages shall only be brought in the courts of the State in accordance with this chapter. [1977, c. 2, § 2 (new).]

TITLE 16

Criminal History Record Information Act

§701. Short title

This chapter may be known and cited as "the Criminal History Record Information Act."

§702. Scope; application

This chapter governs the dissemination of criminal history record information by a Maine criminal justice agency. This chapter establishes 2 distinct categories of criminal history record information and provides for the dissemination of each:

1. Public criminal history record information. Public criminal history record information, the dissemination of which is governed by section 704; and
2. Confidential criminal history record information. Confidential criminal history record information, the dissemination of which is governed by section 705.

§703. Definitions

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

1. Administration of criminal justice.

"Administration of criminal justice" means activities relating to the apprehension or summoning, detention, pretrial release, post-trial release, prosecution, adjudication, sentencing, correctional custody and supervision or rehabilitation of accused persons or convicted criminal offenders.

"Administration of criminal justice" includes the collection, storage and dissemination of criminal history record information.

2. Confidential criminal history record information.

"Confidential criminal history record information" means criminal history record information of the following types:

A. Unless the person remains a fugitive from justice, summons and arrest information without disposition if an interval of more than one year has elapsed since the date the person was summonsed or arrested and no active prosecution of a criminal charge stemming from the summons or arrest is pending;

B. Information disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor;

C. Information disclosing that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings;

D. Information disclosing that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge;

E. Information disclosing that a criminal proceeding has been indefinitely postponed or dismissed because the person charged is found by the court to be mentally incompetent to stand trial or to be sentenced;

F. Information disclosing that a criminal charge has been filed, if the filing period is indefinite or for more than one year;

G. Information disclosing that a criminal charge has been dismissed by a court with prejudice or dismissed with finality by a prosecutor other than as part of a plea agreement;

H. Information disclosing that a person has been acquitted of a criminal charge. A verdict or accepted plea of not criminally responsible by reason of insanity, or its equivalent, is not an acquittal of the criminal charge;

I. Information disclosing that a criminal proceeding has terminated in a mistrial with prejudice;

J. Information disclosing that a criminal proceeding has terminated based on lack of subject matter jurisdiction;

K. Information disclosing that a criminal proceeding has been terminated because the court lacked jurisdiction over the defendant; and

L. Information disclosing that a person has been granted a full and free pardon or amnesty.

3. Criminal history record information.

"Criminal history record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency that connects a specific, identifiable person, including a juvenile treated by statute as an adult for criminal prosecution purposes, with formal involvement in the criminal justice system either as an accused or as a convicted criminal offender. "Criminal history record information" includes, but is not limited to, identifiable descriptions or notations of: summonses and arrests; detention; bail; formal criminal charges such as complaints, informations and indictments; any disposition stemming from such charges; post-plea or post-adjudication sentencing; involuntary commitment; execution of and completion of any sentencing alternatives imposed; release and discharge from involuntary commitment; any related pretrial and post-trial appeals, collateral attacks and petitions; and petitions for and warrants of pardons, commutations, reprieves and amnesties.

"Criminal history record information" does not include: identification information such as fingerprints, palmprints, footprints or photographic records to the extent that the information does not indicate formal involvement of the specific individual in the criminal justice system; information of record of civil proceedings, including traffic infractions and other civil violations; intelligence and investigative record information as defined in section 803; or information of record of juvenile crime proceedings or their equivalent. Specific information regarding a juvenile crime proceeding is not criminal history record information notwithstanding that a juvenile has been bound over and treated as an adult or that by statute specific information regarding a juvenile crime proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in the criminal justice system either as an accused or as a convicted criminal offender" means being within the jurisdiction of the criminal justice system commencing with arrest, summons or initiation of formal criminal charges and concluding with the completion of every sentencing alternative imposed as punishment or final discharge from an involuntary commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent.

4. Criminal justice agency.

"Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes federal courts, Maine courts, courts in any other state, the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.

5. Disposition.

"Disposition" means information of record disclosing that a criminal proceeding has been concluded, although not necessarily finalized, and the specific nature of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a dismissal, with or without prejudice; the filing of a charge by agreement of the parties or by a court; the determination that a defendant is currently a fugitive from justice; a conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a deferred disposition; a proceeding indefinitely continued or dismissed due to a defendant's incompetence; a finding of not criminally responsible by reason of insanity or its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of judgment; a sentence imposition; a resentencing ordered; an execution of and completion of any sentence alternatives imposed, including but not limited to fines, restitution correctional custody and supervision, and administrative release; a release or discharge from a commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent; the death of the defendant; any related pretrial and post-trial appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and extradition. "Disposition" also includes information of record disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor, that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings or that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge.

6. Dissemination.

"Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

7. Executive order.

"Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.

8. Public criminal history record information.

"Public criminal history record information" means criminal history record information that is not confidential criminal history record information, including information recorded pursuant to section 706.

9. State.

"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.

10. Statute.

"Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.

§704. Dissemination of public criminal history record information

1. Generally. Public criminal history record information is public for purposes of Title 1, chapter 13. Public criminal history record information may be disseminated by a Maine criminal justice agency to any person or public or private entity for any purpose.

Public criminal history record information is public whether it relates to a crime for which a person is currently within the jurisdiction of the criminal justice system or it relates to a crime for which a person is no longer within that jurisdiction. There is no time limitation on dissemination of public criminal history record information.

2. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any public criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency employment.

§705. Dissemination of confidential criminal history record information

1. Generally. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information only to:

A. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment;

B. Any person for any purpose when expressly authorized by a statute, executive order, court rule, court decision or court order containing language specifically referring to confidential criminal history record information or one or more of the types of confidential criminal history record information;

C. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement must specifically authorize access to data, limit the use of the data to purposes for which given, ensure security and confidentiality of the data consistent with this chapter and provide sanctions for any violations;

D. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement must specifically authorize access to confidential criminal history record information, limit the use of the information to research, evaluation or statistical purposes, ensure the confidentiality and security of the information consistent with this chapter and provide sanctions for any violations;

E. Any person who makes a specific inquiry to the criminal justice agency as to whether a named individual was summonsed, arrested or detained or had formal criminal charges initiated on a specific date;

F. The public for the purpose of announcing the fact of a specific disposition that is confidential criminal history record information, other than that described in section 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that disposition or at any point in time if the person to whom the disposition relates specifically authorizes that it be made public; and

G. A public entity for purposes of international travel, such as issuing visas and granting of citizenship.

2. Confirming existence or nonexistence of information.

A Maine criminal justice agency may not confirm the existence or nonexistence of confidential criminal history record information to any person or public or private entity that would not be eligible to receive the information itself.

3. Required inquiry to State Bureau of Identification.

A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any confidential criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency use

§706. Public information about persons detained following arrest

1. Requirement of record. A Maine criminal justice agency that maintains a holding facility, as defined in Title 34-A, section 1001, subsection 9, or other facility for pretrial detention shall record the following information concerning each person delivered to it for pretrial detention for any period of time:

- A. The identity of the arrested person, including the person's name, year of birth, residence and occupation, if any;
- B. The statutory or customary description of the crime or crimes for which the person was arrested including the date and geographic location where the crime is alleged to have occurred;
- C. The date, time and place of the arrest; and
- D. The circumstances of the arrest including, when applicable, the physical force used in making the arrest, the resistance made to the arrest, what weapons were involved, the arrested person's refusal to submit and the pursuit by the arresting officers.

2. Time and method of recording. A Maine criminal justice agency shall record the information under subsection 1 immediately upon delivery of an arrested person to the criminal justice agency for detention. The criminal justice agency shall record and maintain the information in chronological order and keep the information in a suitable, permanent record. The information required by this section may be combined by a sheriff with the record required by Title 30-A, section 1505.

3. Information public. The information required to be recorded and maintained by this section is public criminal history record information.

§707. Unlawful dissemination of confidential criminal history record information

1. Offense. A person is guilty of unlawful dissemination of confidential criminal history record information if the person intentionally disseminates confidential criminal history record information knowing it to be in violation of any of the provisions of this chapter.

2. Classification. Unlawful dissemination of confidential criminal history record information is a Class E crime.

§708. Inapplicability of this chapter to criminal history record information contained in certain records

This chapter does not apply to criminal history record information contained in:

- 1. Posters, announcements, lists. Posters, announcements or lists used for identifying or apprehending fugitives from justice or wanted persons;
- 2. Records of entry. Records of entry, such as calls for service, formerly known as "police blotters," that are maintained by criminal justice agencies, that are compiled and organized chronologically and that are required by law or long-standing custom to be made public;

3. Records of public judicial proceedings. Records of public judicial proceedings:

A. Retained at or by the District Court, Superior Court or Supreme Judicial Court. Public access to and dissemination of such records for inspection and copying are as provided by rule or administrative order of the Supreme Judicial Court; and

B. From federal courts and courts of other states;

4. Published opinions. Published court or administrative opinions not impounded or otherwise declared confidential;

5. Records of public proceedings. Records of public administrative or legislative proceedings;

6. Records of traffic crimes. Records of traffic crimes maintained by the Secretary of State or by a state department of transportation or motor vehicles or the equivalent thereof for the purposes of regulating the issuance, suspension, revocation or renewal of a driver's, pilot's or other operator's license; and

7. Pardons, commutations, reprieves and amnesties. Petitions for and warrants of pardons, commutations, reprieves and amnesties.

§709. Right to access and review

1. Inspection. If a Maine criminal justice agency maintains criminal history record information about a person, the person or the person's attorney may inspect the criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary to ensure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The criminal justice agency shall supply the person or the person's attorney with a copy of the criminal history record information pertaining to the person on request and payment of a reasonable fee.

2. Review. A person or the person's attorney may request amendment or correction of criminal history record information concerning the person by addressing, either in person or in writing, the request to the criminal justice agency in which the information is maintained. The request must indicate the particular record involved, the nature of the amendment or correction sought and the justification for the amendment or correction. On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned criminal history record information is accurate and complete. If investigation reveals that the questioned criminal history record information is inaccurate or incomplete, the criminal justice agency shall immediately correct the error or deficiency. Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of a request, the criminal justice agency shall notify the requesting person in writing either that the criminal justice agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction. The notice of refusal must include the reasons for the refusal, the procedure established by the criminal justice agency for requesting a review by the head of the criminal justice agency of that refusal and the name and business address of that official.

3. Administrative appeal. If there is a request for review, the head of the criminal justice agency shall, not later than 30 days from the date of the request, excluding Saturdays, Sundays and legal public holidays, complete the review and either make the requested amendment or correction or refuse to do so. If the head of the criminal justice agency refuses to make the requested amendment or correction, the head of the criminal justice agency shall permit the requesting person to file with the criminal justice agency a concise statement setting forth the reasons for the disagreement with the refusal. The head of the criminal justice agency shall also notify the person of the provisions for judicial review of the reviewing official's determination under subsection 4. Disputed criminal history record information disseminated by the criminal justice agency with which the requesting person has filed a statement of disagreement must clearly reflect notice of the dispute after the filing of such a statement. A copy of the statement must be included, along with, if the criminal justice agency determines it appropriate, a copy of a concise statement of the criminal justice agency's reasons for not making the amendment or correction requested.

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the criminal justice agency, that decision is final agency action subject to appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to a written request as provided in subsection 2 or a court order, the criminal justice agency shall, within 30 days thereof, advise all prior recipients who have received that information within the year prior to the amendment or correction that the amendment or correction has been made. The criminal justice agency shall also notify the person who is the subject of the amended or corrected criminal history record information of compliance with this subsection and the prior recipients notified.

6. Right of access and review of court records. This section does not apply to the right of access and review by a person or the person's attorney of criminal history record information about that person retained at or by the District Court, Superior Court or Supreme Judicial Court. Access and review of court records retained by the District Court, Superior Court or Supreme Judicial Court are as provided by rule or administrative order of the Supreme Judicial Court.

§710. Application to prior Maine criminal history record information

The provisions of this chapter apply to criminal history record information in existence before July 29, 1976, including that which has been previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter.

INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION ACT

§801. Short title

This chapter may be known and cited as "the Intelligence and Investigative Record Information Act."

§802. Application

This chapter applies to a record that is or contains intelligence and investigative record information and that is collected by or prepared at the direction of or kept in the custody of any Maine criminal justice agency.

§803. Definitions

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

1. Administration of civil justice. "Administration of civil justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible civil violations and prospective and pending civil actions. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of civil justice.

"Administration of civil justice" does not include known, suspected or possible traffic infractions.

2. Administration of criminal justice. "Administration of criminal justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible crimes. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of criminal justice.

3. Administration of juvenile justice. "Administration of juvenile justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible juvenile crimes. "Administration of juvenile justice" includes the collection, storage and dissemination of intelligence and investigative information relating to the administration of juvenile justice.

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.

5. Dissemination. "Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

6. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.

7. Intelligence and investigative record information. "Intelligence and investigative record information" means information of record collected by or prepared by or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency while performing the administration of criminal justice or, exclusively for the Department of the Attorney General and district attorneys' offices, the administration of civil justice. "Intelligence and investigative record information" includes information of record concerning investigative techniques and procedures and security plans and procedures prepared or collected by a criminal justice agency or other agency. "Intelligence and investigative record information" does not include criminal history record information as defined in section 703, subsection 3 and does not include information of record collected or kept while performing the administration of juvenile justice.

8. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.

9. Statute. "Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.

§804. Limitation on dissemination of intelligence and investigative record information

Except as provided in sections 805 and 806, a record that contains intelligence and investigative record information is confidential and may not be disseminated by a criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would:

1. Interfere with criminal law enforcement proceedings. Interfere with law enforcement proceedings relating to crimes;
2. Result in dissemination of prejudicial information. 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;
3. Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy;

4. Disclose confidential source. Disclose the identity of a confidential source;
5. Disclose confidential information. Disclose confidential information furnished only by a confidential source;
6. Disclose trade secrets or other confidential commercial or financial information. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office;
7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;
8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;
9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute;
10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office;
11. Disclose arbitration or mediation information. Disclose conduct of 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; or
12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.

§805. Exceptions

This chapter does not preclude dissemination of intelligence and investigative record information that is confidential under section 804 by a Maine criminal justice agency to:

1. Another criminal justice agency. Another criminal justice agency;
2. A person or entity for purposes of intelligence gathering or ongoing investigation. A person or public or private entity as part of the criminal justice agency's administration of criminal justice or the administration of civil justice by the Department of the Attorney General or a district attorney's office;
3. An accused person or that person's agent or attorney. A person accused of a crime or that person's agent or attorney for trial and sentencing purposes if authorized by:
 - A. The responsible prosecutorial office or prosecutor; or
 - B. A court rule or court order of this State or of the United States.

As used in this subsection, "agent" means a licensed professional investigator, an expert witness or a parent, foster parent or guardian if the accused person has not attained 18 years of age;

4. Court. A federal court, the District Court, Superior Court or Supreme Judicial Court or an equivalent court in another state;

5. An authorized person or entity. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or

6. Secretary of State. The Secretary of State for use in the determination and issuance of a driver's license suspension.

§806. Exceptions subject to reasonable limitations

Subject to reasonable limitations imposed by a Maine criminal justice agency to protect against the harms described in section 804, this chapter does not preclude dissemination of intelligence and investigative record information confidential under section 804 by a Maine criminal justice agency to:

1. A government agency responsible for investigating child or adult abuse, neglect or exploitation. A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for investigating abuse, neglect or exploitation of children or incapacitated or dependent adults if the intelligence and investigative record information is used in the investigation of suspected abuse, neglect or exploitation;

2. A crime victim or that victim's agent or attorney. A crime victim or that victim's agent or attorney. As used in this subsection, "agent" means a licensed professional investigator or an immediate family member if due to death, age or physical or mental disease, disorder or defect the victim cannot realistically act on the victim's own behalf; or

3. A counselor or advocate. A sexual assault counselor, as defined in section 53-A, subsection 1, paragraph B, or an advocate, as defined in section 53-B, subsection 1, paragraph A, with a specific agreement with a criminal justice agency. An agreement between a criminal justice agency and a sexual assault counselor or an advocate must, at a minimum, include provisions that:

A. Permit the sexual assault counselor or advocate to use a report or record that contains intelligence and investigative record information if the intelligence and investigative record information is used in planning for the safety of a victim named in the report or record;

B. Prohibit the sexual assault counselor or advocate from further disseminating a report or record that contains intelligence and investigative record information;

C. Require the sexual assault counselor or advocate to ensure that a report or record that contains intelligence and investigative record information remain secure and confidential;

D. Require the sexual assault counselor or advocate to destroy a report or record that contains intelligence and investigative record information within 30 days after the sexual assault counselor's or advocate's receiving the report or record;

E. Permit the criminal justice agency to perform reasonable and appropriate audits in order to ensure that a report or record containing intelligence and investigative record information that are obtained by and that are in the custody of the sexual assault counselor or advocate are maintained in accordance with the requirements of this subsection;

F. Require the sexual assault counselor or advocate to indemnify and hold harmless the criminal justice agency with respect to any litigation that may result from the provision of reports or records that contain intelligence and investigative record information;

G. Permit a criminal justice agency to immediately and unilaterally revoke an agreement made under this subsection; and

H. Provide sanctions for any violations of this subsection.

The Commissioner of Public Safety may adopt a model agreement pursuant to this subsection for use by criminal justice agencies, sexual assault counselors and advocates.

§807. Confirming existence or nonexistence of confidential intelligence and investigative record information

A criminal justice agency may not confirm the existence or nonexistence of intelligence and investigative record information confidential under section 804 to any person or public or private entity that is not eligible to receive the information itself.

§808. No right to access or review

A person who is the subject of intelligence and investigative record information maintained by a criminal justice agency has no right to inspect or review that information for accuracy or completeness.

§809. Unlawful dissemination of intelligence and investigative record information

1. Offense. A person is guilty of unlawful dissemination of intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information knowing it to be in violation of any of the provisions of this chapter.

2. Classification. Unlawful dissemination of intelligence and investigative record information is a Class E crime.

[2013, c. 267, §A-1 (rpr).]

TITLE 17

Raffles and Games of Chance

§330. Definitions (REPEALED and REPLACED by PL 2009, c. 487, Pt. A, §§ 1 AND 2)

§331. Game of chance (REPEALED and REPLACED by PL 2009, c. 487, Pt. A, §§ 1 AND 2)

§331-A. Raffle prize values (REPEALED and REPLACED by PL 2009, c. 487, Pt. A, §§ 1 AND 2)

§ 332-A. License exceptions for games of chance (REPEALED and REPLACED by PL 2009, c. 487, Pt. A, §§ 1 AND 2)

§ 1831. Definitions

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

1. Agricultural society. "Agricultural society" or "fair" means a nonprofit agricultural fair society eligible for a stipend under Title 7, chapter 4.
2. Chief of State Police. "Chief of the State Police" or "chief" means the Chief of the State Police or the chief's designee.
3. Distributor. "Distributor" means a person, firm, corporation, association or organization that sells, markets or otherwise distributes sealed tickets, gambling apparatus or any other implements of gambling that may be used in the conduct of a game of chance.
4. Electronic video machine. "Electronic video machine" means a machine, however operated, that has a video screen featuring an electronically simulated game and delivers or entitles the person playing or operating it to receive the privilege of playing the electronic video machine without charge, but does not deliver or entitle the person playing or operating the electronic video machine to receive cash, premiums, merchandise, tickets or something of value other than the privilege of playing the electronic video machine without charge. An electronic video machine is a machine that may be licensed in accordance with section 1832, subsection 8. A machine that has a video screen featuring an electronically simulated slot machine as a game is not an electronic video machine, but is a machine as defined in subsection 9.
5. Game of chance. "Game of chance" means a game, contest, scheme or device in which:
 - A. A person stakes or risks something of value for the opportunity to win something of value;
 - B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and
 - C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck of cards, a roll of a die or dice or a random drawing or generation of an object that may include, but is not limited to, a card, a die, a number or simulations of any of these. A shuffle of a deck of cards, a roll of a die, a random drawing or generation of an

object or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo, a savings promotion raffle and table games as defined in Title 8, Section 1001, subsection 43-A are not games of chance. [2011, c. 420, Pt. A, §11 (amd).]

6. Game of skill. "Game of skill" means any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.
7. Gross revenue. "Gross revenue" means the total amount wagered in a game of chance less the prizes awarded.
8. Licensee. "Licensee" means a firm, corporation, association or organization licensed by the Chief of the State Police to operate a game of chance.
9. Machine. "Machine" means any machine, including electronic devices, however operated, the internal mechanism or components of which when set in motion or activated and by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 17. A machine as defined by this subsection is not eligible to be licensed under this chapter.
10. Member. "Member" means a bona fide member of a firm, corporation, association, organization, department or class or a combination thereof who has been duly admitted as a member according to the laws, rules, regulations, ordinances or bylaws governing membership in the firm, corporation, association, organization, department, class or combination thereof.
11. Net revenue. "Net revenue" means gross revenue less allowable expenses as described in section 1838.
12. Printer. "Printer" means a person, firm, corporation, association or organization that reproduces in printed form, for sale or distribution, materials to be used in the conduct of a game of chance.
13. Raffle. "Raffle" means a game of chance in which:
 - A. A person pays or agrees to pay something of value for a chance, represented and differentiated by a number, to win a prize;
 - B. One or more of the chances is to be designated the winning chance; and
 - C. The winning chance is to be determined as a result of a drawing from a container holding numbers representative of all chances sold.
14. Roulette. "Roulette" means a game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.
15. Slot machine. "Slot machine" means any machine that operates by insertion of a coin, token or similar object setting the internal mechanism of the machine in motion and that by the application of the element of chance may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value as defined in subsection 17. A slot machine as defined by this subsection is not eligible to be licensed in accordance with this chapter.

16. Social gambling. "Social gambling" means a contest of chance in which the only participants are players and from which no person or organization receives or becomes entitled to receive something of value or any profit whatsoever, directly or indirectly, other than as a player, from any source, fee, remuneration connected with gambling or such activity as arrangements or facilitation of the game, permitting the use of premises or selling or supplying for-profit refreshments, food, drink service or entertainment to participants, players or spectators.
17. Something of value. "Something of value" means:
 - A. Any money or property;
 - B. Any token, object or article exchangeable for money, property, amusement or entertainment; or
 - C. Any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.
18. Tokens. "Tokens" means distinctive objects, chips, tickets or other devices of no intrinsic value used as a substitute for cash in accounting for revenue from a game of chance.

[2009, c. 487, Pt. A, §2 (new).]

§ 1832. Licenses

1. License required. Except as provided in section 1833, a person, firm, corporation, association or organization may not hold, conduct or operate a game of chance without a license issued by the Chief of the State Police in accordance with this section. A license is not required when a game of chance constitutes social gambling.
2. Eligible organizations. Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an organization that submits a completed application as described in subsection 5 and has been founded, chartered or organized in this State for a period of not less than 2 consecutive years prior to applying for a license and is:
 - A. An agricultural society;
 - B. A bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization;
 - C. A volunteer fire department; or
 - D. An auxiliary of any of the organizations in paragraphs A to C.
3. Must be 18 years of age. The Chief of the State Police may not accept an application from or issue a license under this section to a representative of an eligible organization who is not 18 years of age or older.

4. Municipal approval required. An eligible organization described in subsection 2 applying for a license to conduct a game of chance shall obtain written approval from the local governing authority where the game of chance is to be operated or conducted. This written approval must be submitted with the application to the Chief of the State Police as described in subsection 5.
5. Application. An eligible organization described in subsection 2 wishing to operate or conduct a game of chance shall submit an application to the Chief of the State Police. The application must be in a form provided by the Chief of the State Police and must be signed by a duly authorized officer of the eligible organization. The application must include the full name and address of the organization, a full description of the game of chance, the location where the game is to be conducted and any other information determined necessary by the Chief of the State Police for the issuance of a license to operate a game of chance, including but not limited to membership lists, bylaws and documentation showing the organization's nonprofit status or charitable designation.
6. Multiple licenses. The Chief of the State Police may issue more than one license to conduct or operate a game of chance simultaneously to an eligible organization described in subsection 2. Each game of chance must have a separate license, the nature of which must be specified on the license.
7. Agricultural fairs. Notwithstanding any provision in this chapter to the contrary, in addition to games of chance, the Chief of the State Police may issue a license to conduct or operate games of chance known as "penny falls" or "quarter falls" at any agricultural fair, as long as the net revenue from those games is retained by the licensed agricultural society.
8. Electronic video machines. The Chief of the State Police may issue a game of chance license to operate an electronic video machine to any eligible organization described in subsection 2.
 - A. An electronic video machine licensed under this section may only be operated for the exclusive benefit of the licensee, except that up to 50% of the gross proceeds from the operation of the machine may be paid to the distributor as a rental fee and for service and repair of the machine. Notwithstanding other provisions of this chapter, a licensee may rent an electronic video machine from a distributor.
 - B. No more than 5 electronic video machines may be operated on the licensee's premises. A separate games of chance license is required for the operation of each electronic video machine.
 - C. A licensee may operate an electronic video machine only on the licensee's premises.
 - D. Two or more licensees may not share the use of any premises for the operation of electronic video machines.
 - E. A distributor or employee of the distributor may not be a member of the licensed organization.
 - F. An electronic video machine licensed under this subsection may not be operated in a manner that meets the definition of illegal gambling machine as described in Title 17-A, section 952, subsection 5-A.

[2009, c. 487, Pt. A, §2 (new).]

§ 1833. License exceptions for games of chance

Notwithstanding section 1832, subsection 1, an organization that is eligible for a license to conduct games of chance may conduct games of chance without a license in accordance with this section.

1. **Organizations eligible.** An organization, other than an agricultural society, that raises \$15,000 or less in gross revenue in a calendar year from the operation of games of chance is eligible to conduct games of chance without a license. When an organization raises more than \$15,000 in gross revenue from the operation of games of chance in a calendar year, the organization must submit an application as described in section 1832 and any information and fees otherwise required for an application for licensure under this chapter. An organization that raised more than \$15,000 in revenue during the previous calendar year from the operation of licensed games of chance is not eligible to conduct games of chance without a license in accordance with this section.
2. **Limits.** An organization that conducts a game of chance without a license in accordance with this section may not collect more than \$10,000 in gross revenue from any one event at which games of chance are conducted. If an organization exceeds \$10,000 in gross revenue at any one event, the organization must submit an application as described in section 1832 and any information and fees otherwise required for an application for licensure under this chapter. An organization that exceeds \$10,000 in gross revenue at any one event is not eligible to conduct games of chance without a license as provided by this section within one calendar year of the event at which the revenue limit was exceeded.
3. **Registration required.** In order to conduct games of chance without a license in accordance with this section, an organization must register with the Chief of the State Police. Registrations made in accordance with this section are valid for one event. The registration must include the following:
 - A. The name and tax identification number of the organization and the charitable purpose for which the games of chance are being conducted;
 - B. The names of the members of the organization who are responsible for overseeing the operation of the games of chance;
 - C. The date, time and location of the event at which games of chance will be conducted;
 - D. The number and types of games of chance to be conducted;
 - E. An oath and acknowledgment by the applicant that the information contained in the registration is true and accurate; and
 - F. A registration fee of \$30.
4. **Licensed printers and distributors.** Equipment used to conduct games of chance in accordance with this section must be obtained from printers and distributors licensed as required by this chapter.

5. Other provisions applicable. An organization that conducts games of chance in accordance with this section is subject to applicable provisions of section 1835, section 1841, section 1842, subsection 3, paragraph E and section 1842, subsection 6.
6. Revenue and disposition of funds report. An organization that conducts games of chance in accordance with this section shall file a disposition of funds form prescribed and furnished by the Chief of the State Police reporting the total revenue from games of chance conducted within 12 calendar months of the date when the first game conducted without a license took place and the amount of revenue spent to support the charitable purposes for which the games were conducted. Every statement in the report must be made under oath by an officer of the organization or by the member in charge of the conduct of the games.
7. Violation. If an organization that has registered to conduct games of chance is found to have violated any provision of this section, the net revenue from any games of chance conducted is forfeited to the Chief of the State Police. If an organization is found to have violated any provision of this section, the Chief of the State Police is prohibited from accepting a registration as provided by this section from that organization or a person listed on the registration for that organization for a period of 10 years.
8. Repeal. This section is repealed January 1, 2012.

[2009, c. 487, Pt. A, §2 (new).]

§ 1834. Fees

1. Original application fee. The original application for a license to operate a game of chance must be accompanied by a fee of \$7.50. This is not a fee for a license and is not refundable.
2. Operation of games of chance. Except for electronic video games and games of cards as provided in this section, the fee for a license to operate a game of chance is \$15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is \$60 and the fee for licenses issued for a calendar year is \$700.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of games of chance. Except for games of cards as provided in subsection 4, licenses to conduct any authorized game of chance may be issued for a period of up to 12 months on one application.

3. Operation of electronic video machines. The fee for a game of chance license to operate an electronic video machine in accordance with section 1832, subsection 8 is \$15 for each week computed on a Monday to Sunday basis or for a portion of a week. The fee for a license issued for a calendar month is \$60.

The Chief of the State Police may issue any combination of weekly or monthly licenses for the operation of electronic video machines. A license or combination of licenses to operate an authorized electronic video machine may not exceed a period of 6 months.

4. Games of cards. The fee for a license issued to an organization to operate a game of cards, when the organization charges no more than a \$10 daily entry fee for participation in the games of cards and when no money or valuable thing other than the \$10 daily entry fee is gambled by any person in connection with the game of cards, is \$30 for each calendar year or portion of a calendar year. For card games that are played by placing the maximum bet of \$1 per hand or deal, the license fee is the same as provided in subsection 2. [2013, c. 218, §1 (amd).]
5. Distributors. The fee for a license issued to a distributor is \$625 for each calendar year or portion of a calendar year.
6. Printers. The fee for a license issued to a printer is \$15 for each calendar year or portion of a calendar year.
7. Application. A license to operate any authorized game of chance may be issued for a period of up to 12 months on one application.

All fees required by this section must accompany the application for any license issued by authority of this chapter.

Fees submitted as license fees must be refunded if the license is not issued. Rebates may not be given for any unused license or portion of an unused license. If any license is suspended or revoked as provided by this chapter, fees paid for that license may not be refunded.

[2009, c. 487, Pt. A, §2 (new).]

§ 1835. Conduct games of chance

1. Wagers or entry fees; exceptions. The following limits apply to games of chance.
 - A. The maximum bet for a licensed game of chance including card games in which bets are placed per hand or per deal is \$1.
 - B. Licensed card games that award part or all of the entry fees paid to participate in the game as prize money and in which no money or thing of value is wagered except for the entry fee are limited to a \$10 daily entry fee and no more than 60 players at any one time at any one location. [2013, c. 218, §2 (amd).]
 - C. If the licensee operates games of chance for less than 3 total days in a calendar year and contributes 100% of the gross revenue from those games of chance to charity, the amount wagered must be limited to:
 - (1) A \$1 daily entry fee;

- (2) Fifty cents per game; or
- (3) Twenty-five cents per card received.

Prior to play of the game, the licensee shall determine which of the limits in subparagraphs (1), (2) and (3) is to be used and shall post the limit.

- 2. Games conducted by members and bartenders of licensee only. A game of chance licensed pursuant to this chapter must be operated and conducted for the exclusive benefit of the licensee and must be operated and conducted only by duly authorized members of the licensee or by persons employed by the licensee as bartenders, except that nonmembers employed by the licensee as bartenders may not operate or conduct any game of chance permitted under subsection 5, paragraph B. The requirements of this subsection do not apply to any agricultural society licensed to operate a game of chance.
- 3. Games conducted at agricultural fair by members of the agricultural society or a bona fide nonprofit. Games of chance operated and conducted solely by members of an agricultural society or games of chance operated and conducted by members of bona fide nonprofit organizations on the grounds of the agricultural society and during the annual fair of the agricultural society may use cash, tickets, tokens or other devices approved by the Chief of the State Police by rule.

Notwithstanding any other provision of this section, the tickets, tokens or other devices approved by the Chief of the State Police must be unique to the agricultural society and may be in denominations of 25¢, 50¢ or \$1. The tickets, tokens or devices approved by the Chief of the State Police may be sold and redeemed only by a person who has been a member or active volunteer of the agricultural society for at least 2 fair seasons. The agricultural society has the burden of proof for demonstrating the qualification of members or active volunteers.

An agricultural society that uses tokens shall provide records and reports as required by section 1839.

- 4. Persons under 18 years of age; exception. Except as provided in this subsection, a licensee, game owner or operator may not permit a person under 18 years of age to take part in a game of chance, and a person under 18 years of age may not sell chances, except in relation to charitable, religious or recognized youth associations. Notwithstanding any rule to the contrary, upon receiving an application on a form provided by the Chief of the State Police and a determination by the chief that a game of chance licensed to be conducted at a festival-style event is designed to attract players under 18 years of age and awards a nonmonetary prize valued at less than \$10 for every chance played, the chief may permit:
 - A. Persons under 18 years of age to conduct or operate the game of chance; and
 - B. Persons under 18 years of age to play the game of chance without being accompanied by an adult.

Nothing in this subsection permits games of chance to be operated without a license.

5. Location. A license issued pursuant to this section must specify the location where the organization may operate the licensed game of chance. A licensee may not operate games of chance in more than one location at the same time.
- A. An agricultural society or a bona fide nonprofit organization may operate a game of chance on the grounds of an agricultural society and during the annual fair of the agricultural society.
- B. No more than one licensee may operate a game of chance at a time on the same premises. In any room where a licensed game of chance is being conducted, there must be at least one member of the licensee present in that room for every 2 nonmembers who are present. That member must have been a member of the licensee for at least one year. A member of the licensee, either directly or through another member or guest, may not stake or risk something of value in the licensee's game of chance unless the member has been a member of the licensee for at least 14 days not including the day of admission into membership.

A bona fide nonprofit organization may operate a licensed game of chance to which the general public has access once every 3 months for a period not to exceed 3 consecutive days. The licensed game of chance may be operated at any location described in the license and may be conducted only by members of the licensee. This subsection does not apply to raffles conducted in accordance with section 1837.

6. Door prizes. Distribution of tickets to an event upon which appear details concerning any prize to be given away as a result of a drawing is a game of chance within the meaning of this chapter; a distribution of tickets containing only the words "Door Prize," without further description, is excluded from the provisions of this chapter, as long as no promotional materials or presentations, written or oral, describe the door prize.
7. "Donation" not to provide an exclusion. The word "donation" printed on a ticket does not exclude the sponsoring organization from complying with this chapter.
8. Wager limit exception. Notwithstanding subsection 1, an organization that is licensed to conduct games of chance in accordance with this chapter is permitted to accept wagers up to \$50 per hand for a poker run. The organization must inform the Chief of the State Police 30 days in advance of the date when the organization intends to conduct a poker run with an increased wager limit. An organization is limited to 2 poker run events per calendar year in which wagers up to \$50 per hand are permitted. For the purposes of this subsection, "poker run" means a game of chance using playing cards that requires a player to travel from one geographic location to another in order to play the game. [2013, c. 149, §1 (new).]

[2009, c. 487, Pt. A, §2 (new).]

§ 1836. Tournament games

The Chief of the State Police may issue a license under this section to an organization eligible to conduct beano games under chapter 13A and games of chance under this chapter to conduct up to two 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. [2011, c. 325, §1 (amd).]

1. Local governing authority approval. An organization applying for a tournament game license must first receive approval by the local governing authority where the game is to be conducted. Proof of approval from the local governing authority must be provided to the Chief of the State Police upon application for a tournament game license.
2. License application. An organization must submit a license application to the Chief of the State Police on a form provided by the Chief of the State Police. The license application must specify one or more charitable organizations that the proceeds of the tournament game are intended to benefit. For the purposes of this section, "charitable organization" means a person or entity, including a person or entity in a foreign state as defined in Title 14, section 8502, that is or purports to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable, educational, humane or patriotic purpose.
3. [2011, c. 325, §2 (REPEALED).]

3-A. License. The license fees for tournament game licenses are as follows:

A. For tournament games that do not exceed 100 players:

- (1) Seventy-five dollars per tournament license;
- (2) Two hundred dollars for a monthly license; and
- (3) Fifteen hundred dollars for an annual license; and [2013, c. 306, §1 (amd).]

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. [2011, c. 325, §3 (new).]

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 \$125. 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. [2013, c. 306, §2 (amd).]

5. Proceeds. No less than 75% of the entry fees under subsection 4 must be paid as prizes to the winners of the tournament game.
6. Cost of administration; surplus. The Chief of the State Police may retain, from license fees collected in accordance with subsection 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.

[2011, c. 325, §5 (amd).]

§ 1837. Raffles

1. Raffles with prizes of \$10,000 or less. Notwithstanding section 1832, subsection 1, a license to conduct or operate a raffle in which the holder of the winning chance does not receive something of value worth more than \$10,000 is not required of the following:
 - A. Any agricultural society or any bona fide nonprofit organization that is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such an organization;
 - B. Any volunteer police force, fire department or ambulance corps;
 - C. Any class or organization of an elementary, secondary or post-secondary educational institution operated or accredited by the State; or
 - D. Any state agency that conducts or operates a raffle for a donated item to benefit fish and wildlife conservation projects.

Any exempt organization, department or class or combination listed in paragraph A, B, C or D may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination, and that raffle may be conducted only by duly authorized members of the sponsoring organization, department or class or combination.

A state agency may not conduct or operate more than 2 raffles per year pursuant to paragraph D.

2. Special raffles; prizes more than \$10,000 but not more than \$75,000. The following provisions apply to special raffles licensed under this subsection.
 - A. The Chief of the State Police may issue one special raffle license per year to any organization, department or class eligible to hold a raffle under subsection 1. The special

raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$75,000. A raffle licensed under this paragraph may be structured as a progressive raffle that is divided into a maximum of 12 multiple drawings with previous entries rolled into subsequent drawing pots and with the final drawing to be held within 12 months of the first. Drawings must be used to randomly select a smaller group to be eligible for the final prize to be awarded after the final drawing. Section 1835, subsection 1 does not apply to raffles licensed under this section.

- B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.
 - C. All tickets sold pursuant to a special raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 1 that conducts a raffle under this section shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.
3. Charitable organizations; livestock raffling. A license is required before a charitable organization may raffle livestock for fund-raising purposes under Title 7, section 3972, subsection 4. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee shall make forms available for charitable organizations to apply for licenses for one-year or 3-year periods. If the commissioner or the commissioner's designee is satisfied that the charitable organization has not violated or will not violate the restrictions of Title 7, section 3972, a license must be issued.
4. Raffle tickets sold by volunteers. Notwithstanding section 1835, subsection 2, tickets for raffles licensed in accordance with this section may be sold by persons other than members of the licensed organization as long as the persons selling the tickets are uncompensated volunteers for the organization and the names of the volunteers who sell the tickets are provided to the Chief of the State Police within 10 days of issuance of the raffle license.

[2009, c. 487, Pt. A, §2 (new).]

§ 1838. Revenue and expenses

1. Compensation. Those who conduct games of chance may not be paid for such services except according to this subsection.
- A. An organization including a fair licensed to operate beano, bingo or lucky seven games may use up to 20% of the gross revenue to compensate those who conduct the games.
 - B. Each person who conducts a game of chance licensed to an agricultural society may be paid at a rate that does not exceed 3 times the State's minimum wage as established in Title

26, section 664, subsection 1, unless the game is one for which the limit in paragraph A applies.

2. Exception. Notwithstanding subsection 1, a licensee may use the proceeds of a game of chance to:
 - A. Defray the expenses or part of the expenses that further the purpose for which the organization is formed, except that the proceeds may not be:
 - (1) Used to purchase alcohol or to defray the cost of activities where alcohol is served; or
 - (2) Paid directly to organization members except as specifically allowed in this section; and
 - B. Defray the expenses or part of the expenses of a member, auxiliary member, officer or employee of the organization for a serious illness, injury or casualty loss if the licensee makes an application pursuant to this section and the application is approved by the licensing division within the Bureau of State Police. An application must be made in the form and contain the information the licensing division requires.
 - (1) In the case of serious illness or injury, the licensing division may require certification by a licensed physician in support of the application.
 - (2) In the case of a casualty loss, the licensing division may require statements or reports from a law enforcement agency, rescue or other emergency services personnel or an insurance agency to support the application.
 - (3) The licensing division may deny an application if it appears that the person who would receive the proceeds has adequate means of financial support, including, but not limited to, insurance or workers' compensation benefits.
3. Rules. The Chief of the State Police shall adopt routine technical rules in accordance with Title 5, chapter 375 to carry out this section.
4. Posting. An organization licensed to conduct a game of chance pursuant to section 1832 shall post in a conspicuous place in the room or hall where games of chance are conducted a sign that states the net revenue earned from the operation of the game in dollars and cents, the amount of charitable donations from that net revenue in dollars and cents, what percentage in dollars and cents of the net revenue that amount represents in donations to nonprofit activities and what percentage of the net revenue was distributed from licensed games for the previous calendar year and has been distributed in the current calendar year. For the purposes of this subsection, "calendar year" means January to December.

[2009, c. 487, Pt. A, §2 (new).]

§ 1839. Licensee records and reports

1. Records required. Each licensee shall keep a record of all financial transactions involving games of chance operated under each license granted to the licensee. The treasurer of the licensee or another officer designated by the treasurer is responsible for maintaining those records. The records

must include an exact account of all gross revenue from the games, an itemization of all allowable expenses, including, but not limited to, the cost of prizes, printing, licenses and administration, and the disposition of all proceeds, including, but not limited to, all gifts, grants and payments to any person, firm, corporation, association or organization for any purpose whatsoever. All financial records involving games of chance must be separate and distinguishable from other records of the organization. Revenue from more than one game of chance may be entered into one account.

2. Records required for licensee employing tokens. If a licensee employs tokens to account for revenue from games of chance and if the licensee maintains direct control over the sale and redemption of the tokens and keeps accurate records of all tokens used, then the chief may by rule alter or reduce the record-keeping requirements of subsection 1 to the extent that a licensee's use of tokens renders those records unnecessary for adequate control of the licensee's games.
3. Disposition of funds reports. Within 10 business days after the last day of any period during which a licensed game of chance is conducted with other than an annual license or within 10 business days after the end of each calendar month during which a licensed game of chance is conducted with an annual license, the licensee shall file with the Chief of the State Police a disposition of funds form prescribed and furnished by the Chief of the State Police, detailing for the period the total receipts and expenditures of the game and the disposition of funds. Every statement must be made under oath by an officer of the licensee or by the member in charge of the conduct of the game.
4. Disposition of funds reports from licensee using tokens. If tokens are employed to account for revenue from games of chance, then the licensee shall report the number of tokens sold, the number redeemed and the disposition of funds from the proceeds of sale in addition to such other information as the chief may require under subsection 3.
5. Records maintained for 3 years. Every licensee that has conducted a game of chance shall maintain and keep for a period of 3 years reports as may be necessary to substantiate the records and reports required by this section or by the rules adopted under this chapter.
6. Location. All records maintained by a licensee pursuant to this section and pursuant to the rules adopted under this chapter must be kept and maintained on the premises where the game of chance has been conducted or at the primary business office of the licensee, which must be designated by the licensee in the license application. These records must be open to inspection by the Chief of the State Police or the chief's representative, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license. [2009, c. 487, Pt. A, §2 (new).]

§ 1840. Distributors and printers; records and reports

1. Printers licensed. A printer in the State may not print materials to be used in the conduct of a licensed game of chance unless licensed by the Chief of the State Police. A printer licensed under this section may act as a distributor without having to be licensed as a distributor as long as neither the printer nor anyone on the printer's behalf acts as a seller for services connected with a game of chance outside of the confines of the printer's premises described in that printer's license. If that printer or someone else acts as a seller for the printer's services in connection with a game of

chance outside of the premises described on that printer's license, either that printer or any person or persons acting on that printer's behalf must be licensed as a distributor under subsection 2.

The applicant for a printer's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1843 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1843.

2. Distributors licensed. A distributor may not sell, lease, market or otherwise distribute gambling apparatus or implements unless licensed by the Chief of the State Police, except that a license is not required for the sale, marketing or distribution of raffle tickets when the holder of the winning chance receives something of value worth less than \$10,000.

A nonresident manufacturer or distributor of gambling apparatus or implements doing business in the State must have an agent in this State who is licensed as a distributor. A distributor may not sell, market or otherwise distribute gambling apparatus or implements to a person or organization, except to persons or organizations licensed to operate or conduct games of chance under section 1832, licensed to conduct a special raffle under section 1837, subsection 2 or eligible to conduct a raffle pursuant to section 1837, subsection 1. A distributor may not lease or loan or otherwise distribute free of charge any gambling apparatus or implements to an organization eligible to operate a game of chance, except that a distributor may lease gambling apparatus or implements to an agricultural society licensed to operate games of chance on the grounds of the agricultural society and during the annual fair of the agricultural society as long as the distributor does not charge the agricultural society an amount in excess of 50% of the gross revenue from any licensed game of chance.

A licensee shall acquire gambling apparatus and implements from a distributor licensed under this section, unless the gambling apparatus or implements are printed, manufactured or constructed by the licensed organization. At no time may any licensee print, manufacture or construct any gambling apparatus or implements for distribution to any other licensee. The applicant for a distributor's license, or, if the applicant is a firm, corporation, association or other organization, its resident manager, superintendent or official representative shall file an application with the Chief of the State Police on a form provided by the Chief of the State Police. The Chief of the State Police shall furnish to each applicant a current copy of this chapter and the rules adopted under section 1843 and to each licensee a copy of any changes or additions to this chapter and the rules adopted under section 1843.

3. Sales agreements. A distributor shall forward to the Chief of the State Police, prior to delivery of any gambling machine to the purchaser, a copy of all sales agreements, sales contracts or any other agreements involving the sale of any gambling machine. The terms of the sales contract must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of the gambling machine including serial number and model name and number, total sale price, any arrangement or terms for payments and the date of final payment.

Any change, modification or alteration of these agreements must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

4. Service agreements. With the sale of any gambling machine involving a service agreement, the distributor shall forward to the Chief of the State Police a copy of the agreement prior to delivery of the machine. The terms of the service agreements must include, but are not limited to, the name of seller, name of purchaser, address of seller, address of purchaser, description of machine to be serviced including serial number and model name and number and all prices and payments for that service.

Any change, modification or alteration of the agreement must be reported to the Chief of the State Police by the purchaser within 6 days of the change, modification or alteration.

5. Agricultural societies; lease agreements. When a gambling apparatus or implement is leased as provided in subsection 2 to an agricultural society, the distributor shall forward to the Chief of the State Police a copy of the lease agreement prior to delivery of the gambling apparatus or implement. The terms of the lease must include, but are not limited to, the name of the lessor; address of the lessor; name of the lessee; address of the lessee; description of the gambling apparatus or implement; serial number, model name or number of the gambling apparatus or implement; and all prices and payments for the lease. Each lease must be for a specific period of time no longer than the duration of the annual fair of that lessee, and each gambling apparatus must have its own separate lease. Gambling apparatus or implements leased under this section:

- A. May be operated only for the exclusive benefit of the agricultural society, except that the agricultural society may pay a distributor up to 50% of gross gaming revenue in accordance with subsection 2; and
- B. Must bear the name and address of the distributor.

6. Reports. At the end of each calendar month, a distributor or printer shall file with the Chief of the State Police a report indicating:

- A. The names and addresses of all persons or organizations to which the distributor or printer has distributed equipment and the dates of the distribution;
- B. A description of the equipment distributed, including serial number and model name and number; and
- C. The quantities of any equipment distributed.

7. Retention and inspection of records. A distributor or printer shall maintain and keep for a period of 3 years, on the premises of the distributor or printer, any records that may be necessary to substantiate the reports required by this section or by the rules adopted under this chapter. The records must be open to inspection, and a licensee may not refuse the Chief of the State Police or the chief's representative permission to inspect or audit the records. Refusal to permit inspection or audit of the records does not constitute a crime under this chapter but constitutes grounds for revocation of license.

8. Reports generally. The Chief of the State Police shall require from any licensed printer or distributor, or from any organization authorized to operate a game of chance, whatever reports determined necessary by the chief for the purpose of the administration and enforcement of this chapter.

[2009, c. 487, Pt. A, §2 (new).]

§ 1841. Prohibited acts

1. Schemes prohibited. A license may not be issued under this chapter for the conduct or operation of a machine, a slot machine, roulette or games commonly known as policy or numbers, except that a license may be issued for an electronic video machine. An electronic video machine that constitutes a game of chance is fully governed by this chapter.
2. Prohibited games. The following games are prohibited:
 - A. A game that uses objects that are constructed, designed or altered to be other than what they appear to be and to respond in a way other than that in which the average player would assume that they would respond, unless that construction, design or alteration is permitted in the rules governing that game and the construction, design or alteration meets the requirements of those rules;
 - B. A game in which the operator either partially or entirely controls the outcome of the game by the operator's manner of operating or conducting the game;
 - C. A game in which the outcome depends upon the word of the operator against the word of the player; and
 - D. A game of skill that includes any mechanical or physical device that directly or indirectly impedes, impairs or thwarts the skill of the player.
3. Glass prohibited. The use of glass is prohibited in games of skill pursuant to Title 32, section 1873.

[2009, c. 487, Pt. A, §2 (new).]

§ 1842. Investigations and actions on licenses; evidence

1. Investigation. The Chief of the State Police shall investigate or cause to be investigated all complaints made to the chief and all violations of this chapter or the rules adopted pursuant to section 1843.

2. Refusal to issue, modify or renew; modification; suspension; revocation. Each of the following is grounds for an action to refuse to issue, modify or renew or to modify, suspend or revoke the license of a distributor or printer licensed under this chapter:
 - A. The distributor or printer or its resident manager, superintendent or official representative made or caused to be made a false statement of material fact in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;
 - B. The distributor or printer or its resident manager, superintendent or official representative violated any provision of this chapter or any rule adopted by the Chief of the State Police under section 1843.
 - (1) Except as provided in subparagraph (2), the Chief of the State Police shall give written notice of any violation to the distributor or printer who then has 14 days to comply. Failure to comply within the 14-day period is grounds for an action under this section.
 - (2) If a distributor or printer violates section 1840, subsection 1 or 2, the Chief of the State Police is not required to give the notice or allow the compliance period provided in subparagraph (1); or
 - C. The distributor or printer or its resident manager, superintendent or official representative has been:
 - (1) Convicted of a crime under this chapter or Title 17-A, chapter 39; or
 - (2) Convicted within the prior 10 years of any crime for which imprisonment for more than one year may be imposed.
3. Chief of the State Police. The Chief of the State Police may:
 - A. Investigate all aspects of this chapter including the direct and indirect ownership or control of any licenses;
 - B. Suspend, revoke or refuse to issue a license, after notice and the opportunity for a hearing, if the applicant, applicant's agent or employee, licensee or licensee's agent or employee violates a provision of this chapter or Title 17-A, chapter 39 or fails to meet the statutory requirements for licensure pursuant to this chapter;
 - C. Immediately suspend or revoke a license if there is probable cause to believe that the licensee or the licensee's agent or employee violated section 1832, subsection 8, paragraph C; section 1841, subsection 2; or a provision of Title 17-A, chapter 39;
 - D. Issue a subpoena in the name of the State Police in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this chapter and is not limited to an adjudicatory hearing. This authority may not be used in the absence of reasonable cause to believe a violation has occurred. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the 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 the witness to appear before the Superior Court to show cause why 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 the court 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; and

- E. Require such evidence as the chief determines necessary to satisfy the chief that an applicant or organization licensed to conduct games of chance conforms to the restrictions and other provisions of this chapter. Charters, organizational papers, bylaws or other such written orders of founding that outline or otherwise explain the purpose for which an organization was founded, must, upon request, be forwarded to the Chief of the State Police. The Chief of the State Police may require of any licensee or of any person operating, conducting or assisting in the operation of a licensed game of chance evidence as the chief may determine necessary to satisfy the chief that the person is a duly authorized member of the licensee or a person employed by the licensee as a bartender as required by section 1835, subsection 2. Upon request, this evidence must be forwarded to the Chief of the State Police. The Chief of the State Police may require such evidence as the chief may determine necessary regarding the conduct of games of chance by a licensee to determine compliance with this chapter.
- 4. Licensing actions after notice and opportunity for hearing. The Chief of the State Police shall notify the applicant or licensee in writing, before a license is denied, suspended or revoked pursuant to subsection 3, paragraph B, of the intended denial or commencement date of the suspension or revocation, which may not be made any sooner than 96 hours after the licensee's receipt of the notice, of the duration of the suspension or revocation and of the right to a hearing pursuant to this subsection. The applicant or licensee has the right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the applicant's or licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the applicant, applicant's agent or employee or the licensee or licensee's agent or employee violated a provision of this chapter or Title 17-A, chapter 39. A request for a hearing may not be made any later than 10 days after the applicant or licensee is notified of the proposed denial, suspension or revocation. The suspension or revocation must be stayed pending the hearing; the hearing may not be held any later than 30 days after the date the commissioner receives the request unless otherwise agreed by the parties or continued upon request of a party for cause shown.
 - 5. Immediate suspension or revocation. A licensee whose license is immediately suspended or revoked by the Chief of the State Police pursuant to subsection 3, paragraph C must be notified in writing of the duration of the suspension or revocation and the licensee's right to request a hearing before the Commissioner of Public Safety or the commissioner's designee. Upon the licensee's request for a hearing, the Commissioner of Public Safety shall provide a hearing. The hearing must comply with the Maine Administrative Procedure Act. The purpose of the hearing is to determine whether a preponderance of the evidence establishes that the licensee or the licensee's agent or employee violated section 1832, subsection 8, paragraph C; section 1841, subsection 2; or a provision of Title 17-A, chapter 39. A request for a hearing may not be made any later than 48 hours after the licensee is notified of the suspension or revocation. A hearing may not be held any later than 10 days after the date the commissioner receives the request.
 - 6. Access to premises. A person, firm, corporation, association or organization making application to the Chief of the State Police to conduct or operate a game of chance or any such person, firm, corporation, association or organization authorized under this chapter to conduct or operate a game of chance shall permit inspection of any equipment, prizes, records or items and materials used or to be used in the conduct or operation of a game of chance by the Chief of the State Police or the chief's authorized representative.

A firm, corporation, association or organization licensed to conduct or operate a game of chance shall permit at any time the Department of Public Safety or the city or town fire inspectors of the municipality in which the licensed game is being conducted to enter and inspect the licensed premises.

[2009, c. 487, Pt. A, §2 (new).]

§ 1843. Rules

The Chief of the State Police may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2A necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of games of chance. The Chief of the State Police may regulate, supervise and exercise general control over the operation of such games. In establishing such rules, the Chief of the State Police must, in addition to the standards set forth in other provisions of this chapter, set forth conduct, conditions and activity considered undesirable, including:

1. Fraud. The practice of any fraud or deception upon a participant in a game of chance;
2. Unsafe premises. The conduct of a game of chance in or at premises that may be unsafe due to fire hazard or other such conditions;
3. Advertising and solicitation. Advertising that is obscene or solicitation on a public way of persons to participate in a game of chance;
4. Organized crime. Infiltration of organized crime into the operation of games of chance or into the printing or distributing of gambling materials;
5. Disorderly persons. Presence of disorderly persons in a location where a game of chance is being conducted;
6. Leasing of equipment. Leasing of equipment by a licensee used in the operation of games of chance not in accordance with this chapter; and
7. Bona fide nonprofit organization. The establishment of organizations that exist primarily to operate games of chance and do not have a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or public safety purpose.

The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

[2009, c. 487, Pt. A, §2 (new).]

§ 1844. Violations

A person who violates this chapter or rules adopted in accordance with this chapter commits a Class D crime.

[2009, c. 487, Pt. A, §2 (new).]

§ 1845. Administration expenses

The expenses of administering this chapter must be paid out of the fees received in accordance with this chapter. [2009, c. 487, Pt. A, §2 (new).]

§ 1846. Vending machines

Nothing in this chapter applies to vending machines the primary purpose of which is to dispense beverages, candy, fruit or other food items when a coin or bills are inserted into the machine. [2009, c. 487, Pt. A, §2 (new).]

Conflicts of Interest; Purchases by the State

§3104. Conflicts of interest; purchases by the State

No trustee, superintendent, treasurer or other person holding a place of trust in any state office or public institution of the State shall be pecuniarily interested directly or indirectly in any contracts made in behalf of the State or of the institution in which he holds such place of trust, and any contract made in violation hereof is void. This section shall not apply to purchases of the State by the Governor under authority of Title 1, section 814. [1975, c. 771, § 164 (amd).]

Department of Industrial Cooperation

§3956. Electric fences

No person or individual may sell, utilize, install or have installed within this State equipment, devices or methods whereby fence wires may be energized with electricity unless a standard type of controller is used, which has the approval of the Underwriter's Laboratories and carries such label thereon or has the approved listing of the Department of Industrial Cooperation at the University of Maine System. [1985, c. 779, § 41 (amd).]

Any violation of this section shall be punishable by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

TITLE 17-A

Offenses Against Public Order

§511. Violation of privacy

1. A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, that person intentionally:

A. Commits a civil trespass on property with the intent to overhear or observe any person in a private place; [1997, c. 467, §1 (amd).]

B. Installs or uses in a private place without the consent of the person or persons entitled to privacy in that place, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place; [1997, c. 467, §1 (amd).]

C. Installs or uses outside a private place without the consent of the person or persons entitled to privacy therein, any device for hearing, recording, amplifying or broadcasting sounds originating in that place that would not ordinarily be audible or comprehensible outside that place; or [1997, c. 467, §1 (amd).]

D. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed

from public view under clothing and a reasonable person would expect it to be safe from surveillance. [1997, c. 467, §1 (new).]

[1997, c. 467, §1 (amd).]

1-A. It is a defense to a prosecution under subsection 1, paragraph D that the person subject to surveillance had in fact attained 14 years of age and had consented to the visual surveillance. [1997, c. 467, §2 (new).]

2. As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance, including, but not limited to, changing or dressing rooms, bathrooms and similar places. [2007, c. 688, §2 (amd).]

3. Violation of privacy is a Class D crime. [1975, c. 499, §1 (new).]

Forgery

§705. Criminal simulation

1. A person is guilty of criminal simulation if:

A. With intent to defraud, he makes or alters any property so that it appears to have an age, rarity, quality, composition, source or authorship which it does not in fact possess; or with knowledge of its true character and with intent to defraud, he transfers or possesses property so simulated; or [1975, c. 499, § 1 (new).]

B. In return for a pecuniary benefit;

(1) he authors, prepares, writes, sells, transfers or possesses with intent to sell or transfer, an essay, term paper or other manuscript knowing that it will be, or believing that it probably will be, submitted by another person in satisfaction of a course, credit or degree requirement at a university or other degree, diploma or certificate-granting educational institution; or

(2) he takes an examination for another person in satisfaction of a course, credit or degree requirement at a university or other degree, diploma or certificate-granting educational institution; [1975, c. 499, § 1 (new).]

C. He knowingly makes, gives or exhibits a false pedigree in writing of any animal; or [1975, c. 499, § 1 (new).]

D. With intent to defraud and to prevent identification:

(1) He alters, removes or obscures the manufacturer's serial number or any other distinguishing identification number, mark or symbol upon any automobile, snowmobile, outboard motor, motorboat, aircraft or any other vehicle or upon any machine, firearm or other object; or

(2) He possesses any such object or any such item after that number has been altered, removed or obscured. [1979, c. 129 (rpr).] [1979, c. 129 (amd).]

2. Criminal simulation is a Class E crime. [1975, c. 499, § 1 (new).]

TITLE 20-A

School Restructuring

§8. Restructuring public schools

The commissioner shall encourage school administrative units to pursue an ongoing process of school restructuring as a means of more effectively meeting the learning needs and improving the academic performance of all students. The public and private postsecondary institutions of higher education in the State are urged to cooperate with the department, the state board and school administrative units to provide appropriate and timely professional development programs and other support services to educators employed in public schools engaged in school restructuring efforts. [1991, c. 407, §1 (new).]

....

Education Coordinating Committee

§9. Education Coordinating Committee

The Education Coordinating Committee, referred to in this section as the "committee," is established to promote efficiency, cooperative effort and strategic planning between the Department of Education, the State Board of Education, the University of Maine System, the Maine Community College System, the Maine Maritime Academy and organizations and associations with a commitment to and interest in education matters. The committee consists of the Commissioner of Education, the Chair of the State Board of Education, the Chancellor of the University of Maine System, the Chair of the Board of Trustees of the University of Maine System, the President of the Maine Community College System, the Chair of the Board of Trustees of the Maine Community College System, the President of the Maine Maritime Academy and the Chair of the Board of Trustees of the Maine Maritime Academy. [1995, c. 395, Pt. J, §1 (new); 2013, c. 368, Pt. DDDDD, §1 (amd).]

The committee shall meet at least quarterly. The commissioner shall convene the first meeting of the committee by October 15, 1995. The committee shall elect a chair from among its members to serve for a term to be determined by the committee. The committee shall report on its deliberations and any recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters by February 15th each year. [2013, c. 368, Pt. DDDDD, §2 (amd).]

§10. Education Research Institute

The Education Research Institute, referred to in this section as the "institute," is established to collect and analyze education information and perform targeted education research for the Legislature. The institute shall create and maintain an information system that tracks important early care and education data for public preschool programs, kindergarten and grades one to 12. The institute shall also conduct exploratory, long-term research on education issues. [2009, c. 540, §1 (amd).]

1. Legislature to contract with university. The Legislature, through the joint standing committee of the Legislature having jurisdiction over education matters, shall contract with the University of Maine System to establish and maintain the institute. Personnel coordinating the work of the institute must be appointed by the University of Maine System in consultation with the Legislature and those personnel shall consult with and act on behalf of the Legislature, performing such data collection, analysis and research as the Legislature may require. [1995, c. 395, Pt. J, §1 (new).]

2. Steering committee. The Education Research Institute Steering Committee, referred to in this section as the "steering committee," is established to advise the Legislature and the University of Maine System on all matters related to the institute. Steering committee members must be appointed by the joint standing committee of the Legislature having jurisdiction over education matters for a term of 2 years. The

steering committee shall meet at least 4 times each year and must include one member of each of the following:

A. The joint standing committee of the Legislature having jurisdiction over education matters; [1995, c. 395, Pt. J, §1 (new).]

B. The Department of Education; [1995, c. 395, Pt. J, §1 (new).]

C. The State Board of Education; [1995, c. 395, Pt. J, §1 (new).]

D. The University of Maine System; [1995, c. 395, Pt. J, §1 (new).]

E. The Maine School Management Association; [1995, c. 395, Pt. J, §1 (new).]

F. The Maine Education Association; [1995, c. 395, Pt. J, §1 (new).]

G. The Maine Municipal Association; [2009, c. 540, §2 (amd).]

H. The Maine Principals Association; and [2009, c. 540, §3 (amd).]

I. The Maine Children's Growth Council. [2009, c. 540, §4 (new).]

The steering committee shall elect a chair from among its members to serve a term of 2 years. [1995, c. 395, Pt. J, §1 (new).]

3. Location and access. The education information system and research results gathered pursuant to this section must be maintained by the institute at the University of Maine System. The education information system and research results must be available for use by any interested group or individual in the form available from the institute. [1995, c. 395, Pt. J, §1 (new).]

§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 executive director established pursuant to subsection 9, the Department of Education, the University of Maine System, the Maine Community College System and the Maine Maritime Academy shall jointly provide staff support to the council. [2013, c. 410, §1 (amd).]

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.

9. Office of executive director. The council shall establish the office of executive director to provide leadership and management expertise to assist the council in meeting its goals. The council may enter into an agreement, to the extent that public and private funds are available, to contract with an executive director to assist the council in the execution of its duties under this section. [2013, c. 410, §2 (new).]

10. Funding. The council may receive and expend funds from public and private sources. Funds must be used to carry out the council's duties and other provisions of this section. State and federal funds received by the council must be held separate and apart from all other money, funds and accounts. Any balance of funds appropriated, allocated or authorized by the Legislature remaining at the end of a fiscal year do not lapse and are carried forward to the next fiscal year to carry out the purposes of this section. [2013, c. 410, §2 (new).]

Compact for Education

§601 - §609. [2011, c. 344, § 20 (REPEALED)]

Public Broadcasting

§851. Gifts

The Governor may accept a gift of money, real or personal property, from any source, and grants-in-aid from the Federal Government to assist in carrying out the purposes of this chapter. [1981, c. 693, § § 5, 8(new)]

§852. Construction of statewide network

1. Authority. The University of Maine System may acquire real estate, construct, operate, manage and equip radio, transmission and microwave television facilities and interconnect with any other radio or television network or station within or without this State for the purpose of providing a statewide public broadcasting network for the transmission of public broadcasting to pupils in the schools, colleges, university and adult audiences throughout the State. [1985, c. 779, § 44 (amd).]

2. Contracts. The University of Maine System may enter into contracts for the construction of those facilities, contracts for personal services necessary for the management and operation of those facilities and any other contracts deemed necessary to carry out the purposes of this chapter. [1985, c. 779, § 44 (amd).]

3. Transfer of assets and liabilities. The University of Maine System may transfer any assets and liabilities acquired pursuant to this section in order to unify operation in a nonprofit, nonstock private corporation, referred to in this section as "the corporation." The University of Maine System retains a reversionary interest in the university's assets as provided for in the articles of incorporation of that corporation. An annual appropriation for operating, constructing, equipping, maintaining, improving and replacing facilities of the corporation must be made in amounts sufficient to ensure delivery of broadcast sources throughout the State. [2009, c. 62, §1 (amd).]

4. Condition of funding. As a condition of receiving an appropriation or allocation of state funds to broadcast throughout the State, the corporation shall continue to operate, equip and maintain facilities used to provide signals identified under paragraphs A and B that were in operation on February 1, 2009 or an equivalent network providing equivalent or expanded broadcast coverage throughout the State:

A. A television broadcast signal originating from stations whose community of license is Presque Isle, Calais, Orono, Augusta and Biddeford; and

B. A radio broadcast signal originating from stations whose community of license is Fort Kent, Presque Isle, Calais, Bangor, Waterville, Camden and Portland. [2009, c. 62, §2 (new).]

5. Failure to meet funding conditions. If the corporation fails to meet the requirements of subsection 4 during any state fiscal year in which an appropriation or allocation has been made, the corporation shall return the full amount of that appropriation or allocation to the Treasurer of State within 15 business days of the beginning of the next state fiscal year. [2009, c. 62, §3 (new).]

6. Exceptions. The corporation does not fail to meet the requirements of subsection 4 if:

A. One or more of the broadcast signals described in subsection 4, paragraphs A and B is off the air for a period of time due to a reason outside of the control of the corporation; or

B. All of the television broadcast signals or all of the radio broadcast signals are off the air for an equal period of time for any reason. [2009, c. 62, §4 (new).]

NOTE - Transfer authorized. Pursuant to the Maine Revised Statutes, Title 20-A, section 852, subsection 3, the University of Maine System may transfer the assets and liabilities associated with the Maine Public Broadcasting network, operated by the system, to a Maine nonprofit, nonstock private corporation, referred to in this Act as "the transferee corporation," formed pursuant to the Maine Revised Statutes, Title 13-B for the purpose of unifying the operations of the Maine Public Broadcasting Network and WCBB, operated by the Colby-Bates-Bowdoin Educational Telecasting Corporation, into a noncommercial statewide public broadcasting network.

The transfer may occur only if the transferee corporation has a Board of Trustees that includes the chancellor of the University of Maine system; 3 members representing the Board of Trustees of the University of Maine System; the President of Bates College; the President of Bowdoin College; the President of Colby College; and not fewer than 8 nor more than 12 public Trustees elected by the Board in the manner prescribed in the corporation's bylaws. The president of the transferee corporation is a nonvoting member of the boards.

The Maine Revised Statutes, Title 13, section 3062 does not apply to the transfer of assets authorized in this section.

The Treasurer of the University of Maine System may execute and deliver any document or instrument and take any action necessary or convenient to carry out the transfer of assets and liabilities authorized in this section.

Budget estimates. The transferee corporation shall prepare and submit its appropriations requirements for consideration and pursuant to the Maine Revised Statutes, Title 5, Section 1665 in the same manner as public higher education institutions of the State. The appropriation requirements are limited to the costs of constructing, equipping, maintaining, improving and replacing the buildings and equipment for its transmitting facilities, production facilities, master control centers and interconnection equipment that provide signals to its transmitters or other distribution systems, and of operating its transmitting facilities so that the Legislature may appropriate sufficient funds to that corporation for those purposes. Appropriation must be made in amounts to be determined by the Legislature for those purposes.

Personnel. The transferee corporation shall protect certain rights of Maine Public Broadcasting Network employees covered by collective bargaining agreements as of March 1, 1992 as follows.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are employed on June 30, 1992, each individual must be offered an individual employment contract by the transferee corporation at the employee's fiscal year 1991-92 salary for a period of one year beginning July 1, 1992. Unless the employee voluntarily leaves the position or is subject to termination for cause, the transferee corporation shall pay the balance of the employee's annual salary for the year ending June 30, 1993 if the employee is laid off. The transferee corporation shall offer this group of employees a benefit package, including health insurance, retirement benefits, Federal Insurance Contributions Act benefits, workers' compensation insurance,

disability insurance, or other benefits that the transferee corporation's Board of Trustees approves equal to at least a value of 20 of the annual salaries and wages of the employee group.

For those Maine Public Broadcasting Network employees who were employed on March 1, 1992 and who are not employed on June 30, 1992 and who have not left their positions voluntarily or been terminated for cause, the transferee corporation shall offer those individuals any vacant positions within their job classification that are filled prior to June 30, 1993.

State support; intent. The Legislature intends that the State support and provide funding in accordance with section 3 to meet the costs of delivering broadcast services so that all the people of the State may share equitably in the advantages of public broadcasting, regardless of geographic location or economic circumstances.

Transfer; findings; intent. The Legislature finds that it is in the best interest of the people of the State in all regions to develop, maintain and support a structure of public broadcasting that will ensure the most cohesive and efficient system possible. The Legislature finds that it is desirable to unify the operations of the Maine Public Broadcasting Network, or MPBN, operated by the University of Maine System and WCBB, operated by the Colby-Bates-Bowdoin Educational Television Corporation, in a nonprofit corporation that will provide public noncommercial radio and television programs for audiences throughout the State, using broadcast systems and other delivery mechanisms that new technological developments may allow. The Legislature further finds that unifying the operations of MPBN and WCBB will provide a unique and more valuable service to the people of Maine, producing, promoting and delivering more high-quality programs to all Maine residents; unifying the people of this State in all geographic areas by increased public awareness of matters of state-wide importance; protect public broadcastings; free press function; offer greater efficiency in delivering the best possible service for the lowest possible cost; retain flexibility for combining federal, state and private financial assistance; and develop the independent fund-raising potential that public broadcasting has demonstrated.

The Legislature intends that this Act will bring about the orderly transfer of licenses and operational responsibilities for state-owned educational noncommercial radio and television stations to a nonprofit, nonstock private corporation that will combine the broadcasting facilities and capabilities of MPBN and WCBB.

Freedom of access. In recognition of the fact that the transferee corporation will receive public funds and public assets the transferee corporation is subject to the Maine Revised Statutes, Title .2, Chapter 13 and must adopt bylaws and policies to implement the requirements of that chapter.

Appropriation.

....

§853. Commissioner's programs

1. Programs. The commissioner may produce or contract for educational television programs. [1989, c. 702, Pt. E, §9 (new).]

2. Fees. The commissioner may charge a fee from users of the instructional programs offered by an interactive television system. [1989, c. 702, Pt. E, §9 (new).]

3. Dedicated fund. The commissioner may expend all fee payments from a special revenue account to support equipment, development, instructional and production costs incurred by the department in providing interactive television system programs. [1989, c. 702, Pt. E, §9 (new).]

Postsecondary Enrollment

§4771. Eligible institution; defined

As used in this chapter, unless the context otherwise indicates, "eligible institution" means the institutions of the University of Maine System, the Maine Community College System and the Maine Maritime Academy. "Semester" means the fall, spring or summer term of an academic year. [1997, c. 758, §2 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff); 2007, c. 240, Part VVV, §1 (amd)]

§4772. Postsecondary courses; student eligibility

A secondary school student may be eligible to receive state subsidy for postsecondary courses, as specified in section 4775, if the following requirements are satisfied: [1997, c. 758, §2 (new).]

1. Availability. The eligible institution has space available for the secondary school student; [1997, c. 758, §2 (new).]

2. Academic standing. Unless granted a waiver by the eligible institution, the student is maintaining a minimum secondary school grade point average of at least 3.0 on a scale of 4.0, or the equivalent of a "B" average, as determined by the school unit; [2005, c. 519, Pt. XX §1 (amd).]

3. Course prerequisites. The eligible institution has determined that the student has satisfactorily completed all course prerequisites; [1997, c. 758, §2 (new).]

4. School approval. The school unit approves; [2005, c. 519, Pt. XX §2 (amd).]

5. Parental approval. The student's parent approves; and [2005, c. 519, Pt. XX §2 (amd).]

6. Recommendation. The student has received a recommendation to take a postsecondary course or courses at an eligible institution from the student's school administration or one of the student's secondary school teachers following an assessment of the student by the school administration. [2005, c. 519, Pt. XX §3 (new).]

§4772-A. Student eligibility; exception

A secondary school student who does not meet the requirements of section 4772, subsection 2 is eligible under this chapter if that student: [1999, c. 495, §1 (new).]

1. Enrolled as junior. Is enrolled in grade 11 or higher in the student's school unit; [RR 1999, c. 1, §25 (cor).]

2. Recommendation. Has received a recommendation to take a postsecondary course or courses at an eligible institution from the student's school administration or from a teacher at the student's school following an assessment of the student by the school administration; and [2005, c. 519, Pt. XX §4 (amd).]

3. Approval. Has been approved for participation in a course or courses by an eligible institution. [1999, c. 495, §1 (new).]

§4772-B. Students receiving homeschool instruction

A student is eligible to receive a state subsidy for postsecondary courses, as specified in section 4775, if the student is receiving home instruction in a program that meets the requirements of section 5001-A, subsection 3, paragraph A, subparagraph (4) and the eligible institution:

1. Space available. Has space available for the student;

2. Course prerequisites. Has determined that the student has satisfactorily completed all course prerequisites; and
3. Academic fitness. Reviews all requested evidence of the student's academic fitness and gives its approval for the student to take the requested course or courses.

A student who meets the requirements of this section is eligible to participate in postsecondary courses at an eligible institution under this section, subject to the requirements and conditions of sections 4774 to 4776. Notwithstanding section 15672, subsection 32, a student described in this section is considered to be a subsidizable pupil for purposes of receiving the subsidy provided in this chapter. [2013, c. 400, §1 (new).]

§4773. Dissemination of information

School administrative units shall provide general information concerning postsecondary education options available to parents and students. [1997, c. 758, Â§2 (new).]

§4774. Credits

1. High school credit. A school administrative unit may grant academic credit toward a high school diploma to a student who successfully completes a course under this chapter. [1997, c. 758, §2 (new).]

2. Postsecondary credit. The eligible institution shall grant full credit to any student who successfully completes a course at the eligible institution under this chapter. The course must apply to graduation requirements at the eligible institution in which it was taken or be transferable to another eligible institution on an equal basis with a course taken by any other student at the eligible institution. [1997, c. 758, §2 (new).]

§4775. Payment; appropriations

The department shall pay 50% of the in-state tuition for the first 6 credit hours taken each semester by a student at an eligible institution and up to 12 credit hours per academic year. The eligible institution may not make any additional tuition charges for the course but may impose fees and charges, other than tuition, that are ordinarily imposed on students not covered by this chapter. Funds appropriated to the department to carry out the purposes of this chapter must be in addition to the customary and ongoing amounts appropriated for general purpose aid for local schools. [2013, c. 368, §C-2 (amd).]

§ 4776. Distribution of available funding

Not more than 10% of the total funding available to the department for postsecondary education, either through a direct appropriation for postsecondary education under this chapter or as part of the ongoing funds included in the appropriation for general purpose aid for local schools, may be used for secondary students to take a postsecondary course during the summer term. [2007, c. 240, Part VVV, §2 (new)]

Immunization of Post-secondary Students

§6359. Immunization of students

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

A. "Certificate of immunization" means a written statement from a physician, nurse or public health official who has administered an immunizing agent to a student, specifying the dosage administered and the date it was administered. [1991, c. 146, §1 (amd).]

B. "Chief administrative officer" means the person designated by the legal governing authority as president, administrator or director of a public or private post-secondary school. [1985, c. 771, §§2, 7 (new).]

C. "Disease" means those conditions that are preventable by immunizing agent, as specified in rules. [2001, c. 326, §4 (amd).]

D. "Immunizing agent" means a vaccine, toxoid or other substance used to increase an individual's immunity to a disease. [1991, c. 146, §1 (amd).]

E. "Parent" means a student's parent, legal guardian or custodian. A person shall be regarded as a student's custodian if that person is an adult and has assumed legal charge and care of the student. [1985, c. 771, §§2, 7 (new).]

F. "Public health official" means the Director of the Bureau of Health or any designated employee or agent of the Department of Health and Human Services. [1991, c. 146, §1 (amd); 2003, c. 689, Pt. B, §6 (rev).]

G. "School" means any public or private, post-secondary school in the State including, but not limited to colleges, universities, community colleges and schools for the health professions. [1989, c. 443, §22 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

G-1. "School health provider" means a physician, physician's assistant, registered nurse or nurse practitioner licensed to practice by the State and appointed by the chief administrative officer to provide health care to the student population. [1991, c. 146, §2 (new).]

H. "Student" means any person born after 1956 who attends school full time or who is a candidate for a degree, diploma or graduate certificate. [1987, c. 71 (rpr).]

[2001, c. 326, §4 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff); c. 689, Pt. B, §6 (rev).]

2. Immunization. Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease as specified by rule.

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services. [2001, c. 326, §5 (amd); 2003, c. 689, Pt. B, §6 (rev).]

3. Enrollment of school. No chief administrative officer may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

A. The parent or the student provides a physician's written statement or a written statement from a school health provider that immunization against one or more of the diseases may be medically inadvisable. [1991, c. 146, §3 (amd).]

B. The student or the parent, if the student is a minor, states in writing a sincere religious belief, which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons. [2001, c. 326, §6 (amd).]

[2001, c. 326, §6 (amd).]

4. Exclusion from school. When a public health official has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the chief administrative officer of the school. The chief administrative officer shall cause the student to be excluded from school during the period of danger or until the student receives the necessary immunizing agent. [1985, c. 771, §§2, 7 (new).]

5. Records; report. Each chief administrative officer shall keep uniform records of the immunizations and immunization status of each student, based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the student's permanent records.

By December 15th of each year, each chief administrative officer shall submit to the Director of the Bureau of Health a summary report of immunization status of the students entering school, as prescribed by rule. A blank summary report form will be provided to each chief administrative officer by the Bureau of Health.

[1985, c. 771, §§2, 7 (new).]

6. Rules; requirements; reports. The Director of the Bureau of Health shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements and medical exceptions to receiving vaccines or toxoids for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board. [1991, c. 146, §4 (amd).]

A student who is enrolled in a distance education program offered by a school and who does not physically attend any classes or programs at a school facility, including a campus, center or site of that school, or at a school facility, including a campus, center or site of any other school, is exempt from the provisions of this section. [2001, c. 87, §1 (new).]

Jobs for Maine Graduates

§6904. General powers

Jobs for Maine's Graduates is empowered to: [1993, c. 348, §1 (new).]

....

10. Cooperation with agencies and organizations. Cooperate with governmental agencies, the University of Maine System and the Maine Community College System; and cooperate, assist and otherwise encourage organizations, local or regional, private or public, in the communities of the State in the promotion, assistance and development of school-to-work transition systems, youth apprenticeship and job training systems in communities and the State. [1993, c. 348, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

Maine School of Science and Mathematics

§8201. School established

The Maine School of Science and Mathematics is established as a public, chartered school pursuant to this chapter for the purpose of providing certain high-achieving high school students with a challenging educational experience. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State. [1995, c. 485, §1 (amd).]

§8204. Board of trustees

The board of trustees as established in Title 5, section 12004-C, subsection 6 is the policy-making authority and the governing body of the school. [1993, c. 706, Pt. A, §4 (new).]

1. Membership. In appointing members to the board of trustees, the Governor shall give proper consideration to achieving statewide geographical representation and gender equity. The board of trustees consists of 17 voting members and 2 nonvoting members as follows:

A. The Commissioner of Education or the commissioner's designee; [1993, c. 706, Pt. A, §4 (new).]

B. The Chancellor of the University of Maine System or the chancellor's designee; [1993, c. 706, Pt. A, §4 (new).]

C. A member of the regional school unit board of the regional school unit in which the school is located, who must be from the community in which the school is located, or the member's designee; [2009, c. 486, §5 (REPEALED & REPLACED).]

D. One member who is a citizen of Limestone and has an active interest in education, appointed by the Governor; [1993, c. 706, Pt. A, §4 (new).]

E. [2005, c. 129, §1 (rp).]

F. Three members who are teachers, one of whom is a full-time teacher at the school who is a nonvoting member and is annually elected by members of the school's faculty and 2 of whom are teachers in the State representing different geographic regions of the State, appointed by the Governor. Both full-time and part-time teachers at the school may vote in the election of a faculty member to serve on the board of trustees, and the election must be by secret ballot; [2009, c. 486, §6 (amd).]

G. Ten members of the general public appointed by the Governor, at least 4 of whom must be scientists, engineers or mathematicians employed within the business or industrial community, one of whom must be a graduate of the Maine School of Science and Mathematics and one of whom must be a parent of a student or of a graduate who graduated within 5 years prior to the parent's appointment to the board of trustees. All appointments under this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and subject to confirmation by the Legislature; [2005, c. 129, §2 (amd).]

H. [2005, c. 129, §3 (rp).]

I. One student member who is a voting member and has been elected as the presiding officer of the student body. The student member may not participate as a board member in executive sessions and may not vote in a public proceeding on any matter that was discussed or considered during an executive session; and [2009, c. 486, §7 (amd).]

J. The superintendent of the school, who serves as the clerk of the board of trustees and is a nonvoting member. [1993, c. 706, Pt. A, §4 (new).]

[2005, c. 129, §§1-3 (amd).]

2. Chair. The board of trustees shall choose annually one of its members to serve as chair. [1993, c. 706, Pt. A, §4 (new).]

3. Meetings. The board of trustees shall meet at least 4 times a year at regular intervals. [1993, c. 706, Pt. A, §4 (new).]

4. Quorum. A quorum for the transaction of business is constituted by the attendance of 1/3 of all voting members and all official actions of the board of trustees require a majority vote of those members present and voting. [2009, c. 486, §8 (amd.)]

5. Compensation. Members are compensated pursuant to Title 5, section 12004-C, subsection 6. [1993, c. 706, Pt. A, §4 (new).]

6. Terms. The terms of the members of the board of trustees who are appointed by the Governor are for 4-year terms unless otherwise designated. The terms of the 2 teachers appointed by the Governor are staggered. Of the initial appointees, one is appointed for a term of 2 years and one is appointed for a term of 4 years.

The 10 members of the general public serve 4-year staggered terms. Members may be appointed for consecutive terms.

7. Conflict of interest. A board of trustees member shall attempt to avoid conflicts of interest by disclosure or by abstention. [2009, c. 486, §9 (new).]

[2005, c. 129, §4 (amd).]

Global and Geographic Education

§9801. Maine Committee for Global and Geographic Education (REPEALED) [PL 2003, Ch. 643, §7] (RP).

Hemophiliacs

§10001. Hemophiliacs

1. Participation in physical activity. A post-secondary institution may not require a hemophiliac to participate in physical activity hazardous to his or her physical health, as a condition or requirement for a degree, unless the physical activity is approved by the state board as an essential prerequisite to that degree. [1983, c. 806, § 74 (amd).]

2. Admission. A post-secondary institution may not refuse admission to a hemophiliac solely because of his or her condition as a hemophiliac, unless that condition would prevent participation in required courses of study of physical activity. [1983, c. 806, § 74 (amd).]

Records of Educational Institutions

§10002. Records of educational institutions

1. Preservation of records. The trustees or officers of a post-secondary institution, on going out of existence or ceasing to function as an educational institution, shall turn over records of attendance and academic achievements by its students to the department. The department shall preserve these records. [1981, c. 693, Â§ Â§ 5, 8(new)]

2. Duty of the commissioner. The commissioner shall collect all attendance and academic records of post-secondary institutions within the State which are now extinct and deposit the records in a place of safety and accessibility for preservation and future use. [1981, c. 693, Â§ Â§ 5, 8(new) .]

3. Preparation of transcript. When requested, the commissioner shall prepare transcripts of grade records from these records of extinct institutions, when they are needed by the former student for:

A. Further scholastic work at another institution of learning; or [1981, c. 693, Â§ Â§ 5, 8(new).]

B. Certification for teaching or for other professional positions. [1981, c. 693, Â§ Â§ 5, 8(new) .]

[1981, c. 693, Â§ Â§ 5, 8(new) .]

4. Copy as best evidence. When a transcript is made from the original and certified by the commissioner, it shall be considered and accepted as legal evidence and, for all other purposes, as if it was the original. [1981, c. 693, Â§ Â§ 5, 8(new) .]

5. Fee. The department shall charge a nominal fee for the actual cost of preparing those transcripts. [1981, c. 693, Â§ Â§ 5, 8(new) .]

Fees for Degrees

§10003. Fees for degrees

An officer of a post-secondary institution may not receive as prerequisite a fee for a degree granted by the institute. Fees of this type shall be paid into the institution treasury. [1981, c. 693, § § 5, 8(new) .]

Hazing

§10004. Prohibition of hazing

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

A. "Injurious hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health of a student enrolled at an institution in this State. [1983, c. 159 (new).]

B. "Institution" means any post-secondary institution incorporated or chartered under the laws of this State. [1983, c. 159 (new).]

C. "Trustees" means trustees or the governing board of every post-secondary institution incorporated or chartered under the laws of this State. [1983, c. 159 (new).]

D. "Violator" means any person or any organization which engages in hazing. [1983, c. 159 (new).]

[1983, c. 159 (new).]

2. Adoption of rules. The trustees shall adopt rules:

A. For the maintenance of public order; and [1983, c. 159 (new).]

B. Prohibiting injurious hazing by any student, faculty member, group or organization affiliated with the institution, either on or off campus. [1983, c. 159 (new).]

[1983, c. 159 (new).]

3. Penalties. The trustees shall establish penalties for violation of the rules established in subsection 2. The penalties shall include, but not be limited to, provisions for:

A. In the case of a person not associated with the institution, the ejection of the violator from the campus or institution property; [1983, c. 159 (new).]

B. In the case of a student, administrator or faculty violator, the individual's suspension, expulsion or other appropriate disciplinary action; and [1983, c. 159 (new).]

C. In the case of an organization affiliated with the institution which authorizes hazing, recission of permission for that organization to operate on campus property or receive any other benefit of affiliation with the institution. [1983, c. 159 (new).]

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject. [1983, c. 159 (new).]

4. Administrative responsibility. The trustees shall assign responsibility for administering the rules to an administrative officer of the institution and establish procedures for appealing the action or lack of action of the officer. [1983, c. 159 (new).]

5. Dissemination. The trustees shall clearly set forth the rules and penalties and shall give a copy of them to all students enrolled in the institution. [1983, c. 159 (new).]

6. Bylaws of organizations. The rules shall be part of the bylaws of all organizations affiliated with the institution. [1983, c. 159 (new).]

State Postsecondary Review Entity

§10005. State postsecondary review entity

1. Department as state postsecondary review entity. The department is designated as the state postsecondary review entity for the purpose of carrying out the program integrity triad of the Higher Education Act of 1965, 20 United States Code, Sections 1099a to 1099a-3, as amended. [1993, c. 493, §1 (new).]

2. Rule-making authority. The commissioner has rule-making authority to implement the program integrity triad of the Higher Education Act of 1965, 20 United States Code, Sections 1099a to 1099a-3, as amended, concerning the conduct of the activities of the state postsecondary review entity. [1993, c. 493, §1 (new).]

Endowment Incentives

§10006. Endowment incentives

1. Endowment Incentive Fund; nonlapsing fund. The Endowment Incentive Fund, referred to in this section as the "endowment fund," is created to provide an incentive for private donations for endowment purposes to and for the benefit of the University of Maine System, the Maine Community College System and the Maine Maritime Academy, referred to in this section as "postsecondary entities," by providing matching state funds for certain private donations for specified purposes. Any funds appropriated by the Legislature to carry out the purposes of this section may not lapse and must be carried forward for continued use in the fund. [1999, c. 511, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Treasurer of State authority for deposit of state funds; interest earned on the endowment fund; disbursement of endowment funds. The Treasurer of State is responsible for the custodial care of the endowment fund and may deposit state funds pursuant to Title 5, section 135. Interest earned on the investment of the endowment fund must be credited to the respective postsecondary entity or its qualified institutionally related foundation. The Treasurer of State is responsible for disbursement of the endowment

fund, upon certification by the Chancellor of the University of Maine System, the President of the Maine Community College System and the President of the Maine Maritime Academy that the criteria established in subsection 3 are met. [RR 1999, c. 1, §26 (cor); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Administration of endowment fund; boards of trustees; boards of visitors; academic purposes. The respective boards of trustees of the postsecondary entities shall adopt criteria establishing qualifications for private gifts and grants to be matched from the endowment fund. For each university in the University of Maine System, the respective university president must recommend qualifications for that institution's endowment fund criteria to the Board of Trustees of the University of Maine System. Each university president may direct that university's board of visitors to review the institution's unique fund-raising needs and advise the president on the board of visitors' final recommendations to the Board of Trustees of the University of Maine System. The endowment fund criteria must provide that only private donations for academic purposes may qualify for matching. For the administration of this endowment fund, "academic purposes" means scholarships, professorships or other endowed faculty positions. These endowment fund criteria must:

A. Set standards for those types of gifts that qualify for matching; [1999, c. 511, §1 (new).]

B. Establish minimum and maximum amounts for gifts to be matched from the endowment fund; and [1999, c. 511, §1 (new).]

C. Establish any other qualifications determined by the respective boards of trustees to provide the greatest incentive for encouraging private endowment gifts for academic purposes. [1999, c. 511, §1 (new).]

[1999, c. 511, §1 (new).]

4. Qualified recipients; institutionally related foundations; management of endowment funds. Qualified recipients of private donations eligible for matching funds are the University of Maine System and each of its universities, the Maine Community College System and each of its colleges and the Maine Maritime Academy, as well as institutionally related foundations qualified under the Internal Revenue Code, Section 501(c)(3). Qualified institutionally related foundations may receive and manage the investment of matching funds, and may, at their discretion, hold funds allocated to them. In the absence of any conditions or restrictions to the contrary made by the donor, qualified recipients of private donations eligible for matching funds may combine, pool or merge these funds with other similar gift and endowment funds. [1999, c. 511, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

5. Matching funds available to postsecondary entities. Upon determination that the criteria established in subsection 3 have been met, the State Treasurer shall provide that matching funds be available to the 3 entities as follows:

A. For an appropriated amount of more than \$10,000,000:

(1) University of Maine System 70%;

(2) Maine Community College System 25%; and

(3) Maine Maritime Academy 5%; and

[2003, c. 688, Pt. A, §15 (amd).]

B. For an appropriated amount of \$10,000,000 or less:

(1) University of Maine System 75%;

(2) Maine Community College System 20%; and

(3) Maine Maritime Academy 5%.

[1999, c. 511, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

[2003, c. 688, Pt. A, §15 (amd).]

6. University of Maine System; distribution formula. The Board of Trustees of the University of Maine System shall ensure that money from the endowment fund distributed to the University of Maine System is allocated to each of the universities in proportion to the respective amounts of education funds and funds appropriated to the General Fund allocated to the various universities. [1999, c. 511, §1 (new).]

7. Reduction prohibited. Appropriations to the fund must be in addition to any other funds appropriated to the University of Maine System, the Maine Community College System and the Maine Maritime Academy and may not be used to reduce appropriations for other purposes. [1999, c. 511, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

Limitation on Receipt of Gifts, Grants or Donations

§10007. Limitation on receipt of gifts, grants or donations; trustee policy and review

In furtherance of the provisions of section 10902, subsection 2, paragraph B, the Board of Trustees of the Maine Maritime Academy, the Board of Trustees of the University of Maine System and the Board of Trustees of the Maine Community College System shall each adopt a policy that ensures that each public system, its respective campus and any foundation related to each public system or its campus is prohibited from accepting funds from any source that would interfere with or otherwise restrict the academic freedoms typically accorded to the faculty of public higher educational institutions in teaching, research and expression of opinions. Policies adopted or amended by the trustees of each public system must include the establishment of a process for reviewing gifts, grants or donations of funds to ensure that the gifts, grants or donations of funds do not include restrictions that would interfere with or otherwise restrict the academic freedom of the faculty of each public system. This section may not be construed in such a way as to prohibit a donor from designating funds for a particular purpose or use, including, but not limited to, research, scholarships, construction or development. [2001, c. 86, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

Meningococcal Disease and Vaccine

§10008. Information on meningococcal disease and vaccine (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Provision of information; report of vaccination. Each postsecondary educational institution incorporated, chartered or established under the laws of the State that has a residential campus shall provide information on meningococcal disease and the meningococcal vaccine to each newly entering student who plans to live on the residential campus. This information must include any recommendations issued by the national Centers for Disease Control and Prevention regarding meningococcal disease and the meningococcal vaccine. The information must be accompanied by a statement directing the student to share the information with the student's parents or legal guardians. [2003, c. 581, §1 (new).]

2. Construction. This section may not be construed to require a postsecondary educational institution to provide the meningococcal vaccine to students. [2003, c. 581, §1 (new).]

3. (TEXT EFFECTIVE UNTIL 6/30/08) Review; repeal. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the operation and effectiveness of this section by January 30, 2008 and may report out to the Second Regular Session of the 123rd Legislature a bill to amend or repeal this section. As part of its review, the committee shall consider the current recommendations of the national Centers for Disease Control and Prevention regarding meningococcal disease and the meningococcal vaccine. This subsection is repealed June 30, 2008. [2003, c. 581, §1 (new).]

3. (TEXT REPEALED 6/30/08) Review; repeal. [2003, c. 581, §1 (new); T. 20-A, §10008, sub-§3 (rp).]

§ 10009. Regulation of public safety on college and university campuses

1. Definition. As used in this section the following terms have the following meanings.

A. "College or university" means any postsecondary educational institution, including:

(1) Any degree-granting educational institution regulated under chapter 409;

(2) Any university in the University of Maine System;

(3) Any college in the Maine Community College System; and

(4) The Maine Maritime Academy.

2. Power to regulate. Nothing in Title 25, section 2011 limits the power of any college or university to regulate the possession of firearms on the property of the college or university. [2009, c. 170, §1 (new).]

§10010. Current members and veterans of the United States Armed Forces

If a current member of the United States Armed Forces or a veteran of the United States Armed Forces who has been honorably discharged is enrolled in a program of education at any campus of the University of Maine System, the Maine Community College System or the Maine Maritime Academy, that member or veteran is eligible for in-state tuition rates, regardless of the member's or veteran's state of residence. [2013, c. 488, §1 (rpr).]

§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.

[2011, c. 232, §1 (new).]

§ 10012. High school graduates data; remedial courses

1. Remedial courses. Using information that is already collected by the Maine Community College System, the University of Maine System

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Chancell
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Universit
y of
Maine
System
and the
President
of the
Maine
Maritime
Academy
shall
annually
compile
the data
so as to
demonstr
ate:

- A. The total number of traditional students who are enrolled in remedial courses in English language arts and mathematics, which must be disaggregated by campus and by subject area;
- B. The name of each secondary school in the State from which a traditional student enrolled in a remedial course received a high school diploma and the number of those students from each of those schools; and
- C. The retention and graduation rates for traditional students who were enrolled in remedial courses in English language arts and mathematics, which must be disaggregated by campus.

For the purposes of this subsection and subsection 2, "traditional student" means a student who has attended any accredited public school or private school in the State and received a high school diploma from a secondary school in the State or who has participated in a home instruction program pursuant to section 5001-A, subsection 3, paragraph A and who in the following academic year matriculates in the Maine Community College System, in the University of Maine System or at the Maine Maritime Academy.

2. Personally identifiable information. In reporting pursuant to subsection 3 the information compiled under subsection 1, the Maine Community College System, the University of Maine System and the Maine Maritime Academy shall manage education records in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g. Those public institutions of higher education may not make public any information that could identify an individual student and shall ensure that the purpose of reporting disaggregated data for students enrolled in remedial courses is to conduct research for the purpose of evaluating and improving education programs. To ensure that personally identifiable information that would make a student's identity easily traceable is not disclosed, the public institutions of higher education may not report disaggregated information

compiled under subsection 1 if the total number of traditional students who received high school diplomas

from the same secondary school and enrolled in the same remedial course at the same campus is 5 or fewer.

3. Report. Beginning with the 2012-2013 academic year, the President of the Maine Community College System, the Chancellor of the University of Maine System and the President of the Maine Maritime Academy shall each report the information compiled under subsection 1, including recommendations for strategies that may result in fewer students enrolling in remedial courses at postsecondary educational institutions and strategies for improving the retention and graduation rates for students who were enrolled in remedial courses. The reports must be submitted by January 1st of each year to the Commissioner of Education and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs. The Maine Community College System, the University of Maine System and the Maine Maritime Academy shall publish the annual reports on their publicly accessible websites.

4. Contingent repeal. This section is repealed July 1, 2016 unless the Commissioner of Education certifies to the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes before that date that the United States Congress has enacted legislation requiring public institutions of higher education to compile and report substantially the same data.

[2011, c. 615, §1 (new).]

§10013. Report on first-generation students

1. Data and strategies. By January 15, 2014, and annually thereafter, the Board of Trustees of the University of Maine System, the Board of Trustees of the Maine Community College System and the Board of Trustees of the Maine Maritime Academy shall each submit to the joint standing committee of the Legislature having jurisdiction over education matters a report that includes the following information regarding first-generation college students, as defined by the trustees of the respective institutions:

A. Data regarding enrollment of first-generation college students and educational outcomes, including graduation rates for first-generation college students compared with other college students;

B. A summary of strategies used and activities undertaken to increase enrollment and graduation rates of first-generation college students and any available data indicating the effect of those strategies and activities; and

C. Plans for or recommendations regarding new strategies or actions designed to increase enrollment and graduation rates of first-generation college students.

After receiving a report under this section, the committee may submit legislation relating to the subject matter of the report. [2013, c. 166, §1 (new).]

Maine Higher Educational Attainment Council

§10401. Maine Higher Educational Attainment Council established (REPEALED) [PL 2007, Ch. 295, §24] (RP).

§10402. Powers and duties (REPEALED) [PL 2007, Ch. 295, §24] (RP).

Maine State Commission for Higher Education Facilities

§10501. (REPEALED) [PL 2007, Ch. 572, Part A, §6] (RP).

False Academic Degrees

§10803. Unlawful to use degree or certificate when course work not completed; penalty

1. Unlawful use of degree. A person may not knowingly use a degree, certificate, diploma, transcript or other document purporting to indicate that the person has completed an organized program of study or completed courses when the person has not completed the organized program of study or the courses as indicated on the degree, certificate, diploma, transcript or document:

A. To obtain employment; [2005, c. 429, §1 (new).]

B. To obtain a promotion or higher compensation in employment; [2005, c. 429, §1 (new).]

C. To obtain admission to an institution of higher learning; or [2005, c. 429, §1 (new).]

D. In connection with any business, trade, profession or occupation. [2005, c. 429, §1 (new).]

[2005, c. 429, §1 (new).]

2. Penalty. A person who violates this section commits a Class D crime. [2005, c. 429, §1 (new).]

University of Maine System

§10901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 693, § 5, 8 (new).]

1. Trustees. "Trustees" means the Trustees of the University of Maine System. [1985, c. 779, § 46 (amd).]

2. University. "University" means the University of Maine System. [1985, c. 779, § 46 (amd).]

§10901-A. University of Maine System

The University of Maine System is made up of 7 universities. [2005, c. 12, Pt. UUU, §1 (new).]

1. Campuses. The universities of the University of Maine System are located and named as follows:

A. Orono - University of Maine; [2005, c. 12, Pt. UUU, §1 (new).]

B. Augusta - University of Maine at Augusta; [2005, c. 12, Pt. UUU, §1 (new).]

C. Farmington - University of Maine at Farmington; [2005, c. 12, Pt. UUU, §1 (new).]

D. Fort Kent - University of Maine at Fort Kent; [2005, c. 12, Pt. UUU, §1 (new).]

E. Machias - University of Maine at Machias; [2005, c. 12, Pt. UUU, §1 (new).]

F. Presque Isle - University of Maine at Presque Isle; and [2005, c. 12, Pt. UUU, §1 (new).]

G. Portland and Gorham - University of Southern Maine. [2005, c. 12, Pt. UUU, §1 (new).]

[2005, c. 12, Pt. UUU, §1 (new).]

§10902. Public policy on higher education

The following shall be the fundamental policies adhered to in the state's public higher educational planning: [1981, c. 693, §§5, 8 (new).]

1. Recognition. To recognize higher education as an organized program of instruction, research and service:

A. Primarily concerned with the field of organized knowledge, related theory and associated practice; [1981, c. 693, §§5, 8 (new).]

B. Offered by a collegiate institution, not necessarily of 4 years, authorized to award academic degrees; and [1981, c. 693, §§5, 8 (new).]

C. Administered and systematically pursued on a full-time or part-time basis by persons who have completed secondary school or who demonstrate equivalent competence; [1981, c. 693, §§5, 8 (new).]

[1981, c. 693, §§5, 8 (new).]

2. Principles. To support the principles that each higher educational institution in the State, public and private:

A. Shall have control over its educational program and related activities, within its board of control; [1981, c. 693, §§5, 8 (new).]

B. That its faculty shall enjoy the freedom traditionally accorded to the faculty of higher educational institutions in teaching, research and expression of opinions; and [1981, c. 693, §§5, 8 (new).]

C. That the faculty shall be consulted in the formulation of academic policies pertaining to it; [1981, c. 693, §§5, 8 (new).]

[1981, c. 693, §§5, 8 (new).]

3. Cohesive system. To develop, maintain and support a structure of public higher education in the State which will assure the most cohesive system possible for planning, action and service in providing higher educational opportunities, to which the highest priority for fiscal support shall be assigned; [1981, c. 693, §§5, 8 (new).]

4. Programs. To provide in its public higher educational institutions, or through cooperative arrangements with private institutions or institutions outside the State, the programs of study, research or experimentation that its citizens may require; [1981, c. 693, §§5, 8 (new).]

5. Encourage growth. To encourage the growth and development of existing or new private higher educational institutions within the State where studies justify their continuation or establishment; [1981, c. 693, §§5, 8 (new).]

6. All citizens eligible. To recognize that all citizens shall be considered eligible for the benefits of appropriate higher education, whether they are high school graduates or the equivalent, or those seeking retraining or training for new careers; [1981, c. 693, §§5, 8 (new).]

7. Public funds. To assign continually a high priority in the allocation of public funds to the development of services, programs and institutions designed to provide opportunities for those who do not now share equitably in the advantages of higher education, because of limiting economic, social, educational and cultural factors; [1981, c. 693, §§5, 8 (new).]

8. Financial support. To support financially the programs of public higher educational institutions through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term; [1981, c. 693, §§5, 8 (new).]

9. Public accountability. To expect appropriate public accountability for this support; [1981, c. 693, §§5, 8 (new).]

10. Federal funds. To encourage all institutions, public and private, to make maximum use of federal funds available for the support of higher educational programs and activities, the State to provide matching funds, where necessary, initially and on a continuing basis; [1981, c. 693, §§5, 8 (new).]

11. Cooperative undertakings. To expect and request cooperative undertakings among the higher educational institutions, public and private, and between them and the business, industrial and labor interests, to further the development of quality and quantity in educational programs and services and the advancement of the state's economy; [1981, c. 693, §§5, 8 (new).]

12. Evaluation and research. To encourage a continuing program of evaluation and research with respect to higher educational opportunities in the State through financial support and the expectation of annual reporting; [1981, c. 693, §§5, 8 (new).]

13. Master plan. To give a high priority to the provisions of the master plan for higher education through legislative action and appropriate publicity; [1983, c. 97, §1 (amd).]

14. Commuter education. To make the most effective use possible of the financial resources allocated to public higher education by maximum emphasis on commuter facilities. [1981, c. 693, §§5, 8 (new).]

15. Transfer of credits. To provide for a uniform system of transferring credits for equivalent courses between the various units of the University of Maine System; [1985, c. 779, §47 (amd).]

16. Uniform course numbering. To provide for a uniform system of the numbering of courses for equivalent courses between the various units of the University of Maine System; [1985, c. 779, §48 (amd).]

17. Uniform course descriptions. To provide for a uniform system of course descriptions for equivalent courses between the various units of the University of Maine System; [1991, c. 407, §2 (amd).]

18. Temporary Assistance for Needy Families recipients. To develop programs with the goal of enabling recipients of Temporary Assistance for Needy Families to achieve educational and skill levels that will assist them to compete for employment; and [1991, c. 407, §3 (amd); 1997, c. 530, Pt. A, §34 (amd).]

19. Public school restructuring. To encourage the public and private postsecondary education institutions in the State to cooperate with the commissioner, the state board and school administrative units to provide appropriate and timely professional development programs and other support services to educators in public schools engaged in school restructuring efforts. [1991, c. 407, §4 (new).]

Notes of Decisions - 1. Tuition for Indians. There is no specific authority under the laws of this

State or treaties with the Passamaquoddy or Penobscot Indian Tribes entitling Indians to free admission to the University but the Trustees may abate tuition pursuant to Private and

Special Laws of Maine 1913, c.128. Atty. Gen. Report 1959-60, p. 111.

§10902-A. Report by Trustees

The trustees, or their board representative, shall appear annually, in January, before the Joint Standing Committee on Education to report on efforts by the University of Maine System to comply with the state public policy on higher education established by section 10902. That report shall include, but need not be limited to, the following: [1985, c. 779, § 49 (amd).]

1. Planning. Efforts of the trustees to assure a cohesive system of planning for a delivery of higher educational opportunities; and [1983, c. 799, § 2 (new).]

2. Accounting. An accounting of the prior year's funding. [1983, c. 799, § 2 (new).]

§10902-B. Report by Chancellor

The Chancellor of the University of Maine System shall be invited by the Speaker of the House of Representatives and the President of the Senate annually, in January, to appear before a joint session of the Legislature to address the Legislature on the state of the university system and such other matters as the chancellor desires to bring to the Legislature's attention. [1985, c. 779, § 50 (amd).]

§10903. State agency

The university shall be an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under Private and Special Law 1865, chapter 532, and related supplementary legislation. [1981, c. 693, § § 5, 8(new) .]

Notes of Decisions - 1. Status. Though the University of Maine System is chartered by the state and fostered by it, yet it is not a branch of the state's educational system, nor an agency or instrumentality of the state, but a corporation and legal entity wholly separate from the State. Inhabitants of Orono v. Sigma Alpha Epsilon Society (1909) 105 Me. 214, 74 A. 19.

The University of Maine System was declared by the courts not to be a state-owned and operated institution, and the enactment of statute did not change that holding. 1963-64 Atty. Gen. Rep., p. 193.

§10904. Trust funds

1. Accounting. Endowment, trust and other nonexpendable funds for investment held by the trustees, which have been or may be created and established by private donors for the benefit of the university or for any purpose directly related to the activities of the university, shall be preserved in their several separate identities in the books of account of the university and administered according to the terms of the gifts. [1981, c. 693, § § 5, 8 (new) .]

2. Management of individual funds. For the purpose of investment only, and in order to afford to each fund the advantage of a diversification of risk wider than can be obtained by preserving the investment unity of each fund, and in the absence of any conditions or restrictions to the contrary made by the donor, the trustees may combine, pool and merge these funds with other similar funds. The trustees shall account for profits, losses and income to each individual fund in the proportion which its value bears to the total value of the merged fund as of the date of merger. [1981, c. 693, § § 5, 8(new) .]

3. Valuation of individual funds. If a new fund is merged into an existing combination of funds, the proportionate shares shall be determined by calculating the assets of the existing combination of funds at the then market value, and calculating the future shares of each individual fund in proportion to its value to the whole of the new combination. [1981, c. 693, § 5, 8(new) .]

§10904-A. Maintenance fund

The treasurer of the university shall establish and maintain a fund for maintenance of building space constructed with proceeds of any bond issued pursuant to an Act of the Legislature that requires such an account. The trustees shall acquire sufficient private and other non-General Fund contributions to maintain the space for the expected duration of its use. [1997, c. 718, Pt. A, §10 (aff); Pt. B, §1 (new); §2 (aff).]

§10905. Treasurer; compensation

The trustees shall appoint a full-time treasurer of the university. The treasurer shall give bond for the faithful performance of the duties of the office in an amount and with such conditions and sureties as the trustees may determine. The compensation of the treasurer shall be set by the trustees. [1983, c. 862, § 65 (amd).]

§10906. Powers and duties of treasurer

1. Receipt and custody of moneys, expenditures, authority to contract. The treasurer shall:

A. Receive and have custody of all moneys received for the university; [1981, c. 693, § 5, 8(new) .]

B. Make all expenditures upon vouchers authenticated and approved in a manner designated by the trustees; and [1981, c. 693, § 5, 8(new) .]

C. Have no authority to contract debts and obligations or borrow money except:

(1) Loans in anticipation of assured revenues when approved by vote of the trustees; and

(2) Other loans when directed by vote of the trustees and duly and properly authorized by the Governor.

All such loans shall be effected in accordance with the provisions of chapter 412. [1987, c. 735, §13 (amd).]

[1987, c. 735, §13 (amd).]

2. Report of treasurer. The treasurer shall prepare a complete report for the period ending on June 30th of each year and forward a copy of the report to the Governor, the board of trustees and the members of the Legislature. [1981, c. 693, § 5, 8(new) .]

§10907. Transfer of credits; uniform course numbering; uniform course description; committee

1. Formation. The Chancellor of the University of Maine System shall form a committee composed of:

A. The Dean of Academic Affairs or designee from each campus of the University of Maine System; [1985, c. 779, §51 (amd).]

B. One faculty member selected by the faculty from each campus of the University of Maine System; [1985, c. 779, §51 (amd).]

C. One student representative selected by the student body of each campus of the University of Maine System; [1985, c. 779, §51 (amd).]

D. The Vice-Chancellor of Academic Affairs of the University of Maine System to serve as an ex officio member; and [1985, c. 779, §51 (amd).]

E. One member of the joint standing committee of the Legislature having jurisdiction over education to serve as an ex officio member and to be selected by the chairmen of the joint standing committee of the Legislature having jurisdiction over education. [1983, c. 97, §3 (new).]

[1985, c. 779, §51 (amd).]

2. Chairman. The committee shall elect one of its members as chairman. [1983, c. 97, §3 (new).]

3. Meetings. The committee shall be selected as soon as reasonably possible after the effective date of this section. The Vice-Chancellor of Academic Affairs shall notify all members of the time and place of the first meeting. At that time, the committee shall organize and adopt rules as to the administration of its affairs. The members shall serve without compensation, but shall be reimbursed by the chancellor for travel expenses. [1983, c. 97, §3 (new).]

4. Duties. The committee shall establish:

A. A uniform system to facilitate the transfer of credits for equivalent courses between the various units of the University of Maine System; [1985, c. 779, §51 (amd).]

B. Development of a uniform course numbering system; and [1983, c. 97, §3 (new).]

C. Development of uniform course descriptions to provide an easy comparison of courses offered between the various units of the University of Maine System. [1985, c. 779, §51 (amd).]

[1985, c. 779, §51 (amd).]

5. Report and implementation. The committee shall report the results of its deliberations and its recommendations to the Board of Trustees of the University of Maine System no later than one year from the effective date of this subsection, as amended. The trustees shall implement the recommendations no later than the beginning of the fall semester of 1985. [1985, c. 779, §51 (amd).]

REVISOR'S NOTE: In 1988 update there was no text - looks like it was repealed but couldn't find where it was repealed so we reinserted it.

§10907-A. Transfer of postsecondary credits; award of degree

A person who earns an associate degree from the Maine Community College System must be allowed to transfer credits earned at a community college in this State to the University of Maine System for use toward a baccalaureate degree from the University of Maine System in accordance with agreements developed between the University of Maine System and the Maine Community College System. A student who earns credits at the University of Maine System, but who does not earn a degree, must be allowed to transfer those credits to the Maine Community College System for use toward an associate degree. [2013, c. 368, Part EEEEE §1 (new).]

§10908. Educational opportunities for recipients of Aid to Families with Dependent Children

In conjunction with the Maine Temporary Assistance for Needy Families Advisory Council established pursuant to Title 22, section 3789-D, the University of Maine System: [1997, c. 530, Pt. A, §5 (amd).]

1. Placement. Shall promote opportunities for educational placement for recipients of Aid to Families with Dependent Children who meet applicable admissions requirements; and [1983, c. 806, §82 (new).]

2. Supportive services. Within the limits of available funds for supportive services, shall make available to Aid to Families with Dependent Children recipients admitted as students opportunities for supportive services which may include, but are not limited to, remedial educational courses, day care services, counseling services and other programs and services consistent with the policy and intent of Title 22, chapter 1054. [1983, c. 806, §82 (new).]

§10909. University of Maine System Scholarship Fund

The University of Maine System Scholarship Fund is created and established as a nonlapsing fund under the jurisdiction and control of the Board of Trustees of the University of Maine System. All revenues credited to this fund must be distributed as need-based scholarships for students attending the University of Maine System. These scholarships may be awarded only to those students who are residents of the State. The fund may not be used for the costs of administering the scholarships. Fees credited from the University of Maine System registration plate pursuant to Title 29-A, section 456 may not be distributed as scholarships to students attending the University of Maine. [2005, c. 109, §2 (new).]

Displaced Homemakers

§10921. Displaced homemaker

As used in this chapter, "displaced homemaker" means an individual who:

1. Former worker in home. Has worked in the home for a substantial number of years providing unpaid household services for members of the individual's family;
2. No gainful employment. Is not gainfully employed or is not employed in a position offering reasonable opportunities for advancement;

3. Difficulty in getting employment. Has had or would have difficulty securing employment; and
4. Former dependency. Has been dependent on the income of another family member, but is no longer supported by such income, or has been dependent on federal assistance, but is no longer eligible for such assistance, or is supported as the parent of minor children by government assistance or spousal support, but whose children are within one year of reaching majority.

§10922. Displaced homemaker program

The Chancellor of the University of Maine System shall maintain a program to provide job counseling, job training, job placement and referral services to displaced homemakers in cooperation with existing displaced homemaker programs.

§10923. Chancellor

1. Powers. The Chancellor of the University of Maine System is responsible for the administration of displaced homemaker programs. The chancellor shall implement these programs by contracting with the existing displaced homemaker program to deliver services statewide.
2. Rules. The Chancellor of the University of Maine System shall adopt rules and procedures necessary to carry out the purposes of this chapter.

§10924. Displaced Homemakers Advisory Council

1. Membership. The Displaced Homemakers Advisory Council, established by Title 5, section 12004-I, subsection 54, and in this chapter referred to as "the council," is composed of the following individuals:
 - A. The Chancellor of the University of Maine System or the chancellor's designee; and
 - B. Fifteen individuals appointed by the Governor who have experience with the problems of displaced homemakers entering, reentering or retraining for the paid workforce or starting a small business. The council shall elect a chair from among its members.
2. Responsibility. The council shall advise the Chancellor of the University of Maine System on formulating policies related to the administration of this chapter.

§10925. Annual report

The Chancellor of the University of Maine System shall report to the joint standing committee of the Legislature having jurisdiction over labor matters on an annual basis regarding services provided pursuant to this chapter.

[2013, c. 368, Part AAAA §2 (new).]

Tax Exempt Borrowing Authority for the University of Maine System

§10950. Legislative findings of fact

The purpose of this chapter is to promote the welfare and prosperity of the people of the State and the continuation and improvement of their educational opportunities through enabling the University of Maine System to borrow money and enter into financing transactions in its own name, on behalf of the State, to provide money for the financing of acquisition, construction, reconstruction, improvement and equipping of facilities, structures and related systems in furtherance of the purposes of the University of Maine System, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared to be for a public purpose and to be the exercise of an essential governmental function. [1987, c. 735, §14 (new).]

§10951. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 735, §14 (new).]

1. Assured revenues. "Assured revenues," as used in this chapter and in chapter 411, means revenues to be received from grants, subsidies, contracts, leases or other; agreements made by or with the Federal Government, the State or any political subdivision, agency or instrumentality of the Federal Government or the State, or others; or revenues to be received from existing projects, from projects under construction or from projects for which the university has entered into a binding commitment for the acquisition, construction or accomplishment of the project, anticipated by the trustees to produce annual revenues in an amount not less than the anticipated annual cost of operation, maintenance and repair of such project, including aggregate annual debt service payments on any financing for the project, during the term of any financing effected under this chapter for the project, as determined by the trustees. [1987, c. 735, §14 (new).]

2. Cost. "Cost" as applied to a project or any portion of the project, includes, but is not limited to: The purchase price or acquisition cost of any such project; the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, equipping and remodeling; the cost of all labor, materials, building systems, machinery and equipment; the cost of all lands, structures, real or personal property, rights, easements and franchises acquired; the cost of all utility extensions, access roads, site development, financing charges, premium for insurance, interest prior to and during construction and for 6 months thereafter; the cost of working capital related to the project; the cost of plans and specifications, surveys and estimates of cost and of revenues; the cost of engineering, feasibility studies, legal and other professional services; the cost of reserves for payment of future debt service related to the financing transaction and for improvements; the cost of all other expenses necessary or incident to determining the feasibility or practicability of such construction; and administrative and operating expenses and such other expenses as may be necessary or incident to the financing authorized. [1987, c. 735, §14 (new).]

3. Evidences of indebtedness. "Evidences of indebtedness" means any notes, long-term or short-term, or other evidences of indebtedness issued pursuant to this chapter. [1987, c. 735, §14 (new).]

4. Financing documents. "Financing documents" means any evidences of indebtedness, loan agreements, credit agreements, financing leases, lease-purchase agreements, trust agreements, indentures, resolutions, mortgages, security agreements, pledge agreements or other contracts, agreements or documents executed and delivered by the university in connection with a financing transaction under this chapter. [1987, c. 735, §14 (new).]

5. Financing transaction. "Financing transaction" means the borrowing of money by the university on behalf of the State pursuant to this chapter. [1987, c. 735, §14 (new).]

6. Project. "Project" means any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility or other building or structure essential, necessary or useful for instruction in a program of education provided by the university; or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this subsection, including, without limitation, improvements, reconstruction, additions and equipment acquired in connection with the project or in connection with operation of any such currently existing facilities. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, parking lots, parking facilities, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground that are used or usable in connection with any of the structures mentioned in this subsection. "Project" also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items that are customarily considered as a current operating charge. [RR 1991, c. 2, §66 (cor).]

7. State. "State" means the State of Maine. [1987, c. 735, §14 (new).]

8. University. "University" means the body politic and corporate, established by Private and Special Law 1865, chapter 532, under the name of the "Trustees of the State College of Agriculture and Mechanic Arts," its name having been changed to the "University of Maine" by Private and Special Law 1897, chapter 551, and which is an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under Private and Special Law 1865, chapter 532, and supplementary legislation relating thereto, including section 10903; Private and Special Law 1967, chapter 229; Private and Special Law 1969, chapter 238; and Public Law 1985, chapter 779. [1987, c. 735, §14 (new).]

§10952. Powers

In order to carry out the purposes of this chapter, the university shall have the following powers, which shall be in addition to any other powers that the university may have pursuant to laws of the State: [1987, c. 735, §14 (new).]

1. Body politic and corporate. To have perpetual succession as a body politic and corporate and an instrumentality and agency of the State; [1987, c. 735, §14 (new).]

2. Sue and be sued. To sue and be sued in its own name; [1987, c. 735, §14 (new).]

3. Official seal. To adopt and have an official seal and alter it at pleasure; [1987, c. 735, §14 (new).]

4. Project ownership. To acquire, construct, reconstruct, improve, equip, own, operate and maintain any project or projects, or any combination of project; [1987, c. 735, §14 (new).]

5. Acquisition of property. To acquire by purchase, contract, lease, long-term lease or gift, and hold or dispose of, real or personal property or rights or interests in any such property; [1987, c. 735, §14 (new).]

6. Grants; subsidies; loans. To accept grants, subsidies or loans of money from the Federal Government or a federal agency or instrumentality, or others, upon such terms and conditions as may be imposed, and to pledge the proceeds of grants, subsidies or loans of money received or to be received from the Federal Government or any federal agency or instrumentality, or others, pursuant to agreements entered into between the university and the Federal Government or any federal agency or instrumentality, or others; [1987, c. 735, §14 (new).]

7. Borrow money. To borrow money pursuant to this chapter and issue evidences of indebtedness to finance the acquisition, construction, reconstruction, improvement or equipping of any one project, or more than one, or any combination of projects, or to refund evidences of indebtedness hereafter issued or to refund general obligation debt of the State, or to refund any such refunding evidences of indebtedness or for any one, or more than one, or all of those purposes, or any combination of those purposes, and to provide for the security and payment of those evidences of indebtedness and for the rights of the holders of them, except that any borrowing pursuant to this chapter, exclusive of borrowing to refund evidences of indebtedness, to refund general obligation debt of the State, or to fund issuance costs or necessary reserves, may not exceed in the aggregate principal amount outstanding at any time \$220,000,000, and except that no borrowing may be effected pursuant to this chapter unless the amount of the borrowing and the project or projects are submitted to the legislative Office of Fiscal and Program Review for review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs at least 30 days before closing on such borrowing for the project or projects is to be initiated; [2005, c. 386, Pt. U, §1 (amd).]

8. Execute contracts. To make, enter into, execute, deliver and amend any and all contracts, agreements, leases, instruments and documents and perform all acts and do all things necessary or convenient to acquire, construct, reconstruct, improve, equip, finance, maintain and operate projects and to carry out the powers granted to this chapter, or reasonably implied from those powers; and [1987, c. 735, §14 (new).]

9. Maintain treasury. To retain in its treasury:

A. All money received from the sale of all evidences of indebtedness issued under this chapter; [1987, c. 735, §14 (new).]

B. All fees, tuitions, rentals and other charges from students, faculty, staff members and others using or being served by, or having the right to use or the right to be served by, or to operate, any project; [1987, c. 735, §14 (new).]

C. All fees for student activities, student services and all other fees, tuitions and charges collected from students matriculated, registered or otherwise enrolled at and attending the university, pledged under the terms of any resolution authorizing financing transactions pursuant to this chapter; and [1987, c. 735, §14 (new).]

D. All rentals from any facility or building leased to the Federal Government or any other 3rd party; [1987, c. 735, §14 (new).]

[1987, c. 735, §14 (new).]

Any and all powers granted to the university under this chapter may be exercised by majority vote of the trustees and may be delegated to any officer, official or trustee of the university by majority vote of the trustees. [1987, c. 735, §14 (new).]

§10953. Assured revenues financing transactions

In furtherance of the provisions of section 10906, subsection 1, paragraph C, subparagraph (1), the university may, when directed by vote of the trustees, borrow money and enter into financing transactions in anticipation of assured revenues in the name of the university, on behalf of the State, and issue evidences of indebtedness in connection with such financing transactions: [1987, c. 735, §14 (new).]

1. Cost of project. To finance the cost of any one project, or more than one, or any combination of projects; [1987, c. 735, §14 (new).]

2. Finance temporary deficit. To finance any temporary cash flow deficit or temporary operating deficit that the trustees anticipate will be fully paid with the proceeds of assured revenues dedicated to that purpose. [1987, c. 735, §14 (new).]

3. Refund evidences of indebtedness. To refund evidences of indebtedness issued pursuant to this chapter or to refund general obligation debt of the State; or [1993, c. 2, §2 (amd).]

4. Refund refunding borrowings. To refund any such refunding borrowings. [1987, c. 735, §14 (new).]

All evidences of indebtedness issued in connection with assured revenues financing transactions entered into pursuant to this section shall be authorized by majority vote of the trustees. [1987, c. 735, §14 (new).]

§10954. Other financing transactions

In furtherance of the provisions of section 10906, subsection 1, paragraph C, subparagraph (1), the university may, when directed by vote of the trustees and duly and properly authorized by the Governor, borrow money and enter into financing transactions in the name of the university, on behalf of the State, and issue evidences of indebtedness in connection with such financing transactions: [1987, c. 735, §14 (new).]

1. Finance. To finance the cost of any one project, or more than one, or any combination of projects; [1987, c. 735, §14 (new).]

2. Refund evidences of indebtedness. To refund evidences of indebtedness issued and to finance the cost of any project or projects as provided in this chapter or to refund general obligation debt of the State; or [1993, c. 2, §3 (amd).]

3. Refund refunding borrowings. To refund any such refunding borrowings. [1987, c. 735, §14 (new).]

All evidences of indebtedness issued in connection with financing transactions entered into pursuant to this section shall be authorized by majority vote of the trustees and approved by the Governor upon submission by the trustees of the vote so passed. [1987, c. 735, §14 (new).]

§10955. Terms of financing transactions

1. Form; terms; manner of sale. All evidences of indebtedness issued in connection with the financing transactions pursuant to this chapter may be in serial form; may bear such date or dates; may mature at such time or times, and in such amount or amounts; may bear interest at such rate or rates, including variable or adjustable; may be payable in such form and at such time or times and at such place or places; and may include such redemption and conversion privileges as those votes may provide. All evidences of indebtedness shall be issued and sold under such terms and conditions as the trustees determine. The votes shall provide that the treasurer shall manually sign evidences of indebtedness and other related financing documents and the votes may provide for counter-signature of those evidences of indebtedness and related documents by another officer, either manually or in facsimile form. All such evidences of indebtedness shall be deemed to be negotiable instruments under the Uniform Commercial Code, Title 11, Article 8. [1989, c. 502, Pt. A, §57 (amd).]

2. Presumption of lawful authorization. After issuance, all evidences of indebtedness of the university shall be conclusively presumed to be fully and duly authorized and issued under the laws of the State, and any person or governmental unit shall be stopped from questioning their authorization, sale, issuance, execution or delivery by the university. [1987, c. 735, §14 (new).]

3. Voting power. The power to fix the date of sale or issuance of any evidences of indebtedness, receive bids or proposals, award and sell any evidences of indebtedness, set the terms and provisions of any evidences of indebtedness and take all other action necessary to borrow money under this chapter and sell and deliver any evidences of indebtedness in connection with this chapter may be delegated to any officer, official or trustee of the university by a majority vote of the trustees. [2011 Revisor's Report 2, §44 (amd).]

4. No state debt. Money borrowed pursuant to this chapter and evidences of indebtedness issued in connection with this chapter shall not constitute any debt or liability of the State or of any municipality or any political subdivision of the State, but shall be payable solely from the revenues of the university or any project for which they are issued, and all such evidences of indebtedness shall contain on their face a statement to that effect. The borrowing of money pursuant to this chapter and the issuance of evidence of indebtedness under this chapter shall not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation or to make any appropriation for their payment and such evidences of indebtedness shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. [1987, c. 735, §14 (new).]

§10956. Security for indebtedness; trust agreement

To secure the payment of any indebtedness established or issued pursuant to this chapter, the university may mortgage any project or any part of the project and create a lien upon any or all of the revenues of any project or projects or upon any or all of the real or personal property constituting a part of any project or projects or upon any interests the university may hold in connection with a project or projects. Any trust agreement, financing document or resolution may contain such other provisions as the university determines reasonable and proper for the security of the holders of evidences of indebtedness. [1987, c. 735, § 14 (new).]

A trust agreement or financing document containing a mortgage in respect of a project or projects or any part of a project, may authorize the trustee or mortgagee, as the case may be, in the event of a default as defined in respect to the evidences of indebtedness issued to provide for the costs of such project or projects or any part of a project, to take possession of all or any part of the mortgaged property constituting the project or projects or any part of a project, to hold, operate and manage the property and, with or without such taking of possession, to sell or from time to time to lease the property. Remedies provided under this chapter are not exclusive and these remedies shall be in addition to every other remedy existing at law, in equity. Upon satisfaction at any time of the obligations secured by the mortgage in respect of a project, projects or any part of a project, which shall be deemed to include all applicable fees and expenses, any surplus proceeds from such operation, sale or lease of such project or projects or any part of a project shall be paid to the mortgagor of a project, projects or any part of a project or to those claiming under the mortgagor, and subject to any sale or lease under this paragraph, the mortgaged property in respect of the project shall revert or be returned to the mortgagor or to those claiming under the mortgagor. [1987, c. 735, § 14 (new).]

In the discretion of the university, any evidences of indebtedness issued under this chapter may be secured by a trust agreement by and between the university and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such a trust agreement or the resolution providing for the issuance of such evidences of indebtedness may pledge or assign all or any portion of the revenues of any project or projects or any other assets of a project or projects and may contain such provisions for protecting and enforcing the rights and remedies of the holders of evidences of indebtedness as may be reasonable and proper and not in violation of law. The provisions may include covenants setting forth the duties of the university in relation to the acquisition of property and the construction, reconstruction, renewal, replacement and insurance of any project in connection with which such evidences of indebtedness shall have been authorized, the fees, tuition, charges, or rents to be charged or other payments to be made for the use of the property or payment for the property, and the custody, safeguarding and application of all money. Any such trust agreement may set forth the rights and remedies of the holders of evidences of indebtedness and of the trustee, and may restrict the individual right of action by holders of evidences of indebtedness. [1987, c. 735, § 14 (new).]

All expenses incurred in carrying out the trust agreement, financing document or resolution may be treated as a part of the cost of the operation of a project. All pledges of revenues under this chapter are valid and binding from the time when the pledge is made. All such revenues so pledged and received by the university must immediately be subject to the lien of the pledges without any physical delivery of them or further action under the Uniform Commercial Code, Title 11, or otherwise. The lien of those pledges is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the university irrespective of whether the parties have notice of the liens, and the liens are automatically,

without further action, perfected and have the same status as a security interest perfected under the Uniform Commercial Code, Title 11, Article 9-A. [1999, c. 699, Pt. D, §18 (amd); §30 (aff).]

§10957. Trust funds

All money received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter and in the resolution of the trustees authorizing the financing transaction. Any officer to whom, or any bank, trust company or other fiscal agent or trustee to which that money shall be paid shall act as trustee of that money and shall hold and apply the money for that purpose, subject to such regulations as this chapter and the resolution or trust agreement may provide. [1987, c. 735, §14 (new).]

§10958. Remedies

Any holder of evidences of indebtedness issued under this chapter or of any of the coupons appertaining to this chapter, and the trustee under any resolution or trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of evidences of indebtedness or a trust agreement or applicable financing document, may, by action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this chapter or under the resolution, financing documents or trust agreement, including the appointment of a receiver of pledged amounts or a project, and may enforce and compel the performance of all duties required by this chapter or by the resolution, financing document or trust agreement to be performed by the university, including the collecting of rates, rents, fees and charges for the use of any or all of its facilities or projects. Any such suit, action or proceeding shall be brought for the benefit of all the holders of evidences of indebtedness and coupons. [1987, c. 735, §14 (new).]

§10959. Refunding indebtedness

Pursuant to sections 10953 to 10955, the university may enter into financing transactions and issue evidences of indebtedness for the purpose of refinancing obligations or evidences of indebtedness issued under this chapter or to refund general obligation debt of the State, including the payment of any redemption premium on the evidences of indebtedness or general obligation debt of the State and any interest accrued or to accrue to the date of redemption of those obligations, and if deemed advisable by the university for the additional purpose of construction or enabling the construction of improvements, extensions, enlargements or additions of the project or projects in connection with which the obligations to be refunded have been issued. The university's refunding authority includes authority to borrow and issue evidences of indebtedness for the combined purpose of refunding any evidences of indebtedness issued under this chapter then outstanding or refunding general obligation debt of the State, including the payment of any redemption premium on the evidences of indebtedness or general obligation debt of the State and any interest accrued or to accrue to the date of redemption of those obligations, and paying all or any part of the cost of acquiring or constructing or enabling the acquisition or construction of any additional project or projects or part of a

project, or any improvements, extensions, enlargements or additions of any project or projects. The incurring of indebtedness for refunding purposes and the issuance of evidences of indebtedness in connection with the indebtedness, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the university with respect to the indebtedness are governed by this chapter insofar as the chapter may be applicable. In the event the university refunds general obligation debt of the State not previously issued to finance any project or projects, the Treasurer of State is authorized to discharge the university from an amount of its obligations to reimburse the State for debt service on general obligation debt of the State issued to finance any project or projects that is equivalent to the general obligation debt of the State actually being refunded by the issuance of bonds under this chapter. Equivalent amounts must be determined on the basis of the discounted present value of all such obligations. [1993, c. 2, §4 (amd).]

§10960. Tax exemption

Indebtedness incurred under this chapter and evidences of indebtedness issued in connection with the indebtedness shall be deemed to constitute a proper public purpose and the evidences of indebtedness issued, their transfer and the income from them, including any profits made on the sale of the evidences of indebtedness, shall at all times be exempt from taxation within the State. [1987, c. 735, §14 (new).]

§10961. Governmental functions

The carrying out by the university of the powers and duties conferred upon it by this chapter shall be deemed to be the performance of an essential governmental function. Nothing contained in this chapter may in any way limit or restrict the powers and duties of the university that are granted to it, and nothing contained in this chapter may be construed to imply that the university did not possess any of the powers and duties granted under this chapter prior to the enactment of this chapter. This chapter shall in no way limit or restrict the power and authority of the State to borrow money for the benefit of the university. [1987, c. 735, §14 (new).]

This chapter being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes of this chapter. To the extent of any conflict between this chapter and any other law, this chapter shall prevail, but the power and authority granted by this chapter is deemed to be in addition to and not in derogation of power and authority granted by any other law. [1987, c. 735, §14 (new).]

§10963. Evidences of indebtedness

The evidences of indebtedness of the university shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may be authorized to invest in securities of the State, may properly and legally invest funds, including capital, in their control, or belonging to them. Those evidences of indebtedness are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivision and all municipalities and public corporations for any purpose for which the deposit of securities of the State is now or may be authorized by law. [1987, c. 735, §14 (new).]

§10964. Actions against university

Neither any trustee of the university nor any officer, employee or agent of the university, while acting within the scope of the authority of this chapter, may be subject to any personal liability resulting from the exercise or carrying out of any of the university's purposes or powers. [1987, c. 735, §14 (new).]

§10965. Validity of evidences of indebtedness

Evidences of indebtedness bearing duly authorized signatures of officers or officials holding office on the date of signing shall be valid and binding obligations, notwithstanding that before the delivery of and payment for the obligation any or all persons whose signatures appear on the evidences of indebtedness shall have ceased to be such officers or officials. The validity of evidences of indebtedness shall not be dependent on nor affected by the validity or regularity of any proceedings to acquire any project financed with the proceeds of evidences of indebtedness, or to refund outstanding evidences of indebtedness, or otherwise taken in connection with the financing transaction. [1987, c. 735, §14 (new).]

Maine Black Bears Scholarship Fund

§10971. Maine Black Bears Scholarship Fund

The Maine Black Bears Scholarship Fund is created and established as a nonlapsing fund administered by the University of Maine. All revenues credited to this fund must be distributed as need-based scholarships for students attending the University of Maine. Scholarships distributed under this section may be awarded only to students who demonstrate financial need. The University of Maine shall award the scholarships and adopt rules for determining eligibility, terms and conditions for scholarships. The fund may not be used for the costs of administering the scholarships. [2001, c. 623, §2 (new).]

New England Higher Education Compact

§11001. Purposes - Article I

The purposes of the New England Higher Education Compact shall be to provide greater educational opportunities and services through the establishment and maintenance of a coordinated educational program for the persons residing in the several states of New England parties to this compact, with the aim of furthering higher education in the fields of medicine, dentistry, veterinary medicine, public health and in professional, technical, scientific, literary and other fields. [1981, c. 693, § § 5, 8(new) .]

§11002. Board of Higher Education - Article II

1. Creation. The New England Board of Higher Education, established by Title 5, section 12004-K, subsection 2, and referred to as the "board," shall be an agency of each state party to the compact. [1989, c. 503, Pt. B, §76 (amd).]

2. Powers. The board shall be a body corporate and politic, having the powers, duties and jurisdiction enumerated and such other and additional powers as shall be conferred upon it by the concurrent act or acts of the compacting states. [1981, c. 693, § § 5, 8 (new).]

3. Composition. The board shall consist of 8 resident members from each compacting state, at least 2 of whom shall be members of the Legislature, chosen in the manner and for the terms provided by law of the several states parties to this compact. [1981, c. 693, § § 5, 8 (new).]

§11003. Entry into force - Article III

This compact shall become operative immediately as to those states executing it whenever any 2 or more of the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and Connecticut have executed it in the form which is in accordance with the laws of the respective compacting states. [1981, c. 693, § § 5, 8(new) .]

§11004. Officers; meetings; organization - Article IV

1. Officers. The board shall annually elect from its members a chairperson and vice-chairperson and shall appoint and at its pleasure remove or discharge said officers. [1981, c. 693, § 5, 8(new) .]

2. Employees. It may appoint and employ an executive secretary and may employ such stenographic, clerical, technical or legal personnel as shall be necessary and at its pleasure remove or discharge such personnel. [1981, c. 693, § 5, 8(new) .]

3. Rules. It shall adopt a seal and suitable bylaws and shall promulgate any and all rules which may be necessary for the conduct of its business. [1981, c. 693, § 5, 8(new) .]

4. Office. It may maintain an office or offices within the territory of the compacting states. [1981, c. 693, § 5, 8(new) .]

5. Meetings. It may meet at any time or place. Meetings shall be held at least once each year. A majority of the members shall constitute a quorum for the transaction of business, but no action of the board imposing any obligation on any compacting state shall be binding unless a majority of the members from the compacting state shall have voted in favor thereof. Where meetings are planned to discuss matters relevant to problems of education affecting only certain of the compacting states, the board may vote to authorize special meetings of the board members of such states. [1981, c. 693, § 5, 8(new) .]

6. Accounts. The board shall keep accurate accounts of all receipts and disbursements and shall make an annual report to the governor and the legislature of each compacting state, setting forth in detail the operations and transactions conducted by it pursuant to this compact, and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the compacting states which may be necessary to carry out the intent and purpose of this compact. [1981, c. 693, § 5, 8(new) .]

7. Credit. The board shall not pledge the credit of any compacting state without the consent of the Legislature thereof given pursuant to the constitutional processes of said state. The board may meet any of its obligations in whole or in part with funds available to it under Article VII of this compact; provided that board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article VII, the board shall not incur any obligations for salaries, office, administrative, traveling or other expenses prior to the allotment of funds by the compacting states adequate to meet the same. [1981, c. 693, § 5, 8(new) .]

8. Audit. Each compacting state reserves the right to provide hereafter by law for the examination and audit of the accounts of the board. [1981, c. 693, § 5, 8(new) .]

9. Disbursements. The board shall appoint a treasurer and assistant treasurer who may be empowered to perform any and all duties of the treasurer. Fiscal disbursements of the board should be valid only when authorized by any 2 persons from among those authorized by the board to execute this authority, and when substantiated by vouchers signed and countersigned by any 2 members from among those authorized by the board to execute this authority. [1981, c. 693, § 5, 8(new) .]

10. Records. The executive secretary shall be custodian of the records of the board with authority to attest to and certify such records or copies thereof. [1981, c. 693, § 5, 8(new) .]

§11005. Powers and duties - Article V

The board may: [1981, c. 693, § 5, 8(new) .]

1. Data reports. Collect, correlate and evaluate data in the fields of its interest under this compact; publish reports, bulletins and other documents making available the results of its research; and, in its discretion, charge fees for those reports, bulletins and documents; [1981, c. 693, § 5, 8(new) .]

2. Contractual agreements or arrangements. Enter into such contractual agreements or arrangements with any of the compacting states or agencies thereof and with educational institutions and agencies as may be required in the judgment of the board to provide adequate services and facilities in educational fields covered by this compact. It shall be the policy of the board in the negotiation of its agreements to serve increased numbers of students from the compacting states through arrangements with then existing institutions, whenever in the judgment of the board adequate service can be so secured in the New England region. Each of the compacting states shall contribute funds to carry out the contracts of the board on the basis of the number of students from such state for whom the board may contract.

Contributions shall be at the rate determined by the board in each educational field. Except in those instances where the board by specific action allocates funds available to it under Article VII, the board's authority to enter into such contracts shall be only upon appropriation of funds by the compacting states. Any contract entered into shall be in accordance with rules and regulations promulgated by the board and in accordance with the laws of the compacting states.

[1981, c. 693, § 5, 8(new) .]

§11006. Appropriations - Article VI

Each state agrees that, when authorized by the legislature pursuant to the constitutional processes, it will from time to time make available to the board such funds as may be required for the expenses of the board as authorized under the terms of this compact. The contribution of each state for this purpose shall be in the proportion that its population bears to the total combined population of the states who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States, unless the board shall adopt another basis in making its recommendation for appropriation to the compacting states. [1981, c. 693, § 5, 8(new) .]

Notes of Decisions - The Language of the N.E Higher Education Compact imposes an obligation upon the state to fund, until two years after notice of withdrawal has been given, the state's assessment of operational expenses for the New England Board of Higher Education, as approved by the Maine delegation to NEBHE; even if the state's obligation is inconsistent with the Maine Constitution, there is a reasonable possibility that federal law would make the obligation enforceable against the state. Op. Atty. Gen., May 21, 1981.

§11007. Gifts - Article VII

The board for the purposes of this compact may receive grants, devises, gifts and bequests which the board may agree to accept and administer. The board shall administer property held in accordance with special trusts, grants and bequests, and shall also administer grants and devises of land and gifts or bequests of personal property made to the board for special uses, and shall execute said trusts, investing the proceeds thereof in notes or bonds secured by sufficient mortgages or other securities. [1981, c. 693, § 5, 8(new) .]

§11008. Severability - Article VIII

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any compacting state the compact shall remain in full force and effect as to all other compacting states. [1981, c. 693, § 5, 8(new) .]

§11009. Withdrawal - Article IX

This compact shall continue in force and remain binding upon a compacting state until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until 2 years after notice thereof has been sent by the governor of the state desiring to withdraw to the governors of all other states then parties to the compact. Such withdrawal shall not relieve the withdrawing state from its obligations accruing prior to the effective date of withdrawal. Any state so withdrawing, unless reinstated, shall cease to have any claim to or ownership of

any of the property held by or vested in the board or to any of the funds of the board held under the terms of the compact. Thereafter, the withdrawing state may be reinstated by application after appropriate legislation is enacted by such state, upon approval by a majority vote of the board. [1981, c. 693, § § 5, 8(new) .]

§11010. Defaults; suspension - Article X

If any compacting state shall at any time default in the performance of any of its obligations assumed or imposed in accordance with this compact, all rights and privileges and benefits conferred by this compact or agreement hereunder shall be suspended from the effective date of such default as fixed by the board. Unless such default shall be remedied within a period of 2 years following the effective date of such default, this compact may be terminated with respect to such defaulting state by affirmative vote of 3/4 of the other member states. Any such defaulting state may be reinstated by: [1981, c. 693, § § 5, 8(new) .]

1. Performance. Performing all acts and obligations upon which it has heretofore defaulted; and [1981, c. 693, § § 5, 8(new) .]

2. Approval. Application to and approved by a majority vote of the board. [1981, c. 693, § § 5, 8(new) .]

§11051. Ratification

The Governor, on behalf of this State, may enter into a compact, substantially in the form provided in this chapter, with any one or more of the States of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, that compact to be effective upon the filing of a copy thereof in the office of the Secretary of State. [1981, c. 693, § § 5, 8(new) .]

§11052. Purposes

The several New England states cooperatively deem it feasible to provide needed, acceptable, efficient, educational facilities to meet the needs of New England in the fields of medicine, dentistry, veterinary medicine and other fields of technical, professional and graduate training. [1981, c. 693, § § 5, 8(new) .]

§11053. Board

1. Membership. Of the 8 members who shall represent this State:

A. One shall be the current Chancellor of the University of Maine System, ex officio; [1985, c. 779, § 53 (amd).]

B. One shall be the commissioner, ex officio; [1981, c. 693, § § 5, 8 (new).]

C. Four shall be named by the Governor for 2-year terms; [1981, c. 693, § § 5, 8 (new).]

D. One shall be a member of the Senate appointed by the President of the Senate; and [1981, c. 693, § § 5, 8 (new).]

E. One shall be a member of the House of Representatives appointed by the Speaker of the House. [1981, c. 693, § § 5, 8 (new).]

[1985, c. 779, § 53 (amd).]

2. Expenses. All members shall receive their actual expenses incurred in the performance of their official duties. [1981, c. 693, § § 5, 8 (new).]

§11054. Duties of board

The board on the part of the State shall obtain accurate accounts of all the board's receipts and disbursements and shall report to the Governor and the Commissioner of Administrative and Financial Services annually on or before the 15th day of September, setting forth in such detail as the commissioner may require the transactions of the board for the fiscal year ending on the preceding June 30th. They shall include in such report recommendations for any legislation as may be necessary or desirable to carry out the intent and purposes of the New England Higher Education Compact among the states joining. [1991, c. 780, Pt. Y, §117 (amd).]

§11055. Effective date

When the Governor shall have executed this compact on behalf of this State, and shall have caused a verified copy thereof to be filed with the Secretary of State, and when the compact shall have been ratified by one or more of the states named in section 11051 then this compact shall become operative and effective as between this State and such other state or states. The Governor shall take such action as may be necessary to complete the exchange and filing of official documents as between this State and any other state ratifying the compact, and to take such steps as may be necessary to secure the consent of the Congress of the United States to the compact. [1981, c. 693, § 5, 8(new) .]

Student Loan Insurance Programs

§11401. General provisions

1. Purpose. The purpose of this subchapter is to allow the authority to continue a student loan insurance program, meeting certain federal requirements, in order to secure loans to students attending institutions of higher education, including career and technical education training institutions, and to parents of these students, in accordance with the Constitution of Maine, Article VIII, Part First, Section 2. [RR 2003, c. 2, §67 (cor).]

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

A. "Authority" means the Finance Authority of Maine. [1989, c. 698, §13 (new); §76 (aff).]

B. "Chief executive officer" means the Chief Executive Officer of the Finance Authority of Maine. [1989, c. 698, §13 (new); §76 (aff).]

[1989, c. 698, §13 (new); §76 (aff).]

§11402. Loan programs administered

In accordance with the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Subchapter IV, Part B, as amended, the Finance Authority of Maine shall administer the Robert T. Stafford Loan Program, the Parent Loans to Undergraduate Students Program and the Supplemental Loans for Students Program. To this end, the faith and credit of the State is pledged consistent with the terms and limitations of the Constitution of Maine, Article VIII, Part First, Section 2. [1989, c. 698, §13 (rpr); §76 (aff).]

§11403. Student Loan Insurance Fund

1. Establishment. There is established the Student Loan Insurance Fund, to be used by the authority as a nonlapsing, revolving fund for carrying out this subchapter. [1989, c. 698, §13 (rpr); §76 (aff).]

2. Fund; charges and credits. Charges and credits are as follows.

A. All expenses of the authority for its operations under this subchapter, including interest and principal payments required by loan defaults, may be charged to the fund. [1989, c. 698, §13 (rpr). §76 (aff).]

B. All amounts received by the authority under this subchapter must be credited to the fund. [1989, c. 698, §13 (rpr); §76 (aff).]

[1989, c. 698, §13 (rpr); §76 (aff).]

3. Excess money. Money in the fund not needed currently to meet the obligations of the authority as an insurer is deposited with the authority to the credit of the fund, or may be invested as provided by law. [1989, c. 698, §13 (rpr); §76 (aff).]

§11404. Additions to Student Loan Insurance Fund

1. Request of authority. The authority may, in writing, request the Governor to provide additional funds to add to the Student Loan Insurance Fund to meet its obligations. [1989, c. 698, §13 (rpr); §76 (aff).]

2. Transfer of funds. The Governor shall transfer to the fund sufficient money for the requested purpose from the State Contingent Account or from the proceeds of bonds issued as provided in this section. [1989, c. 698, §13 (rpr); §76 (aff).]

3. Bonds. Bonds must be issued as follows.

A. The Governor shall order the Treasurer of State to issue bonds in the amount requested, but not exceeding in the aggregate outstanding at any one time the amount set forth in the Constitution of Maine, Article VIII, Part First, Section 2. [1989, c. 698, §13 (rpr); §76 (aff).]

B. Bonds mature serially or run for such periods as the Governor may determine, but not for a term of more than 20 years. [1989, c. 698, §13 (rpr); §76 (aff).]

C. The Governor shall determine the rates of interest and the terms and conditions of the bonds. [1989, c. 698, §13 (rpr); §76 (aff).]

D. The bonds are deemed to be a pledge of the full faith and credit of the State. [1989, c. 698, §13 (rpr); §76 (aff).]

[1989, c. 698, §13 (rpr); §76 (aff).]

§11405. Powers and duties

Under this subchapter, the chief executive officer may: [1989, c. 698, §13 (rpr); §76 (aff).]

1. Agent. Choose a suitable agent or agents to administer in whole or in part the affairs and activities required by this subchapter or by applicable federal provisions; and [1989, c. 698, §13 (rpr); §76 (aff).]

2. Agreements. Enter into agreements with the United States Secretary of Education relating to federal, state and private programs of low-interest insured loans to students in institutions of higher education, within the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Title IV, Part B, as amended. [1989, c. 698, §13 (rpr); §76 (aff).]

3. Agreements. [1989, c. 698, §13 (rp); §76 (aff).]

§11406. Loans to minors

Notwithstanding any other law, if the borrower on a loan insured under this program is a minor, an otherwise valid note or other written agreement executed by the borrower for the purpose of the loan creates a binding obligation. [1989, c. 698, §13 (rpr); §76 (aff).]

11407. Authorization for Governor to request organizations to acquire loan notes

To the extent and for the purposes contemplated by the federal Internal Revenue Code of 1954, Section 103(e), as amended, and successor provisions thereto, including without limitation the federal Internal Revenue Code of 1986, Section 150(d), as amended, the Governor may on behalf of the State request the organization of one or more nonprofit corporations to operate exclusively for the purpose of acquiring student loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Title IV, Part B, as amended. The Governor may request on behalf of the State that one or more state agencies acquire student loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Title IV, Part B, as amended. [2003, c. 112, §4 (amd).]

1. Origination of loans. Any entity acquiring student loan notes may not originate federally guaranteed loans, except as authorized in chapter 417-F. The entity may not discriminate against any financial institution or credit union authorized to do business in this State or any other entity with respect to the acquisition of loans. The entity shall adopt policies regarding conflict of interest. [2009, c. 83, §1 (amd).]

2. Loan guarantee. All education loan notes incurred under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are acquired with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1, provided that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [2003, c. 112, §4 (amd).]

3. Board of directors. The board of directors of a nonprofit corporation formed under this section consists of 7 members. Four members representing the public with full voting rights must be appointed by the Governor, subject to review and approval by the joint standing committee of the Legislature having jurisdiction over business and economic development matters and confirmation by the Legislature. The terms of the initial members must be staggered: 2 members must be appointed to 2-year terms and 2 members must be appointed to 3-year terms. On the expiration of a term of any member, a successor must be appointed to a 3-year term. A member serves until a successor is appointed and qualified. A member is

eligible for reappointment. If a member is appointed to fill a vacancy in an unexpired term, that member may serve only for the remainder of that term until a successor is appointed. An officer, director or employee of a nonprofit corporation formed under this section may not at the same time serve as an officer, director or employee of the Maine Educational Loan Authority, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 or of any entity that has a contract to provide a significant level of administrative services to a nonprofit corporation formed under this section, to the Maine Educational Loan Authority or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1. [2003, c. 112, §4 (amd).]

4. Public meetings and records. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the books and records of a nonprofit corporation formed under this section are public records and the meetings of such a corporation are public proceedings within the meaning of Title 1, chapter 13, subchapter 1. [2003, c. 112, §4 (amd).]

5. Use of competitive bidding. An entity designated under this section may enter into contracts for loan administration, loan servicing and other substantial operating contracts related to loan purchase activities through an open competitive bidding process in accordance with this subsection. The entity shall adopt rules requiring that loan administration or servicing contracts may not be entered into without prior public notice and opportunity for interested persons to make proposals, and the entity may not adopt the rules until after providing public notice and opportunity for public comment on the proposed rules. In adopting those rules, the entity shall consider to the extent possible the rules and procedures with respect to the competitive bidding process set forth in Title 5, chapter 155, subchapter 1-A. Any loan administration or servicing contract must be approved by the board after review of the contract and an accompanying fairness opinion prepared by an independent 3rd party. [2003, c. 112, §4 (amd).]

6. Annual report. An entity designated under this section shall report annually on its activities during the previous fiscal year to the joint standing committees of the Legislature having jurisdiction over business and economic development matters, appropriations matters and education matters. The report must include a listing of the current directors and officers; a summary of the purchases of loans in the secondary market during the previous fiscal year; a listing of the institutions from which loans were purchased during the previous fiscal year; and a complete financial statement of the entity's operations related to loan purchases during the previous fiscal year, including a breakdown of income and costs, the administrative and operating costs, the assets and liabilities, the total excess revenues over expenditures for the previous fiscal year and the total accumulation of these revenues, the total income derived from investments during the previous fiscal year, the disposition and use of excess revenues, the proceeds from investments and the geographic distribution and distribution between institutions of higher learning of its student loans among residents of this State. The report must demonstrate that all revenues, including reserves, that are acquired with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds are being used in a manner consistent with the public purpose for which the bonds are issued. The report must include similar information on all affiliated entities and must be provided annually in writing to the joint standing committees of the Legislature having jurisdiction over business and economic development matters, appropriations matters and education matters by December 1st. An entity designated under this section shall also file copies of the entity's Internal Revenue Code forms and returns with the Attorney General and the joint standing committee of the Legislature having jurisdiction over business and economic development matters. [2003, c. 112, §4 (amd).]

§11410. Authorization

In accordance with the federal Higher Education Act of 1965, 20 United States Code, Chapter 28, Subchapter IV, Part A, Subparts 3 and 6; and Subchapter V, Part D, Subpart 1, as amended, the Finance Authority of Maine shall administer the State Student Incentive Grant Program the Robert C. Byrd Honors Scholarship Program and the Paul Douglas Teacher Scholarship Program. [1989, c. 698, §13; §76 (new); §76 (aff).]

Maine Educational Loan Authority Act

§11411. Title

This chapter shall be known and may be cited as the "Maine Educational Loan Authority Act." [1987, c. 807, §3 (new).]

§11412. Declaration of necessity and purpose

The Legislature declares that there is a need to provide additional assistance for higher education for residents and inhabitants of this State; the cost of higher education is increasing; assistance to higher education, including recipients and providers of higher education, will benefit the people of this State, enhance their welfare and increase their commerce and economic prosperity; it is the purpose of this chapter to provide assistance to students or the families of students who are residents of this State attending institutions of higher education within or outside of this State, to students and the families of students attending institutions of higher education within this State and to institutions of higher education within this State; the assistance provided by this chapter is intended in part to supplement federal guaranteed higher education loan programs, other student loan programs, grant programs, scholarship programs, programs assisting institutions of higher education and other means of assisting students, families of students and institutions of higher education; and the exercise of the powers to the extent and in the manner provided in this chapter is the exercise of an essential governmental function. [1987, c. 807, §3 (new).]

§11413. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 807, §3 (new).]

1. Authority. "Authority" means the Maine Educational Loan Authority and its successors or assigns. [1987, c. 807, §3 (new).]

2. Authority loans. "Authority loans" means loans by the authority to institutions of higher education, students or other persons for the purpose of funding, financing or acquiring education loans. [1987, c. 807, §3 (new).]

3. Bonds. "Bonds" includes bonds, notes, refunding bonds, commercial paper, pass-through instruments or any other evidences of obligations of the authority issued under this chapter. [1987, c. 807, §3 (new).]

4. Borrower. "Borrower" means a student who has received an education loan or any parent who has received or agreed to repay an education loan. [1987, c. 807, §3 (new).]

5. Code. "Code" means the United States Internal Revenue Code of 1986, as amended, and the regulations to that Code. [1987, c. 807, §3 (new).]

6. Cost of attendance. "Cost of attendance" means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution, including, without limitation, the cost of room and board, transportation, books and supplies. [1989, c. 502, Pt. A, §59 (amd).]

7. Default insurance. "Default insurance" means insurance which insures authority loans or bonds against default. [1987, c. 807, §3 (new).]

8. Default Reserve Fund. "Default Reserve Fund" means a fund established by the authority for the purpose of securing authority loans or bonds. [1987, c. 807, §3 (new).]

9. Education loan. "Education loan" means a loan which is made by the authority or by, or on behalf of, an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an institution. An education loan shall constitute an authority loan. [1989, c. 502, Pt. A, §59 (amd).]

10. Education loan series portfolio. "Education loan series portfolio" means all education loans made by a specific institution which are funded from or acquired by the proceeds of an authority loan to the

institution of higher education out of the proceeds of a related specific bond issue through the authority.
[1987, c. 807, §3 (new).]

11. Institution. "Institution" or "institution of higher education" means any public or private nonprofit educational institution within the State, any public or private nonprofit educational institution outside of the State which is attended by residents of the State, any proprietary educational institution within the State for which loan guarantee services are readily and conveniently available to the authority or any proprietary educational institution outside of the State which is attended by residents of the State and for which loan guarantee services are readily and conveniently available to the authority, which:

A. Provides a program of education beyond the high school level; [1987, c. 807, §3 (new).]

B. Awards an associate, bachelor or advanced degree; and [1987, c. 807, §3 (new).]

C. Meets the conditions of applicable rules. [1987, c. 807, §3 (new).]

[1989, c. 222 (amd).]

12. Loan funding deposit. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee or custodian, in amounts the authority determines necessary as a condition for an institution's participation in the authority's programs to:

A. Provide security for bonds; [1987, c. 807, §3 (new).]

B. Fund a default reserve fund; [1987, c. 807, §3 (new).]

C. Acquire default insurance; or [1987, c. 807, §3 (new).]

D. Defray costs of the authority. [1987, c. 807, §3 (new).]

[1987, c. 807, §3 (new).]

13. Parent. "Parent" means any parent or guardian of a student at an institution of higher education. [1987, c. 807, §3 (new).]

14. Rule. "Rule" means a rule adopted by the authority pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [1987, c. 807, §3 (new).]

15. Secondary market. "Secondary market" means the entity created pursuant to section 11407 prior to the enactment of this chapter. [1987, c. 807, §3 (new).]

16. Supplemental loan. "Supplemental loan" means a loan to a student or to a parent to finance the costs of higher education other than a loan guaranteed pursuant to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28. [1999, c. 728, §12 (new).]

§11414. Authority created

There is created the "Maine Educational Loan Authority," which is constituted a public body corporate and politic and a public instrumentality of the State. The exercise by the authority of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State. [1987, c. 807, §3 (new).]

§11415. Members

1. Composition. There are 7 members of the authority, 6 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and confirmation by the Legislature. [2005, c. 397, Pt. C, §12 (amd).]

2. Qualifications. Each member must be a resident of this State. One member must be the Treasurer of State, ex officio, or the Treasurer of State's designee. Of the remaining 6 members to be appointed by the Governor, 3 members must be trustees, directors, officers or employees of institutions of higher education, one of whom must be from an institution not owned or operated by the State or any of its political subdivisions and one of whom must be from a community college owned or operated by the State. Each member of the authority, before entering upon that member's duties, shall take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX, Section 1. A record of each oath must be filed in the office of the Secretary of State. With the exception of a member serving in an ex officio capacity, a member of the authority may not at the same time serve as an officer, director or employee of a nonprofit corporation formed under section 11407 and former Title 20, section 2237, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 or of any entity that has a contract to provide a significant level of administrative services to the authority, to a

nonprofit corporation formed under section 11407 and former Title 20, section 2237 or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1. [2003, c. 20, Pt. OO, §2 (amd); §4 (aff); c. 385, §2 (amd).]

3. Term of office. Of the 5 members of the authority first appointed, one shall serve for a term expiring June 30, 1989, 2 shall serve for terms expiring June 30, 1990, and 2 shall serve for terms expiring June 30, 1991, and until a successor is appointed and qualified. On the expiration of the term of any member, a successor shall be appointed for a term of 3 years and serve until a successor is appointed and qualified. The Governor shall appoint a qualified person to fill any vacancy. A member of the authority shall be eligible for reappointment. A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualified. After notice, any member may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause. [1987, c. 807, §3 (new).]

4. Officers. Each year the authority shall elect from among its members a chairman, vice chairman, a secretary and any other officers it requires. [1987, c. 807, §3 (new).]

Each member of the authority shall be compensated by the authority in accordance with Title 5, chapter 379. [1987, c. 807, §3 (new).]

§11416. Officers; quorum; effective actions

The authority shall appoint an executive director. The executive director shall serve in that capacity at the pleasure of the authority and receive compensation as fixed by the authority. The executive director need not be a full-time employee of the authority. The executive director shall keep a record of the proceedings of the authority, shall be custodian of all books, documents and papers filed with the members of the authority, the minute book or journal of the authority and its official seal and may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true copies and all persons dealing with the authority may rely upon the certificates. [1987, c. 807, Â§3 (new).]

Four members of the authority shall constitute a quorum. The affirmative vote of a majority of the members present is necessary for any action taken by the members of the authority. [1987, c. 807, Â§3 (new).]

A vacancy in the membership of the authority may not impair the right of a quorum to exercise all the rights and perform all the duties of the members of the authority [1987, c. 807, Â§3 (new).]

Any action taken by the members of the authority under this chapter may be authorized by resolution at any regular or special meeting and, except for any rule, may take effect immediately and need not be published. [1987, c. 807, Å§3 (new).]

§11417. Powers and functions

1. General. The authority may, subject to any limitation of this chapter:

A. Borrow money or otherwise obtain credit in its own name; [1987, c. 807, §3 (new).]

B. Lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor; [1987, c. 807, §3 (new).]

C. Insure or guarantee performance of any loan agreement or other obligation; [1987, c. 807, §3 (new).]

D. Acquire, use, manage, improve or dispose of any interest in, or type of, real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding and also including the assessment of fees, the forgiveness of indebtedness, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds; [1987, c. 807, §3 (new).]

E. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any loan, loan pass-through certificate, pledge, including any pledge of loan revenue, loan participation certificate or other loan-backed or loan-related security; [1987, c. 807, §3 (new).]

F. Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the authority. The authority may conduct hearings, hear testimony under oath, administer oaths, issue subpoenas requiring the attendance of witnesses or the production of records or other things and may issue commissions for the examination of witnesses who are outside of the State, unable to attend or are excused from attendance; [1987, c. 807, §3 (new).]

G. Procure insurance in aid of any of its corporate purposes; [1987, c. 807, §3 (new).]

H. [T. 20-A, §11417, sub-§1, paragraph H (rp).]

I. Obtain any certification, warranty, affidavit or other representation necessary or useful for carrying out any of its powers or duties; [1987, c. 807, §3 (new).]

J. Employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. Employees of the authority shall not be subject to Title 5, chapters 71 and 372, subchapter II; [1987, c. 807, §3 (new).]

K. Sue or initiate or appear in any proceeding. The authority may be sued on its written contracts or in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741; [1987, c. 807, §3 (new).]

L. Maintain an office at a place designated by it within the State; [1987, c. 807, §3 (new).]

M. Adopt an official seal and alter it at pleasure; [1987, c. 807, §3 (new).]

N. Pursuant to Title 5, chapter 375, subchapter II, adopt any rules, including its bylaws, necessary or useful for carrying out any of its powers or duties; [1987, c. 807, §3 (new).]

O. Make, modify and carry out any agreement, including issuing any bond, necessary or useful for carrying out any of its powers, duties or purposes; and [1987, c. 807, §3 (new).]

P. Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes. [1987, c. 807, §3 (new).]

[1999, c. 728, §14 (amd).]

2. Programs. Without limiting the generality of this chapter, the authority is authorized to carry out one or more programs making financial and other assistance available to borrowers, institutions, or both, to finance costs of attendance. The authority is further authorized to issue its bonds, lend the proceeds of the bonds and exercise any other power set forth in this chapter for these purposes. [1987, c. 807, §3 (new).]

3. Policies. The members of the authority shall have the power and duty to establish and revise, from time to time, rules pertaining to participation in programs of the authority, issuing bonds and borrowing money by the authority, a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the authority pursuant to Title 10, chapter 9, servicing and collection of loans made pursuant to programs of the authority and other policies governing the operation of the authority. In addition, the members of the authority may, by resolution of the members, determine that the authority may borrow money in accordance with any such resolution. All other powers and duties of the authority shall be vested in the executive director who shall carry out such powers and duties in accordance with this chapter and the rules of the authority. [1989, c. 502, Pt. A, §60 (amd).]

4. Administration. In carrying out its powers under this chapter, the authority shall, whenever determined desirable by the authority, contract with the secondary market or other persons or entities for necessary clerical and administrative services. The contracts must be awarded by a competitive bidding process subject to approval by a vote of a majority of the members of the authority. [1999, c. 728, §15 (amd).]

5. Loan origination. The powers of the authority set forth in subsection 1, paragraph B and in subsection 2 are limited as set forth in this subsection. The authority is authorized to originate supplemental loans. [1999, c. 728, §16 (new).]

6. Business plan. Within 90 days after the effective date of this subsection and thereafter within the period set forth in Title 5, section 8060, subsection 2, the authority shall prepare and distribute to persons who request it a statement of the authority's goals and objectives for the calendar year and a regulatory agenda in accordance with Title 5, section 8060. [1999, c. 728, §16 (new).]

7. Operating contracts. The authority shall adopt rules, after notice and hearing in accordance with Title 5, section 8053, providing that loan servicing and other substantial operating contracts may not be entered into without prior public notice and opportunity for interested persons to make proposals. In adopting rules, the members of the authority shall, to the extent possible, follow the rules and procedures with respect to the competitive bidding process set forth in Title 5, chapter 155, subchapter I-A. The authority may not enter into any contract except after review of the proposals by the members and approval of the contract by the members after consideration of written recommendations of the executive director. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1999, c. 728, §16 (new).]

1. Confidential information. Records containing any information acquired by the authority or a member, officer, employee or agent of the authority from applicants for or recipients of financial assistance provided pursuant to a program administered or established by the authority shall be deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A. [1987, c. 807, §3 (new).]

2. Wrongful disclosure prohibited. No member, officer, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information; [1987, c. 807, §3 (new).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [1987, c. 807, §3 (new).]

C. To a financial institution or credit reporting service; [1987, c. 807, §3 (new).]

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; [1987, c. 807, §3 (new).]

E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of its bonds; [1987, c. 807, §3 (new).]

F. If necessary to assure collection of any obligation in which it has or may have an interest; [1987, c. 807, §3 (new).]

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [1987, c. 807, §3 (new).]

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears

on its face or otherwise to have been issued or made upon lawful authority. [1987, c. 807, §3 (new).]

[1987, c. 807, §3 (new).]

....

§11428. Chapter additional and supplemental

1. In general. This chapter provides a complete, additional and alternative method for carrying out the functions authorized and shall be regarded as supplemental and additional to, and the limitations imposed by this chapter do not limit or otherwise affect powers or rights conferred by other laws and the issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1987, c. 807, §3 (new).]

2. Institutions of higher education. Notwithstanding any other provision of law or charter, institutions of higher education may borrow money from the authority, make education loans and take all other actions necessary or convenient to consummate the transactions contemplated under this chapter. The authority may establish, contract for, charge and collect any amount or rate of interest or compensation with respect to authority loans and participating institutions of higher education may contract for, charge and collect any amount or rate of interest or compensation with respect to education loans. Neither the authority nor any institution of higher education participating in a loan program under this chapter may be subject to any licensing provisions relating to financial institutions or any credit regulations of the State. [1987, c. 807, §3 (new).]

....

Supplemental Loan Program

§11441. Program established

There is established the Student Financial Aid Supplemental Loan Program to provide assistance to students or the families of students who are residents of this State attending institutions of higher education within or outside of this State and to students attending institutions of higher education within this State and their families. The assistance provided by this chapter is intended to supplement federal guaranteed higher education loan programs, other student loan programs, grant programs, scholarship programs, programs

assisting institutions of higher education and other means of assisting students and families of students. [1991, c. 603, §6 (new).] **20-A §11441 Program established (REPEALED by PL 1991, c. 824, Pt. A, §34)**

§11442. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 603, §6 (new).]

1. Authority. "Authority" means the Finance Authority of Maine established in Title 10, section 961 and its successors or assigns. [1991, c. 603, §6 (new).]

2. Authority loans. "Authority loans" means loans by the authority to institutions of higher education, students or other persons for the purpose of funding, financing or acquiring education loans. [1991, c. 603, §6 (new).]

3. Bonds. "Bonds" includes bonds, notes, refunding bonds, commercial paper, pass-through instruments or any other evidences of obligations of the authority issued under this chapter. [1991, c. 603, §6 (new).]

4. Borrower. "Borrower" means a student who has received an education loan or any parent who has received or agreed to repay an education loan. [1991, c. 603, §6 (new).]

5. Code. "Code" means the United States Internal Revenue Code of 1986, as amended. [1991, c. 603, §6 (new).]

6. Cost of attendance. "Cost of attendance" means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution, including, without limitation, the cost of room and board, transportation, books and supplies. [1991, c. 603, §6 (new).]

7. Default insurance. "Default insurance" means insurance that insures authority loans or bonds against default. [1991, c. 603, §6 (new).]

8. Default reserve fund. "Default reserve fund" means a fund established by the authority for the purpose of securing authority loans or bonds. [1991, c. 603, §6 (new).]

9. Education loan. "Education loan" means a loan made by the authority or by or on behalf of an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an institution. An education loan is an authority loan. [1991, c. 603, §6 (new).]

10. Education loan series portfolio. "Education loan series portfolio" means all education loans made by a specific institution that are funded from or acquired by the proceeds of an authority loan to the institution of higher education out of the proceeds of a related specific bond issue through the authority. [1991, c. 603, §6 (new).]

11. Institution. "Institution" or "institution of higher education" means any public or private nonprofit educational institution within the State, any public or private nonprofit educational institution outside of the State attended by residents of the State, any proprietary educational institution within the State for which loan guarantee services are readily and conveniently available to the authority or any proprietary educational institution outside of the State attended by residents of the State and for which loan guarantee services are readily and conveniently available to the authority, that:

A. Provides a program of education beyond the high school level; [1991, c. 603, §6 (new).]

B. Awards an associate, baccalaureate or advanced degree; and [1991, c. 603, §6 (new).]

C. Meets the other conditions established by rules of the authority. [1991, c. 603, §6 (new).]

[1991, c. 603, §6 (new).]

12. Loan funding deposit. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee or custodian, in amounts the authority determines necessary as a condition for an institution's participation in the authority's programs to:

A. Provide security for bonds; [1991, c. 603, §6 (new).]

B. Fund a default reserve fund; [1991, c. 603, §6 (new).]

C. Acquire default insurance; or [1991, c. 603, §6 (new).]

D. Defray costs of the authority. [1991, c. 603, §6 (new).]

[1991, c. 603, §6 (new).]

13. Parent. "Parent" means any parent or guardian of a student at an institution of higher education. [1991, c. 603, §6 (new).]

20-A §11442 Definitions (REPEALED by PL 1991, c. 824, Pt. A, §34)

§11443. Supplemental loans

1. Programs. The authority is authorized to carry out one or more programs making financial and other assistance available to borrowers or institutions to finance the cost of attendance. The authority is further authorized to issue bonds, lend the proceeds of the bonds and exercise any other power set forth in this chapter for these purposes. [1991, c. 603, §6 (new).]

2. Policies. The authority shall establish rules pertaining to participation in the Student Financial Aid Supplemental Loan Program, issuing bonds and borrowing money by the authority, a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax exempt bonds allocated to the authority pursuant to Title 10, chapter 9, servicing and collection of loans made pursuant to programs of the authority and other policies governing the operation of the authority. [1991, c. 603, §6 (new).] **20-A §11443 Eligibility (REPEALED by PL 1991, c. 824, Pt. A, §34)**

§11444. Records confidential

1. Confidential information. Records containing any information acquired by the authority or a member, employee or agent of the authority from applicants for or recipients of financial assistance provided

by the Student Financial Aid Supplemental Loan Program are confidential for purposes of Title 1, section 402, subsection 3, paragraph A. [1991, c. 603, §6 (new).]

2. Wrongful disclosure prohibited. No member, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information; [1991, c. 603, §6 (new).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [1991, c. 603, §6 (new).]

C. To a financial institution or credit reporting service; [1991, c. 603, §6 (new).]

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; [1991, c. 603, §6 (new).]

E. Information to the extent the authority determines the disclosure necessary to the sale or transfer of its bonds; [1991, c. 603, §6 (new).]

F. If necessary to ensure collection of any obligation in which it has or may have an interest; [1991, c. 603, §6 (new).]

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [1991, c. 603, §6 (new).]

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority. [1991, c. 603, §6 (new).]

[1991, c. 603, §6 (new).] **20-A §11444 Higher Education Loan Program Fund (REPEALED by PL 1991, c. 824, Pt. A, §34)**

....

§11452. Chapter additional and supplemental

1. In general. This chapter provides a complete, additional and alternative method for carrying out the functions authorized and is supplemental and additional to, and the limitations imposed by this chapter do not limit or otherwise affect powers or rights conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1991, c. 603, §6 (new).]

2. Institutions of higher education. Notwithstanding any other provision of law or charter, institutions of higher education may borrow money from the authority, make education loans and take all other actions necessary or convenient to consummate the transactions contemplated under this chapter. The authority may establish, contract for, charge and collect any amount or rate of interest or compensation with respect to authority loans. Participating institutions of higher education may contract for, charge and collect any amount or rate of interest or compensation with respect to education loans. Neither the authority nor any institution of higher education participating in a loan program under this chapter may be subject to any licensing provisions relating to financial institutions or any credit regulations of the State. [1991, c. 603, §6 (new).]

....

Higher Education Loan Program

§11458. Program established

There is established the Higher Education Loan and Loan Insurance Program, administered by the Finance Authority of Maine, to carry out the purposes of this chapter. [2013, c. 34, §4 (amd).]

§11459. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 824, Pt. A, §35 (new).]

1. Authority. "Authority" means the Finance Authority of Maine. [1991, c. 824, Pt. A, §35 (new).]

2. Eligible program of study. "Eligible program of study" means a certificate program of at least one year, an associate degree program, a baccalaureate degree program or a graduate degree program. [1991, c. 824, Pt. A, §35 (new).]

3. Institution of higher education. "Institution of higher education" means an accredited institution of higher education located within the United States. [1991, c. 824, Pt. A, §35 (new).]

4. Unmet need. "Unmet need" means the difference between the total cost of attendance for an academic year at an institution of higher education and the total of all sources of financial assistance, including loans, grants, work-study programs and all other available sources, as determined by the authority by rules adopted in accordance with Title 5, chapter 375. [1991, c. 824, Pt. A, §35 (new).]

§11460. Eligibility

Loans made or insured under this chapter are available only to or for the benefit of a resident of the State or an individual attending an institution of higher education in the State who: [2013, c. 34, §5 (amd).]

1. Graduated. Has graduated from an approved secondary school, matriculated at a postsecondary school prior to high school graduation or successfully completed a high school equivalency diploma or its equivalent; [1991, c. 824, Pt. A, §35 (new).]

2. Accepted as undergraduate. Has been accepted for enrollment as an undergraduate or graduate student or is in good standing as an undergraduate or graduate student at an institution of higher education in an eligible program of study and has not previously received the degree for which the student is enrolled; [1991, c. 824, Pt. A, §35 (new).]

3. Application. Has applied for a loan under the program according to schedules and procedures and on forms specified by the authority and has provided or caused to be provided all information determined necessary by the authority in order to determine eligibility; [1991, c. 824, Pt. A, §35 (new).]

4. Unmet need. Has been determined by the authority to have an unmet need for financial assistance that, if not met, will prevent the student from attending the institution of higher education of that student's choice; [1991, c. 824, Pt. A, §35 (new).]

5. Residency. Meets the state residency requirements that may be established by the authority by rule; [1991, c. 824, Pt. A, §35 (new).]

6. Loan repayment. Has been determined by the authority to have a reasonable prospect of being able to repay the loan. In appropriate cases, the authority may allow repayments to be deferred and subordinated to repayment of other student loans for such period of time as may be necessary for the borrower to be able to afford to repay the loan; and [1991, c. 824, Pt. A, §35 (new).]

7. Academic standing. Is maintaining a grade point average of at least 2.0 on a scale of 4.0, or the equivalent as determined by the authority, provided, however, that the authority may waive the minimum grade point average in the case of a student demonstrating special circumstances and a substantial likelihood of improvement. [1991, c. 824, Pt. A, §35 (new).]

.....

Maine College Savings Program

§11471. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 732, §4 (new).]

1. Advisory committee. "Advisory committee" means the Advisory Committee on College Savings established in this chapter. [1997, c. 732, §4 (new).]

2. Authority. "Authority" means the Finance Authority of Maine, which serves as administrator of the Maine College Savings Program. [1997, c. 732, §4 (new).]

3. Beneficiary. "Beneficiary" means any person designated by a participation agreement to benefit from payments for higher education expenses at an institution of higher education. [1997, c. 732, §4 (new).]

4. Benefits. "Benefits" means the payment of higher education expenses on behalf of a beneficiary by the Maine College Savings Program during the beneficiary's attendance at an institution of higher education. [1997, c. 732, §4 (new).]

5. Board. "Board" means the board of directors of the Finance Authority of Maine. [1997, c. 732, §4 (new).]

6. Contributions. "Contributions" means amounts deposited by a participant to an account within the program fund. [1997, c. 732, §4 (new).]

7. Higher education expenses. "Higher education expenses" means the certified expenses for attendance at an institution of higher education as those expenses are defined by rule of the authority consistent with applicable provisions of the Internal Revenue Code and its regulations addressing qualified state tuition programs. [1997, c. 732, §4 (new).]

8. Institution of higher education. "Institution of higher education" means an institution of higher education that meets the requirements established by rule of the authority consistent with applicable provisions of the Internal Revenue Code and its regulations addressing qualified state tuition programs. [1997, c. 732, §4 (new).]

9. Participant. "Participant" means any person who has entered into a participation agreement pursuant to this chapter. [1997, c. 732, §4 (new).]

10. Participation agreement. "Participation agreement" means an agreement between a participant and the authority providing for the establishment by the participant of one or more accounts within the program fund and for the administration of those accounts for the benefit of the participant and of one or more beneficiaries. [1997, c. 732, §4 (new).]

11. Program earnings. "Program earnings" means all interest, dividends, premiums, fees, profits upon disposition of assets and other revenue actually received by or on behalf of the program with respect to any assets held within the program fund to which that asset may be credited, less all administrative costs of the program and the program fund, as periodically determined by the authority. [1997, c. 732, §4 (new).]

12. Tuition. "Tuition" means the charges imposed to attend an institution of higher education and required as a condition of enrollment. [1997, c. 732, §4 (new).]

§11472. Maine College Savings Program

The Maine College Savings Program, referred to in this chapter as the "program," is established to encourage the investment of funds to be used for higher education expenses at institutions of higher education. The authority shall administer the program and act as administrator of the program fund. [1997, c. 732, §4 (new).]

§11473. Maine College Savings Program Fund

1. Creation. The Maine College Savings Program Fund, referred to in this chapter as the "program fund," is established as a nonlapsing fund to be held, directed and administered by the authority. The authority shall keep the program fund segregated from all other funds held by the 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. [2011, c. 150, §1 (amd).]

2. Sources of money. The following sources of money must be paid into the program fund:

A. All money appropriated for inclusion in the program fund; [1997, c. 732, §4 (new).]

B. All interest, dividends or other pecuniary gains from investment of money in the program fund; [1997, c. 732, §4 (new).]

C. All money received pursuant to participation agreements; [1997, c. 732, §4 (new).]

D. Any grants, gifts and other money from the State and from any unit of federal, state or local government or from any person, firm, partnership or corporation for deposit to the program fund. Contributions may be limited in application to specified classes of beneficiaries; and [1997, c. 732, §4 (new).]

E. Any other money available to the authority and directed by the authority to be paid into the program fund. [1997, c. 732, §4 (new).]

[1997, c. 732, §4 (new).]

3. Application of program fund. Money in the program fund may be applied to carry out any power of the authority under or in connection with this chapter. All money in the program fund must be continuously applied by the authority to carry out this chapter and for no other purpose. Assets of the program fund must at all times be preserved, invested and expended only for the purposes of the program and must be held for the benefit of the participants and beneficiaries, including the refunding of fees paid by participants or any class of participants, the matching of contributions made by participants or any class of participants or the use of funds to provide scholarships to program account beneficiaries who attend institutions of higher education whether or not in the State. Assets may not be transferred or used by the State or the authority for any purposes other than the purposes of the program. Notwithstanding the requirements of this subsection regarding the permissible uses of the money in the program fund, all amounts in the program fund, except for contributions and program earnings that have been credited to an account, may be used by the authority to pay the administrative costs of the program and program fund, as well as costs associated with providing financial education for the benefit of students and families, as determined by the authority. [2013, c. 4, §1 (amd).]

4. Accounts within program fund. The authority may divide the program fund into separate accounts for any purpose it determines necessary or convenient for carrying out the purposes of this chapter, including, without limitation, the establishment of appropriate reserve funds for investment and operating expenses. [1997, c. 732, §4 (new).]

5. Common investment of funds. The authority may commingle, or cause or allow to be comingled, 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. [2011, c. 150, §2 (amd).]

§11474. Powers of the authority

The authority, in the capacity as administrator of the program fund, in addition to all of the powers set out in Title 10, section 969-A, may: [1997, c. 732, §4 (new).]

1. Enter into contracts. Make and enter into contracts necessary for the administration of the program fund, including, without limitation, agreements with any financial institution or institution of higher education or with the State or any federal or state agency or any other entity; [1997, c. 732, §4 (new).]

2. Invest funds. With the advice of the advisory committee 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; [2011, c. 150, §3 (amd).]

3. Participation agreements. Enter into participation agreements with participants in accordance with the requirements of section 11475; [1997, c. 732, §4 (new).]

4. Make payments. Make payments to beneficiaries and to institutions of higher education on behalf of beneficiaries; [1997, c. 732, §4 (new).]

5. Make refunds. Make refunds to participants on the termination of participation agreements pursuant to the provisions, limitations and restrictions set forth in this chapter; [1997, c. 732, §4 (new).]

6. Appoint a program administrator. Appoint a program administrator and other employees necessary to carry out the duties of this chapter; [1997, c. 732, §4 (new).]

7. Carry out studies. Carry out studies and projections to advise participants regarding present and future estimated higher education expenses and levels of financial participation in the program required to enable participants to achieve their educational funding objectives; [1997, c. 732, §4 (new).]

8. Participate in programs. Participate in any federal, state or local governmental program for the benefit of the program or the program fund, including, without limitation, soliciting, establishing and participating in a program providing limits on future increases in the costs of education at participating institutions of higher education on those terms and conditions that the authority may negotiate with the institutions; [1997, c. 732, §4 (new).]

9. Procure insurance. Procure insurance against any loss in connection with the property or assets or activities of the program or the program fund; [1997, c. 732, §4 (new).]

10. Administer the program fund. Administer the program fund; [1997, c. 732, §4 (new).]

11. Borrow money. Borrow money the authority determines necessary and prudent to the administration of the program and the program fund. Loans may be obtained from any source, including other funds of the authority; [1997, c. 732, §4 (new).]

12. Transfer investments. Sell, assign, transfer and dispose of any of the securities and investments of the program. All investments must be clearly marked to indicate designation to the program fund and, to the extent possible, must be registered in the name of the program. All interest derived from investments and any gains from the sale or exchange of investments must be credited by the authority to the account of the program; [1997, c. 732, §4 (new).]

13. Employ investment managers and consultants. Contract for goods and services and engage personnel and consultants, including investment advisors and managers, actuaries, managers, counsel, marketing consultants, fiduciaries and auditors, and evaluation services or other services as determined necessary by the authority for the effective and efficient operation of the program. Directly or through an investment consultant, the authority may contract to provide services that are a part of the comprehensive investment plan or as determined necessary by the authority or the consultant, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting and asset purchase, control and safekeeping; and [1997, c. 732, §4 (new).]

14. Fund costs and expenses. Fund all costs and expenses incurred in connection with the exercise of its powers under this chapter as administrative costs of the program and the program fund. The authority may not assess the program fund a fee in excess of 1% of the balance in the fund in any year for the administrative costs and expenses of the program. [1997, c. 732, §4 (new).]

§11475. Participation agreement

The authority may enter into a participation agreement with a participant on behalf of a beneficiary pursuant to the following terms and conditions. [1997, c. 732, §4 (new).]

1. Periodic payments. A participation agreement may require or permit a participant to invest a specific amount of money in the program fund for a specific period of time for the benefit of a specific beneficiary. Periodic deposits may be made through a payroll deduction plan or an automatic deposit plan or through assignment of state tax refunds. A participation agreement establishing such a periodic deposit plan may include provisions to adjust scheduled deposits on the basis of change in a participant's economic circumstances or a beneficiary's educational plans and may provide for penalties on a participant's failure to make deposits as scheduled. A participation agreement establishing such a plan must provide for the limitation of scheduled deposits by the authority as necessary to ensure that a participant's account does not exceed the amount necessary to pay the beneficiary's projected higher education expenses. [1997, c. 732, §4 (new).]

2. Lump-sum payments. A participation agreement may permit a participant to make one or more lump-sum deposits to an account for the benefit of a specific beneficiary. Lump-sum deposits may be made through the assignment of state tax refunds. [1997, c. 732, §4 (new).]

3. Designation of beneficiaries. Except for accounts opened by a state or local governmental entity or charitable organization, an application or participation agreement must designate the name and date of birth of the beneficiary. [2001, c. 380, §2 (amd).]

4. Change of beneficiary. A beneficiary may be changed as permitted by rule of the authority upon written request of the participant, provided that the substitute beneficiary is eligible. [1997, c. 732, §4 (new).]

5. Amendment. A participation agreement may be freely amended throughout its term to enable a participant to increase or decrease the level of participation, change the designation of a beneficiary and carry out similar matters. [1997, c. 732, §4 (new).]

6. Enrollment fee. The authority may not charge an enrollment fee for participation in the program. [1997, c. 732, §4 (new).]

7. Cancellation. A participation agreement must provide that the participation agreement may be canceled upon the terms and conditions of the agreement and upon payment of the fees, expenses and penalties set forth in rules adopted by the authority. [1997, c. 732, §4 (new).]

8. Separate accounts. A participation agreement must require that the authority maintain each participant's account separately, subject to commingling for investment purposes, and report the status of each participant's account to the participant on a periodic basis, as established by rule of the authority. [1997, c. 732, §4 (new).]

9. Rights and obligations. A participation agreement must include any other rights and obligations of the participant, the beneficiary and the authority. [1997, c. 732, §4 (new).]

10. Terms and conditions. A participation agreement may include other terms and conditions the authority determines necessary, including a limitation on liability of the authority to the extent funds are disbursed in good faith. [1997, c. 732, §4 (new).]

11. No guaranty of admission. The execution of a participation agreement by the authority does not guarantee in any way that higher education expenses will be equal to projections and estimates provided by the authority or that the beneficiary named in any participation agreement will:

A. Be admitted to an institution of higher education; [1997, c. 732, §4 (new).]

B. Be allowed to continue attendance at the institution of higher education following admission; or [1997, c. 732, §4 (new).]

C. Graduate from the institution of higher education. [1997, c. 732, §4 (new).]

[1997, c. 732, §4 (new).]

§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. [2011, c. 150, §4 (amd).]

§11477. Early termination or overfunding of participation agreement

1. Cancellation. The authority may by rule establish fees and penalties applicable to early termination, overfunding of accounts or failure to use the program fund for an eligible purpose. [1997, c. 732, §4 (new).]

2. Death or disability. The authority may not levy or assess an administration refund fee or penalty upon a participant's termination of a participation agreement under the following circumstances:

A. Death of the beneficiary; [1997, c. 732, §4 (new).]

B. Permanent disability or mental incapacity of the beneficiary; or [1997, c. 732, §4 (new).]

C. Receipt by the beneficiary of a scholarship or educational funding, identified by rule of the authority, resulting in an excess of funds in the account not needed to pay higher education expenses. [1997, c. 732, §4 (new).]

[1997, c. 732, §4 (new).]

§11478. Ownership of account; transfer of ownership rights

For all purposes of the laws of the State, the following provisions apply. [1997, c. 732, §4 (new).]

1. Participant retains ownership. The participant retains ownership of all contributions and all program earnings credited to a participant's account under a participation agreement up to the date of utilization for payment of higher education expenses for the beneficiary and, notwithstanding any other provision of law, an amount credited to any account is not susceptible to levy, execution, judgment or other operation of law, garnishment or other judicial enforcement and the amount is not an asset or property of either the participant or the beneficiary for purposes of any state insolvency laws. Notwithstanding this subsection, an amount credited to the participant's account may not be included in any gross estate of the participant for purposes of state tax law, except to the extent that the amount may be includable in any gross estate for purposes of federal tax law. [1997, c. 732, §4 (new).]

2. Institution of higher education is owner upon payment. The institution of higher education obtains ownership of the amounts disbursed from an account to the institution of higher education with respect to the higher education expenses paid to the institution at the time each disbursement is made to the institution, subject to any applicable refund policy or other policies of the institution. [1997, c. 732, §4 (new).]

3. Transfer of ownership. A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to

Title 33, chapter 32; except that, notwithstanding any provision of Title 33, chapter 32, the transfer must be effected and the property distributed in accordance with rules adopted by the authority or the terms of the participation agreement. [1997, c. 732, §4 (new).]

3-A. Successor participants. A participant may designate another person as successor owner of the account in the event of the death or disability of the participant. [2001, c. 380, §3 (new).]

4. Jurisdictional effect. A person may not be deemed a resident of the State or be deemed as present in the State for jurisdictional purposes solely by reason of being a beneficiary or participant of an account. [1997, c. 732, §4 (new).]

5. Not security. A person may not pledge any interest in an account as security for a loan or other debt. [1997, c. 732, §4 (new).]

§11479. Tax exemption

The assets of the program fund, all program earnings and any income from operations are exempt from all taxation by the State or any of its political subdivisions. A deposit to any account, transfer of that account to a successor participant, designation of a successor beneficiary of that account, credit of program earnings to that account or distribution from that account used for the purpose of paying higher education expenses of the designated beneficiary of that account pursuant to this chapter does not subject that participant, the estate of that participant or any beneficiary to any state income or estate tax liability. In the event of cancellation or termination of a participation agreement and distribution of funds to a participant, the increase in value over the amount deposited in the program fund by that participant may be taxable to that participant in the year distributed. [1997, c. 732, §4 (new).]

§11480. Rights of participants and beneficiaries to assets of the authority

Participants and beneficiaries do not have access or rights to any assets of the authority other than program fund assets credited to the account of that participant or beneficiary. An account may not be deemed a debt or obligation of the authority or of the State. [1997, c. 732, §4 (new).]

§11481. Release of information

Notwithstanding any other provision of law, including, without limitation, Title 1, chapter 13, subchapter I and Title 10, section 975-A, the authority may provide information regarding individual

participation accounts as required by federal law and laws of the state of residence of any participant or beneficiary. [1997, c. 732, §4 (new).]

§11482. Exemption from registration

A participation agreement offered pursuant to this chapter is not a security as defined in Title 32, section 16102, subsection 28. The authority may obtain written advice of legal counsel or written advice from the United States Securities and Exchange Commission, or both, that the offering of a participation agreement is not subject to federal securities laws but is in compliance with those laws and is not in violation of other applicable laws. [2005, c. 65, Pt. C, §9 (amd).]

§11483. Compliance with federal law

The authority may take any action necessary to ensure that the program complies with the federal Internal Revenue Code of 1986, Section 529, as amended, and any successor provisions and other applicable laws, rules and regulations adopted pursuant to that provision to the extent necessary for the program fund to constitute a qualified state tuition program with the benefits of eligibility under provisions of the federal Internal Revenue Code addressing qualified state tuition programs. [1997, c. 732, §4 (new).]

§11484. Advisory Committee on College Savings

The Advisory Committee on College Savings, referred to in this chapter as the "advisory committee," is created to provide advice to the authority on the operation of the program and investment of the program fund. [1997, c. 732, §4 (new).]

1. Membership. The advisory committee consists of 7 members as follows:

A. The Treasurer of State, who serves as the chair of the advisory committee; [1997, c. 732, §4 (new).]

B. [2001, c. 417, §18 (rp).]

B-1. [2011, c. 420, §G-1 (REPEALED).]

B-2. Two members appointed by the Governor from at large; [2011, c. 420, §G-2 (rpr).]

C. Two members appointed by the Governor with experience in and knowledge of institutional investment of funds; [2011, c. 420, §G-3 (amd).]

D. [2011, c. 420, §G-4 (REPEALED).]

E. One member appointed by the Governor with experience in and knowledge of institutional investment of funds; and [2011, c. 420, §G-5 (new).]

F. One member appointed by the chair of the board who is a member of the board other than the Treasurer of State. [2011, c. 420, §G-5 (new).]

[2001, c. 417, §§18, 19 (amd).]

2. Terms. Members must be appointed for terms of 4 years. Members may be removed for cause. The member appointed by the Governor under subsection 1, paragraph B-1 must be appointed for an initial term of 3 years. The member appointed by the Governor under subsection 1, paragraph B-2 must be appointed for an initial term of 4 years.

A. [2001, c. 417, §20 (rp).]

B. [2001, c. 417, §20 (rp).]

[2001, c. 417, §20 (rpr).]

3. Compensation. Members of the advisory committee are compensated in accordance with Title 5, chapter 379. [1997, c. 732, §4 (new).]

§11485. Rulemaking

The authority must establish rules for the implementation of the program established by this chapter, including rules establishing fees and penalties and rules necessary to ensure treatment as a qualified state tuition program for federal tax purposes. Rules adopted pursuant to this section, including those setting fees and penalties, are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. The authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by January 30, 1999 on the rules and rule-making process to implement a program providing limits on future increases in the costs of education of participating institutions of higher education pursuant to section 11474, subsection 8. [1997, c. 732, §4 (new).]

Student Loan Corporations

§11501. Declaration of policy

It is declared to be the policy of this State that, for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions, it is essential that students attending the state's higher educational institutions be given the fullest opportunity to learn and develop their intellectual and mental capacities. It is recognized that the financial costs to obtain an education beyond the high school level are often burdensome or prohibitive, and it is essential that qualified students be provided with low-cost financial assistance in order to attend those schools and to reduce the total amount of loan payments following graduation. It is essential that educational institutions within the State be provided with appropriate additional means to assist qualified students financially in achieving the required levels of learning and development of their intellectual and mental capacities. The Legislature has conferred certain powers on student loan corporations and on the Maine Health and Higher Educational Facilities Authority to assure the successful origination, distribution and collection of loans so as to accomplish the purposes of this chapter, all to the public benefit and good. It is declared that the exercise by the student loan corporations of the authority of powers conferred under this chapter will constitute the performance of an essential governmental function. [1983, c. 422, § 21 new)]

§11502. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 422, § 21 (new).]

1. Authority. "Authority" means the Maine Health and Higher Educational Facilities Authority, established under Title 22, section 2054. [1983, c. 422, § 21 (new).]

2. Institution for higher education. "Institution for higher education" means any institution for post-secondary or higher education, as defined in Title 22, section 2053, subsection 4-B, the University of Maine System and, in addition, means any institution which awards an undergraduate or advanced degree. [1985, c. 779, § 54 (amd).]

3. Student loan corporation. "Student loan corporation" means any corporation established under section 11503. [1983, c. 422, § 21 (new).]

§11503. Student loan corporations authorized

Any institution or consortium of institutions for higher education may form a voluntary nonprofit student loan corporation in accordance with this chapter for the purposes specified in this chapter. An institution for higher education may form a student loan corporation either: [1983, c. 422, § 21 (new).]

1. Organizing new student loan corporation. By organizing a new voluntary nonprofit student loan corporation as provided in this chapter; or [1983, c. 422, § 21 (new).]

2. By amending the articles of incorporation and bylaws of an existing nonprofit corporation organized under Title 13-B, or its predecessors, to conform the articles and bylaws to the requirements of this chapter. [1983, c. 422, § 21 (new).]

§11504. Incorporators

1. Formation of student loan corporation. An institution for higher education may, by a 2/3 vote of its board of trustees or other governing body, agree to form or to join with other institutions for higher education to form a student loan corporation for the purpose of providing low-cost financial assistance to qualified students enrolled at that institution or to the parents of these students. The student loan corporation shall be organized under the provisions of Title 13-B, and the incorporators shall be persons as are authorized by the trustees or other governing body. [1983, c. 422, § 21 (new).]

2. Incorporators deemed to be acting on behalf of board. Incorporators shall be deemed to be acting in their capacities as members of and on behalf of the board of trustees or other governing body. [1983, c. 422, § 21 (new).]

§11505. Purposes

The articles of agreement of a student loan corporation shall contain the following: [1983, c. 422, § 21 (new).]

1. Name. The name of the student loan corporation, which shall clearly identify the institution or institutions for higher education with which it is associated and shall end with the words "student loan corporation;" [1983, c. 422, § 21 (new).]

2. Purposes. Each student loan corporation shall be operated exclusively for the purpose of providing loans to qualified students attending the institution or institutions for higher education with which it is associated, or to the parents of those students; and [1983, c. 422, § 21 (amd).]

3. Adoption of procedures. Each student loan corporation shall adopt procedures for determining eligibility for loans, procedures for the making and collection of loans and other procedures as may be necessary or convenient for the administration of the student loan program. [1983, c. 422, § 21, (new).]

§11506. Issuance of bonds

1. Authority to issue. The Maine Health and Higher Educational Facilities Authority may issue revenue bonds and other obligations and loan the proceeds thereof to one or more student loan corporations for the purposes set forth in this chapter. [1983, c. 422, § 21 (new).]

2. Limitations. No bonds or other obligations may be issued unless the authority determines that:

A. The issuance of low-cost loans by the student loan corporation to qualified students will assist the students in attending their institution for higher education and will lower the cost to the students or their parents of financing the students' educations; [1983, c. 422, § 21 (new).]

B. Adequate provision has been or will be made for the payment of the principal of, or interest on, any obligations issued by the authority to finance these loan programs; [1983, c. 422, § 21 (amd).]

C. Adequate provision has been made for the payment of the reasonable expenses of the authority related to administration of the student loan corporations as are necessitated by their programs; and [1983, c. 422, § 21 (new).]

D. The proposed procedures for redistribution of the bond proceeds, collection of student payments, interest charges and any other matters concerning the administration of the student loan corporations are in conformance with the law. [1983, c. 422, § 21 (new).]

[1983, c. 422, § 21 (amd).]

3. Powers of the authority. The authority, to further its student loan corporation programs, may:

A. Determine the nature of student loan corporation programs for which it will issue its bonds; [1983, c. 422, § 21 (new).]

B. Enter into contracts for any or all student loan corporation program purposes; [1983, c. 422, § 21 (new).]

C. Enter into contracts for the administration or servicing of student loan corporation issued loans; [1983, c. 422, § 21 (new).]

D. Designate a particular institution or institutions for higher education or student loan corporation or corporations as its agent for accomplishing its purposes; [1983, c. 422, § 21 (new).]

E. Make loans with proceeds of the sale of its bonds to any student loan corporation in accordance with an agreement between the authority and the student loan corporation; provided that the proceeds of the loan shall be used by the student loan corporation to purchase, originate or make loans to eligible students or to the parents of those students; [1983, c. 422, § 21 (new).]

F. Receive and accept, from any public agency or any other source, loans, grants, guarantees or insurance with respect to student loans and the student loan corporation programs; [1983, c. 422, § 21 (new).]

G. Establish guidelines governing the actions of student loan corporations and institutions for higher education in participating in the authority's student loan corporation program; and [1983, c. 422, § 21 (new).]

H. Exercise all powers incidental and necessary for the performance of the powers listed in this subsection. [1983, c. 422, § 21 (new).]

[1983, c. 422, § 21 (new).]

§11507. Rights of the authority and student loan corporations

In issuing bonds for a student loan corporation program, the authority and any student loan corporation created under this chapter have all the power and authority and are subject to all of the rights, liabilities and responsibilities as set out in Title 22, section 2055, which do not conflict with this chapter. Nothing in this chapter otherwise limits any other bond issuance or other powers of the authority set forth in Title 22, section 2055. [1983, c. 422, § 21 (new)]

§11508. Bonds of the authority

1. Authorization; bond anticipation notes. The authority may, from time to time, issue its negotiable bonds for the purposes specified in this chapter. In anticipation of the sale of these bonds, the authority may issue negotiable bond anticipation notes and may renew the notes from time to time. The notes shall be paid from revenues derived from loans to student loan corporations, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. The notes and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which a bond resolution of the authority may contain. [1983, c. 422, § 21 (new).]

2. Bonds not a debt or liability of the State. Revenue bonds issued under this chapter do not constitute a debt or liability of the State, of any municipality or political subdivision of the State or a pledge of the faith and credit of the State or of any municipality or political subdivision. [1983, c. 422, § 21 (new).]

3. Payments. These revenue bonds are payable solely from the revenues or other funds derived from student loan corporation issued loans, either directly or indirectly provided by this chapter for their payments. All these revenue bonds shall contain on the face of the bond a statement to the effect that neither the State nor the authority is obligated to pay the bond or the interest on the bond, except from revenues or other funds derived from student loan corporation issued loans, either directly or indirectly provided by this chapter, and that neither the faith and credit nor the taxing power of the State or of any municipality or political subdivision of the State is pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under this chapter shall not directly or indirectly or contingently obligate the State or any municipality or political subdivision of the State to levy or to pledge any form of taxation whatever for the bonds or to make any appropriation for their payment. [1983, c. 422, § 21 (new).]

4. Provisions of bonds. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear the date or dates, mature at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States at the place or places and be subject to the terms of redemption as the resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for the price

or prices as the authority determines. The power to fix the date of sale of bonds and to take all other necessary action to sell and deliver bonds may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for those definitive bonds. [1983, c. 422, § 21 (new).]

5. Resolutions. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions which shall be a part of the contract with the holders of the bonds to be authorized as to:

A. Pledging the revenues to be derived from the student loan corporation or any revenue-producing contract or contracts made by the authority with the student loan corporations to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist; [1983, c. 422, § 21 (new).]

B. The fees and other charges to be charged, the amounts to be raised in each year and the use and disposition of the revenues; [1983, c. 422, § 21 (new).]

C. The setting aside of reserves or sinking funds and the regulation and disposition thereof; [1983, c. 422, § 21 (new).]

D. Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging these proceeds to secure the payment of the bonds or any issue of the bonds; [1983, c. 422, § 21 (new).]

E. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which this consent may be given; [1983, c. 422, § 21 (new).]

F. Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of these holders in the event of a default; and [1983, c. 422, § 21 (new).]

G. Such other additional covenants, agreements and provisions as are judged advisable or necessary by the authority for the security of the holders of these bonds. [1983, c. 422, § 21 (new).]

[1983, c. 422, § 21 (new).]

6. No personal liability. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes to be subject to any personal liability or accountability by reason of the issuance thereof. [1983, c. 422, § 21 (new).]

§11509. Source of payment of expenses

All reasonable expenses incurred in carrying out this chapter shall be payable by the respective student loan corporations, and no liability or obligation may be incurred by the authority or any other state agency. [1983, c. 422, § 21, (new).]

§11510. Administration of student loan corporation issued loans; no discrimination

1. Administration. A student loan corporation shall have full power and authority and be subject to all rights, responsibilities and liabilities for the administration of a student loan corporation program and for the distribution and collection of loans to qualified students, including the determination of who is eligible to receive loans, the amounts of the loans, repayment schedules and interest rates to be charged; provided that the terms are in accordance with law and do not discriminate against any person on account of race, creed, national origin, sex or age. [1983, c.422, § 21, (new).]

2. Contracts for services. Student loan corporations may contract with other service corporations to provide bookkeeping, data processing and related fiscal services required for the conduct of their business. [1983, c. 422, § 21 (new).]

§11511. Exemption from taxation

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and shall constitute the performance of an essential governmental function. Neither the authority nor the student loan corporations may be required to pay any taxes or assessments upon or in respect of loans made by the authority or its agents or under the jurisdiction, control, possession or supervision of the authority or the student loan corporations or upon the activities of the authority or the student loan corporations or their agents in the operation or maintenance of student loan corporation programs pursuant to this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State. [1983, c. 422, § 21 (new).]

§11512. Bonds declared legal investments

Bonds and notes issued by the authority under this chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities which may properly and legally be deposited with and received by any state or municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may be authorized by law. [1983, c. 422, § 21 (new).]

§11513. Act cumulative; no notice required

Neither this chapter nor anything contained in this chapter is or may be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this State, and this chapter is cumulative of any such powers. This chapter does and shall be construed to provide a completed, additional and alternative method for doing of the things authorized thereby and shall be regarded as supplemental and additional to powers otherwise conferred by other laws. Neither the making of contracts nor the issuance of bonds, notes and other obligations pursuant to this chapter need comply with the requirements of any other state law applicable to the making of contracts and the issuance of bonds, notes and other obligations. No proceeding, notice or approval may be required for the issuance of any bonds, notes or other obligations, or any instrument or security therefor, except as is provided in this chapter. [1983, c. 422, § 21 (new).]

§11514. University of Maine System

Notwithstanding any inconsistent provisions of this chapter, and in addition to the option of providing low-cost financial assistance to qualified students enrolled at the university through the Maine Health and Higher Educational Facilities Authority and a student loan corporation, the following provisions shall apply to the University of Maine System. [1985, c. 779, § 55 (amd).]

1. Issuance of bonds. The Board of Trustees of the University of Maine System may provide, by resolution, at one time or from time to time, for the issuance of revenue bonds and other obligations and to loan the proceeds thereof to one or more student loan corporations formed by the board for the purposes of this chapter. Revenue bonds and other obligations issued by the board of trustees shall be issued in the name

of the University of Maine System, shall be issued in accordance with this chapter and shall be subject to the same limitations and have the same exemptions as other bonds or obligations issued under this chapter. [1985, c. 779, § 55 (amd).]

2. Powers. In addition to any other powers granted by private and special legislation or general law, the board of trustees shall have the same powers as the Maine Health and Higher Educational Facilities Authority, to the extent those powers are necessary to meet the purposes of this chapter. [1983, c. 422, § 21 (new).]

3. Security. Revenue bonds and other obligations issued under this chapter may be secured in such fashion as the board of trustees, in its discretion, deems appropriate. Revenue bonds and other obligations issued by the board of trustees under this chapter shall not constitute a debt or liability of the State, of any municipality or political subdivision of the State or a pledge of the faith and credit of the State or of any municipality or political subdivision, and shall contain on their face a statement to that effect. [1983, c. 422, § 21 (new).]

Maine State Grant Program

§11611. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 559, §10 (new).]

1. Academic year and in attendance. "Academic year" and "in attendance" have the same meanings as in the definitions of these terms contained in the Higher Education Act of 1965, Section 1201, as amended, United States Code, Title 20, Section 1141; and the Higher Education Act of 1965, Section 491, as amended, United States Code, Title 20, Section 1088; and the regulations, guidelines and procedures promulgated by the Secretary of Education and published in the Federal Register pursuant to these sections of federal law. [1989, c. 559, §10 (new).]

2. Authority. The "authority" means the Finance Authority of Maine. [1989, c. 559, §10 (new).]

3. Eligible program of study. "Eligible program of study" means a certificate program of at least one year, an associate degree program or a baccalaureate degree program. [1989, c. 559, §10 (new).]

4. Expected family contribution. "Expected family contribution" means the amount which the family of a student may be reasonably expected to contribute toward postsecondary education for the academic year for which the student is seeking a Maine State Grant. [2001, c. 70, §3 (amd).]

4-A. Grant. "Grant" means a grant under the Maine State Grant Program authorized under this chapter. [2001, c. 70, §4 (new).]

5. Institution of higher education. "Institution of higher education" means an institution of higher education located within this State, within another state with which this State has a reciprocal agreement or within another state that permits portability. The institutions shall meet the requirements of and conform to the definitions contained in the federal Higher Education Act of 1965, Section 1201, as amended, United States Code, Title 20, Section 1141; and the federal Higher Education Act of 1965, Section 491, as amended, United States Code, Title 20, Section 1088; and the regulations, guidelines and procedures promulgated by the Secretary of Education and published in the Federal Register pursuant to these sections of law. [1991, c. 582, §1 (amd); §3 (aff)]

6. Portability. "Portability" means permission to use funding provided to a student for education by a state, as a grant, loan, scholarship or any combination, in an academic program and institution regardless of geographic location. [1991, c. 582, §2 (new); §3 (aff).]

§11612. Eligibility

The Maine State Grant Program is established. Under the program, grants may be given only to residents of the State who: [2001, c. 70, §5 (amd).]

1. Graduated. Have graduated from an approved secondary school or matriculated at a post-secondary school prior to high school graduation, or have successfully completed a general educational development examination or its equivalent; [1989, c. 559, §10 (new).]

2. Accepted as undergraduate. Have been accepted for enrollment as undergraduates or are in good standing as undergraduates at institutions of higher education in an eligible program of study and have not received a previous baccalaureate degree; [1989, c. 559, §10 (new).]

3. Applied for grants. Have applied for a Maine State Grant according to schedules and procedures and on forms developed by the authority; [2001, c. 70, §6 (amd).]

4. Demonstrate financial need. Have been determined by the authority to have a financial need according to the criteria set forth in section 11613; and [1989, c. 559, §10 (new).]

5. State residency requirements. Meet the state residency requirements that may be established by rules adopted by the authority in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [1989, c. 559, §10 (new).]

§11613. Determination of need

The authority shall establish the need of a student for a Maine State Grant for an academic year for which the student applies. A student is considered to have a need to qualify for a grant if the total of the cost of attendance of the student, minus the expected family contribution for the student, minus estimated student financial assistance not received under this program, is greater than zero. The total of the expected family contribution, together with any other student financial assistance received by the student, may not exceed the cost of attendance at the institution the student attends. [2003, c. 103, §1 (amd).]

1. Rules. The authority shall establish standard methods by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to determine:

A. The parental contribution; and [1989, c. 559, §10 (new).]

B. The student and spouse contribution. [1989, c. 559, §10 (new).]

These standard methods shall consider all income, assets and any other resources available to the parents, student and spouse.

[1989, c. 559, §10 (new).]

2. Expected family contribution. The expected family contribution is the sum of the parental contribution and the student and spouse contribution. The method of determining the expected family contribution shall be established by rule of the authority adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and shall be uniformly applied to all students. [1989, c. 559, §10 (new).]

3. Cost of attendance. In determining the cost of attendance to determine eligibility under this chapter, the authority shall include the following:

A. Tuition and required fees charged to all full-time students; [1989, c. 559, §10 (new).]

B. Standard room and board costs charged by the University of Maine to calculate room and board costs of applicants; and [1989, c. 559, §10 (new).]

C. Books and personal expenses or other amounts determined by the authority to be appropriate. [1989, c. 559, §10 (new).]

[1989, c. 559, §10 (new).]

§11614. Determination of grants

Grants to eligible students must be determined as follows, subject to the limitations set forth in section 11613. [2001, c. 70, §8 (amd).]

1. Priority for awards of grants. Students with the lowest expected family contributions must be given priority over all other eligible students for the awards of grants. [2001, c. 70, §8 (amd).]

2. Minimum amount. It is the intent of the Legislature that grants awarded under this chapter, except as provided in subsections 4, 5 and 6, may not be less than: \$1,000 for students attending public institutions of higher education within the State; \$1,250 for students attending private institutions of higher education within the State; \$500 for students attending public institutions of higher education outside the State; and \$1,000 for students attending private institutions of higher education outside the State. Amounts less than the minimum amounts required by this subsection may be awarded to meet needs as determined under section 11613. The authority may not grant awards of less than \$200 to a full-time student. [2001, c. 70, §8 (amd).]

3. Scholarships for students attending private institutions. [1997, c. 643, Pt. HH, §2 (rp).]

4. Prorated grants. A grant recipient whose course load is reduced from full time is entitled to receive a grant prorated for that term of the recipient's enrollment. [2001, c. 70, §8 (amd).]

5. Withdrawal. If a recipient of a grant withdraws from an institution and the student is entitled to a refund of tuition, fees or other charges, the institution shall make a refund payment directly to the authority in accordance with the institution's refund policy. [2001, c. 70, §8 (amd).]

6. Safety net. Notwithstanding the provisions of this section, the authority may not allocate less in grants under this chapter for students attending the University of Maine System, the Maine Maritime Academy, the Maine Community College System and private postsecondary institutions than was allocated for students in each of those institutions or groups of institutions of higher education in 1988-89. [2001, c. 70, §8 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

7. Part-time students. The authority may allocate up to 5% of the Maine State Grants to eligible part-time students. The authority must establish eligibility criteria by rulemaking pursuant to the Maine Administrative Procedure Act. [2001, c. 70, §8 (amd).]

§11615. Publication of grant amounts

Prior to March 1st of each year, the authority shall publish grant amounts for the succeeding academic year. [2001, c. 70, §9 (amd).]

§11616. Length of grant; period of study

1. Length of grant. A grant is for a period not to exceed one academic year. A student may apply for a new grant for each year during the period required for completion of an eligible program of study being pursued by that student. A grant recipient who remains eligible must be considered in the succeeding award year. [2001, c. 70, §9 (amd).]

2. Period of study. An eligible full- or part-time student may receive a grant for a period not to exceed 150% of the published length of the program in which the student is enrolled at the institution that the student is attending, measured in academic years, academic terms, credit hours attempted or clock hours completed, as appropriate.

A. [2001, c. 70, §9 (rp).]

B. [2001, c. 70, §9 (rp).]

[2001, c. 70, §9 (amd).]

§11617. Program administration

1. Responsibility of authority. The authority shall administer the Maine State Grant Program, including establishing and maintaining fund accounting and control procedures as required by state law or as necessary for the State to be eligible to receive federal assistance under the Federal Student Assistance Program, Higher Education Act of 1965, Title IV, Part A, Subpart 3, as amended, United States Code, Title 20, Sections 1070c-1, 1070c-2 and 1070c-3. [2001, c. 70, §10 (amd).]

2. Guidelines and rules. The following provisions shall apply to the program.

A. The authority shall develop rules, procedures, schedules and forms necessary to carry out the purposes of this program, including the adoption of reciprocal agreements with other states. [1989, c. 559, §10 (new).]

B. To the maximum extent possible consistent with the need for state control of this program, the authority shall use the guidelines, rules, regulations, procedures, forms and schedules set forth by the Secretary of Education for the administration of the Federal Student Assistance Program, Higher Education Act of 1965, Title IV, Part A, Subpart 1, as amended, United States Code, Title 20, Section 1070c. [1989, c. 559, §10 (new).]

[1989, c. 559, §10 (new).]

§11618. Nonlapsing fund

Any unexpended funds appropriated by the Legislature to carry out the purposes of this program shall not lapse, but shall be carried forward for continued use in the program. [1989, c. 559, §10 (new).]

§11619. Reduction of institutional or other grant aid (REPEALED) MRSA ,§T.20A,SEC.11619 (RP).

PL 2001, Ch. 70, §11 (NEW). PL 2001, Ch. 70, §13 (AFF).

§11619-A. Reduction of institutional or other grant aid

Effective July 1, 2004, a grant received by a student under this chapter may be applied to reduce institutional or other grant aid to that student only if that institutional or grant aid is subsequently granted to a student with demonstrated financial need. [RR 2003, c. 2, §68 (cor).]

University of Maine System Scholarship Fund

§11631. University of Maine System Scholarship Fund (REPEALED) [PL 2005, Ch. 109, §3 (RP)]

Scholarships for Maine Fund

§11651. Scholarships for Maine Fund

The Scholarships for Maine Fund is created and established as a nonlapsing fund under the jurisdiction and control of the Finance Authority of Maine. All revenues credited to this fund must be distributed as scholarships based on need for residents of the State who are enrolled in an accredited postsecondary education program of at least one year. The Finance Authority of Maine shall award scholarships and adopt rules for determining eligibility, terms and conditions of grants. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Interest earned on amounts in the fund may be used for the costs of administering the grants. [1997, c. 97, §5 (new).]

§11652. Finance Authority of Maine sponsored credit card

1. Finance Authority of Maine sponsored credit card. The Finance Authority of Maine may enter into an agreement with a financial institution, as defined in Title 9-B, section 131, subsection 17-A or a credit union, as defined in Title 9-B, section 131, subsection 12-A, or other credit card issuer to issue a credit card for the benefit of the Scholarships for Maine Fund. [1997, c. 97, §5 (new).]

2. Agreement. If the Finance Authority of Maine enters into an agreement with a financial institution, credit union or other credit card issuer in accordance with subsection 1, the Finance Authority of

Maine shall negotiate the most favorable agreement for the Finance Authority of Maine, considering such factors as:

A. The rate of the fee by a credit card issuer; [1997, c. 97, §5 (new).]

B. The ability of a financial institution, credit union or other credit card issuer to market the card successfully; and [1997, c. 97, §5 (new).]

C. Customer service offered by the financial institution, credit union or other credit card issuer. [1997, c. 97, §5 (new).]

[1997, c. 97, §5 (new).]

3. Distribution of proceeds. Funds received by the Finance Authority of Maine under the agreement with the financial institution, credit union or other credit card issuer must be deposited into the Scholarships for Maine Fund. [1997, c. 97, §5 (new).]

Teachers for Maine Program

§12501-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 427, §2 (new).]

1. Academic achievement. "Academic achievement" means earning a grade point average of 3.0 or more, based on a 4.0 grade point system, or the equivalent, based upon the most recent cumulative grade point average. [2003, c. 427, §2 (new).]

2. Authority. "Authority" means the Finance Authority of Maine. [2003, c. 427, §2 (new).]

3. Chief executive officer. "Chief executive officer" means the chief executive officer of the Finance Authority of Maine. [2003, c. 427, §2 (new).]

4. Child care. "Child care" means a regular service of care and protection provided for compensation for any part of a day less than 24 hours to a child or children under 13 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children. [2003, c. 427, §2 (new).]

5. Child care facility. "Child care facility" means a child care center or a family child care provider as defined in Title 22, section 8301-A. [2005, c. 530, §1 (amd).]

6. Child care provider qualifications. "Child care provider qualifications" means a degree or certificate in child development or a related area as determined by rule of the authority. [2003, c. 427, §2 (new).]

7. Cost of attendance. "Cost of attendance" has the same meaning as in 20 United States Code, Section 10871l and the regulations, guidelines and procedures promulgated under that section except, for students attending less than half-time, cost of attendance is determined on the same basis as for students attending half-time. [2003, c. 427, §2 (new).]

8. Duly enrolled. "Duly enrolled" means, for an undergraduate, enrolled full-time and, for a graduate student, enrolled at least part-time at an institution of higher education, as evidenced in a form satisfactory to the authority. [2003, c. 427, §2 (new).]

9. Eligible individual. "Eligible individual" means a student who meets the eligibility requirements of section 12505. [2003, c. 427, §2 (new).]

10. Graduating high school senior. "Graduating high school senior" means a student who is a resident of the State, who graduates from a secondary school approved pursuant to section 2901 and who is entering that student's first year in an institution of higher education at the beginning of the next academic year. An academic year for graduating high school seniors is considered to be from September to June. [2003, c. 427, §2 (new).]

11. Institution of higher education. "Institution of higher education" means an institution of higher education located within this State, another state or a foreign country that meets the requirements of and conforms to the definitions contained in the federal Higher Education Act of 1965, as amended, 20 United States Code, Section 1001(a) and the regulations, guidelines and procedures promulgated by the Secretary of Education pursuant to these sections of the law. [2003, c. 427, §2 (new).]

12. Return service. "Return service" means service in public elementary or secondary school or private school in this State approved for tuition purposes for a full school year as a certified teacher or a speech pathologist, service as a Jobs for Maine's Graduates specialist with similar teacher certification or service for a 12-month period in a child care facility by an individual who has attained child care provider qualifications. [2013, c. 7, §1 (amd).]

13. Student pursuing postbaccalaureate certification. "Student pursuing postbaccalaureate certification" means a student who has earned a baccalaureate degree or its equivalent and is pursuing a program of study leading to certification as a teacher or speech pathologist or to the attainment of child care provider qualifications. [2003, c. 427, §2 (new).]

14. Undergraduate. "Undergraduate" means an individual who has not been awarded any baccalaureate degree and who is currently enrolled or accepted for enrollment as a full-time student at an institution of higher education, including a graduating high school senior. [2003, c. 427, §2 (new).]

15. Underserved subject areas. "Underserved subject areas" means those subjects or programs, required or authorized to be taught in the public schools, for which there is an insufficient supply of teachers or speech pathologists as determined by the chief executive officer in consultation with the commissioner. [2003, c. 427, §2 (new).]

§12502. Educators for Maine Program

There is established the Educators for Maine Program to provide financial assistance for postsecondary education to undergraduate students and students pursuing postbaccalaureate certification who demonstrate academic achievement and an interest in pursuing a career in teaching, speech pathology or child care in this State. The chief executive officer shall administer the program and shall establish pursuant to rules of the authority the rates of interest or fees to be charged. [2003, c. 427, §3 (amd).]

§12503. Educators for Maine loan recipients

Each year graduating high school seniors, undergraduates and students pursuing postbaccalaureate certification who show evidence of academic achievement may be considered for recognition as Educators for Maine loan recipients. Applications must be submitted to the chief executive officer at a time and in a format to be determined by rule of the authority. In determining loan recipients, the chief executive officer

shall consider candidates in 3 categories: graduating high school seniors; undergraduates, other than graduating high school seniors; and students pursuing postbaccalaureate certification. [2003, c. 427, §4 (amd).]

The Governor, after consultation with the chief executive officer, shall announce the names of those individuals selected by the chief executive officer to be Educators for Maine loan recipients. [1999, c. 441, §7 (amd).]

§12504. Allocation of funds

The authority shall establish by rule the allocation of funds available under this chapter. [2003, c. 427, §5 (amd).]

Loans of up to \$2,000 per academic year or \$8,000 total may be made to students pursuing postbaccalaureate certification. Loans of up to \$3,000 per academic year or \$12,000 total may be made to eligible undergraduate students. An individual who has received an Educators for Maine loan as an undergraduate may also receive a loan for students pursuing postbaccalaureate certification. In no event may an individual receive more than \$20,000 in total Educators for Maine loans. Loans are for one academic year and are renewable if the recipient maintains a grade point average of at least 2.5 based on a 4.0 grade point system or the equivalent and submits a complete renewal application by the deadline annually. [2003, c. 427, §5 (amd).]

§12505. Eligibility requirements

1. Eligibility for loans for undergraduate education. An Educators for Maine loan recipient must be an undergraduate at an institution of higher education. Preference must be given to students enrolled in a program that has been determined to be an underserved subject area. [2003, c. 427, §6 (amd).]

2. Eligibility for graduate study or continuing education loans. [2003, c. 427, §7 (rp).]

3. Eligibility for postbaccalaureate certification. A loan to a student pursuing postbaccalaureate certification may be given only to a resident of the State who has shown academic achievement, who has a baccalaureate degree, who is pursuing a course of study that will lead to certification as a teacher, to licensure as a speech pathologist or to attainment of child care provider qualifications and who has met other eligibility criteria established by rule of the authority. [2003, c. 427, §8 (amd).]

§12506. Payment provisions

Payment of loans shall be made directly to the institution for credit to the student's account and be made within 60 days following evidence that the student has become duly enrolled at the post-secondary institution. [1983, c. 859, Pt. F, §§1, 2 (new).]

These loans must only be used to substitute or replace the family contribution or interest-accruing loans. A loan recipient may not receive student financial assistance in excess of the cost of attendance. [2003, c. 427, §9 (amd).]

If a recipient of a loan withdraws from an institution and if the student is entitled to a refund of tuition, fees or other charges, the institution shall pay directly to the authority from that refund a sum which represents the portion of the loan paid to the student for the portion of the academic year that the student did not complete. [1989, c. 698, §36 (amd). §76 (aff).]

§12507. Repayment and return service provisions

Each student who receives a loan may cancel the total amount of the loan by completing one year of return service in the public schools or private schools approved for tuition purposes in the State for each year the individual receives a loan. An individual who received that individual's first program loan after January 1, 2000 may also cancel the total amount of the loan by completing one year of return service by working in a child care facility. The return service requirement is one year for every 2 years or less that the individual receives a loan if return service is performed in an underserved subject area. Return service for this purpose must be performed within 5 years of graduation from the institution of higher education. If the chief executive officer grants a deferment, the time period for performance of return service may be extended for the same period as the deferment. Return service may not be credited for the same semester for which an individual receives a loan pursuant to this chapter. Pro rata loan forgiveness may be granted for part-time return service as determined by rule of the authority. Failure to fulfill the return service option necessitates repayment to the authority as follows. [2003, c. 427, §10 (amd).]

1. Debt calculation. The debt must include the total amount of the loan and interest at the rate established by rule of the authority, less the amount, if any, that has been canceled by return service. [1997, c. 489, §8 (amd).]

2. Time for repayment. The total debt must be repaid to the authority within 11 years of graduation from the institution of higher education according to a schedule established by the chief executive officer. Due dates for repayments are set by the chief executive officer and may be extended for the same period of any deferment granted by the chief executive officer. [2003, c. 427, §10 (amd).]

3. Deferment. A recipient of a loan may seek a deferment of the annual payments for a period or periods as established by rule of the authority. A request for deferment must be made to the chief executive officer who shall make a determination on a case-by-case basis. The chief executive officer may grant a deferment in the event that a recipient of a loan evidences intent to teach and inability to secure employment necessary to obtain forgiveness of the loan at the time the deferment is sought. The chief executive officer shall require certification of the intent annually and grant a deferment for each successful request for deferment for a period not to exceed one year. The chief executive officer may establish limits to the number of deferments that may be granted to any recipient by rule of the authority. [2003, c. 427, §10 (amd).]

4. Child development students. [2003, c. 427, §10 (rp).]

5. Death or disability. The authority may forgive loans of loan recipients who have died or who have become permanently disabled, as determined by the chief executive officer. [2003, c. 427, §10 (new).]

§12508. Repayment and return service provisions - loans for teachers and speech pathologists and students pursuing postbaccalaureate certification (REPEALED) [PL 2003, Ch. 427, §11 (RP)]

§12509. Nonlapsing revolving fund

The Educators for Maine fund is created under the jurisdiction of the authority as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this chapter. Any unexpended balance in the Educators for Maine fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the funds, money from gifts, grants, bequests, loans, including loans obtained pursuant to chapter 417-B, and donations, in addition to money appropriated or allocated by the State. Loan repayments under this section or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance administrative costs incurred by the authority as determined appropriate by the authority. [1999, c. 441, §12 (amd).]

....

Job Creation Through Educational Opportunity Program

§ 12541. Definitions

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

1. Accredited Maine community college, college or university. "Accredited Maine community college, college or university" means an institution that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education and is:

A. Any campus of the Maine Community College System;

B. Any campus of the University of Maine System;

C. The Maine Maritime Academy;

D. Any educational institution that is located in this State and has authorization to confer an associate degree or a bachelor's degree, in accordance with sections 10704 and 10704-A;

E. Any educational institution that is located in this State and is exempted from chapter 409 under section 10708, subsections 1 and 2; and

F. Any educational institution that is located in this State and is operating under a certificate of temporary approval from the state board under section 10703, to the extent that a student is ultimately able either to obtain an associate or a bachelor's degree at that institution or to transfer to and obtain a degree from an institution described in paragraphs A to E. [2009, c. 553, Part A §1 (amd).]

1-A. Accredited non-Maine community college, college or university. "Accredited

non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education. [2011, c. 665, §1 (new).]

2. [2013, c. 525, §1 (Repealed).]

2-A. [2013, c. 525, §2 (Repealed).]

3. Educational institution. "Educational institution" has the same meaning as in section 10701, subsection 3.

4. Educational opportunity tax credit. "Educational opportunity tax credit" means the tax credit provided for in Title 36, section 5217-D.

4-A. Financial aid package. "Financial aid package" means financial aid obtained by a student after December 31, 2007 for attendance at an accredited Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming an educational opportunity tax credit for tax years beginning on or after January 1, 2013, "financial aid package" may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of an employer claiming an educational opportunity tax credit for tax years beginning on or after January 1, 2013, "financial aid package" may include financial aid obtained by a qualified employee after December 31, 2007 for attendance at an accredited non-Maine community college, college or university after December 31, 2007. The financial aid package may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023. [2013, c. 525, §3 (rpr).]

5. Maine resident. "Maine resident" means an individual who qualifies for Maine residence under Title 21-A, section 112. An individual is a Maine resident if, at the time the individual commences the relevant degree program, the individual is registered to vote in the State or occupies a dwelling in the State and continues to occupy a dwelling in the State during the school year, except periods when it is reasonably necessary for the individual to live elsewhere as part of an accredited Maine community college, college or university's academic programs. [2009, c. 553, Part A §5 (amd).]

6. Opportunity contract. [2009, c. 553, Part A §6 (REPEALED).]

7. [2013, c. 525, §4 (Repealed).]

8. Qualified employee. "Qualified employee" has the same meaning as in Title 36, section 5217-D, subsection 1, paragraph E. [2013, c. 525, §5 (new).]

9. Qualified individual. "Qualified individual" has the same meaning as in Title 36, section 5217-D, subsection 1, paragraph G. [2013, c. 525, §6 (new).]

§ 12542. Program established

1. Program created; goals. The Job Creation Through Educational Opportunity Program, referred to in this chapter as "the program," is created to provide an educational opportunity tax credit to Maine residents who obtain an associate degree or a bachelor's degree in this State, and live, work and pay taxes in this State thereafter. The program is designed to achieve the following goals: [2013, c. 525, §7 (amd).]

A. Promote economic opportunity for people in this State by ensuring access to the training and higher education that higher-paying jobs require;

B. Bring more and higher-paying jobs to this State by increasing the skill level of this State's workforce;

C. Offer educational opportunity and retraining to individuals impacted by job loss, workplace injury, disability or other hardship;

D. Keep young people in this State through incentives for educational opportunity and creation of more high-paying jobs; and

E. Accomplish all of the goals in this subsection with as little bureaucracy as possible.

2. Principal cap. [2009, c. 553, Part A §8 (REPEALED).]

2-A. Principal cap. [2013, c. 525, §8 (REPEALED)].

3. Opportunity contract. [2013, c. 525, §9 (REPEALED)]

3-A. Educational loans. [2013, c. 525, §10 (REPEALED)]

4. [2009, c. 553, Part A §12 (REPEALED).]

4-A. Administration. The program must be administered as described in this subsection.

A. The department, in consultation with the State Tax Assessor, shall make information about the program available on the department's publicly accessible website. The department shall refer any questions regarding the program to the relevant accredited Maine community college, college or university's financial aid office. The assessor shall provide to an accredited Maine community college, college or university information that is necessary to document a student's eligibility for the educational opportunity tax credit.

B. A Maine resident who enrolls in an accredited Maine community college, college or university who receives financial aid in the form of loans must have the opportunity to participate in the program. An accredited Maine community college, college or university shall, at a minimum, provide information about the program in financial aid award materials, entrance interviews, exit interviews, materials listing financial aid resources and, as appropriate, any promotional materials provided by state agencies, to the extent such contacts with students are already part of the accredited Maine community college, college or university's procedures.

C. An accredited Maine community college, college or university must document for the student information required for purposes of the educational opportunity tax credit, including, once the student has earned the degree, the total principal of loans the student received as part of that student's financial aid package related to course work completed at the accredited Maine community college, college or university. The accredited Maine community college, college or university shall provide an original or certified copy to the student and shall retain a copy of the documentation in its files for at least 10 years after the student graduates. [2013, c. 525, §11 (amd).]

D. [2013, c. 525, §12 (REPEALED).]

5. Effective date; participation by individual already enrolled in degree program. The program must commence for the first semester that begins after the effective date of this chapter. A Maine resident who when the program commences is enrolled in an associate or a bachelor's degree program at an accredited Maine community college, college or university may participate, subject to the same essential terms as other program participants. [2013, c. 525, §13 (amd).]

6. Promotion by state agencies. The department, the Finance Authority of Maine, the Department of Economic and Community Development and any other agency engaging in education-related outreach shall integrate promotion of the program into existing educational opportunity outreach efforts to the extent possible in a manner consistent with the scope of the program and its centrality to the State's efforts to raise educational attainment. [2009, c. 553, Part A §15 (new).]

A. The department shall notify superintendents about the program annually and encourage the superintendents to publicize the availability of the program among students, parents and school staff.

B. The Department of Labor shall require that publicly funded workforce development programs, including state and local workforce investment boards and the Competitive Skills Scholarship Program established in Title 26, section 2033, include within their plans and programs efforts to promote and increase awareness of the program. [2013, c. 417, §1 (new).]

7. Promotion by institutions. Public higher education institutions identified in section 12541, subsection 1, paragraphs A to C shall make reasonable efforts to inform students about the program.

8. Publicity. To assist institutions of higher education to promote the program, the Finance Authority of Maine shall contract with a private nonprofit corporation in the amount of at least \$20,000 annually to market the program throughout the State, targeting high schools, postsecondary educational institutions and organizations of parents, teachers and other relevant audiences. Marketing efforts must include printed materials, online information and in-person promotional efforts. [2013, c. 417, §2 (new).]

§ 12543. Effect on funding of higher education

It is the intent of the Legislature that neither the existence of the program nor the benefits provided under the educational opportunity tax credit serve as justification to decrease other funds appropriated or allocated to accredited Maine community colleges, colleges or universities, including institutions in the Maine Community College System and the University of Maine System, or to other higher education programs. [2009, c. 553, Part A §16 (amd).]

§ 12544. Rules [2009, c. 553, Part A, §17 (REPEALED)]

§ 12545. Report

By February 1, 2021, each accredited Maine community college, college and university, as defined in section 12541, subsection 1, shall report to the department on efforts to promote and enroll individuals in the program and to train admissions and financial aid staff about the program. By March 1, 2021, the department shall report findings and recommendations regarding the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters. By March 1, 2021, the Department of Administrative and Financial Services, Bureau of Revenue Services shall report on implementation of the educational opportunity tax credit, including statistics on credits claimed, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters. [2011, c. 665, §5 (new).]

An accredited Maine community college, college or university, as defined in the Maine Revised Statutes, Title 20A, section 12541, subsection 1, shall report to the Department of Education in writing by February 1, 2011 and by February 1, 2012 on efforts to promote and enroll individuals in the Job Creation Through Educational Opportunity Program and to train admissions and financial aid staff about the program. The department shall convey the information gathered pursuant to this section to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012. The State Tax Assessor shall report on implementation of the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by March 1, 2011 and March 1, 2012. [2009, c. 553, Part A, §18]

Tuition Waiver at Post Secondary Educational Institutions

§12551. Purpose

In recognition of the indispensable public service role that firefighters, law enforcement officers and emergency medical services persons play in the well-being of the people of this State, it is the purpose of this chapter to provide for assistance to the children and spouses of firefighters, law enforcement officers and emergency medical services persons who are killed in the line of duty so that these children and spouses may have the opportunity to pursue a degree at one of the state postsecondary educational institutions. [1999, c. 234, §1 (amd).]

§12552. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 472 (new).]

1. Firefighter. "Firefighter" means a person who is an active member of a municipal fire department in this State or a volunteer firefighters' association in this State and who aids in the extinguishing of fires, regardless of whether he has administrative or other duties as a member of the department or association. [1985, c. 472 (new).]

1-A. Authority. "Authority" means the Finance Authority of Maine. [1989, c. 698, §44 (new); §76 (aff).]

1-B. Emergency medical service. "Emergency medical service" means a nonprofit, incorporated ambulance service or nontransporting emergency medical service licensed under Title 32, chapter 2-B receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30-A, chapter 115 or 119 except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30-A, chapter 115 or 119. [1999, c. 234, §2 (new).]

1-C. Emergency medical services person. "Emergency medical services person" means a person who is licensed to provide emergency medical treatment under Title 32, chapter 2-B and is serving a public agency in an official capacity as an officially recognized or designated employee or member of a rescue squad or ambulance crew, with or without compensation, or who is an employee of an emergency medical service as defined in subsection 1-B. [1999, c. 234, §2 (new).]

2. Law enforcement officer. "Law enforcement officer" means an active state police officer, municipal police officer, county sheriff or deputy sheriff in this State. "Law enforcement officer" also means an active game warden, fire marshal, forest ranger, Baxter State Park ranger, detective employed by the Office of the Attorney General pursuant to Title 5, section 202, person employed by the Department of Corrections as an investigative officer as defined in Title 34-A, section 1001, subsection 10-A, juvenile community corrections officer as described in Title 34-A, section 5602, probation officer, security officer appointed by the Commissioner of Public Safety pursuant to Title 25, section 2908, motor vehicle investigator or supervisor appointed by the Secretary of State pursuant to Title 29-A, section 152, military security police officer appointed by the Adjutant General, University of Maine System police officer or marine patrol officer, if employed on a full-time basis in that position in this State. [2009, c. 421, §1 (amd).]

2-A. Public agency. "Public agency" means a governmental entity as defined in Title 14, section 8102, subsection 2 or a political subdivision as defined in Title 14, section 8102, subsection 3. [1999, c. 234, §3 (new).]

3. State post-secondary educational institution. "Post-secondary educational institution" means the University of Maine System, the Maine Maritime Academy and the community colleges. [1989, c. 443, §27 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

§12553. Tuition waiver

The child or spouse of a firefighter, law enforcement officer or emergency medical services person who has been killed or who has received an injury during the performance of that firefighter's, law enforcement officer's or emergency medical services person's duties, which results in death, may attend, as provided in this section, any state postsecondary educational institution free of tuition charges. [1999, c. 234, §4 (amd).]

1. Eligibility of a child. The child of a firefighter, law enforcement officer or emergency medical services person is eligible for tuition waiver under this chapter if the child is:

A. The natural or legally adopted child of a firefighter, law enforcement officer or emergency medical services person; [1999, c. 234, §5 (amd).]

B. Is less than 21 years old at the time of the death of the parent who is a firefighter, law enforcement officer or emergency medical services person; [1999, c. 234, §5 (amd).]

C. A Maine resident; [1985, c. 472 (new).]

D. A high school graduate or has attained equivalent certification; and [1987, c. 402, Pt. A, §124 (rpr).]

E. Accepted for admission to a state postsecondary educational institution. [1997, c. 160, §3 (amd).]

[1999, c. 234, §5 (amd).]

1-A. Eligibility of a spouse. The spouse of a firefighter, law enforcement officer or emergency medical services person is eligible for tuition waiver under this chapter if the spouse is:

A. Legally married to the firefighter, law enforcement officer or emergency medical services person at the time of the firefighter's, law enforcement officer's or emergency medical services person's death; [1999, c. 234, §6 (amd).]

B. A Maine resident; [1997, c. 160, §3 (new).]

C. A high school graduate or has attained equivalent certification; and [1997, c. 160, §3 (new).]

D. Accepted for admission to a state postsecondary educational institution. [1997, c. 160, §3 (new).]

[1999, c. 234, §6 (amd).]

2. Limitation. The tuition waiver provided by this chapter is limited to undergraduate degree programs and is limited to not more than 5 years of full-time enrollment or its equivalent. [1997, c. 160, §3 (amd).]

3. Continuation. The tuition waiver provided by this chapter is awarded on a yearly basis and continues to be available, if the child or spouse is otherwise eligible under this section, as long as the child or spouse remains in good academic standing at a state institution. [1997, c. 160, §3 (amd).]

§12554. Administration

1. Application. A person desiring tuition waiver under this chapter may apply to the authority for determination of eligibility. Application must be on forms and in a manner prescribed by rule of the authority. [1991, c. 612, §17 (rpr).]

2. Decision. The authority shall determine whether an applicant is eligible and notify the applicant. The authority shall also notify the state post-secondary educational institution at which the person is accepted of the eligibility of that child for tuition waiver. Unless notified by the authority of a change in the student's eligibility, the institution may not bill an eligible student for tuition during that school year. [1989, c. 698, §45 (amd); §76 (aff).]

3. Rules. [1989, c. 698, §45 (rp); §76 (aff).]

Tuition Waiver at State Post Secondary Educational Institutions for Persons Who Have Resided in Foster Care

§12571. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 216, §1 (new).]

1. Authority. "Authority" means the Finance Authority of Maine. [1999, c. 216, §1 (new).]

2. Family foster home. "Family foster home" means the same as defined in Title 22, section 8101, subsection 3. [1999, c. 216, §1 (new).]

2-A. Permanency guardian. "Permanency guardian" means the person described in Title 22, section 4038-C. [2005, c. 471, §1 (new).]

3. State postsecondary educational institution. "Postsecondary educational institution" means the University of Maine System, the Maine Maritime Academy and the Maine Community College System. [1999, c. 216, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

4. Unmet need. [1999, c. 774, §1 (rp).]

§12572. Tuition waiver

Any person who was in the custody of the Department of Health and Human Services and resided in foster care or subsidized adoptive care or was a minor ward of a subsidized permanency guardian as provided in Title 22, section 4038-D at the time that person graduated from high school or successfully completed a general educational development examination or its equivalent under section 257 may attend, as provided in this section, any state postsecondary educational institution free of tuition charges. [1999, c. 216, §1 (new); 2005, c. 471, §2 (amd).]

1. Eligibility of person. A person is eligible for a tuition waiver under this chapter if the person is:

A. A Maine resident; [1999, c. 216, §1 (new).]

B. A high school graduate or has attained a high school equivalency diploma as described under section 257; and [1999, c. 216, §1 (new).]

C. Accepted for admission to a state postsecondary educational institution. [1999, c. 216, §1 (new).]

[1999, c. 216, §1 (new).]

2. Limitation. The tuition waiver provided by this chapter is limited to:

A. Persons participating in undergraduate degree programs or certificate programs of at least one year; [1999, c. 216, §1 (new).]

B. Persons who have not been enrolled full time for more than 5 years or the equivalent; and [1999, c. 774, §2 (amd).]

C. Persons who have completed an application for federal student financial aid programs for which they may be eligible. [1999, c. 774, §2 (amd).]

D. [1999, c. 774, §2 (rp).]

[1999, c. 774, §2 (amd).]

3. Continuation. The tuition waiver provided by this chapter is awarded on a yearly basis and continues to be available, if the person is otherwise eligible under this section, as long as the person remains in good academic standing at a state postsecondary educational institution. [1999, c. 216, §1 (new).]

4. Revenue reduction. A state postsecondary educational institution shall absorb the reduction in tuition revenues that results from providing a tuition waiver to an eligible person under this chapter. The institution may not request additional General Fund appropriations from the Legislature to offset the reduction in tuition revenues. [1999, c. 774, §3 (new).]

§12573. Administration

1. Application. A person desiring a tuition waiver under this chapter may apply to the authority for determination of eligibility. Application must be on forms and in a manner prescribed by rule of the authority. Rules adopted pursuant to this chapter are routine technical rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A. [1999, c. 216, §1 (new).]

2. Decision. The authority shall determine whether an applicant is eligible and notify the applicant. The authority shall also notify the state postsecondary educational institution at which the person is accepted

of the eligibility of that person for a tuition waiver. Unless notified by the authority of a change in the student's eligibility, the institution may not bill an eligible student for tuition during that school year. [1999, c. 216, §1 (new).]

3. Limitation. Tuition waivers to eligible persons are limited to 30 new students per year in each year at state postsecondary educational institutions as follows:

A. The first 25 tuition waivers must be available to eligible persons at the University of Maine System, the Maine Maritime Academy and the Maine Community College System; and [2003, c. 187, §1 (new).]

B. Of the 5 remaining tuition waivers, 3 must be available to eligible persons at the University of Maine System and 2 must be available to eligible persons at the Maine Community College System. [2003, c. 187, §1 (new).]

[2003, c. 187, §1 (amd).]

Financial Aid and Career Counseling

§12671. Program Established

The Finance Authority of Maine shall administer an outreach program of post-secondary education information services as provided in this chapter. [1989, c. 698, §73 (new); §76 (aff).]

1. Duties. The authority shall implement a program that:

A. Provides middle school and high school students, the parents of these students and adults seeking to acquire a post-secondary education with career and financial aid counseling; [1989, c. 698, §73 (new); §76 (aff).]

B. Provides, to the extent of available resources, counseling services throughout the State in accessible locations to assist eligible participants; and [1989, c. 698, §73 (new); §76 (aff).]

C. Provides to eligible participants information concerning career options, educational programs and post-secondary schools. [1989, c. 698, §73 (new); §76 (aff).]

[1989, c. 698, §73 (new); §76 (aff).]

2. Nonlapsing fund. There is created under the jurisdiction of the authority a nonlapsing, interest-earning, revolving fund to carry out the purposes of this chapter. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, in addition to money appropriated or allocated by the State. Loan repayments under this section or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance administrative costs incurred by the authority as determined appropriate by the authority. [1989, c. 698, §73 (new); §76 (aff).]

Maine Community College System

....

§12704. Tasks

The tasks of the system shall include, but not be limited to: [1985, c. 695, §11 (new).]

....

2. Statewide and regional planning and coordination. Coordinating, on a statewide and regional basis, the planning and operation of the post-secondary career and technical education programs offered by the institutes with the planning and operation of:

A. The college and university programs offered by the several other institutions of higher learning in the State; [1985, c. 695, §11 (new).]

.....

§12709. Powers and duties of the President of the community college system

The president of the system shall implement the policies of the board of trustees and be responsible for the operation of the system. The powers and duties of the president of the system include: [1989, c. 878, Pt. I, §8 (amd).]

....

11. Interagency cooperation and communication. To promote cooperation and communication with the Department of Education and the Bureau of Employment Services, or their successors, with the University of Maine System and with other public and private educational and training institutions; [1995, c. 560, Pt. G, §6 (amd); §29 (aff).]

....

Memorandum of understanding with career and technical education system.

The Chancellor of the University of Maine System and the President of the Maine Maritime

Academy shall each enter into a memorandum of understanding with the Department of Education that establishes a process by which the University of Maine System and the Maine Maritime Academy will each review programs of the career and technical education centers and career and technical education regions established in the Maine Revised Statutes, Title 20-A, chapter 313 that are using national industry or state certification standards to determine the nature and amount of college credit that must be awarded upon successful completion of an approved secondary school program. College credits must be awarded upon completion of a program directly to the student regardless of whether the student has matriculated in the college or university awarding the credit. The awarding of college or university credits to a secondary career and technical education student does not entitle the student to acceptance into the college or university awarding the credits. [2011, c. 686, §6.]

Maine Career Advantage Program

§12731. Administration and purpose

The Maine Community College System in cooperation with the Department of Education is authorized to provide comprehensive administrative and financial services to the Maine Career Advantage program, to assist high school students in making a successful transition from secondary school to college and careers through a combination of scholarships, college transition assistance, career exploration and planning services and internships. The purpose of the Maine Career Advantage program, referred to in this chapter as "the program," is to assist the Maine Community College System, public secondary schools and other publicly supported educational institutions in the State by providing additional resources and support for students who have not traditionally gone on to higher education and who may need assistance in developing educational and career goals and in pursuing those goals. [2005, c. 178, §2 (amd).]

The Maine Community College System is authorized to receive and administer on behalf of the program any grants, fees, charges, appropriations and other funds from whatever source. The program shall retain its name unless and until the Board of Trustees of the Maine Community College System authorizes a change in the program name. [2005, c. 178, §2 (amd).]

§12732. Goals

The goals of the program as delineated by its articles of incorporation and bylaws are: [1993, c. 392, §2 (new).]

1. Education and training. To provide higher education and training opportunities for youth in this State to become highly skilled and productive members of the work force; [2005, c. 178, §3 (amd).]

2. Skilled work force. To provide a skilled and educated work force for businesses in the State to increase their competitiveness in the global economy; and [1993, c. 392, §2 (new).]

3. Economic future. To enhance the economic future of the State and improve its productivity and competitive position in a world economy by creating a skilled and educated work force. [1993, c. 392, §2 (new).]

§12733. Activities

To assist the State in increasing higher education attainment and developing a skilled workforce, the program shall provide career and college transition services to young adults who are not currently enrolling in higher education and who could benefit from enrolling in a community college. These services may include scholarships, internships and other work-based learning experiences; career exploration and planning; assistance in completing the community college application and financial aid processes; academic planning; and information related to continuing higher education beyond the certificate, diploma and associate degree levels, consistent with the student's educational and career objectives. These services must be provided either directly by the program or through referrals to other programs and services available within the Maine Community College System or by other education and service providers. To participate in any of these services, young adults must be enrolled in a public secondary school or a state community college or have recently completed a public secondary education program. The program shall provide those activities and services that best serve the goals of the program as defined in this chapter and the needs of students and the State and that are consistent with the Maine Community College System's goals and resources. REPEALED AND REPLACED [2005, c. 683, Pt. A, §29 (RP)(new).]

)]
§12734. Skill Standards Board (REPEALED) [PL 2005, Ch. 178, §5 (RP)] [PL 2005, Ch. 294, §22 (RP

Disqualification for State Financial Assistance

§12801. Disqualification for state financial assistance

Any person who is required to present himself and submit to registration under the United States Military Selective Services Act, 50 United States Code, Section 451, et seq., and who fails to do so is ineligible to receive any state funded grant, scholarship or loan made available to persons enrolled in post-secondary educational programs. [1987, c. 142 (new).]

The officials who administer those financial assistance programs may require an applicant to submit written proof of registration prior to the award of a post-secondary educational grant, loan or scholarship. [1987, c. 142 (new).]

§12901. State Education and Employment Outcomes Task Force

1. Task force established. The State Education and Employment Outcomes Task Force, established in Title 5, section 12004-G, subsection 10-E and referred to in this chapter as "the task force," is established to develop procedures to maintain and disseminate information and data from the Department of Labor's educational outcome database, referred to in this chapter as "the database," including but not limited to information and data on education

results, program completion, graduation, credentials earned and employment and earnings outcomes for graduates of postsecondary educational institutions in the State over time.

2. Membership. The task force consists of 15 members as follows:

A. Four members appointed by the President of the Senate as follows:

- (1) Two members of the Senate, one from each of the 2 parties holding the largest number of seats in the Legislature;
- (2) A representative from the University of Maine System; and
- (3) A representative from the Maine School Management Association or a successor organization;

B. Three members appointed by the Speaker of the House as follows:

- (1) Two members of the House of Representatives, one from each of the 2 parties holding the largest number of seats in the Legislature; and
- (2) A representative from the Maine Community College System;

C. Four members appointed by the Governor as follows:

- (1) A representative from the Maine Maritime Academy;
- (2) A representative from a private postsecondary educational institution in the State;
- (3) A representative from the Maine State Chamber of Commerce or a successor organization; and
- (4) A person with expertise in state and national higher education policy;

D. The Commissioner of Education or the commissioner's designee;

E. The Commissioner of Labor or the commissioner's designee;

F. The administrator of the database or the administrator's designee; and

G. The Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee.

3. Meetings. The task force may meet no more than 4 times per calendar year.

4. Chairs. The first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the task force.

5. Terms of appointment. Nonlegislative appointed members of the task force are appointed for terms of 3 years and may serve beyond their designated terms until their successors are appointed. Terms of appointment of Legislators coincide with their respective legislative terms of office.

6. Staffing. The Legislative Council shall provide staff support to the task force, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Department of Education and the Department of Labor shall provide assistance and information to the task force as is consistent with the departments' current federal grants related to the work of the task force and to the extent time and funding allow as determined by the departments.

7. Duties. The task force shall:

- A. Review procedures to maintain and disseminate information regarding the employment and earnings of graduates of postsecondary educational institutions in the State based on the database;
- B. Advise on the use of the information provided in the database by state agencies, higher education organizations that have partnerships with the task force, local school systems and the public;
- C. Make recommendations regarding the design and content of a website jointly hosted by the Department of Education and the Department of Labor that provides maximum information to the public regarding higher education and employment;
- D. Identify a viable long-term funding method to maintain the database;
- E. Produce recommendations for the Department of Education regarding how to provide relevant, timely information to secondary school students who are making higher education decisions;
- F. Address any issues that may arise from the use or impact of the database; and
- G. Explore the feasibility of and possible methods for including data from the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation regarding licensure, as well as data covering other workforce credentials, into the database.

8. Reports; legislation. The task force shall report to the joint standing committee of the Legislature having jurisdiction over education matters, the joint standing committee of the Legislature having jurisdiction over labor matters and the joint select or joint standing committee of the Legislature having jurisdiction over workforce training matters by November 1st each year on the status of the database. The reports must describe funding sources for the database and the sustainability of that funding, how the website under subsection 7, paragraph C is used, including by whom and how frequently they use it, efforts to incorporate its use into secondary schools and any other issues the task force determines necessary. The task force shall as part of its report recommend whether the task force should continue its work, or if its work could best be handled by another entity. If the task force recommends that the task force should continue its work, it shall recommend any suggested changes in the membership and size of the task force. The task force may submit with the reports legislation required to implement its recommendations. [2013, c. 593, §2 (new).]

§ 13008. Educator preparation program data

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

- A. "Educator preparation program" means a public or private baccalaureate-level or postbaccalaureate-level program approved by the state board to recommend graduates for certification pursuant to chapter 502 as prekindergarten to grade 12 teachers, educational specialists or school leaders.

B. "Program completer" means a person who, by successfully completing all of an educator preparation program's requirements, has qualified for a recommendation for certification as a prekindergarten to grade 12 teacher, an educational specialist or a school leader.

2. Data collection. The department shall collect data relating to educator preparation programs, including but not limited to the following information with respect to each educator preparation program:

A. The number of program completers;

B. The number of program completers who pass certification tests and the number of those who attain provisional licensure in the State;

C. The number of program completers who proceed from provisional licensure to professional licensure; and

D. The number of program completers who are teaching in schools in this State 3 and 5 years after they complete that educator preparation program.

3. Report. The department shall annually report the data collected under this section to the Governor, the state board and the joint standing committee of the Legislature having jurisdiction over education matters.

[2011, c. 635, §B-1 (new).]

TITLE 22

Board of Pesticides Control

§1471-B. Board of Pesticides Control

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 having practical experience and 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 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. [2011, c. 119, §1 (amd).]

....

Consent of Minors for Health Services

§1501. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

1. Health care practitioner. "Health care practitioner" has the same meaning as set forth in Title 24, section 2502, subsection 1-A. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

2. Health care provider. "Health care provider" has the same meaning as set forth in Title 24, section 2502, subsection 2. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

3. Minor. "Minor" means a person under 18 years of age. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1502. Consent

In addition to the ability to consent to treatment for health services as provided in sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004, a minor may consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1502-A. Consent to give blood

A minor may consent to give blood if the minor is at least 17 years of age, notwithstanding any other provision of law. [1999, c. 10, §1 (new).]

§1503. Authority

A minor may give consent to all medical, mental, dental and other health counseling and services if the minor: [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

1. Living separately; independent of parental support. Has been living separately from parents or legal guardians for at least 60 days and is independent of parental support; [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

2. Married. Is or was legally married; [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

3. Armed Forces. Is or was a member of the Armed Forces of the United States; or [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

4. Emancipated. Has been emancipated by the court pursuant to Title 15, section 3506-A. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1504. Good faith reliance on consent

A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health treatment as authorized in section 1503 and who subsequently renders treatment in reliance on that consent is not liable for failing to have secured consent of the minor's

parent or guardian prior to providing health care services to the minor. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1505. Confidentiality; notification

1. Confidentiality. Except as otherwise provided by law, a minor who may consent to health care services, as provided in this chapter or by other provision of law, is entitled to the same confidentiality afforded to adults. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

2. Parental notification. A health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care under this chapter if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1506. Financial responsibility

Unless the parent or guardian expressly agrees to assume full or partial responsibility, a minor who consents to health care services as provided in this chapter is responsible for the costs of those services. A minor may not be denied benefits or services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in this chapter. [1995, c. 694, Pt. C, §8 (new); Pt. E, §2 (aff).]

§1507. Consent for sexual assault forensic examination

Notwithstanding the limitations set forth in section 1503, a minor may consent to health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault. [1999, c. 90, §1 (new).]

Smoking Prohibited in Public Places

§1541. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 342, §1 (new); §9 (aff).]

1. Designated smoking area. "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to prevent smoke escaping from the designated area into a public place. [2005, c. 257, §1 (amd).]

2. Enclosed area. "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by walls, windows, shutters, doors or passageways. A partition, partial wall or office divider is a demarcation of an enclosed area if it extends from the floor to within 4 feet of the ceiling or from the ceiling to within 4 feet of the floor. [2005, c. 257, §1 (amd).]

3. Private office. [2005, c. 338, §1 (rp).]

4. Public place. "Public place" means any place not open to the sky into which the public is invited or allowed. Except as provided in section 1542, subsection 2, paragraph J, a private residence is not a public place. [2003, c. 493, §2 (amd); §14 (aff).]

5. Restaurant. [2003, c. 493, §3 (rp); §14 (aff).]

6. Smoking. "Smoking" includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke. [1993, c. 342, §1 (new); §9 (aff).]

7. Tobacco specialty store. "Tobacco specialty store" means a retail business under 2,000 square feet in which at least 60% of the business's gross revenue for the last calendar year was derived from the sale of tobacco or tobacco-related products. [2005, c. 223, §1 (new).]

8. Waterpipe or hookah. "Waterpipe" or "hookah" means a device used for smoking tobacco that consists of a tube connected to a container where the smoke is cooled by passing through water. [2007, c. 180, §1 (new).]

§1542. Smoking prohibited in public places

1. Prohibition. Smoking is prohibited in all enclosed areas of public places, outdoor eating areas as provided in section 1550 and all rest rooms made available to the public. In the case of a child care facility

that is not home-based, smoking is also prohibited in a facility-designated motor vehicle within 12 hours before transporting a child who is in the care of the child care facility, and whenever such a child is present in the vehicle. Smoking is also prohibited in outdoor areas of the facility where children may be present. [2009, c. 140, §1 (amd).]

2. Limitations. The prohibition in subsection 1 is subject to the following limitations.

A. Smoking is not prohibited in an enclosed area of a public place during a period of time that the facility containing the enclosed area of the public place is not open to the public. During its normal business hours, a public place must be closed for at least one hour to be considered "not open to the public." [2005, c. 257, §3 (amd).]

B. Smoking is not prohibited in theaters or other enclosed structures used for plays, lectures, recitals or other similar purposes if the smoking is solely by a performer and the smoking is part of the performance. [1993, c. 342, §1 (new); §9 (aff).]

C. Smoking is not prohibited in any area where undertaken as part of a religious ceremony or as part of a cultural activity by a defined group. [1993, c. 342, §1 (new); §9 (aff).]

D. [1999, c. 54, §3 (rp).]

E. Smoking in places of employment is governed by the provisions of section 1580-A. If public employees' rights provided in collective bargaining agreements are affected by this section, the employees have the right to reopen negotiations for the purpose of bargaining for smoking areas in nonpublic areas of publicly owned buildings. [1993, c. 342, §1 (new); §9 (aff).]

F. [1993, c. 300, §1 (rp).]

G. [2003, c. 493, §4 (rp); §14 (aff).]

H. Smoking is not prohibited in motel or hotel rooms that are rented to members of the public. [1993, c. 342, §1 (new); §9 (aff).]

I. [2005, c. 338, §2 (rp).]

J. Smoking is not prohibited in a private residence, subject to section 1580-A, unless the private residence is used as a day care or baby-sitting service. If a private residence is used as a day care or baby-sitting service, smoking is prohibited:

(1) In the residence, during the hours of operation as a day care or baby-sitting service;

(2) In outdoor areas on the property of that private residence, wherever a child under care may be present; and

(3) During the facility's hours of operation, in a motor vehicle owned or operated by the facility whenever a child under care is in the vehicle. [2009, c. 300, §2 (amd).]

K. Smoking is not prohibited in public places when beano or bingo games are being conducted in accordance with the provisions of Title 17, section 314-A. [2003, c. 379, §1 (amd).]

L. Smoking is not prohibited in a tobacco specialty store. The on-premises service, preparation or consumption of food or drink, if the tobacco specialty store is not licensed for such service or consumption prior to January 1, 2007, is prohibited in such a store. Smoking a waterpipe or hookah is prohibited in a tobacco specialty store that is newly licensed or that requires a new license after January 1, 2007. [2007, c. 180, §2 (amd).]

M. [2005, c. 257, §5 (rp).]

N. Smoking is not prohibited in designated smoking areas in an off-track betting facility or simulcast racing facility at a commercial track, if that facility is licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003, is purchased from the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003 or is moved to another location within the same municipality by the owner or purchaser of a facility licensed pursuant to Title 8, chapter 11 and in operation on June 30, 2003, as long as:

(1) No sales or services are provided in the designated smoking area, except that television equipment and stand-alone betting terminals or other means of placing wagers may be provided;

(2) No employees work in or are required to pass through the designated smoking area;

(3) Members of the public, except for those who choose to be present in the designated smoking area, are not required to utilize or pass through the designated smoking area for any purpose;

(4) No one under 18 years of age is permitted in the designated smoking area;

(5) The designated smoking area within the purchased or relocated off-track betting facility or purchased or relocated simulcast racing facility has a floor area no larger than 2,000 square feet, except that any designated smoking area larger than 2,000 square feet and in existence on January 1, 2005 is exempt from this subparagraph;

(6) No slot machines are located within the off-track betting or simulcast racing facility. For the purposes of this subparagraph, an off-track betting facility or a simulcast racing facility must be in a separately enclosed area, whether stand-alone or within another facility, that is accessible by either an interior or exterior door; and

(7) The designated smoking area is located entirely within a separately enclosed area of an off-track betting facility or simulcast racing facility and proper signs are mounted to the exterior of the designated smoking area indicating that use of that area is for off-track betting and simulcast racing patrons only. [2005, c. 362, §1 (amd).]

[2005, c. 223, §2 (amd); c. 257, §§2-5 (amd); c. 338, §2 (amd); c. 362, §1 (amd).]

3. Location of designated smoking area. [2003, c. 493, §6 (rp); §14 (aff).]

§1543. Posting signs

Signs must be posted conspicuously in buildings where smoking is regulated by this chapter. Designated areas must have signs that read "Smoking Permitted" with letters at least one inch in height. Places where smoking is prohibited must have signs that read "No Smoking" with letters at least one inch in height or the international symbol for no smoking. [1993, c. 342, §1 (new); §9 (aff).]

§1544. Retaliation prohibited

A person may not discharge, refuse to hire, discipline or otherwise retaliate against any person who pursues any remedy available to enforce the requirements of this chapter. [2005, c. 257, §6 (amd).]

§1545. Penalty

A person who violates any provision of this chapter commits a civil violation for which a fine of \$100 may be adjudged, except that a fine of up to \$1,500 may be adjudged for each violation of this chapter in cases when a person engages in a pattern of conduct that demonstrates a lack of good faith in complying with this chapter. [2005, c. 257, §7 (amd).]

§1548. Enforcement (REALLOCATED FROM TITLE 22, SECTION 1547)

The Attorney General may bring an action to enforce this chapter in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this chapter by a person or any person controlling such person. [RR 2005, c. 1, §5 (ral).]

Smoking in Places of Employment

§1580-A. Smoking in places of employment

1. Title. This law shall be known as the "Workplace Smoking Act of 1985." [1985, c. 126 (new).]

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

A. "Business facility" means a structurally enclosed location or portion thereof at which employees perform services for their employer. A business facility does not include any workplace or portion of a workplace that also serves as the employee's or employer's personal residence. A business facility is a place of employment. Notwithstanding this paragraph, a personal residence or unit or apartment in a residential facility is a business facility only during the period of time that an employee is physically present to perform work there. A residential facility, nursing home or a hospital is a business facility. [2009, c. 300, §4 (amd).]

A-1. "Club" means a reputable group of individuals, including a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004), incorporated and operating in a bona fide manner solely for purposes of a recreational, social, patriotic or fraternal nature and not for pecuniary gain. [2005, c. 338, §3 (new).]

A-2. "Designated smoking area" means an outdoor area where smoking is permitted, which must be at least 20 feet from entryways, vents and doorways. [2009, c. 300, §5 (new).]

B. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied. Employee includes a person employed by the State or a political subdivision of the State. [1985, c. 126 (new).]

C. "Employer" means a person who has one or more employees. Employer includes an agent of an employer and the State or a political subdivision of the State. [1985, c. 126 (new).]

C-1. "Member" means a person who, whether as a charter member or admitted in accordance with applicable bylaws, is a bona fide member of a club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address are entered on the list of members. A person who does not have full membership privileges may not be considered a bona fide member. [2005, c. 338, §3 (new).]

C-2. "Qualifying club" means a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or any other club that was not open to the public and that was in operation prior to January 1, 2004. [2005, c. 581 §1 (new).]

C-3. "Residential facility" means a facility with one or more residential units or apartments that is licensed by the Department of Health and Human Services. [2009, c. 300, §6 (new).]

D. "Smoking" means carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off or containing any substance giving off tobacco smoke. [1985, c. 126 (new).]

[2005, c. 338, §3 (amd).]

3. Policy; notice. Each employer shall establish, or may negotiate through the collective bargaining process, a written policy concerning smoking and nonsmoking by employees in that portion of

any business facility for which the employer is responsible, subject to paragraph A. In order to protect the employer and employees from the detrimental effects of smoking by others, the policy must prohibit smoking indoors subject to paragraph A, prevent environmental tobacco smoke from circulating into enclosed areas and prohibit smoking outdoors except in designated smoking areas. The policy may prohibit smoking throughout the business facility, including outdoor areas. The employer shall post and supervise the implementation of the policy. The employer shall provide a copy of this policy to any employee upon request. Nothing in this section may be construed to subject an employer to any additional liability, other than liability that may exist by law, for harm to an employee from smoking by others in any business facility covered by this section.

A. All areas of a business facility into which members of the public are invited or allowed are governed by the provisions of chapter 262.

B. The Maine Center for Disease Control and Prevention shall accept inquiries from employers and employees and shall, when requested, assist employers in developing a policy.

REPEALED & REPLACED [2009, c. 300, §7.]

4. Violations. Any violation of this section is a civil violation for which a fine of not more than \$100 may be adjudged, except that a fine of not more than \$1,500 may be adjudged for each violation of this section in cases in which the employer has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this section. The Bureau of Health has authority to enforce provisions of this section. [2005, c. 338, §4 (amd).]

4-A. Injunctive relief. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction and fines, penalties and equitable relief, and may seek to prevent or restrain violations of this section by any person. [2005, c. 338, §5 (new).]

5. Civil remedies. Nothing in the section may be construed as precluding any person from pursuing, in any court of competent jurisdiction, any civil remedy that person may have at law or in equity for harm occasioned to that person from smoking by others in any business facility covered by this section. [1985, c. 126 (new).]

6. Discharge, discipline or discrimination against employees. It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees because that employee has assisted in the supervision or enforcement of this section. [1985, c. 126 (new).]

7. Application. This section does not apply to a business facility that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and [2005, c. 338, §6 (new).]

B. Demonstrates by a written secret ballot vote taken at least once every 3 years that a majority of the members have voted to allow smoking. The date of the vote must be announced to all members at least 14 days prior to the vote. All ballots cast in the vote must be kept on file for at least 3 years and made available to the Bureau of Health upon request. [2005, c. 338, §6 (new).]

This subsection is repealed September 1, 2008. [2005, c. 683, Pt. G §1 (amd).]

8. Effective date. This section shall take effect January 1, 1986. [1985, c. 126 (new).]

9. Exception. Beginning August September 1, 2006, and notwithstanding any provision to the contrary in this section, a qualifying club may allow smoking in its business facility in accordance with the following provisions.

A. Policies concerning smoking must have been mutually agreed upon by the employer and all the employees.

B. The qualifying club must have met the requirements of this paragraph.

(1) The qualifying club must have written policies allowing onto the premises only the employer and employees, members and invited guests accompanied by a member.

(2) A vote in favor of smoking has been conducted according to the following provisions:

(a) The qualifying club must provide all members notice of the date of the vote at least 30 days prior to the vote and an opportunity for an absentee ballot. Information designed to influence the vote of the member may not be provided with the notice and the absentee ballot;

(b) Members may not be subjected to undue influence regarding the vote;

(c) A majority of all valid ballots received must be in favor of smoking; and

(d) The ballot and procedures for voting and making available, collecting and counting absentee ballots must meet the requirements established by rule adopted by the Maine Center for Disease Control and Prevention.

(3) The qualifying club must have provided written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote.

C. The qualifying club may allow smoking under authority of this subsection for no longer than 3 years from the date of the vote.

D. The qualifying club may revoke under this subsection at any time.

E. The qualifying club must have retained all ballots for at least 3 years and make them available to the Maine Center for Disease Control and Prevention upon request.

F. The Maine Center for Disease Control and Prevention shall adopt rules to implement this subsection. Rules adopted pursuant to this subparagraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 683, Pt. G §2 (amd).]

Transition. The provisions of the Maine Revised Statutes, Title 22, section 1580-A, subsection 9 apply to all votes to allow smoking in a qualifying club as defined in section 1580-A, subsection 2, paragraph C-2, except that a qualifying club that held a vote in favor of smoking under authority of Title 22, section 1580-A, subsection 7 between July 1, 2005 and September 1, 2006 may allow smoking under authority of that vote until September 1, 2008. [2005, c. 683, Pt. G, §3 (amd).]

Confidentiality of health Care Information

§1711-C. Confidentiality of health care information

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

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-A, section 5-802; agent pursuant to Title 18-A, Article 5, Part 9; or other authorized representative or, after death, that person's personal representative or a person identified in subsection 3-B. For a minor who has not consented to health care treatment in accordance with the provisions of state law, "authorized representative" means the minor's parent, legal guardian or guardian ad litem. [2009, c. 292, §3 (amd).]

A-1. "Authorization to disclose" means authorization to disclose health care information in accordance with subsection 3, 3-A or 3-B. [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

B. "Disclosure" means the release, transfer of or provision of access to health care information in any manner obtained as a result of a professional health care relationship between the individual and the health care practitioner or facility to a person or entity other than the individual. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

C. "Health care" means preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, treatment, procedures or counseling, including appropriate assistance with disease or symptom management and maintenance, that affects an individual's physical, mental or behavioral condition, including individual cells or their components or genetic information, or the structure or function of the human body or any part of the human body. Health care includes prescribing, dispensing or furnishing to an individual drugs, biologicals, medical devices or health care equipment and supplies; providing hospice services to an individual; and the banking of blood, sperm, organs or any other tissue. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

D. "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to this Title that offers health care to persons in this State, including a home health care provider, hospice program and a pharmacy licensed pursuant to Title 32. For the purposes of this section, "health care facility" does not include a state mental health institute, the Elizabeth Levinson Center, the Aroostook Residential Center or Freeport Towne Square. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

E. "Health care information" means information that directly identifies the individual and that relates to an individual's physical, mental or behavioral condition, personal or family medical history or medical treatment or the health care provided to that individual. "Health care information" does not include information that protects the anonymity of the individual by means of encryption or encoding of individual identifiers or information pertaining to or derived from federally sponsored, authorized or regulated research governed by 21 Code of Federal Regulations, Parts 50 and 56 and 45 Code of Federal Regulations, Part 46, to the extent that such information is

used in a manner that protects the identification of individuals. The Board of Directors of the Maine Health Data Organization shall adopt rules to define health care information that directly identifies an individual. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

"Health care information" does not include information that is created or received by a member of the clergy or other person using spiritual means alone for healing as provided in Title 32, sections 2103 and 3270. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

F. "Health care practitioner" means a person licensed by this State to provide or otherwise lawfully providing health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to individuals. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

G. "Individual" means a natural person who is the subject of the health care information under consideration and, in the context of disclosure of health care information, includes the individual's authorized representative. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

H. "Third party" or "3rd party" means a person other than the individual to whom the health care information relates. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

[1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

2. Confidentiality of health information; disclosure. An individual's health care information is confidential and may not be disclosed other than to the individual by the health care practitioner or facility except as provided in subsection 3, 3-A, 3-B, 6 or 11. Nothing in this section prohibits a health care practitioner or health care facility from adhering to applicable ethical or professional standards provided that these standards do not decrease the protection of confidentiality granted by this section. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

3. Written authorization to disclose. A health care practitioner or facility may disclose health care information pursuant to a written authorization signed by an individual for the specific purpose stated in the authorization. A written authorization to disclose health care information must be retained with the individual's health care information. A written authorization to disclose is valid whether it is in an original, facsimile or electronic form. A written authorization to disclose must contain the following elements:

A. The name and signature of the individual and the date of signature. If the authorization is in electronic form, a unique identifier of the individual and the date the individual authenticated the

electronic authorization must be stated in place of the individual's signature and date of signature; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

B. The types of persons authorized to disclose health care information and the nature of the health care information to be disclosed; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

C. The identity or description of the 3rd party to whom the information is to be disclosed; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

D. The specific purpose or purposes of the disclosure and whether any subsequent disclosures may be made pursuant to the same authorization. An authorization to disclose health care information related to substance abuse treatment or care subject to the requirements of 42 United States Code, Section 290dd-2 (Supplement 1998) is governed by the provisions of that law; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

E. The duration of the authorization; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

F. A statement that the individual may refuse authorization to disclose all or some health care information but that refusal may result in improper diagnosis or treatment, denial of coverage or a claim for health benefits or other insurance or other adverse consequences; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

G. A statement that the authorization may be revoked at any time by the individual by executing a written revocation, subject to the right of any person who acted in reliance on the authorization prior to receiving notice of revocation, instructions on how to revoke an authorization and a statement that revocation may be the basis for denial of health benefits or other insurance coverage or benefits; and [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

H. A statement that the individual is entitled to a copy of the authorization form. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

[1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

3-A. Oral authorization to disclose. When it is not practical to obtain written authorization under subsection 3 from an individual or person acting pursuant to subsection 3-B or when a person chooses to give oral authorization to disclose, a health care practitioner or facility may disclose health care information pursuant to oral authorization. A health care practitioner or facility shall record with the individual's health care information receipt of oral authorization to disclose, including the name of the authorizing person, the

date, the information and purposes for which disclosure is authorized and the identity or description of the 3rd party to whom the information is to be disclosed. [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

3-B. Authorization to disclose provided by a 3rd party. When an individual or an authorized representative is unable to provide authorization to disclose under subsection 3 or 3-A, a health care practitioner or facility may disclose health care information pursuant to authorization to disclose that meets the requirements of subsection 3 or 3-A given by a 3rd party listed in this subsection. A health care practitioner or facility may determine not to obtain authorization from a person listed in this subsection when the practitioner or facility determines it would not be in the best interest of the individual to do so. In making this decision, the health care practitioner or facility shall respect the safety of the individual and shall consider any indicators, suspicion or substantiation of abuse. Persons who may authorize disclosure under this subsection include:

A. The spouse of the individual; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

B. A parent of the individual; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

C. An adult who is a child, grandchild or sibling of the individual; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

D. An adult who is an aunt, uncle, niece or nephew of the individual, related by blood or adoption; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

E. An adult related to the individual, by blood or adoption, who is familiar with the individual's personal values; and [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

F. An adult who has exhibited special concern for the individual and who is familiar with the individual's personal values. [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

[1999, c. 512, Pt. A, §5 (new); §7 (aff).]

4. Duration of authorization to disclose. An authorization to disclose may not extend longer than 30 months, except that the duration of an authorization for the purposes of insurance coverage under Title 24, 24-A or 39-A is governed by the provisions of Title 24, 24-A or 39-A, respectively. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

5. Revocation of authorization to disclose. A person who may authorize disclosure may revoke authorization to disclose at any time, subject to the rights of any person who acted in reliance on the authorization prior to receiving notice of revocation. A written revocation of authorization must be signed and dated. If the revocation is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature and date of signature. A health care practitioner or facility shall record receipt of oral revocation of authorization, including the name of the person revoking authorization and the date. A revocation of authorization must be retained with the authorization and the individual's health care information. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

6. Disclosure without authorization to disclose. A health care practitioner or facility may disclose, or when required by law must disclose, health care information without authorization to disclose under the circumstances stated in this subsection or as provided in subsection 11. Disclosure may be made without authorization as follows:

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;

[RR 2001, c. 1, §26 (cor).]

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. [2013, c. 326, §1 (amd).]

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this paragraph to a health care practitioner or health care facility, or to a payor or person engaged in payment for health care, for purposes of care management or coordination of care. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2). A person who has made a disclosure under this subparagraph shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure; [2013, c. 326, §1 (new).]

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.; [2011, c. 347, §7 (amd).]

C. To a family or household member unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

D. To appropriate persons when a health care practitioner or facility that is providing or has provided diagnosis, treatment or care to the individual in good faith believes that disclosure is made to avert a serious threat to health or safety and meets the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j) (2012). A disclosure pursuant to this paragraph must protect the confidentiality of the health care information consistent with sound professional judgment; [2013, c. 289, §1 (amd);]

E. To federal, state or local governmental entities in order to protect the public health and welfare when reporting is required or authorized by law, to report a suspected crime against the health care practitioner or facility or to report information that the health care facility's officials or health care practitioner in good faith believes constitutes evidence of criminal conduct that occurred on the

premises of the health care facility or health care practitioner; [2011, c. 572, §1 (amd)]

E-1. To federal, state or local governmental entities if the health care practitioner or facility that is providing diagnosis, treatment or care to an individual has determined in the exercise of sound professional judgment that the following requirements, as applicable, are satisfied:

(1) With regard to a disclosure for public health activities, for law enforcement purposes or that pertains to victims of abuse, neglect or domestic violence, the provisions of 45 Code of Federal Regulations, Section 164.512(b), (c) or (f) (2012) must be met; and

(2) With regard to a disclosure that pertains to a victim of domestic violence or a victim of sexual assault, the provisions of 45 Code of Federal Regulations, Section 164.512(c)(1)(iii)(A) (2012) and Section 164.512(c)(1)(iii)(B) (2012) must be met. [2013, c. 289, §2 (new);]

F. [1999, c. 512, Pt. A, §5 (rp); §7 (aff).]

F-1. As directed by order of a court or as authorized or required by statute; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

F-2. To a governmental entity pursuant to a lawful subpoena requesting health care information to which the governmental entity is entitled according to statute or rules of court; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

F-3. To the Maine Health Data Organization as required by and for use in accordance with chapter 1683. Health care information, including protected health information, as defined in 45 Code of Federal Regulations, Section 160.103 (2013), submitted to the Maine Health Data Organization must be protected by means of encryption; [2013, c. 528, §1 (new);]

G. To a person when necessary to conduct scientific research approved by an institutional review board or by the board of a nonprofit health research organization or when necessary for a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration. A person conducting research or a clinical trial may not identify any individual patient in any report arising from the research or clinical trial. For the purposes of this paragraph, "institutional review board" means any board, committee or other group formally designated by a health care facility and authorized under federal law to review, approve or conduct periodic review of research programs. Health care information disclosed pursuant to this paragraph that identifies an individual must be returned to the health care practitioner or facility from which it was obtained or must be destroyed when it is no longer required for the research or clinical trial. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

H. To a person engaged in the assessment, evaluation or investigation of the provision of or payment for health care or the practices of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to statutory or professional standards or requirements. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

I. To a person engaged in the regulation, accreditation, licensure or certification of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to standards or requirements for regulation, accreditation, licensure or certification; [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

J. To a person engaged in the review of the provision of health care by a health care practitioner or facility or payment for such health care under Title 24, 24-A or 39-A or under a public program for the payment of health care or professional liability insurance for a health care practitioner or facility or to an agent, employee or contractor of such a person; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

K. To attorneys for the health care practitioner or facility that is disclosing the health care information or to a person as required in the context of legal proceedings or in disclosure to a court or governmental entity, as determined by the practitioner or facility to be required for the practitioner's or facility's own legal representation; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

L. To a person outside the office of the health care practitioner or facility engaged in payment activities, including but not limited to submission to payors for the purposes of billing, payment, claims management, medical data processing, determination of coverage or adjudication of health benefit or subrogation claims, review of health care services with respect to coverage or justification of charges or other administrative services. Payment activities also include but are not limited to:

(1) Activities necessary to determine responsibility for coverage;

(2) Activities undertaken to obtain payment for health care provided to an individual; and

(3) Quality assessment and utilization review activities, including precertification and preauthorization of services and operations or services audits relating to diagnosis, treatment or care rendered to individuals by the health care practitioner or facility and covered by a health plan or other payor;

[1999, c. 512, Pt. A, §5 (new); §7 (aff).]

M. To schools, educational institutions, youth camps licensed under section 2495, correctional facilities, health care practitioners and facilities, providers of emergency services or a branch of federal or state military forces, information regarding immunization of an individual; [2009, c. 211, Pt. B, §17 (amd).]

N. To a person when disclosure is needed to set or confirm the date and time of an appointment or test or to make arrangements for the individual to receive those services; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

O. To a person when disclosure is needed to obtain or convey information about prescription medication or supplies or to provide medication or supplies under a prescription; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

P. To a person representing emergency services, health care and relief agencies, corrections facilities or a branch of federal or state military forces, of brief confirmation of general health status; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

Q. To a member of the clergy, of information about the presence of an individual in a health care facility, including the person's room number, place of residence and religious affiliation unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

R. To a member of the media who asks a health care facility about an individual by name, of brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; and [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

S. To a member of the public who asks a health care facility about an individual by name, of the room number of the individual and brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B. [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

[RR 2001, c. 1, §26 (cor).]

7. Confidentiality policies. A health care practitioner, 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 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. [2011, c. 373, §1 (amd).]

8. Prohibited disclosure. A health care practitioner, 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. [2011, c. 373, §2 (amd).]

9. Disclosures of corrections or clarifications to health care information. A health care practitioner or facility shall provide to a 3rd party a copy of an addition submitted by an individual to the individual's health care information if:

A. The health care practitioner or facility provided a copy of the original health care record to the 3rd party on or after February 1, 2000; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

B. The correction or clarification was submitted by the individual pursuant to section 1711 or 1711-B and relates to diagnosis, treatment or care; [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

C. The individual requests that a copy be sent to the 3rd party and provides an authorization that meets the requirements of subsection 3, 3-A or 3-B; and [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

D. If requested by the health care practitioner or facility, the individual pays to the health care practitioner or facility all reasonable costs requested by that practitioner or facility. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

[1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

10. Requirements for disclosures. Except as otherwise provided by law, disclosures of health care information pursuant to this section are subject to the professional judgment of the health care practitioner and to the following requirements.

A. A health care practitioner or facility that discloses health care information pursuant to subsection 3, 3-A or 3-B may not disclose information in excess of the information requested in the authorization. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

B. A health care practitioner or facility that discloses health care information pursuant to subsections 3, 3-A, 3-B or 6 may not disclose information in excess of the information reasonably required for the purpose for which it is disclosed. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

C. If a health care practitioner or facility believes that release of health care information to the individual would be detrimental to the health of the individual, the health care practitioner or facility shall advise the individual and make copies of the records available to the individual's authorized representative upon receipt of a written authorization. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

D. If a health care practitioner or facility discloses partial or incomplete health care information, as compared to the request or directive to disclose under subsection 3, 3-A, 3-B or 6, the disclosure must expressly indicate that the information disclosed is partial or incomplete. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

[1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

11. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation is governed solely by those provisions. [2009, c. 387, §2 (amd).]

12. Minors. If a minor has consented to health care in accordance with the laws of this State, authorization to disclose health care information pursuant to this section must be given by the minor unless otherwise provided by law. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

13. Enforcement. This section may be enforced within 2 years of the date a disclosure in violation of this section was or should reasonably have been discovered.

A. When the Attorney General has reason to believe that a person has intentionally violated a provision of this section, the Attorney General may bring an action to enjoin unlawful disclosure of health care information. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

B. An individual who is aggrieved by conduct in violation of this section may bring a civil action against a person who has intentionally unlawfully disclosed health care information in the Superior Court in the county in which the individual resides or the disclosure occurred. The action may seek to enjoin unlawful disclosure and may seek costs and a forfeiture or penalty under paragraph C. An

applicant for injunctive relief under this paragraph may not be required to give security as a condition of the issuance of the injunction. [1999, c. 512, Pt. A, §7 (amd); §6 (aff).]

C. A person who intentionally violates this section is subject to a civil penalty not to exceed \$5,000, payable to the State, plus costs. If a court finds that intentional violations of this section have occurred after due notice of the violating conduct with sufficient frequency to constitute a general business practice, the person is subject to a civil penalty not to exceed \$10,000 for health care practitioners and \$50,000 for health care facilities, payable to the State. A civil penalty under this subsection is recoverable in a civil action. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

D. Nothing in this section may be construed to prohibit a person aggrieved by conduct in violation of this section from pursuing all available common law remedies, including but not limited to an action based on negligence. [1999, c. 512, Pt. A, §5 (new); §7 (aff).]

[1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

14. Waiver prohibited. Any agreement to waive the provisions of this section is against public policy and void. [1997, c. 793, Pt. A, §8 (new); §10 (aff).]

15. Immunity. A cause of action in the nature of defamation, invasion of privacy or negligence does not arise against any person for disclosing health care information in accordance with this section. This section provides no immunity for disclosing information with malice or willful intent to injure any person. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

16. Application. This section applies to all requests, directives and authorizations to disclose health care information executed on or after February 1, 2000. An authorization to disclose health care information executed prior to February 1, 2000 that does not meet the standards of this section is deemed to comply with the requirements of this section until the next health care encounter between the individual and the health care practitioner or facility. [1999, c. 512, Pt. A, §5 (amd); §7 (aff).]

17. Repeal. [2001, c. 346, §1 (rp).]

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.[2011, c. 347, §8 (amd).]

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. [2011, c. 373, §3 (new).]

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. [2011, c. 373, §4 (new).]

Maine Medical Laboratory Act

....

§2013-A. Applicability

In general, this Act applies to all medical laboratories and directors of medical laboratories operating in the State. [1989, c. 72, §2 (new).]

1. Exemptions. Subject to the limitations set forth in subsections 2 and 3, the following entities are exempted from the provisions of this Act under the following circumstances:

A. Medical laboratories operated by the United States Government, the State or municipalities of the State; [1989, c. 72, §2 (new).]

B. Laboratory facilities and laboratory services operated in a hospital licensed by the State; [1989, c. 72, §2 (new).]

C. Physicians and medical staff pursuant to this paragraph:

(1) Physicians, physician assistants, family nurse practitioners, Medicare-certified rural health clinics, professional associations or group practices performing only tests acceptable to the department, as defined by rule, exclusively for the examination of their own patients; and

(2) Physicians, physician assistants, family nurse practitioners, Medicare-certified rural health clinics, professional associations or group practices performing tests, other than those listed in subparagraph (1), exclusively for the examination of their own patients are subject only to sections 2024, 2025 and 2039.

Notwithstanding subparagraphs (1) and (2), laboratories incorporated for the mutual use of physician or group practice owners are subject to all provisions of this Act; [2005, c. 383, §21 (amd).]

D. Medical laboratories in a school, college, university or industrial plant that are under the direct supervision of, and whose services are used exclusively by, a duly licensed physician and that perform only tests acceptable to the department; otherwise, only sections 2024, 2025 and 2039 apply; [2005, c. 383, §21 (amd).]

E. Laboratories operated and maintained for research and teaching purposes that are recognized by the department or involve no patient or public health service; [2005, c. 383, §21 (amd).]

F. The practice of radiology by a radiologist; and [1989, c. 72, §2 (new); c. 456, §1 (amd).]

G. Laboratory services performing health screening tests as defined and regulated by rule adopted by the department. Services exempted under this paragraph include, but are not limited to, the performance of screening tests for cholesterol and colon cancer. [1993, c. 600, Pt. B, §4 (amd).]

[2005, c. 383, §21 (amd).]

2. Maternal serum alpha-fetoprotein testing. Notwithstanding subsection 1, all medical laboratories and directors of medical laboratories shall be subject to all provisions of this Act, and rules promulgated under it, which govern the performance of maternal serum alpha-fetoprotein testing. [1989, c. 72, §2 (new).]

3. Public health reporting requirements. Notwithstanding subsection 1, any facility, regardless of location, that receives, forwards or analyzes specimens of material from the human body or referred cultures

of specimens from the human body and reports the results to health care providers who use the data for purposes of patient care must comply with chapter 250. [2005, c. 383, §22 (new).]

....

Health Facilities Authority

....

§2053. Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent. [1971, c. 303, §1 (new).]

1. Authority. "Authority" means the Maine Health and Higher Educational Facilities Authority created and established as a public body corporate and politic of the State of Maine by section 2054 or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law. [1979, c. 680, §3 (amd).]

2. Bonds and notes. "Bonds" and "notes" mean bonds and notes of the authority issued under this chapter, including refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of the authority or the full faith and credit of a participating health care facility, a participating institution for higher education, or a participating institution providing an educational program, or any other lawfully pledged security of a participating health care facility, a participating institution for higher education or a participating institution providing an educational program. [2007, c. 354, §2 (amd).]

2-A. Community health or social service facility. "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health or mental retardation services, substance abuse services or family counseling and domestic abuse intervention services, and is licensed by the State. [1995, c. 179, §1 (rpr).]

2-B. Community health center. "Community health center" means an incorporated nonprofit health facility that provides comprehensive primary health care to citizens in a community. [1993, c. 390, §4 (new).]

2-C. Congregate housing facility. [1995, c. 670, Pt. C, §1 (rp); Pt. D, §5 (aff).]

3. Cost. "Cost" as applied to a project or any portion thereof financed under this chapter shall mean the cost of construction, building, acquisition, equipping, alteration, enlargement, reconstruction and remodeling of a project and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary, used for or useful for or in connection with a project and all other undertakings which the authority deems reasonable or necessary for the development of a project, including but not limited to the cost of demolishing or removing any building or structures on land so acquired, the cost of acquiring any lands to which such building or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and if judged advisable by the authority, for a period after completion of such construction, the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrative and operating expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses necessary or incident to the construction and acquisition of the project, the financing of such construction, and acquisition and the placing of the project in operation. [1971, c. 303, §1 (new).]

3-A. Health care facility. "Health care facility" means a nursing home that is, or will be upon completion, licensed under chapter 405; a residential care facility that is, or will be upon completion, licensed under chapter 1663; a continuing care retirement community that is, or will be upon completion, licensed under Title 24-A, chapter 73; an assisted living facility that is, or will be upon completion, licensed under chapter 1664; a hospital; a community mental health facility; a scene response air ambulance licensed under Title 32, chapter 2-B and the rules adopted thereunder; a facility of a hospice program that is, or will be upon completion, licensed under chapter 1681; a nonprofit statewide health information network incorporated in the State for the purpose of exchanging health care information among licensed health care providers in the State; or a community health center. [2007, c. 72, §1 (amd).]

3-B. Eligible entity. "Eligible entity" means a facility or institution eligible to participate in financing or other borrowing services authorized by this chapter and includes a participating community health or social service facility, a participating health care facility, a participating institution for higher education or a participating institution providing an educational program. [2007, c. 354, §3 (amd).]

4. Hospital. "Hospital" means any private, nonprofit or charitable institution or organization which is either:

A. Engaged in the operation of, or formed for the purpose of operating, a hospital which is, or will be upon completion, licensed as a hospital under the laws of the State; or [1983, c. 199, §1 (new).]

B. Whose sole members are 2 or more institutions or organizations which are licensed as hospitals or nursing homes under the laws of the State. [1983, c. 199, §1 (new).]

[1983, c. 199, §1 (rpr).]

4-A. Nursing home. [1991, c. 584, §2 (rp).]

4-B. Institution for higher education. "Institution for higher education" means:

A. Any private, nonprofit, governmental or charitable institution or organization engaged in the operation of, or formed for the purpose of operating, an educational institution within this State, including the Maine Community College System and the University of Maine System, that, by virtue of law or charter, is an educational institution empowered to provide a program of education beyond the high school level; and [2003, c. 20, Pt. OO, §2 (amd); §4 (aff); Pt. DDD, §1 (amd).]

B. The Maine School of Science and Mathematics, as established in Title 20-A, chapter 312. To repay any necessary outstanding construction bonds, the adjusted tuition and insured value factor amount defined in Title 20-A, section 5805, subsection 3, may be increased as specified in that definition. The adjustment may be used solely to repay bonds from the authority and expires when the bond is retired. [1993, c. 706, Pt. A, §5 (new).]

[2003, c. 20, Pt. OO, §2 (amd); §4 (aff); Pt. DDD, §1 (amd).]

4-C. Participating community mental health facility. [1993, c. 390, §6 (rp).]

4-D. Participating community health or social service facility. "Participating community health or social service facility" means a community health or social service facility that is exempt from taxation under section 501 of the United States Internal Revenue Code and that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and committed by this chapter. [1995, c. 179, §2 (new).]

4-E. Institution providing an educational program. "Institution providing an educational program" means a nonprofit or charitable institution, public or private, that is exempt from federal taxation pursuant to the United States Internal Revenue Code of 1986, as amended, Section 501 and that provides a program of education for the purpose of enhancing the knowledge or abilities of its members or the general public.[2007, c. 354, §4 (new)]

5. Participating health care facility. "Participating health care facility" means a health care or licensed assisted living facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter. [1995, c. 670, Pt. C, §3 (amd); Pt. D, §5 (aff).]

5-A. Participating institution for higher education. "Participating institution for higher education" means an institution for higher education which, pursuant to this chapter, shall undertake the financing and construction or acquisition of a project or shall undertake the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by this chapter. [1979, c. 680, §5 (new).]

5-B. Participating institution providing an educational program. "Participating institution providing an educational program" means an institution providing an educational program that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by this chapter. [2007, c. 354, §5 (new)]

6. Project. "Project" means:

A. In the case of a participating health care facility or a participating community health or social service facility, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, a structure designed for use as a health care facility, community health or social service facility, congregate housing facility, laboratory, laundry, nurses or interns residence or other multiunit housing facility for staff, employees, patients or relatives of patients admitted for treatment in the health care facility, community health or social service facility, doctors office building, administration building, research facility, maintenance, storage or utility facility or other structures or facilities related to any of the foregoing or required or useful for the operation of the project, or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of the health care facility or community health or social service facility. "Project" also includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, parking lots, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground that are used or usable in connection with the structures mentioned in this paragraph, and includes landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as food, fuel, supplies or other items that are customarily considered as a current operating charge. In the case of a hospital, as defined in subsection 4, paragraph B, a community health center or a community health or social service facility, "project" does not include any facilities, structures or appurtenances, the use of which is not directly related to the provision of patient care by its members; [2007, c. 354, §6 (amd).]

B. In the case of a participating institution for higher education, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility or other building or structure essential, necessary or useful for instruction in a program of education provided by an institution for higher education, including a parking facility, or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground that are used or usable in connection with any of the structures mentioned in this paragraph, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items that are customarily considered as a current operating charge; and [2007, c.354, §6 (amd).]

C. In the case of a participating institution providing an educational program, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility, exhibition facility or space, performing arts facility, museum, theater, studio or other building or structure essential, necessary or useful to the participating institution providing an educational program, including a parking facility or any multipurpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground that are used or usable in connection with any of the structures mentioned in this paragraph, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items that are customarily considered as a current operating charge. [2007, c.354, §6 (new).]

7. Refinancing of existing indebtedness. "Refinancing of existing indebtedness" means liquidation, with the proceeds of bonds or notes issued by the authority, of an indebtedness of a health care facility, an institution for higher education or a participating institution providing an educational program incurred to finance or aid in financing a lawful purpose of that health care facility, institution for higher education or participating institution providing an educational program not financed pursuant to this chapter that would constitute a project had it been undertaken and financed by the authority, or consolidation of such indebtedness with indebtedness of the authority incurred for a project related to the purpose for which the indebtedness of the health care facility, institution for higher education or participating institution providing an educational program was incurred. [2007, c. 354, §7 (amd).]

....

Automated External Defibrillators

§ 2150-C. Automated external defibrillators; immunity from civil liability

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

A. "Automated external defibrillator" or "AED" means a medical device that combines a heart monitor and a defibrillator approved by the United States Food and Drug Administration that:

(1) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(2) Is capable of determining, without intervention by an operator, whether defibrillation should be performed on an individual; and

(3) Upon determination that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

6.(sic) Immunity. The following persons and entities are immune from civil liability for damages relating to the use, possession or purchase of an AED and arising out of acts or omissions relating to preparing for and responding to suspected sudden cardiac arrest emergencies absent gross negligence or willful or wanton misconduct:

A. Any person or entity that acquires an AED;

B. Any person or entity that owns, manages or is otherwise responsible for the premises on which an AED is located;

C. Any person who retrieves an AED in response to a perceived sudden cardiac arrest emergency;

D. Any person who uses, attempts to use or fails to use an AED in response to a perceived sudden cardiac arrest emergency;

E. Any physician or other authorized person who issues a prescription for the purchase of an AED;

F. Any person or entity that is involved with the design, management or operation of an AED program; and

G. Any person or entity that provides instruction in the use of an AED.

REPEALED AND REPLACED [2007, c. 267, §2 (new)]

Camping Areas and Eating Establishments

§2491. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [1975, c. 496, §3 (NEW).]

1. Campground. "Campground" means, in addition to the generally accepted definitions, camping areas, recreational vehicle parks, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where tents, recreational vehicles, rental cabins and cottages are permitted 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. [2011, c. 193, Part A, §1 (amd) .]

2. Catering establishments. "Catering establishments" means any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for service on the premises during special catered events. [1975, c. 496, §3 (NEW) .]

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

[1975, c. 293, §4 (AMD); 2003, c. 689, Pt. B, §7 (REV) .]

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 longer than an entire season, for temporary occupancy for recreational purposes only and not for permanent residency. [2011, c. 193, Part A, §2 (amd).]

5. Department. "Department" means the Department of Health and Human Services. [1975, c. 293, §4 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

6. Eating and lodging place. "Eating and 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 accommodations are furnished to the public as a business, such as hotels, motels, guest homes and cottages. [2011, c. 193, Part A, §3 (amd) .]

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 such as schools, retail frozen dairy product establishments, airports, parks, theaters, vacation 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. [2013, c. 264, §3 (amd) .]

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. [2011, c. 193, Part A, §5 (new) .]

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, bed and breakfasts and inns, where the owner or managing entity maintains the lodging facilities and the structures are located in the same general physical location. "Lodging place" includes a property under common management where 4 or more rooms, cottages or condominium units are rented to the public. "Lodging place" does not include vacation rentals, youth camps, dormitories of charitable, educational or philanthropic institutions, fraternity or sorority houses affiliated with educational institutions, permanent residences, rooming houses, tenancies at will or rental properties with tenant and landlord relationships. [2013, c. 264, §4 (amd) .]

8. Mobile eating place. "Mobile eating place" means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and capable of being moved from its serving site at any time. [1975, c. 496, §3 (NEW) .]

9. Mobile home. [1983, c. 553, §18 (RP) .]

10. Mobile home park. [1983, c. 553, §18 (RP) .]

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. [2011, c. 193, Part A, §7 (new).]

10-B. Public spa. "Public spa" means any constructed spa other than a residential spa or medical facility spa. [2011, c. 193, Part A, §8 (new).]

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. [2011, c. 193, Part A, §9 (rpr).]

12. Sanitarian. [2011, c. 193, Part A, §10 (repealed).]

13. Vending machine establishment. [2011, c. 193, Part A, §11 (repealed).]

14. Vending machine. "Vending machine" means any self-service device offered for public use that, upon insertion of 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. [2011, c. 193, Part A, §12 (amd).]

15. Retail frozen dairy product establishment. "Retail frozen dairy product establishment" means any place, premise or establishment and any part thereof where frozen dairy products, such as ice cream,

frozen custard, ice milk, sherbert, ices and related food products are prepared for consumption on or off premises. [1979, c. 672, Pt. A, §60 (NEW) .]

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. [2011, c. 193, Part A, §13 (amd).]

17. Vacation rental. "Vacation rental" means a residential property that is rented for vacation, leisure or recreation purposes for a day, a week or a month, and typically under 30 days but not for more than an entire summer or winter season, to a person who has a place of permanent residence to which the person intends to return. [2013, c. 264, §5 (new).]

§2492. License required

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; [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. An eating and lodging place; [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A lodging place; [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

D. A recreational camp or sporting camp; [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

E. A campground; [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

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. [2011, c. 193, Part A, §14 (amd).]

2. Violation. A person, corporation, firm or copartnership may not:

A. Violate subsection 1; or [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Violate subsection 1 after having previously violated subsection 1. [2003, c. 452, Pt. K, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

3. Campground; presumption. If a 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 campground. The owner or renter may rebut the presumption if the owner or renter presents a preponderance of evidence to the contrary. [2011, c. 193, Part A, §15 (amd).]

§2493. Applicant

Any person, corporation, firm or copartnership desiring a license shall submit satisfactory evidence of his, her or its ability to comply with the minimum standards of this chapter and all regulations adopted thereunder. [1975, c. 496, §3 (NEW).]

§2494. Fees

Each application for, or for renewal of, a license to operate an eating establishment, eating and lodging place, lodging place, recreational camp or 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: [2011, c. 193, Part B, §1 (amd).]

1. One hundred dollars. One hundred dollars for:

A. Public schools governed by a school board of an administrative unit; [1987, c. 838, §1 (NEW).]

B. Private secondary schools approved for tuition when school enrollments are at least 60% publicly funded students as determined by the previous school year's October to April average enrollment; and [1987, c. 838, §1 (NEW).]

C. Schools operated by an agency of State Government for the education of children in unorganized territories; [1987, c. 838, §1 (NEW).]

[2003, c. 673, Pt. X, §1 (AMD) .]

2. Sixty dollars. Sixty dollars for each inspection for any establishment that is located in a municipality that requires local inspections of establishments; and [2011, c. 193, Part B, §2 (amd).]

3. Three hundred dollars. One hundred seventy-five dollars for all other establishments, places and camps not included in subsection 1 or 2. [2009, c. 589, §2 (amd) .]

All such fees are for the license, one licensure 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. [2011, c. 375, §1 (amd).]

§2495. Issuance of licenses

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 or campground which is found to comply with this chapter and the regulations adopted by the department. [2011, c. 193, Part B, §3 (amd).]

When any initial applicant is found, based upon an inspection by the department or by municipal inspection made according to section 2499, not in compliance with the requirements of this chapter or departmental regulations adopted and approved pursuant to section 2496 or 2499, subsection 1, the department may refuse issuance of the initial license, but shall issue a conditional license, except when conditions are found that present a serious danger to the health and safety of the public. A conditional license may not exceed 90 days. Failure by the conditional licensee to meet the conditions specified by the department permits the department to void the conditional license. [2003, c. 673, Pt. X, §2 (AMD).]

The conditional license shall be void when the department has delivered in hand or by certified mail a written notice to the conditional licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left notice thereof at the facility. [1981, c. 203, §1 (RPR).]

The department may redistribute expiration dates for new and renewed licenses to provide for comparable distribution of licenses on a quarterly basis throughout the year and shall prorate the fees for licenses with a term less or more than one year. The prescribed fee shall accompany the application for a new license, or the renewal of a license. [1981, c. 203, §1 (RPR).]

Licenses shall be renewed upon application therefor and upon payment of the prescribed fee and subject to compliance with regulations of the department and with this chapter. The department shall provide licensees with notice of the need for renewal and necessary forms no less than 30 days prior to the expiration of the license. [1981, c. 203, §1 (RPR).]

The issuance of the license provided for in this chapter does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law. [1981, c. 203, §1 (RPR).]

Licenses erroneously issued by the department are void and shall be returned to the department on demand in a notice delivered by hand or by certified mail to the licensee. For cause, the department may revoke or suspend any license pursuant to section 2500. [1981, c. 203, §1 (RPR).]

§2496. Rules and policies

1. Department rulemaking. The department is authorized and empowered to make and enforce all necessary rules and regulations for the administration of this chapter, and may rescind or modify such rules and regulations from time to time as may be in the public interest, insofar as such action is not in conflict with any of the provisions of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 140, §1 (NEW) .]

2. Recreational camps for children; emergency medication. A recreational camp for boys or girls must have a written policy authorizing campers to self-administer emergency medication, including, but not limited to, an asthma inhaler or an epinephrine pen. The written policy must include the following requirements:

A. A camper who self-administers emergency medication must have the prior written approval of the camper's primary health care provider and the camper's parent or guardian; [2005, c. 140, §1 (NEW).]

B. The camper's parent or guardian must submit written verification to the camp from the camper's primary health care provider confirming that the camper has the knowledge and the skills to safely self-administer the emergency medication in camp; [2005, c. 140, §1 (NEW).]

C. The camp health staff must evaluate the camper's technique to ensure proper and effective use of the emergency medication in camp; and [2005, c. 140, §1 (NEW).]

D. The emergency medication must be readily available to the camper. [2005, c. 140, §1 (NEW).]

[2005, c. 140, §1 (NEW) .]

§2497. Right of entry and inspection

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. Such right of entry and inspection extends to any premises 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 1. [2011, c. 375, §2 (amd).]

§2498. Fines and penalties

1. Authorization. The department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter, occurs and the department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The department may impose penalties for violations of this chapter, or the rules enacted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp youth camp, public pool or public spa or 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. [2013, c. 264, §6 (amd).]

B. The department may direct an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp, public pool or public spa or 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. [2013, c. 264, §6 (amd).]

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp, public pool or public spa or 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. [2013, c. 264, §6 (amd).]

D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy. [1991, c. 528, Pt. J, §5 (NEW); 1991, c. 591, Pt. J, §5 (NEW); 1991, c. 528, Pt. RRR, (AFF).] [RR 2005, c. 2, §17 (COR) .]

E. A person, corporation, firm or copartnership that fails to pay a penalty imposed pursuant to this chapter:

(1) May be referred to the Attorney General for appropriate enforcement action; and

(2) In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees. [2013, c. 264, §6 (new).]

2. Schedule of penalties. The department shall establish a schedule of penalties according to the nature and duration of the violation. [1991, c. 528, Pt. J, §5 (NEW); 1991, c. 591, Pt. J, §5 (NEW); 1991, c. 528, Pt. RRR, (AFF) .]

3. Enforcement and appeal. Enforcement and appeal of this section is as follows.

A. The department may impose any fine in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, providing the licensee the opportunity for an administrative hearing. [1991, c. 528, Pt. J, §5 (NEW); 1991, c. 591, Pt. J, §5 (NEW); 1991, c. 528, Pt. RRR, (AFF).]

B. Licensees that are fined pursuant to this chapter are required to pay the department the amount of the penalties. If a licensee has not paid any collectible fines by the time of its license renewal, the department may collect such fines by requiring their payment prior to the processing of any license renewal application. An appeal of the department's decision to fine a licensee stays the collection of any fine. Interest must accrue on fines at a rate described in Title 14, section 1602-B prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest must accrue pursuant to Title 14, section 1602-C. [2003, c. 460, §11 (AMD).]

§2499. Municipal inspections

Notwithstanding any other provisions of this chapter, 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 an establishment as defined in section 2491 on the basis of an inspection performed by 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. [2011, c. 193, Part B, §9 (amd), c. 295, §1 (amd).]

1. Adopted rules, regulations; code of standards. The municipality involved has adopted ordinances or a code of standards for the establishments that has been approved by the department and that is consistent with the rules used by the department for the issuance of licenses in effect at the time of inspection. [2011, c.295, §2 (amd).]

2. Qualified to make inspections. A municipally employed health inspector may not make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Health and Human Services. [2011, c. 193, Part B, §7 (amd).]

3. Inspection to ascertain intent. The department may from time to time inspect such municipally inspected establishments to ascertain that the intent of these statutes is being followed. [1975, c. 496, §3 (NEW) .]

4. Inspection reports. The municipalities shall furnish electronic copies of its inspection reports in a format and on a schedule determined by the department. [2011, c. 193, Part A, §16 (amd).]

5. Charge. Municipalities may not charge the department for performing such inspections. [1975, c. 496, §3 (NEW) .]

6. License fee. When a license is issued to an 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 \$100 to support the costs of mailing and handling. [2011, c. 193, Part A, §17 (amd).]

7. Licenses. Licenses issued under this section must be displayed, renewed and in every other way treated the same as licenses issued under this chapter on the basis of inspection by the department. [2003, c. 673, Pt. X, §5 (AMD) .]

8. Certification. Certification of municipally employed health inspectors must be in accordance with standards set by the commissioner and be for a period of 3 years. [2011, c. 193, Part B, §8 (amd).]

9. Delegation renewal. Beginning January 1, 2005, and every 3 years thereafter, the department shall review the 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. [2011, c. 193, Part A, §18 (amd).]

§2500. Suspension or revocation; appeals

When the department believes a license should be suspended or revoked, it shall file a complaint with the District Court in conformity with the Maine Administrative Procedure Act. A person aggrieved by the refusal of the department to issue a license may request a hearing in conformity with the Maine Administrative Procedure Act. [1977, c. 694, §352 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Whenever, upon inspection, conditions are found which violate this chapter or regulations adopted thereunder, or which may endanger the life, health or safety of persons living in or attending any licensed establishment under this chapter, the department may request an emergency suspension of license of the District Court pursuant to Title 4, section 184, subsection 6, and the court may grant suspension subject to reinstatement following a hearing before the court if cause is not shown. [1999, c. 547, Pt. B, §41 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

§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 vacation rentals, youth camps, dormitories of charitable, educational or philanthropic institutions or 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. [2013, c. 264, §7 (amd).]

Rooms and cottages are not deemed or considered lodging places and subject to a license where not more than 3 rooms and cottages are let. [2011, c. 193, Part B, §10 (amd).]

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 not be considered eating places within the meaning of this section. At such establishments, straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, provided they shall be supplied in original individual single service sterile packages. [1975, c. 496, §3 (new).]

Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and agricultural societies shall be 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. [1975, c. 496, §3 (new).]

§ 2502. Transaction fee for electronic renewal of license

The department may collect a transaction fee from a licensee who renews a license electronically under this chapter. The fee may not exceed the cost of providing the electronic license renewal service. The department may adopt rules necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009, c. 589, §3 (new).]

Swimming Pools

§ 2661. Purpose

The purpose of this chapter is to provide minimum requirements and standards for the protection of the public health, safety and welfare of persons using public pools or spas.

[PL 2007, Ch. 631, §3 (amd)].

§ 2662. Definitions

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

1. Communicable disease. "Communicable disease" is a disease capable of being transmitted from one person to another.

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

2-A. Medical facility pool or medical facility spa. "Medical facility pool" or "medical facility spa" means a pool or spa under the direct supervision and control of licensed medical personnel.

2-B. Pool. "Pool" means a basin, chamber or tank constructed of smooth, impervious and easily cleaned materials, located either indoors or outdoors, in-ground, aboveground or on-ground, provided with a controlled water supply and containing an artificial body of water used for swimming, recreational bathing or wading. "Pool" includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the pool, including equipment, dressing lockers, showers and toilet rooms.

3. Pool depth. "Pool depth" means the distance between the floor of the pool and the maximum operating water level.

4. Residential spa. "Residential spa" means any constructed spa , permanently installed or portable, that is used in connection with a single or multifamily residence , used by tenants of apartment buildings, owners of condominiums or members of property owners associations and available only to these residents and their private guests.

5. Residential swimming pool. "Residential swimming pool" means any constructed pool that is used for swimming in connection with a single or multifamily residence , used by tenants of apartment buildings, owners of condominiums and members of property owners associations and available only to

these residents and their private guests. A pool on the premises of a family child care provider who is certified or required to be certified under section 8301-A is a residential pool.

6. Public spa. "Public spa" means any constructed spa other than a residential spa or medical facility spa.

7. 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, regardless of whether a fee is charged for use. A pool on the premises of a child care facility that is licensed or required to be licensed under section 8301-A is a public pool.

8. Spa. "Spa" means a unit containing water primarily designed for therapeutic or nontherapeutic use that is not drained, cleaned or refilled for each individual. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles or any combination thereof. "Spa" includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot spa and hot tub.

9. Swimming pool. (REPEALED) [PL 2007, Ch. 631, §4] (RP).

[PL 2007, Ch. 631, §4 (amd)]

§ 2663. Existing installations

1. Public pool or spa; existing use. Any public or spa installed prior to September 19, 1985, may have its existing use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and location and no hazard to the public health, safety or welfare has been created by the installation.

2. Public pool or spa; maintenance. The owner or the owner's designated agent is responsible for the maintenance of the public pool or spa in a safe and sanitary condition.

[PL 2007, Ch. 631, §5 (amd)]

§ 2664. Rules

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

[PL 2007, Ch. 631, §6 (amd)]

§ 2665. Submission of plans

A person may not begin construction of a public pool or spa or substantially alter or reconstruct any public pool or spa without first having submitted plans and specifications to the department for review and approval. The department review is limited to matters relating directly to safety and sanitation.

The design criteria to be followed by the department in the review and approval is the minimum standard for all pools and the minimum standard for all spas published by the American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations.

The design criteria standards that the department is using to review and approve pools and spas must be posted annually on the department's publicly accessible website.

[PL 2007, Ch. 631, §7 (amd)]

§ 2666. Health and safety

1. Employment; communicable disease. REPEALED. [PL 2007, Ch. 631, §8] (RP).

2. Nuisance. Any public pool or spa found to be unsanitary, as defined by the department's rules, is declared to be a nuisance.

3. Supervision. Every public pool or spa must be under the supervision of a person as defined in standards by American National Standards Institute and the Association of Pool and Spa Professionals or successor organizations who shall assume the responsibility for compliance with this chapter relating to the safe and sanitary operation and maintenance of a public pool or spa. This chapter may not be construed to require a lifeguard to be on duty when a public pool or spa is open to the public.

[PL 2007, Ch. 631, §8, (amd)].

4. Anti-entrapment devices required. Every public pool and public spa must comply with the federal swimming pool and spa drain cover standards as specified in the Virginia Graeme Baker Pool and Spa Safety Act, 15 United States Code, Sections 8001 to 8006. The Maine Center for Disease Control and Prevention shall enforce the provisions of this subsection provided federal funds are available to cover all costs associated with this enforcement activity. Enforcement includes, but is not limited to, the closure of any public pool or public spa that does not meet the requirements of the federal swimming pool and spa drain cover standards. [PL 2009, Ch. 206, §1 (new)].

§ 2667. Inspections

The department may conduct the inspections as it considers necessary to ensure compliance with the provisions of this chapter and has right of entry at any reasonable hour to public pools or spas for this purpose.

[PL 2007, Ch. 631, §9, (amd)].

§ 2668. Closure

The department may close any public pool or spa for failure to comply with the provisions of this chapter.

Before closing a public pool or spa, the department shall issue a notice in writing enumerating instances of failure to comply with the law or rules. The owner must have an opportunity to request a fair hearing before the department pursuant to Title 5, sections 9052 to 9064.

Closed public pools and spas must be reopened upon presentation of evidence that the deficiencies causing the closing have been corrected.

[PL 2007, Ch. 631, §10, (amd)].

Disposal of Dead Bodies

....

§2884. Distribution of bodies

The board or its duly authorized agent may take and receive such bodies, so delivered, and shall upon receiving them after 7 days from the date of decease distribute and deliver them to or among the schools, physicians and surgeons in the following manner: Those schools needing bodies for lectures and demonstrations shall first be supplied as fast as practicable, the number assigned to each to be based upon the number of students in actual attendance, which number shall be returned to the board at such times as it shall direct. The board of distribution may from time to time designate physicians or surgeons who shall receive said bodies, applications to be considered in the order of their receipt by said board. Subject to this chapter, it shall be lawful for the University of Maine System, Colby College, Bates College and Bowdoin College or any recognized medical school in New England to receive such bodies for the promotion of medical education, which shall be construed to include nursing training and premedical education. [1985, c. 778, §62 (amd).]

....

Uniform Anatomical Gift Act REPEALED AND REPLACED. [2007, C. 601, §1](RP)

Revised Uniform Anatomical Gift Act.

....

§ 2951. Persons that may receive anatomical gift; purpose of anatomical gift

1. Named recipient. An anatomical gift of a body or part may be made to the following persons:

A. A named hospital, accredited medical school, dental school, college, university or organ procurement organization or other appropriate person for research or education;

B. A named individual designated by the person making the anatomical gift if the individual is the recipient of the part; or, if the part for any reason cannot be transplanted into the individual, the part passes in accordance with subsection 6 in the absence of an express, contrary indication by the person making the anatomical gift; or

C. A named eye bank or tissue bank.

2. Named purpose. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply.

A. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

B. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

C. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

D. If the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

3. Priority of purposes. For the purpose of subsection 2, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy if suitable for those purposes and, if the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

4. No named recipient or purpose. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift passes in accordance with subsection 6 and the decedent's parts must be used for transplantation or therapy, if suitable, and, if not suitable, the gift may be used for research or education.

5. General intent. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor" or "body donor" or by a symbol or statement of similar import, the gift passes in accordance with subsection 6 and the decedent's parts must be used for transplantation or therapy, if suitable, and, if not suitable, the gift may be used for research or education.

6. Rules of passing anatomical gifts. For purposes of subsection 1, paragraph B and subsections 3, 4 and 5, the following rules apply.

A. If the part is an eye, the gift passes to the appropriate eye bank.

B. If the part is tissue, the gift passes to the appropriate tissue bank.

C. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

7. Passing of organ for transplantation or therapy. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection 1, paragraph B, passes to the organ procurement organization as custodian of the organ.

8. Custody of body or part if not passed or used. If an anatomical gift does not pass pursuant to subsections 1 to 7 or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

9. Acceptance of gift prohibited. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 2945 or 2950 or if the person knows that the decedent made a refusal under section 2947 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

10. Allocation of organs for transplant or therapy. Except as otherwise provided in subsection 1, paragraph B, nothing in this chapter affects the allocation of organs for transplantation or therapy.

[2007, c. 601, §2 (new).]

....

Temporary Assistance for Needy Families

§3762. Temporary assistance for needy families; promotion of economic self-support

The department shall promote family economic self-support in accordance with the provisions of this chapter. [1997, c. 530, Pt. A, §16 (new).]

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

A. "ASPIRE-TANF" means the ASPIRE-TANF program established in section 3781-A. [1997, c. 530, Pt. A, §16 (new).]

....

2. Collaboration. The department shall work collaboratively with the following agencies and entities to provide efficient and effective services that lead to self-support for Maine's families receiving TANF assistance:

....

I. The Maine Community College System; [1997, c. 530, Pt. A, §16 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

J. The University of Maine System; and [1997, c. 530, Pt. A, §16 (new).]

....

§3789-D. Maine Temporary Assistance for Needy Families Advisory Council

1. Duties. The Maine Temporary Assistance for Needy Families Advisory Council, as established by Title 5, section 12004-I, subsection 36-C, shall advise the commissioner or the commissioner's designee regarding education, training, job opportunities, quality employment and business ownership opportunities, the operation of any postsecondary education programs administered by the department and other matters affecting TANF recipients. [1997, c. 530, Pt. A, §30 (new).]

2. Members. The commissioner shall appoint the members of the council. Members must include at least the following:

....

G. Two representatives of postsecondary education, one representing private institutions and one representing public institutions. [1997, c. 530, Pt. A, §30 (new).]

[2001, c. 667, Pt. C, §13 (amd).]

3. Advice regarding postsecondary education programs. The council shall establish a postsecondary education subcommittee, consisting of up to 15 members and nonmembers of the council. The subcommittee must include but is not limited to the following representatives:

....

B. A representative of the University of Maine System who represents the interests of women or nontraditional students at one of the campuses, appointed by the chancellor; [1997, c. 530, Pt. A, §30 (new).]

....

Parents as Scholars

§3790. Parents as Scholars Program

1. Established. The department shall establish a student financial aid program based on need for up to 2000 participants known as the Parents as Scholars Program, referred to in this section as the "program," to aid needy students who have dependent children and who are matriculating in postsecondary undergraduate 2-year and 4-year degree-granting education programs. Enrollees in the program must be provided with a package of student aid that includes aid for living expenses equivalent to that provided pursuant to chapter 1053-B, medical assistance pursuant to chapter 855 and services equivalent to those provided pursuant to chapter 1054-A. A family that ceases to receive aid under this chapter as a result of increased child support or increased hours of, or increased income from, employment is eligible to receive transitional support services in accordance with section 3762, subsection 8. The program must be supported with funds other than federal block grant funds provided under the United States Social Security Act, Title IV-A, except that federal funds may be used in accordance with federal law if their use does not result in the imposition of conditions of participation or program requirements other than those established by this chapter. [2003, c. 20, Pt. K, §14 (amd).]

2. Eligibility criteria. Families that qualify for TANF assistance under chapter 1053-B may apply to participate in the program instead of TANF. Individuals with marketable bachelor's degrees are ineligible for enrollment. Eligibility for and the amount of assistance must be determined in accordance with criteria and procedures used in the TANF program, this chapter and the rules adopted pursuant to this chapter and chapter 1053-B. Individuals applying to the program must be assessed in accordance with the provisions of section 3788. To the extent that program resources and space permit, enrollment in the program must be granted if the assessment results in findings as follows:

A. That the individual does not possess the necessary skills to obtain employment that will enable that individual to support a family at 85% of the median family income in the State for a family of the same size; [1997, c. 530, Pt. B, §1 (new).]

B. That, considering potential employment opportunities and local labor market conditions, the postsecondary education sought by the individual will significantly improve the ability of the family to be self-supporting; and [1997, c. 530, Pt. B, §1 (new).]

C. That the individual has the aptitude to successfully complete the proposed postsecondary program. [1997, c. 530, Pt. B, §1 (new).]

[1997, c. 530, Pt. B, §1 (new).]

3. Program requirements. An enrollee must participate in a combination of education, training, study or work-site experience for an average of 20 hours per week in the first 24 months of the program. Aid under this chapter may continue beyond 24 months if the enrollee remains in an educational program and agrees to participate in either of the following options:

A. Fifteen hours per week of work-site experience in addition to other education, training or study; or [1999, c. 407, §1 (new).]

B. A total of 40 hours of education, training, study or work-site experience. [1999, c. 407, §1 (new).]

The department shall present both options to enrollees and permit them to choose either option. For the purpose of this subsection, work-site experience includes, but is not limited to, paid employment, work study, practicums, internships, clinical placements, laboratory or field work directly related to the enrollee's employment goal or any other work activities that, as determined by the department, will enhance the enrollee's employability in the enrollee's field. In the last semester of the enrollee's educational program, work-site experience may also include resume preparation, employment research, interviews and other activities related to job placement.

The department shall make reasonable adjustments in the participation requirements in this subsection for good cause. For the purpose of this subsection, "good cause" means circumstances in which the required participation would cause the enrollee to seriously compromise academic performance. "Good cause" includes, but is not limited to, a verifiable need to take care of a family member with special needs, a physical or mental health problem, illness, accident, death or a serious personal or family problem that necessitates reduced participation or time off from education, training or work. An enrollee receiving aid under this chapter must make satisfactory progress in the enrollee's educational program. The department shall adopt rules defining satisfactory academic progress. The department may not disapprove an educational plan based solely on the length of the educational program. [1999, c. 407, §1 (rpr).]

4. Child support for participating families. A family participating in the program shall assign the right to child support to the department in the same manner as if the family were receiving TANF assistance. The department shall distribute to a family child support collected on behalf of a family in the same manner as if the family were receiving TANF assistance. [1997, c. 530, Pt. B, §1 (new).]

5. Protection from loss of income. To the extent permitted by federal law, aid received under this chapter must be disregarded as income and excluded as a resource or asset to the same extent as assistance under the TANF program under chapters 1053-B and 1054-A for the purposes of any state, federal, tribal or municipal assistance program. Aid received under this chapter must be treated in the same manner as assistance received under the TANF program under chapters 1053-B and 1054-A for all tax purposes. [1997, c. 530, Pt. B, §1 (new).]

6. Maintenance of effort. Aid provided under this chapter may not be paid for with federal funds provided under the United States Social Security Act, Title IV-A, provided that the state funds used for this program may be counted, without penalty, toward the State's federal maintenance of effort requirement. [1997, c. 530, Pt. B, §1 (new).]

7. Rules. The department shall adopt rules to implement this chapter that must be consistent with the rules adopted under chapter 1053-B. Rules adopted pursuant to this section are routine technical rules, as defined by Title 5, chapter 375, subchapter II-A. [1997, c. 530, Pt. B, §1 (new).]

Reporting Abuse or Neglect

§4011-A. Reporting of suspected abuse or neglect

....

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A youth camp administrator or counselor;

- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (30) A sexual assault counselor;
- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant;

[2009, c. 41, §1 and c. 211, §B-18 (amd).]

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected. [2007, c. 139, §2 (new)]

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and [2003, c. 210, §3 (amd).]

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. [2003, c. 210, §4 (new).]

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department. [2003, c. 599, §8 (amd); §9, 14 (aff).]

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child or that a suspicious child death has been caused by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office. [2007, c. 586, §9 (amd).]

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that there has been a suspicious child death.. [2007, c. 586, §10 (amd).]

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B. [2001, c. 345, §5 (new).]

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely. [2001, c. 345, §5 (new).]

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion. [2001, c. 345, §5 (new).]

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

[2001, c. 345, §5 (new).]

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.

A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required. [2001, c. 345, §5 (new).]

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 child welfare services. [2001, c. 345, §5 (new).]

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. [2001, c. 345, §5 (new).]

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 or neglect or to subsequent child protection proceedings. [2001, c. 345, §5 (new).]

[2001, c. 345, §5 (new).]

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a

reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6. [2007, c. 140, §8 (new)]

7. Children under 6 months of age or otherwise nonambulatory. A person required to make a report under subsection 1 shall report to the department if a child who is under 6 months of age or otherwise nonambulatory exhibits evidence of the following:

A. Fracture of a bone;

B. Substantial bruising or multiple bruises;

C. Subdural hematoma;

D. Burns;

E. Poisoning; or

(new)] F. Injury resulting in substantial bleeding, soft tissue swelling or impairment of an organ. [2013, c. 268, §1

....

Maine Health Data Organization

....

§8704. Powers and duties of the board

The board has the following powers and duties. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

1. Uniform reporting systems. The board shall establish uniform reporting systems.

A. The board shall develop and implement policies and procedures for the collection, processing, storage and analysis of clinical, financial, quality and restructuring data in accordance with this subsection for the following purposes:

(1) To use, build and improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts;

(2) To coordinate the development of a linked public and private sector information system;

(3) To emphasize data that is useful, relevant and not duplicative of existing data;

(4) To minimize the burden on those providing data; and

(5) To preserve the reliability, accuracy and integrity of collected data while ensuring that the data is available in the public domain. [2003, c. 469, Pt. C, §23 (amd).]

B. Information and data required to be filed pursuant to this chapter must be filed annually or more frequently as specified by the organization. The organization shall establish a schedule for compliance with the required uniform reporting systems. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

C. The organization may modify the uniform reporting systems for clinical, financial, quality and restructuring data to allow for differences in the scope or type of services and in financial structure among health care facilities, providers or payors subject to this chapter. [2003, c. 469, Pt. C, §24 (amd).]

D. The board may provide analysis of data upon request. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

E. The board shall exempt from reporting by a provider data regarding a person who informs the provider of the person's objection, or the objection of a parent of a minor, to inclusion in data collection based on a sincerely held religious belief. [1999, c. 353, §7 (new).]

[2003, c. 469, Pt. C, §§23, 24 (amd).]

2. Contracts for data collection; processing. The board may contract with one or more qualified, nongovernmental, independent 3rd parties for services necessary to carry out the data collection, processing and storage activities required under this chapter. For purposes of this subsection, a group or organization affiliated with the University of Maine System is not considered a governmental entity. Unless permission is specifically granted by the board, a 3rd party hired by the organization may not release, publish or otherwise

use any information to which the 3rd party has access under its contract and shall otherwise comply with the requirements of this chapter. [2001, c. 457, §8 (amd).]

3. Contracts generally. The board may enter into all other contracts necessary or proper to carry out the powers and duties of this chapter , including contracts allowing organization staff to provide technical assistance to other public or private entities, with the proceeds used to offset the operational costs of the organization. [2007, c. 136, §3 (amd)]

4. Rulemaking. The board shall adopt rules necessary for the proper administration and enforcement of the requirements of this chapter and to carry out the duties of the organization under section 1711-E, subsection 4 and section 8713. All rules must be adopted in accordance with Title 5, chapter 375 and unless otherwise provided are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 460, §2 (amd).]

5. Public hearings. The board may conduct any public hearings determined necessary to carry out its responsibilities. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

6. Staff. The board shall appoint staff as needed to carry out the duties and responsibilities of the board under this chapter. The appointment and compensation of the staff are subject to Civil Service Law. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

7. Annual report. The board shall prepare and submit an annual report on the operation of the organization and the Maine Health Data Processing Center as authorized in Title 10, section 681, including any activity contracted for by the organization or contracted services provided by the center, with resulting net earnings, as well as on collaborative activities with other health data collection and management organizations and stakeholder groups on their efforts to improve consumer access to health care quality and price information and price transparency initiatives, to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1st of each year. The report must include an annual accounting of all revenue received and expenditures incurred in the previous year and all revenue and expenditures planned for the next year. The report must include a list of persons or entities that requested data from the organization in the preceding year with a brief summary of the stated purpose of the request. [2013, c. 560, §3 (amd).]

As part of its annual report, the organization shall report on filings for confidentiality protection under section 1711-E, subsection 4, the disclosure of the names of prescribers who filed for confidentiality protection, funding through the assessment under section 1711-E, subsection 4, paragraph C and recommendations for legislation to improve operation of section 1711-E, subsection 4. [2007, c. 460, §3 (new)]

8. Grants. The board may solicit, receive and accept grants, funds or anything of value from any public or private organization and receive and accept contributions of money, property, labor or any other thing of value from any legitimate source, except that the board may not accept grants from any entity that might have a vested interest in the decisions of the board. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

9. Cooperation; advice. The board may cooperate with and advise the department and any other person or entity on behavioral risk factor surveys, work site health and safety, and health work force research. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

10. Quality improvement foundations. [2003, c. 469, Pt. C, §26 (rp).]

11. Other powers. The board may exercise all powers reasonably necessary to carry out the powers expressly granted and responsibilities expressly imposed by this chapter. [1995, c. 653, Pt. A, §2 (new); §7 (aff).]

....

TITLE 24-A

Charitable Gift Annuities

....

§703. "Annuity" defined

For the purposes of this Title, an "annuity" is a contract under which obligations are assumed with respect to periodic payments for a specific term or terms or where the making or continuance of all or of some of the payments, or the amount of a payment, is dependent upon the continuance of human life, except payments made pursuant to optional modes of settlement under the authority of section 702. A contract that includes extra benefits of the kinds defined in sections 702 and 704 is deemed to be an annuity, if the extra benefits constitute a subsidiary or incidental part of the entire contract. A charitable gift annuity agreement, as defined in section 703-A, is not insurance. [1995, c. 375, Pt. C. §2 (amd).]

§703-A. Charitable gift annuity agreement

1. Charitable gift annuity agreement defined. For the purposes of this Title, a "charitable gift annuity agreement" is a written contract in which a qualified organization receives money or other property conditioned upon the organization's agreement to pay an annuity to one or more individuals; as long as, with respect to the organization, the annuity meets the requirements for exclusion from the definition of "acquisition indebtedness" under the Internal Revenue Code, Section 514(c)(5) or a successor provision. [1995, c. 375, Pt. C, §3 (new).]

2. Qualified organization defined. For the purposes of this Title, a "qualified organization" is an organization that is privately and specially established as an instrumentality of the State for a nonprofit purpose or an organization that meets the following requirements.

A. The organization is a nonprofit organization that is either:

(1) An organization to which the Maine Nonprofit Corporation Act applies; or

(2) Organized under the laws of a jurisdiction within the United States and qualified as a foreign corporation pursuant to Title 13-B, chapter 12. [1995, c. 375, Pt. C, §3 (new).]

B. The organization qualifies as a tax-exempt organization under the Internal Revenue Code, Section 501(c)(3) or a successor provision. [1995, c. 375, Pt. C, §3 (new).]

C. The organization:

(1) Has been operating continuously for 5 or more years;

(2) Is a parent or subsidiary of a qualified organization; or

(3) Is the successor to an organization that meets the requirements of paragraphs A and B and both organizations together have operated continuously for 5 or more years.

[1995, c. 375, Pt. C, §3 (new).]

[1995, c. 375, Pt. C, §3 (new).]

....

TITLE 25

State Bureau of Identification

....

§1544. Uniform crime reporting

It shall be the duty of all state, county and municipal law enforcement agencies, including those employees of the University of Maine System appointed to act as policemen, to submit to the State Bureau of Identification uniform crime reports, to include such information as is necessary to establish a Criminal Justice Information System and to enable the commanding officer to comply with section 1541, subsection 3. It shall be the duty of the bureau to prescribe the form, general content, time and manner of submission of such uniform crime reports. The bureau shall correlate the reports submitted to it and shall compile and submit to the Governor and Legislature annual reports based on such reports. A copy of such annual reports shall be furnished to all law enforcement agencies. [1985, c. 779, §67 (amd).]

The bureau shall establish a category for abuse by adults of family or household members, a category for cruelty to animals and a category for crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation or ethnicity that are supplementary to its other reported information. The bureau shall prescribe the information to be submitted in the same manner as for all other categories of the uniform crime reports. [2001, c. 399, §6 (amd).]

....

Cellulose Fiber Insulation Standards

§2447-A. Cellulose fiber insulation standards

1. Prohibition. No individual, partnership or corporation may sell or offer for sale in this State, in person, by mail or otherwise, any type of cellulose fiber insulation unless that product is either:

A. Certified by a nationally recognized testing laboratory as meeting ASTM E-84, Class I requirements; or [1977, c. 639, § 1 (new).]

B. Certified by the Department of Industrial Cooperation, University of Maine System, as meeting requirements comparable to ASTM E-84, Class I requirements. [1985, c. 779, § 68 (amd).]

No individual, partnership or corporation may sell or offer for sale in this State, in person, by mail or otherwise, any cellulose fiber insulation which does not conform to any rule established by the State Fire Marshal under subsection 2. The Department of Industrial Cooperation of the University of Maine System shall not be liable as a result of any damage or injury caused by or arising out of the installation or use of insulation certified by the department. [1985, c. 779, § 68 (amd).]

2. Rules. The State Fire Marshal shall, in accordance with the Maine Administrative Procedure Act, establish rules setting forth standards for cellulose fibre insulation which may be sold in this State. These rules shall be no less stringent than current federal specifications for Insulation Thermal: Cellulosic or Wood Fibre, and may exceed the federal standards if, in the judgment of the State Fire Marshal, the action is deemed necessary to protect the health and safety of the public. The State Fire Marshal may incorporate in those rules provisions for testing procedures different from those established by federal specifications where, in his judgment, these federal tests cannot conveniently be conducted in Maine or are not appropriate for Maine use. [1977, c. 639, § 1 (new).]

3. Penalty. Any violation of this section shall be a Class E crime. [1977, c. 639, § 1 (new).]

Installation of sprinkler systems in dormitories

§2463-A. Installation of sprinkler systems in dormitories

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

A. "Automatic sprinkler system" means an automatic sprinkler system that at a minimum satisfies the requirements of Pamphlet 13 or 13R of the National Fire Protection Association or other requirements established by the State Fire Marshal. [2001, c. 674, Pt. A, § 1 (new); § 2 (aff).]

B. "Department" means the Department of Public Safety. [2001, c. 674, Pt. A, §1 (new); §2 (aff).]

C. "Dormitory" means a building or space in a building owned by a public educational institution in which:

(1) At least 5 rooms are provided as sleeping accommodations for students of the public educational institution; or

(2) Sleeping accommodations are provided for 15 or more students of the public educational institution.

[2001, c. 674, Pt. A, §1 (new); §2 (aff).]

D. "Public educational institution" means the University of Maine System, the Maine Community College System, the Maine Maritime Academy or the Maine School of Science and Mathematics. [2001, c. 674, Pt. A, §1 (new); §2 (aff); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

[2001, c. 674, Pt. A, §1 (new); §2 (aff); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Approved automatic sprinkler system. A dormitory of a public educational institution must be equipped with an automatic sprinkler system in accordance with this subsection.

A. A dormitory constructed by a public educational institution or a building converted into a dormitory by a public educational institution after the effective date of this paragraph must be equipped with a complete automatic sprinkler system before the department approves the dormitory for occupancy. [2001, c. 674, Pt. A, §1 (new); §2 (aff).]

B. Dormitories of a public educational institution that exist on and are used as dormitories after January 1, 2001 must be equipped as follows:

(1) By January 1, 2007, at least 1/3 of the total square footage of those dormitories must be equipped with an automatic sprinkler system;

(2) By January 1, 2010, at least 2/3 of the total square footage of those dormitories must be equipped with an automatic sprinkler system; and

(3) By January 1, 2013, all of those dormitories must be equipped with a complete automatic sprinkler system. [2001, c. 674, Pt. A, §1 (new); §2 (aff).]

[2001, c. 674, Pt. A, §1 (new); §2 (aff).]

3. Report. Beginning in 2003 and every 2 years thereafter, the State Fire Marshal shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters concerning compliance with subsection 2. The report must be submitted by February 15th of the year the report is due. [2001, c. 674, Pt. A, §1 (new); §2 (aff).]

§2468. Carbon monoxide detectors

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

A. "Carbon monoxide detector" means a device with an assembly that incorporates a sensor control component and an alarm notification that detects elevations in carbon monoxide levels and sounds a warning alarm and is approved or listed for the purpose by a nationally recognized independent testing laboratory. [2009, c. 162, §5 (NEW).]

B. "Powered by the electrical service" means either plugged into an electrical outlet or hardwired. [2009, c. 551, §6 (AMD).]

[2009, c. 551, §6 (AMD) .]

2. Carbon monoxide detectors required. The owner shall install, or cause to be installed, by the manufacturer's requirements at least one approved carbon monoxide detector in each area within, or giving access to, bedrooms in:

A. Each unit in any building of multifamily occupancy; [2009, c. 551, §7 (AMD).]

B. Any addition to or restoration of:

- (1) An existing single-family dwelling that adds at least one bedroom to the dwelling unit;
or
- (2) A fraternity house, sorority house or dormitory established on or after August 1, 2012
that is affiliated with a private or public school or private or public postsecondary
institution incorporated or chartered under the laws of this State; or

C. Any conversion of a building to:

- (1) A single-family dwelling;
- (2) A hotel, motel, inn or bed and breakfast upon initial licensure as an eating and lodging
place or a lodging place under Title 22, chapter 562 on or after August 1, 2012; or
- (3) A fraternity house, sorority house or dormitory established on or after August 1, 2012
that is affiliated with a private or public school or private or public postsecondary
institution incorporated or chartered under the laws of this State. [2011, c. 553,

§1 (rpr) .]

A carbon monoxide detector must be powered both by the electrical service in the building or
dwelling and by battery.

[2009, c. 551, §7 (AMD) .]

3. Carbon monoxide detectors for persons with disabilities. Upon the request of a deaf or hard-of-
hearing occupant, the owner of a dwelling unit shall provide an approved carbon monoxide detector suitable
to warn the occupant within the dwelling unit. If the owner does not provide a suitable carbon monoxide
detector, the occupant may purchase, install and maintain a suitable carbon monoxide detector or arrange for
proper installation and maintenance of a suitable carbon monoxide detector and may deduct the actual costs
from the rent for the dwelling unit. An occupant may not be charged, evicted or penalized in any way for
failure to pay the actual costs deducted from the rent for the dwelling unit.

[2009, c. 162, §5 (NEW) .]

4. New construction. A person who constructs any of the following shall install or cause to
be installed at least one carbon monoxide detector in each area within, or giving access to, any bedroom in
the new construction of:

A. A single-family dwelling;

B. A hotel, motel, inn or bed and breakfast upon initial licensure of that new construction as an eating and lodging place or a lodging place under Title 22, chapter 562 on or after August 1, 2012; or

C. A fraternity house, sorority house or dormitory established on or after August 1, 2012 that is affiliated with a private or public school or private or public postsecondary institution incorporated or chartered under the laws of this State.

The carbon monoxide detector must be powered both by the electrical service in the building or dwelling and by battery. [2011, c. 553, §2 (rpr) .]

5. Rental units. In a unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide carbon monoxide detectors if carbon monoxide detectors are not already present. The carbon monoxide detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the carbon monoxide detectors. If the landlord did not know and had not been notified of the need to repair or replace a carbon monoxide detector, the landlord's failure to repair or replace the carbon monoxide detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and [2009, c. 551, §9 (AMD).]

B. The tenant shall keep the carbon monoxide detectors in working condition by keeping the carbon monoxide detectors connected to the electrical service in the building, by keeping charged batteries in carbon monoxide detectors backed up by batteries, by testing the carbon monoxide detectors periodically and by refraining from disabling the carbon monoxide detectors. [2009, c. 551, §9 (AMD).]

[2009, c. 551, §9 (AMD) .]

6. Transfer of dwelling. A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall install carbon monoxide detectors in the acquired dwelling within 30 days of acquisition or occupancy of the dwelling, whichever is later, if carbon monoxide detectors are not already present, and shall certify at the closing of the transaction that the purchaser will make the proper installation. This certification must be signed and dated by the purchaser. The carbon

monoxide detectors must be installed in accordance with the manufacturer's requirements at the time of installation in each area within, or giving access to, bedrooms and must be powered both by the electrical service in the dwelling or building and by battery.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property, a closing agent or a lender for any damages resulting from the operation, maintenance or effectiveness of a carbon monoxide detector. Violation of this subsection does not create a defect in title. [2009, c. 551, §10 (AMD) .]

7. Rules. The Commissioner of Public Safety or the commissioner's designee, in accordance with the Maine Administrative Procedure Act, shall adopt rules pertaining to carbon monoxide detectors. The rules adopted must include, but are not limited to, standards for approved carbon monoxide detectors and all requirements of use, maintenance and installation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 162, §5 (NEW) .]

8. Penalties. A person who violates this section is guilty of a civil violation and is subject to a fine of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint.

[2009, c. 162, §5 (NEW) .]

9. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, paragraph A or subsection 5, paragraph A if the owner has conducted an inspection of the required carbon monoxide detectors immediately after installation and has reinspected the carbon monoxide detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the carbon monoxide detector to operate properly and has failed to take action to correct the defect or failure.

[2009, c. 162, §5 (NEW) .]

10. Noninterference. A person may not knowingly interfere with or make inoperative any carbon monoxide detector required by this section, except that the owner or the agent of an owner of a building may temporarily disconnect a carbon monoxide detector in a dwelling unit or common area only for construction or rehabilitation activities when such activities are likely to activate the carbon monoxide detector or make it inactive. The carbon monoxide detector must be immediately reconnected at the cessation of construction or rehabilitation activities each day, regardless of the intent to return to construction or rehabilitation activities on succeeding days.

[2009, c. 162, §5 (NEW) .]

Construction for Physically Disabled

§2701. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [1977, c. 80, § 2 (rpr).]

1. Administrative authority. "Administrative authority" means the state, county or municipal official responsible for the administration and enforcement of this chapter. [1977, c. 80, § 2 (rpr).]

2. Building. "Building" means:

A. A structure to which the public customarily has access and utilizes, and which is constructed, in whole or in part, with funds of the State or its political subdivisions; or [1977, c. 80, § 2 (new).]

B. A structure or facility specifically intended:

(1) As a place where 5 persons or more will be employed; or

(2) As public housing, and which is constructed, in whole or in part, with either state or federal funds. [1977, c. 80, § 2 (new).]

[1977, c. 80, § 2 (rpr).]

3. Physical disability. "Physical disability" means an impairment which confines an individual to a wheelchair; causes an individual to walk with difficulty; affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; cause faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual. [1979, c. 248, § 3 (amd).]

4. Public housing. "Public housing" means a building included under subsection 2 which includes a minimum of 10 family units. [1977, c. 80, § 2 (new).]

5. Standards of construction. "Standards of construction" means the most recent standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," except as otherwise exempted or provided by the National Fire Protection Association's Life Safety Code 101 or as amended by rule of the Director of Public Improvements. [1987, c. 357, § 1 (rpr).]

6. 1981 standards of construction. [1987, c. 357, § 2 (rp).]

....

§2703. Administration authority

The responsibility for administering and enforcing this chapter shall be as follows: [1967, c. 367 (new).]

1. State. Where state funds are used, including for space in buildings rented or leased by the State pursuant to agreements concluded with effective dates of January 1, 1982, or later, the Director of Public Improvements; except in respect to elementary and secondary school buildings, it shall be the Commissioner of Education; [1989, c. 700, Pt. A, §100 (amd).]

2. Counties and municipalities. Where funds for counties and municipalities are used, except school buildings, the governing bodies thereof; [1967, c. 367 (new).]

3. New buildings. New buildings constructed after October 7, 1967 shall meet all provisions of this chapter; [1973, c. 625, §168 (amd).]

4. Reconstructed buildings. Plans to reconstruct, remodel or enlarge an existing building, when the estimated total cost exceeds \$100,000, shall be subject to this chapter, when, in the opinion of the administrative authority, the proposed reconstruction, remodeling or enlargement will substantially affect that portion of said building normally accessible to the public. Only one entrance for disabled persons is required and that may be the one that can be constructed most economically. [1979, c. 248, §10 (amd).]

5. Enforcement; inspection. The state, county or municipal authority who reviews plans for any building covered under this chapter shall:

A. Not approve the construction or the opening of such a building if plans or the construction are not in compliance with this chapter; and [1977, c. 80, §3 (new).]

B. Require on-site inspections which are deemed necessary to assure compliance with the specific standards of construction set forth in this chapter. [1977, c. 80, §3 (new).]

[1981, c. 334, §8 (amd).]

§2703-A. Construction, remodeling or enlarging begun after September 1, 1988

All construction, remodeling and enlarging begun after September 1, 1988, of buildings subject to this chapter shall comply with the standards of construction, except that, in the case of toilet stalls, at least one standard stall configuration, ANSI Figure 30(a) shall be used. Any additional toilet stalls may either be standard stall configuration, ANSI Figure 30(a), or alternate stall configuration, ANSI Figure 30(b). [1987, c. 686, §2 (new).]

§2704. Penalty

Any violation of this chapter by any person, firm or organization responsible for the design or construction of any public building or facility shall be a civil violation punishable by a fine of not more than \$500, or subject to other appropriate equitable relief designed to secure substantial compliance with this chapter. [1977, c. 80, § 4 (new).]

All civil violations under this chapter are enforceable by the Attorney General, his representative or any other appropriate public official in a civil action to recover what may be designated a fine or other sanction. [1977, c. 80, § 4 (new).]

The Maine Criminal Justice Academy

§2803-B. Requirements of law enforcement agencies

1. Law enforcement policies. All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

A. Use of physical force , including the use of electronic weapons and less-than-lethal munitions; [2009, c. 336, §18 (amd).]

B. Barricaded persons and hostage situations; [1993, c. 744, §5 (new).]

C. [2013, c. 147, §16 (Repealed).]

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;

(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; [2011, c. 265, §2 (new).]

[2011, c. 265, §2 (amd).]

E. Hate or bias crimes; [1993, c. 744, §5 (new).]

F. Police pursuits; [1993, c. 744, §5 (new).]

G. Citizen complaints of police misconduct; [2003, c. 370, §1 (amd).]

H. Criminal conduct engaged in by law enforcement officers; [2003, c. 656, §1 (amd); c. 677, §1 (amd).]

I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations; [RR 2003, c. 2, §89 (cor).]

J. Public notification regarding persons in the community required to register under Title 34-A, chapters 15 and 17; [2013, c. 147, §17 (amd).]

J. [2003, c. 677, §3 (new); RR 2003, c. 2, §91 (ral).] (REALLOCATED FROM T. 25, §2803-B, sub-§1, paragraph J)

K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases; [2013, c. 147, §18 (amd).]

L. Mental illness and the process for involuntary commitment; and [2013, c. 147, §19 (amd).]

M. Freedom of access requests. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13. [2013, c. 147, §20 (new).]

The chief administrative officer of each agency shall certify to the board that attempts were made to obtain public comment during the formulation of policies. [RR 2003, c. 2, §§89-91 (cor).]

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy pursuant to subsection 1 with the exception of the freedom of access policy under subsection 1, paragraph M. Minimum standards of new mandatory policies enacted by law must be adopted by the board no later than December 31st of the year in which the law takes effect. [2013, c. 147, §21 (rpr).]

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board annually no later than January 1st of each year that the agency has adopted written policies consistent with the minimum standards established or amended by the board and that all officers have received orientation and training with respect to new mandatory policies or new mandatory policy changes pursuant to subsection 2. New mandatory policies enacted by law must be implemented by all law enforcement agencies no later than the July 1st after the board has adopted the minimum standards. [2013, c.147, §22 (rpr).]

4. Penalty. [2005, c. 331, §17 (rp).]

5. Annual standards review. The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety. [1993, c. 744, §5 (new).]

6.[2013, c. 147, §23 (Repealed).]

7. [2013, c. 147, §24 (Repealed).]

§2804-B. Preservice law enforcement training

1. Required. A person may not serve as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty until certified by the board as satisfying all preservice training requirements. [1997, c. 395, Pt. O, §3 (amd).]

2. Preservice training standards. The board shall establish standards for preservice training certification. In establishing the standards, the board shall consider the use of a registered apprenticeship with a certified, experienced officer, to be followed by an examination given by the board, as an alternative to part or all of the preservice training course leading to preservice certification. In establishing the standards, the board shall cooperate with the State and local departments and agencies to which the preservice standards apply to ensure that the standards are appropriate. [2005, c. 331, §20 (amd).]

3. Certification. The board shall certify each person who meets the preservice training standards as eligible to serve as a law enforcement officer with the power to make arrests and the authority to carry a firearm in the course of duty, subject to annual recertification training as prescribed by the board. [1997, c. 395, Pt. O, §3 (amd).]

4. Course. The board shall provide a training course, the successful completion of which must meet the preservice training standards. In developing and delivering the training course, the board shall consider the use of telecommunications technology. The board may work with post-secondary and other institutions within the State to deliver the preservice training course throughout the State as often as reasonable demand requires. [1989, c. 521, §§5, 17 (new).]

5. Agency sponsorship. The board shall evaluate the use of law enforcement agency sponsorship, screening of preservice training applicants and students and the availability of preservice training before employment. [1989, c. 521, §§5, 17 (new).]

6. Completion of basic law enforcement training sufficient. The board shall certify law enforcement officers who successfully complete basic law enforcement training under section 2804-C before being empowered to make arrests or given the authority to carry a firearm in the course of duty as having satisfied the preservice training standards. [1989, c. 521, §§5, 17 (new).]

7. Part-time law enforcement officers. The board shall certify law enforcement officers who successfully complete preservice law enforcement training and who have qualified with a firearm using the board firearm proficiency standards as part-time law enforcement officers. Thereafter, as a condition of continued service as a part-time law enforcement officer, the officer must satisfactorily maintain the preservice certification. The board shall maintain a roster of all currently certified part-time law enforcement officers. The roster must be available for inspection by the public at the academy during regular working hours. [2013, c. 147, §28 (amd).]

8. Application to currently certified law enforcement officers. This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990. [1989, c. 521, §§5, 17 (new).]

§2804-C. Basic law enforcement training; core curriculum requirements

1. Required. As a condition to the continued employment of any person as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of initial full-time employment, the basic training course at the Maine Criminal Justice Academy approved by the board. If a person's failure to comply with this requirement was a result of that person's failure to satisfy any of the admission standards applicable to the basic training course and that person is subsequently employed as a full-time law enforcement officer within 12 months of termination of the initial employment by a municipality, a county, the State or any other nonfederal employer, the person must have satisfied all the admission standards established by the board prior to the time of hire. As a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification by completing the recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board also, in individual cases, may waive

the basic training requirement when the facts indicate that an equivalent course has been successfully completed. [2013, c. 147, §29 (amd).]

2. Core curriculum requirements. [1993, c. 744, §6 (rp).]

2-A. Probationary employment period. Upon being hired, a law enforcement officer shall complete an employment probationary period that lasts for at least one year after graduation from the academy or the date the board waives the basic training requirement. [1993, c. 744, §6 (new).]

2-B. Training regarding people who are homeless. The board shall include in the basic law enforcement training program a block of instruction aimed specifically at reducing barriers to reporting crimes against people who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless. [2005, c. 393, §1 (new).]

2-C. Receipt of firearms; training; procedure; liability. The Maine Criminal Justice Academy shall provide training for municipal, county and state law enforcement officers regarding the proper handling, storage, safekeeping and return of firearms and firearm accessories received pursuant to a court order under Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1. Such training must include education concerning the prohibitions on the purchase or possession of a firearm when a protection order has been obtained and communication with parties to protection orders concerning such prohibitions. [2013, c. 147, §30 (amd).]

In developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners. A law enforcement officer who receives custody of a firearm pursuant to Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1 shall exercise reasonable care to avoid loss, damage or reduction in value of the firearm and may not permanently mark the firearm or fire the firearm unless there is reasonable suspicion that the firearm has been used in the commission of a crime. Any liability for damage or reduction in value to such a firearm is governed by Title 14, chapter 741. Effective August 23, 2006. [2005, c. 684, §1 (new).]

2-D. Training regarding people who have mental illness and the involuntary commitment process. The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the clinical, safety and procedural components of the involuntary commitment process, including the provision of a uniform checklist that includes reference to Title 34-B, section 1207, subsection 7 for law enforcement officers to use in order to effectively describe the seriousness of a case to a mental health professional. [2009, c. 451, §6 (new).]

3. Certification. The board shall certify each person who meets the core curriculum training requirements. [2013, c. 147, §31 (amd).]

4. Courses. The board shall:

A. Provide a training course, the successful completion of which meets the basic training requirements; [1993, c. 744, §6 (new).]

B. Provide a structured residential program that balances the goals of professional policing with public services emphasis; and [2005, c. 331, §22 (amd).]

C. Incorporate a community policing philosophy in its training program. [2005, c. 331, §22 (amd).]

D. [2005, c. 331, §23 (rp).]

[2005, c. 331, §§22, 23 (amd).]

5. Application to currently certified law enforcement officers. This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990 or to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972. [2013, c. 147, §32 (amd).]

....

TITLE 26

Reports of Deaths and Injuries

2. Reports of deaths and injuries

1. Reports of deaths. The person in charge of any workplace as defined in section 1 provided by the State, a state agency, a county, a municipal corporation, a school district or other public corporation or political subdivision shall, within 8 hours after the occurrence, report in writing or by telephone to the Director of the Bureau of Labor Standards the death of any person in the workplace or on the premises, stating as fully as possible the cause of the death and the place where the deceased person has been sent and supplying other information relative to the death that may be required by the director who may investigate the causes of the death and require such precautions to be taken as will prevent the recurrence of similar events. A statement contained in any such report is not admissible in evidence in any action arising out of the death reported. [2003, c. 244, §1 (new).]

2. Reports of serious physical injuries. The person in charge of any workplace as defined in section 1 provided by the State, a state agency, a county, a municipal corporation, a school district or other public corporation or political subdivision shall, within 24 hours after the occurrence, report in writing or by telephone to the Director of the Bureau of Labor Standards all serious physical injuries requiring immediate hospitalization sustained by any person in the workplace or on the premises, stating as fully as possible the extent and cause of the injury and the place where the injured person has been sent and supplying other information relative to the injury that may be required by the director who may investigate the causes of the injury and require such precautions to be taken as will prevent the recurrence of similar events. A statement contained in any such report is not admissible in evidence in any action arising out of the accident reported. [2003, c. 244, §1 (new).]

3. Serious physical injuries defined. "Serious physical injuries," as used in this section, means an incident that results in an amputation, loss or fracture of any body part or that necessitates immediate hospitalization. [2003, c. 244, §1 (new).]

Nursing Mothers in the Workplace

§ 604. Nursing mothers in the workplace

An employer, as defined in section 603, subsection 1, paragraph A, shall provide adequate unpaid break time or permit an employee to use paid break time or meal time each day to express breast milk for her nursing child for up to 3 years following childbirth. The employer shall make reasonable efforts to provide a clean room or other location, other than a bathroom, where an employee may express breast milk in privacy. An employer may not discriminate in any way against an employee who chooses to express breast milk in the workplace. [2009, c. 84, §1 (new).]

Cessation of Employment

§626. Cessation of employment

An employee leaving employment must be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid, provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. [1991, c. 162 (amd).]

For purposes of this section, the term "employee" means any person who performs services for another in return for compensation, but does not include an independent contractor. [1991, c. 162 (new).]

For purposes of this subchapter, a reasonable time means the earlier of either the next day on which employees would regularly be paid or a day not more than 2 weeks after the day on which the demand is made. [1991, c. 162 (amd).]

In any action for unpaid wages brought under this subchapter, the employer may not deduct as a setoff or counterclaim any money allegedly due the employer as compensation for damages caused to the employer's property by the employee, or any money allegedly owed to the employer by the employee, notwithstanding any procedural rules regarding counteractions, provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee, and that nothing in this section may be construed to limit or restrict in any way any rights that the employer has to recover, by a separate legal action, any money owed the employer by the employee. [1991, c. 162 (amd).]

An action for unpaid wages under this section may be brought by the affected employee or employees or by the Department of Labor on behalf of the employee or employees. An employer found in violation of this section is liable for the amount of unpaid wages and, in addition, the judgment rendered in favor of the employee or employees must include a reasonable rate of interest, an additional amount equal to twice the amount of those wages as liquidated damages and costs of suit, including a reasonable attorney's fee. [1991, c. 162 (amd).]

Within 2 weeks after the sale of a business, the seller of the business shall pay employees of that business any wages earned while employed by the seller. If the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. The seller of a business may comply with the provisions of this paragraph through a specific agreement with the buyer in which the buyer agrees to pay any wages earned by employees through employment with the seller and to honor any paid vacation earned under the seller's vacation policy. [1995, c. 580, §1 (new).]

Unfair Agreements

§629. Unfair agreements

1. Work without compensation; return of compensation. A person, firm or corporation may not require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, oral, written or implied, that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or accident benefits, or life or group insurance premiums, excluding compensation insurance, that an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section does not apply to work performed in agriculture or in or about a private home.

2. Debt. For purposes of this subchapter, "debt" means a benefit to the employee. "Debt" does not include items incurred by the employee in the course of the employee's work or dealing with customers on the employer's behalf, such as cash shortages, inventory shortages, dishonored checks, dishonored credit cards, damages to the employer's property in any form or any merchandise purchased by a customer. "Debt" does not include uniforms, personal protective equipment or other tools of the trade that are considered to be primarily for the benefit or convenience of the employer. As used in this subsection, "uniforms" means shirts or other items of clothing bearing the company name or logo. The employer may not mandate that an employee pay for the cleaning and maintenance of a uniform, but may have a written agreement whereby the employee chooses to have a payroll deduction for the cost of cleaning and maintenance.

3. Penalty. An employer is liable to an employee for the amount returned to the employer by that employee as prohibited in this section.

4. Deduction of service fees. Public employers may deduct service fees owed by an employee to a collective bargaining agent from the employee's pay, without signed authorization from the employee, and remit those fees to the bargaining agent, as long as:

A. The fee obligation arises from a lawfully executed and implemented collective bargaining agreement; and

B. In the event a fee payor owes any arrears on the payor's fee obligations, the deduction authorized under this subsection may include an installment on a payment plan to reimburse all arrears, but may not exceed in each pay period 10% of the gross pay owed.

REPEALED AND REPLACED [2007, c. 524, §1 (new)]

Right to Review Personnel File

§631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy the employee's personnel file if the employer has a personnel file for that employee. The reviews and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the employee are arranged. In each calendar year, the employer shall provide, at no cost to the employee, one copy of the entire personnel file when requested by the employee or former employee and, when requested by the employee or former employee, one copy of all the material added to the personnel file after the copy of the entire file was provided. The cost of copying any other material requested during that calendar year is paid by the person requesting the copy. For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee that the employer has in the employer's possession. Records in a personnel file may be maintained in any form including paper, microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these records. An employer maintaining records in a form other than paper shall have available to the employee, former employee or duly authorized representative the equipment necessary to review and copy the personnel file. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. An employee, former employee or the Department of Labor may bring an action in the District Court or the Superior Court for such equitable relief, including an injunction, as the court may consider to be necessary and proper. The employer may also be required to reimburse the employee, former employee or the Department of Labor for costs of suit including a reasonable attorney's fee if the employee or the department receives a judgment in the employee's or department's favor, respectively. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board or other administrative tribunals. [2003, c. 58, §1 (amd).]

Minimum Wages

§661. Declaration of policy

It is the declared public policy of the State of Maine that workers employed in any occupation should receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered.

§663. Definitions

Terms used in this subchapter shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

1. Director. "Director," the Director of the Bureau of Labor Standards; [1981, c. 168, §26 (amd).]

2. Employ. "Employ," to suffer or permit to work;

3. Employee. "Employee," any individual employed or permitted to work by an employer but the following individuals shall be exempt from this subchapter:

....

E. REPEALED [2007, c. 640, §3 (RP).]

F. Those employees who are counselors or junior counselors or counselors-in-training at organized camps licensed under Title 22, section 2495 and those employees of organized camps and similar seasonal recreation programs not requiring such licensure that are operated as or by nonprofit organizations who are under 18 years of age; [2009, c. 120, §1 and c. 211, §B-22 (rpr).]

....

K. A salaried employee who works in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3000 times the State's minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher; and [2009, c. 529, §2 (amd).]

....

10. Public employees. "Public employees" are considered employees within the meaning of this section and include any person whose wages are paid by a state or local public employer, including the State, a county, a municipality, the University of Maine System, a school administrative unit and any other political body or its political or administrative subdivision. "Public employee" does not include any officer or official elected by popular vote or appointed to office pursuant to law for a specified term or any person defined in subsection 7. [1985, c. 779, §69 (amd).]

Notes of Decisions - 2. Students. Students are not considered as "employees" under the provisions of this chapter and should be excluded from the count of employees for the "3 or less employees at any one location" exemption. 1959-60 Atty. Gen. Rep 70.

§664. Minimum wage; overtime rate

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section. [1995, c. 305, §1 (rpr).]

1. Minimum wage. The minimum hourly wage is \$6.50 per hour. Starting October 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the minimum hourly wage is \$7.00 per hour. Starting October 1, 2008, the minimum hourly wage is \$7.25 per hour. Starting October 1, 2009, the minimum hourly wage is \$7.50 per hour. If the highest federal minimum wage is increased in excess of the minimum wage in effect under this section, the minimum wage under this section is increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed the minimum wage otherwise in effect under this section by more than \$1 per hour. [2007, c. 640, §4 (amd).]

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. [1995, c. 305, §1 (new).]

The tips received by a service employee become the property of the employee and may not be shared with the employer. 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. [2011, c. 118, §3 (amd).]

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. [2011, c. 118, §4 (new).]

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. [2011, c. 118, §4 (new).]

3. Overtime rate. An employer may not require an employee to work more than 40 hours in any one week unless 1 ½ times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performed and does not include any sums excluded from the definition of "regular rate" under the Fair Labor Standards Act, 29 United States Code, Section 207(e).

The overtime provision of this section does not apply to:

A. Automobile mechanics, automobile parts clerks, automobile service writers and automobile salespersons as defined in section 663. The interpretation of these terms must be consistent with the interpretation of the same terms under federal overtime law, 29 United States Code, Section 213; [2007, c. 360, §5 (amd).]

B. REPEALED; [2007, c. 640, §5 (RP).]

C. Mariners; [1995, c. 305, §1 (new).]

D. Public employees, except those employed by the executive or judicial branch of the State; [2003, c. 423, §1 (amd); §5 (aff).]

E. REPEALED [2007, c. 640, §6 (RP).]

F. The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of:

(1) Agricultural produce;

(2) Meat and fish products; and

(3) Perishable foods.

Individuals employed, directly or indirectly, for or at an egg processing facility that has over 300,000 laying birds must be paid overtime in accordance with this subsection; [2001, c. 628, §2 (amd); §5 (aff).]

G. [2001, c. 628, §3 (new); §5 (aff); T. 26, §664, sub-§3, paragraph G (rp).]

H. Effective September 1, 2003, a driver or driver's helper who is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section if the driver or driver's helper is paid overtime pay reasonably equivalent to that required by this section for all hours worked in excess of 40 per week. The Department of Labor may adopt rules governing the determination of payment methods that satisfy the "reasonably equivalent" standard set forth in this paragraph. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A; [2001, c. 628, §3 (new); §5 (aff).]

I. A driver or driver's helper who is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section and who is represented for purposes of collective bargaining by a labor organization certified by the National Labor Relations Board that is a party to a collective bargaining agreement that intends to regulate the rate of pay to be paid the driver or driver's helper; and [2001, c. 628, §3 (new); §5 (aff).]

J. A driver or driver's helper who is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section and who is employed by an entity that is party to a contract with the Federal Government or an agency of the Federal Government that dictates the minimum hourly rate of pay to be paid the driver or driver's helper. [2001, c. 628, §3 (new); §5 (aff).]

[2003, c. 423, §1 (amd); §5 (aff).]

4. Compensatory time. To the extent permitted under the federal Fair Labor Standards Act of 1938, as amended, 29 United States Code, Section 207(o), the overtime pay requirement applicable to executive or judicial employees as described in subsection 3, paragraph D may be met through compensatory time agreements. [2003, c. 423, §2 (new); §5 (aff).]

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Employment of Women and Children

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§701-A. Application of subchapter

This subchapter applies to employment by all private and public employers, including the State and its political subdivisions, except with respect to service in the National Guard and as otherwise specifically provided. [2003, c. 10, §1 (new).]

Leave for Reserve Training

§811. Preservation of status

1. Intent. The intent of this subchapter is to minimize the disruption to the lives of persons performing service in the National Guard or the Reserves of the United States Armed Forces as well as to their employers, their fellow employees and their communities by providing for the prompt reemployment of these persons upon their satisfactory completion of military service and to prohibit discrimination against these persons because of their military service. [2001, c. 662, §11 (amd).]

2. Military leave of absence. Any member of the National Guard or the Reserves of the United States Armed Forces is entitled to a military leave of absence from a position with any public or private employer, in response to state or federal military orders. The military member shall:

A. Give prior reasonable notice, if reasonable under the military circumstances, to the member's employer of the anticipated absence for military duty; and [2001, c. 662, §11 (amd).]

B. If the employer so requests, obtain a confirmation from the Adjutant General or applicable reserve component headquarters of the anticipated military duty and satisfactory completion of the member's military duties. [2001, c. 662, §11 (amd).]

[2001, c. 662, §11 (amd).]

3. Reinstatement. Any person who is in compliance with subsection 2 and is still qualified to perform the duties of such position must be reinstated at the same pay, seniority, benefits and status and receive any other incidences of advantages of employment as if the person had remained continuously employed. The period of absence must be construed as an absence with leave, and within the discretion of the employer, the leave may be with pay. The employer may not require any person returning from a period of military service to report back to work:

A. For periods of military service of 3 days or less, until the completion of the period of service and the expiration of 24 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence;

B. For periods of military service of more than 3 days but not more than 15 days, until the completion of the period of service and the expiration of 48 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence;

C. For periods of military service of more than 15 days but not more than 30 days, until the completion of the period of service and the expiration of 72 hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence;

D. For periods of military service of more than 30 days but not more than 180 days, until the completion of the period of service and the expiration of 14 days after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

E. For periods of military service of more than 180 days, until the completion of the period of service and the expiration of 90 days after a period allowing for the safe transportation of the person from the place of that service to the person's residence.

[2005, c. 524, §1 (amd).]

4. Disability. A person who is in compliance with subsection 2 but who has a disability incurred in or aggravated during the military service for which that person was absent and who, after reasonable efforts by the employer to accommodate the disability, is not qualified due to that disability to be employed in the position of employment in which the member would have been employed if the member had remained continuously employed must be reinstated without loss of seniority, benefits, status and any other incidences of advantages of employment:

A. To any other position that is equivalent in pay, seniority, benefits, status and any other incidences of advantages of employment, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or [2001, c. 662, §11 (new).]

B. To a position that is the nearest approximation to a position referred to in paragraph A in terms of pay, seniority, benefits, status and any other incidences or advantages of employment consistent with circumstances of the person's case. [2001, c. 662, §11 (new).]

[2001, c. 662, §11 (new).]

5. Employer defined. As used in this section, "employer" means any person, institution, organization or other entity that pays salary or wages for work performed or that has control over employment opportunities, including a person, institution, organization or other entity to whom the employer has delegated the performance of employment-related responsibilities; the Federal Government; the State and any subdivision or agency of the State; and any successor in interest to a person, institution, organization, or other entity referred to in this subsection. [2001, c. 662, §11 (new).]

§812. Right to benefits retained

1. Benefits accrual. Absence for military training as described in section 811 does not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of employment normally to be anticipated in the employee's particular position. [2001, c. 662, §12 (new).]

2. Extension of insurance benefits. Insurance benefits must be extended according to this subsection.

A. A public or private employer shall continue, at no additional cost to the member, the existing health, dental and life insurance benefits for at least the first 30 days of the military duty for any member of the National Guard or the Reserves of the United States Armed Forces if the member takes a military leave of absence from a position with that employer, other than a temporary position, in response to state or federal military orders. [2001, c. 662, §12 (new).]

B. After the expiration of the first 30 days of military leave, the member of the National Guard or the Reserves of the United States Armed Forces has the option of continuing the health, dental and life insurance benefits in effect at the member's own expense by paying the insurance premium at the same rates as paid by the employer. [2001, c. 662, §12 (new).]

[2001, c. 662, §12 (new).]

§813. Remedies

1. Action authorized. If any employer fails to comply with any of the provisions of sections 811 and 812, the Attorney General, Judge Advocates of the Maine National Guard or employee may bring a civil action for damages for such noncompliance or apply to the courts for such equitable relief as may be just and proper under the circumstances. [2001, c. 662, §12 (new).]

2. Award of fees; costs. In any civil action under section 811 or 812, the court in its discretion may award reasonable attorney's fees and costs. [2001, c. 662, §12 (new).]

§814. Family military leave

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

A. "Deployed for military service" or "deployment" means 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 or in an area where armed conflict is taking place.

B. "Employee" means any person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment and who has been employed by the same employer for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the employee's family military leave. [2007, c. 388, §1 (amd).]

C. "Employee benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance and pensions, regardless of whether benefits are provided by a policy or practice of an employer.

D. "Employer" means:

(1) Any person, partnership, corporation, association or other business entity; and

(2) The State, a county, a municipality or any political subdivision.

E. "Family military leave" means leave requested by an employee who is the spouse, domestic partner or parent of a person who is a resident of the State and is deployed for military service for a period lasting longer than 180 days with the State or United States pursuant to the orders of the Governor or the President of the United States.

2. Family military leave requirement. Subject to the requirements of subsection 3, an employer that employs 15 or more employees shall provide each eligible employee up to 15 days of family military leave per deployment, if requested by the employee. Family military leave under this subsection may be taken only during one or more of the following time frames:

A. The 15 days immediately prior to deployment;

B. Deployment, if the military member is granted leave; or

C. The 15 days immediately following the period of deployment.

Family military leave granted under this section may consist of unpaid leave. REPEALED AND REPLACED [2007, c. 388, §2 (new).]

3. Notice requirements. An employee taking family military leave under this section is subject to the following.

A. The employee must give at least 14 days' notice of the intended date upon which the family military leave will commence if leave will consist of 5 or more consecutive work days.

B. An employee taking family military leave for fewer than 5 consecutive work days must give the employer advance notice as is practicable.

C. The employee shall consult with the employer to attempt to schedule the leave so as to not unduly disrupt the operations of the employer.

4. Certification. An employer may require certification from the proper military authority to verify an employee's eligibility for the family military leave requested pursuant to this section.

5. Restoration to position. An employee who exercises the right to family military leave under this section is entitled, upon expiration of the leave, to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This subsection does not apply if the employer proves that the employee was not restored as provided in this subsection because of conditions unrelated to the employee's exercise of rights under this section.

6. Employee benefits protection. An employer shall make it possible for an employee to continue employee benefits at the employee's expense during any family military leave taken under this section. The employer and employee may negotiate for the employer to maintain employee benefits at the employer's expense for the duration of the leave.

A. Taking family military leave under this section does not result in the loss of any employee benefit accrued before the date on which the leave commenced.

B. Nothing in this section may be construed to affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than the rights provided under this section.

C. The family military leave rights provided under this section may not be diminished by any collective bargaining agreement or employee benefit plan.

D. Nothing in this section may be construed to affect or diminish the contract rights or seniority status of any other employee of any employer covered under this section.

7. Prohibited acts. An employer may not:

A. Interfere with, restrain or deny the exercise or the attempt to exercise any right provided under this section;

B. Discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee who exercises any right provided under this section; or

C. Discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this section.

8. Enforcement. An employee may bring a civil action in Superior Court to enforce this section.

The court may enjoin any act or practice that violates or may violate this section and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this section.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved. Effective April 3, 2006. [2005, c. 523, § 2 (new).]

Whistleblowers' Protection Act

§831. Short title

This subchapter may be cited as the "Whistleblowers' Protection Act." [1983, c. 583, § 15 (ral).]

§832. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 583, § 15 (ral).]

1. Employee. "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied, but does not include an independent contractor engaged in lobster fishing. "Employee" includes school personnel and a person employed by the State or a political subdivision of the State. [1999, c. 351, §5 (amd).]

2. Employer. "Employer" means a person who has one or more employees. "Employer" includes an agent of an employer and the State, or a political subdivision of the State. "Employer" also means all schools and local education agencies. [1999, c. 351, §6 (amd).]

3. Person. "Person" means an individual, sole proprietorship, partnership, corporation, association or any other legal entity. [1983, c. 583, §15 (ral).]

4. Public body. "Public body" means all of the following:

A. A state officer, employee, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State Government; [1983, c. 583, §15 (ral).]

B. An agency, board, commission, council, member or employee of the legislative branch of State Government; [1983, c. 583, §15 (ral).]

C. A county, municipal, village, intercounty, intercity or regional governing body, a council, school district or municipal corporation, or a board, department, commission, council, agency or any member or employee thereof; [1983, c. 583, §15 (ral).]

D. Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body; [1983, c. 583, §15 (ral).]

E. A law enforcement agency or any member or employee of a law enforcement agency; and [1983, c. 583, §15 (ral).]

F. The judiciary and any member or employee of the judiciary. [1983, c. 583, §15 (ral).]

§833. Discrimination against certain employees prohibited

1. Discrimination prohibited. No employer may discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because:

A. The employee, acting in good faith, or a person acting on behalf of the employee, reports orally or in writing to the employer or a public body what the employee has reasonable cause to believe is a violation of a law or rule adopted under the laws of this State, a political subdivision of this State or the United States; [1987, c. 782, §4 (new).]

B. The employee, acting in good faith, or a person acting on behalf of the employee, reports to the employer or a public body, orally or in writing, what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual. The protection from discrimination provided in this section specifically includes school personnel who report safety concerns to school officials with regard to a violent or disruptive student; [1999, c. 351, §7 (amd).]

C. The employee is requested to participate in an investigation, hearing or inquiry held by that public body, or in a court action; [2003, c. 306, §1 (amd).]

D. The employee acting in good faith has refused to carry out a directive to engage in activity that would be a violation of a law or rule adopted under the laws of this State, a political subdivision of this State or the United States or that would expose the employee or any individual to a condition that would result in serious injury or death, after having sought and been unable to obtain a

correction of the illegal activity or dangerous condition from the employer; or [2003, c. 688, Pt. A, §27 (rpr).]

E. The employee, acting in good faith and consistent with state and federal privacy laws, reports to the employer, to the patient involved or to the appropriate licensing, regulating or credentialing authority, orally or in writing, what the employee has reasonable cause to believe is an act or omission that constitutes a deviation from the applicable standard of care for a patient by an employer charged with the care of that patient. For purposes of this paragraph, "employer" means a health care provider, health care practitioner or health care entity as defined in Title 24, section 2502. [2003, c. 306, §2 (new).]

[2003, c. 688, Pt. A, §27 (amd).]

2. Initial report to employer required; exception. Subsection 1 does not apply to an employee who has reported or caused to be reported a violation, or unsafe condition or practice to a public body, unless the employee has first brought the alleged violation, condition or practice to the attention of a person having supervisory authority with the employer and has allowed the employer a reasonable opportunity to correct that violation, condition or practice.

Prior notice to an employer is not required if the employee has specific reason to believe that reports to the employer will not result in promptly correcting the violation, condition or practice. [1987, c. 782, §4 (new).]

3. Reports of suspected abuse. An employee required to report suspected abuse, neglect or exploitation under Title 22, section 3477 or 4011-A, shall follow the requirements of those sections under those circumstances. No employer may discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee followed the requirements of those sections. [2001, c. 345, §7 (amd).]

§834-A. Arbitration before the Maine Human Rights Commission

An employee who alleges a violation of that employee's rights under section 833, and who has complied with the requirements of section 833, subsection 2, may bring a complaint before the Maine Human Rights Commission for action under Title 5, section 4612. [1987, c. 782, §6 (new).]

§836. Penalties for violations

A person who violates section 839 is liable for a civil fine of \$10 for each day of willful violation which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund. [1983, c. 816, Pt. A, § 19 (amd).]

§837. Collective bargaining rights

This subchapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement. [1983, c. 583, § 15 (ral).]

§838. Compensation for employee participation in investigation, hearing or inquiry

This subchapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 833. [1983, c. 816, Pt. A, § 20 (amd).]

§839. Notices of employee protections and obligations

1. Notice provided; posting. The Department of Labor shall provide each employer in the State with a notice as provided in this section. Each employer shall prominently post the notice in the employer's place of business so that the employees are informed of their protections and obligations under this subchapter. [1987, c. 782, §8 (new).]

2. Contents of notice. The notice provided by the department shall include:

A. A summary of this subchapter written in concise and plain language; [1987, c. 782, §8 (new).]

B. A telephone number at the department that employees may call if they have questions or wish to report a violation, condition or practice; and [1987, c. 782, §8 (new).]

C. A space where the employer shall write in the name of the individual or department to which employees may report violations, unsafe conditions or practices as required by section 833. [1987, c. 782, §8 (new).]

[1987, c. 782, §8 (new).]

§840. Common-law rights

Nothing in this section may be construed to derogate any common-law rights of an employee.
[1987, c. 782, §9 (rpr).]

Family Medical Leave Requirements

§843. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 661, (NEW).]

1. Employee. "Employee" means any person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment but does not include an independent contractor. [1987, c. 661, (NEW).]

2. Employee benefits. "Employee benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance and pensions, regardless of whether benefits are provided by a policy or practice of an employer.[1987, c. 661, (NEW).]

3. Employer. "Employer" means:

A. Any person, sole proprietorship, partnership, corporation, association or other business entity that employs 15 or more employees at one location in this State; [1999, c. 127, Pt. D, §2 (AMD).]

B. The State, including the executive, legislative and judicial branches, and any state department or agency that employs any employees; [1987, c. 661, (NEW).]

C. Any city, town or municipal agency that employs 25 or more employees; and [1987, c. 661, (NEW).]

D. Any agent of an employer, the State or a political subdivision of the State. [1987, c. 661, (NEW).]

[1999, c. 127, Pt. D, §2 (AMD).]

4. Family medical leave. "Family medical leave" means leave requested by an employee for:

A. Serious health condition of the employee; [1997, c. 546, §1 (AMD).]

B. The birth of the employee's child or the employee's domestic partner's child; [2007, c. 261, §1 (AMD).]

C. The placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner; [2007, c. 261, §1 (AMD).]

D. A child, domestic partner's child, parent, domestic partner, sibling or spouse with a serious health condition; [2007, c. 519, §1 (rpr).]

E. The donation of an organ of that employee for a human organ transplant ; or [2007, c. 388, §4 (AMD).]

F. The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in Title 37-B, section 102, or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. [2007, c. 519, §2 (amd).]

[2007, c. 261, §1 (AMD); c. 388, §§3-5.]

4-A. Health care provider. "Health care provider" means:

A. A doctor of medicine or osteopathy who is licensed to practice medicine or surgery in this State; or [1997, c. 546, §2 (NEW).]

B. Any other person determined by the Secretary of Labor to be capable of providing health care services. [1997, c. 546, §2 (NEW).]

[1997, c. 546, §2 (NEW).]

4-B. Reduced leave schedule. "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee. [2007, c. 233, §1 (NEW).]

5. Serious illness. [1997, c. 546, §3 (RP).]

6. Serious health condition. "Serious health condition" means an illness, injury, impairment or physical or mental condition that involves:

A. Inpatient care in a hospital, hospice or residential medical care facility; or [1997, c. 546, §2 (NEW).]

B. Continuing treatment by a health care provider. [1997, c. 546, §2 (NEW).]

[1997, c. 546, §2 (NEW).]

7. Domestic partner. "Domestic partner" means the partner of an employee who:

A. Is a mentally competent adult as is the employee; [2007, c. 261, §2 (NEW).]

B. Has been legally domiciled with the employee for at least 12 months; [2007, c. 261, §2 (NEW).]

C. Is not legally married to or legally separated from another individual; [2007, c. 261, §2 (NEW).]

D. Is the sole partner of the employee and expects to remain so; [2007, c. 261, §2 (NEW).]

E. Is not a sibling of the employee; and [2007, c. 261, §2 (NEW).]

F. Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. [2007, c. 261, §2 (NEW).]

8. Sibling. "Sibling" means a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements. [2007, c. 519, §3 (NEW).]

§844. Family medical leave requirement

1. Family medical leave entitlement. Every employee who has been employed by the same employer for 12 consecutive months is entitled to up to 10 work weeks of family medical leave in any 2 years unless employed at a permanent work site with fewer than 15 employees. The following conditions apply to family medical leave granted under this subchapter:

A. The employee must give at least 30 days' notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice; [1987, c. 861, §§19, 20 (AMD).]

B. The employer may require certification from a physician to verify the amount of leave requested by the employee, except that an employee who in good faith relies on treatment by prayer or spiritual means, in accordance with the tenets and practice of a recognized church or religious denomination, may submit certification from an accredited practitioner of those healing methods; and [1991, c. 277, §1 (AMD).]

C. The employer and employee may negotiate for more or less leave, but both parties must agree. [1987, c. 661, (NEW).]

[2007, c. 233, §2 (AMD).]

2. Unpaid leave. Family medical leave granted under this subchapter may consist of unpaid leave. If an employer provides paid family medical leave for fewer than 10 weeks, the additional weeks of leave added to attain the total of 10 weeks required may be unpaid. [1991, c. 277, §1 (AMD).]

3. Leave taken intermittently or on reduced leave schedule. Intermittent or reduced leave schedule family medical leave may be taken subject to the following limitations:

A. Leave for a reason described in section 843, subsection 4, paragraph B or C may not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise. Subject to subsection 1, paragraphs A and B, leave for a reason described in section 843, subsection 4, paragraph A, D or E may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph may not result in a reduction in the total amount of leave to which the employee is entitled under subsection 1 beyond the amount of leave actually taken. [2007, c. 233, §3 (NEW).]

B. If an employee requests intermittent leave, or leave on a reduced leave schedule, for a reason described in section 843, subsection 4, paragraph A, D or E that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that:

(1) Has equivalent pay and benefits; and

(2) Better accommodates recurring periods of leave than the regular employment position of the employee. [2007, c. 233, §3 (NEW).]

[2007, c. 233, §3 (NEW).]

§845. Employee benefits protection

1. Restoration. Any employee who exercises the right to family medical leave under this subchapter, upon expiration of the leave, is entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This subsection does not apply if the employer proves that the employee was not restored as provided in this subsection because of conditions unrelated to the employee's exercise of rights under this subchapter. [1987, c. 661, (NEW).]

2. Maintenance of employee benefits. During any family medical leave taken under this subchapter, the employer shall make it possible for employees to continue their employee benefits at the employee's expense. The employer and employee may negotiate for the employer to maintain benefits at the employer's expense for the duration of the leave.[1991, c. 277, §2 (AMD).]

§846. Effect on existing employee benefits

1. Benefit accrual. The taking of family medical leave under this subchapter shall not result in the loss of any employee benefit accrued before the date on which the leave commenced.[1987, c. 661, (NEW).]

2. Effect on collective bargaining. Nothing in this subchapter may be construed to affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater family medical leave rights to employees than the rights provided under this subchapter.

[1987, c. 661, (NEW).]

3. Rights not diminished. The family medical leave rights mandated by this subchapter may not be diminished by any collective bargaining agreement or by any employee benefit plan. [1987, c. 661, (NEW).]

4. Contract rights. Nothing in this subchapter may be construed to affect or diminish the contract rights or seniority status of any other employee of any employer covered by this subchapter. [1987, c. 661, (NEW).]

§847. Prohibited acts

1. Unlawful interference or denial of rights. The employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided by this subchapter. [1987, c. 661, (NEW).]

2. Unlawful discrimination against exercise of rights. The employer may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right provided by this subchapter.[1987, c. 661, (NEW).]

3. Unlawful discrimination against opposition. The employer may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this subchapter. [1987, c. 661, (NEW).]

§848. Judicial enforcement

1. Injunction and damages. A civil action may be brought in the appropriate court by an employee against any employer to enforce this subchapter. The court may enjoin any act or practice that violates or may violate this subchapter and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this subchapter. The court also may:

A. Award damages equal to the wages, salary, employment benefits or other compensation denied or lost to the employee by reason of the violation; or [2005, c. 228, §1 (NEW).]

B. Order the employer to pay liquidated damages of \$100 to the employee for each day that the violation continued. [2005, c. 228, §1 (NEW).]

[2005, c. 228, §1 (NEW).]

2. Additional damages. The court also may order the employer to pay an additional amount as liquidated damages equal to the amount awarded under subsection 1 if the employee proves to the satisfaction of the court that the employer's violation was willful. [2005, c. 228, §1 (NEW).]

3. Attorney's fees. In any action brought pursuant to this section, in addition to any judgment awarded to the employee, the court shall award reasonable attorney's fees and other costs of the action to be paid by the employer. [2005, c. 228, §1 (NEW).]

Employment Leave for Victims of Violence

§850. Employment leave for victims of violence

1. Required leave. An employer must grant reasonable and necessary leave from work, with or without pay, for an employee to:

A. Prepare for and attend court proceedings; [1999, c. 435, §1 (NEW).]

B. Receive medical treatment or attend to medical treatment for a victim who is the employee's daughter, son, parent or spouse; or [2001, c. 685, §1 (AMD).]

C. Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. [1999, c. 435, §1 (NEW).]

The leave must be needed because the employee or the employee's daughter, son, parent or spouse is a victim of violence, assault, sexual assaults under Title 17-A, chapter 11, stalking or any act that would support an order for protection under Title 19-A, chapter 101. An employer may not sanction an employee or deprive an employee of pay or benefits for exercising a right granted by this section. [2001, c. 685, §1 (AMD).]

1-A. Definitions. For purposes of this subchapter, the terms "daughter," "son," "parent" and "spouse" have the same meanings as those terms have under federal regulations adopted pursuant to 29 United States Code, Section 2654, as in effect on January 1, 2002. An employer may require an employee to provide reasonable documentation of the family relationship, which may include a statement from the employee, a birth certificate, a court document or similar documents. [2001, c. 685, §2 (NEW).]

2. Exceptions. Subsection 1 is not violated if:

A. The employer would sustain undue hardship from the employee's absence; [2001, c. 685, §3 (AMD).]

B. The request for leave is not communicated to the employer within a reasonable time under the circumstances; or [1999, c. 435, §1 (NEW).]

C. The requested leave is impractical, unreasonable or unnecessary based on the facts then made known to the employer. [1999, c. 435, §1 (NEW).]

[2001, c. 685, §3 (AMD).]

3. Civil penalties. The Department of Labor may assess civil penalties of up to \$200 for each violation of this section, if notice of the violation was given to the employer and the department within 6 months of the occurrence. [1999, c. 435, §1 (NEW).]

4. Application. This subchapter applies to all public and private employers, including the State and its political subdivisions. [1999, c. 659, §2 (NEW).]

University of Maine System Labor Relations Act

§1021. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of the University of Maine System employees, Maine Maritime Academy employees and community college employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment. [1989, c. 443, §60 (amd); 2003, c. 20, Pt. OO, §2, (amd); §4 (aff).]

§1022. Definitions

As used in this chapter, the following terms shall, unless the context requires a different interpretation, have the following meanings. [1975, c. 603, §1 (new).]

1. Bargaining agent. [1975, c. 671, §2 (rp).]

1-A. Academy. "Academy" means the Maine Maritime Academy and its activities and functions supervised by its board of trustees or their designee. In the furtherance of this chapter, the academy shall be considered as a single employer and employment relations, policies and practices throughout the academy shall be as consistent as practicable. It is the responsibility of the board of trustees of the academy or their designee to negotiate collective bargaining agreements and to administer such agreements. The board of trustees of the academy or their designee is responsible for the employer functions of the academy under this chapter and shall coordinate its collective bargaining activities. For purposes of consistency elsewhere in this chapter, references to the university shall be construed to include and to apply to the Maine Maritime Academy, its board of trustees, and its employees. [1975, c. 671, §3 (new).]

1-B. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association, which has as one of its primary purposes the

representation of employees in their employment relations with employers and which has been certified by the Executive Director of the Maine Labor Relations Board. [1975, c. 671, §3 (new).]

1-C. Community college. "Community college" means the Maine state community colleges and their activities and functions supervised by the Board of Trustees of the Maine Community College System or its designee. The employment relations, policies and practices throughout the community colleges shall be as consistent as possible. It is the responsibility of the board of trustees or its designee to negotiate collective bargaining agreements and administer these agreements. The board of trustees or its designee is responsible for employer functions of the community colleges under this chapter and shall coordinate its collective bargaining activities with campuses or units on matters of community college concern. In addition to its responsibilities to the public generally, the board of trustees shall have the specific responsibility of considering and representing the interests and welfare of the students in any negotiations under this chapter.

A. [1987, c. 816, Pt. R (rp).]

[1989, c. 443, §61 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Board. "Board" means the Maine Labor Relations Board as defined in section 968, subsection 1. [1975, c. 671, §4 (amd).]

3. Board of Trustees. "Board of Trustees" means the Board of Trustees of the University of Maine System, the Board of Trustees of the Maine Maritime Academy or the Board of Trustees of the Maine Community College System. [1989, c. 443, §62 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

4. Classified employee. "Classified employee" means any employee not engaged in professional work as defined in subsection 7. [1975, c. 603, §1 (new).]

5. Cost items. "Cost items" means the provisions of a collective bargaining agreement which require specific funding. [1975, c. 603, §1 (new).]

6. Executive Director. "Executive Director" means the Executive Director of the Maine Labor Relations Board as defined in section 968, subsection 2. [1975, c. 671, §5 (amd).]

7. Professional employee. "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; [1975, c. 603, §1 (new).]

B. Involving the consistent exercise of discretion and judgment in its performance; [1975, c. 603, §1 (new).]

C. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period; and [1975, c. 603, §1 (new).]

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. [1975, c. 603, §1 (new).]

[1975, c. 603, §1 (new).]

8. Regular employee. "Regular employee" means any professional or classified employee who occupies a position that exists on a continual basis. [1975, c. 603, §1 (new).]

9. Supervisory employee. "Supervisory employee" means any employee whose principal work tasks are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, in applying other established personnel policies and procedures and in enforcing a collective bargaining agreement or establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards. [1975, c. 603, §1 (new).] [2011, RR 2 §75 (amd).]

10. University. "University" means all campuses or units of the university, represented by the board of trustees or its designee. In the furtherance of this chapter, the university shall be considered as a single employer and employment relations, policies and practices throughout the university shall be as consistent as practicable. It is the responsibility of the board of trustees or its designee to negotiate collective bargaining agreements and to administer such agreements. The board of trustees or its designee is responsible for the employer functions of the university under this chapter and shall coordinate its collective bargaining activities with campuses or units on matters of university concern. In addition to its responsibilities to the public generally, the university shall have the specific responsibility of considering and representing the interests and welfare of the students in any negotiations under this chapter. [1975, c. 721, §1 (amd).]

11. University, academy or community college employee. "University, academy or community college employee" means any regular employee of the University of Maine System, the Maine Maritime

Academy or the Maine Community College System performing services within a campus or unit, except any person:

A. Appointed to office pursuant to law; [1987, c. 402, Pt. A, §156 (rpr).]

B. Appointed by the Board of Trustees as a vice-president, dean, director or member of the chancellor's, superintendent's or Maine Community College System executive director's immediate staff; or [2003, c. 76, §1 (amd); §4 (aff); c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. Whose duties necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the university, the academy or the Maine Community College System. [2003, c. 76, §1 (amd); §4 (aff); c. 20, Pt. OO, §2 (amd); §4 (aff).]

D. [2003, c. 76, §1 (rp); §4 (aff).]

[2003, c. 76, §1 (amd); §4 (aff) c. 20, Pt. OO, §2 (amd); §4 (aff).]

§1023. Right of university, academy or community college employees to join labor organizations

A person may not directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against a university, academy or community college employee or a group of university, academy or community college employees in the free exercise of their rights, given by this section, to voluntarily:

1. Join a union. Join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining or in the free exercise of any other right under this chapter; or

2. Not join a union. Refrain from joining or participating in the activities of organizations for the purposes of representation and collective bargaining, except that an employee may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee's pro rata share of those expenditures that are germane to the organization's representational activities. No one may directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against university, academy or community college employees or a group of university, academy or community college employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

REPEALED AND REPLACED[2007, c. 415, §10 (NEW)]

§1024-A. Bargaining units

1. Legislative intent. It is the express legislative intent that, in order to foster meaningful collective bargaining, units shall be structured in such a way as to avoid excessive fragmentation whenever possible. In accordance with this policy, bargaining units shall be structured on a university system-wide basis with one unit for each of the following occupational groups:

A. Faculty; [1979, c. 541, Pt. B, § 31 (new).]

B. Professional and administrative staff; [1979, c. 541, Pt. B, § 31 (new).]

C. Clerical, office, laboratory and technical; [1979, c. 541, Pt. B, § 31 (new).]

D. Service and maintenance; [1979, c. 541, Pt. B, § 31 (new).]

E. Supervisory classified; and [1979, c. 541, Pt. B, § 31 (new).]

F. Police. [1979, c. 541, Pt. B, § 31 (new).]

It is intended that Cooperative Extension Service employees be included in appropriate units.

[1985, c. 506, Pt. B, §24 (amd).]

2. Academy units. It is the express legislative intent to foster meaningful collective bargaining for employees of the Maine Maritime Academy. Therefore, in accordance with this policy, bargaining units shall be structured with one unit for each of the following occupational groups:

A. Faculty; [1979, c. 541, Pt. B, §31 (new).]

B. Administrative staff; and [1979, c. 541, Pt. B, §31 (new).]

C. Classified employees. [1979, c. 541, Pt. B, §31 (new).]

[1979, c. 541, Pt. B, §31 (new).]

3. Community colleges. It is the express legislative intent to foster meaningful collective bargaining for employees of the community colleges. Therefore, in accordance with this policy, the bargaining units shall be structured with one unit in each of the following occupational groups:

A. Faculty and instructors; [1985, c. 695, §16 (rpr).]

B. Administrative staff; [1985, c. 695, §16 (rpr).]

C. Supervisory; [1985, c. 695, §16 (new).]

D. Support services; [1985, c. 695, §16 (new).]

E. Institutional services; and [1985, c. 695, §16 (new).]

F. Police. [1985, c. 695, §16 (new).]

[1989, c. 443, §65 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

4. Assignment to bargaining units. In the event of a dispute over the assignment of jobs or positions to a unit, the executive director shall examine the community of interest, including work tasks among other factors, and make an assignment to the appropriate statutory bargaining unit set forth in subsection 1, 2 or 3. [1979, c. 541, Pt. B, §31 (new).]

5. Additional bargaining units. Notwithstanding subsection 1, 2 or 3, the Legislature recognizes that additional or modified university system-wide units, academy units or community college units may be appropriate in the future. The employer or employee organizations may petition the executive director for the establishment of additional or modified university system-wide units, academy units or community college units. The executive director or a designee shall determine the appropriateness of those petitions, taking into consideration the community of interest and the declared legislative intent to avoid fragmentation whenever possible and to insure employees the fullest freedom in exercising the rights guaranteed by this chapter. The executive director or a designee conducting unit determination proceedings may administer oaths and require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them. [1989, c. 443, §66 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

6. Students.

A. When collective bargaining is to take place between the university and the faculty or professional and administrative staff, the board of trustees shall appoint 3 currently enrolled students who are broadly representative of the various campuses to meet and confer with the university and who may meet and confer with the bargaining agent prior to collective bargaining. [1979, c. 541, Pt. B, §31 (new).]

B. During the course of collective bargaining, the student representatives designated under paragraph A shall be allowed to meet and confer with the university bargaining team at reasonable intervals during the course of negotiations, these meetings to occur at least upon receipt by the university of the initial bargaining proposal of the bargaining agent and before final agreement on a contract or any major provisions thereof. The students shall be bound by the same rules of negotiation, including, but not limited to, those regarding confidentiality, as the participants in the negotiations. [1979, c. 541, Pt. B, §31 (new).]

[1979, c. 541, Pt. B, §31 (new).]

7. Unit clarification. Where there is a certified or currently recognized bargaining representative and where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized or certified bargaining agent may file a petition for a unit clarification, provided that the parties are unable to agree on appropriate modifications and there is no question concerning representation. [1979, c. 541, Pt. B, §31 (new).]

§1025. Determination of bargaining agent

1. Voluntary recognition. Any employee organization may file a request with the university, academy or community colleges alleging that a majority of the university, academy or community college employees in an appropriate bargaining unit as established in section 1024, wish to be represented for the purpose of collective bargaining between the university, academy or community colleges and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the university, academy or community colleges unless the university, academy or community colleges desire that an election determine whether the organization represents a majority of the members in the bargaining unit. In the event that the request for recognition is granted by the university, academy or community colleges, the executive director shall certify the organization so recognized as the bargaining agent. [1989, c. 443, §67 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Elections.

A. The executive director of the board, upon signed request of the university, academy or community college alleging that one or more university, academy or community college employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university, academy or community college employees, or upon signed petition of at least 30% of a bargaining unit of university, academy or community college employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members of the bargaining unit. Such an election may be conducted at suitable work locations or through the United States mail, and the procedures adopted and employed must ensure that neither the employee organizations or the management representatives involved in the election have access to information that would identify a voter. [1991, c. 622, Pt. O, §10 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

B. The ballot shall contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the university, academy or community college employees within the unit, together with a choice for any university, academy or community college employee to designate that the employee does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot, and no one of the 3 or more choices receives a majority vote of the university, academy or community college employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the university, academy or community colleges as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the executive director as not representing a majority of the unit. [1989, c. 443, §68 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. Whenever 30% of the employees in a bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth. [1975, c. 603, §1 (new).]

D. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question concerning unit or representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement. [1975, c. 603, §1 (new).]

E. The bargaining agent certified by the executive director or a designee as the exclusive bargaining agent for a unit is required to represent all the university, academy or community college employees within the unit without regard to membership in the organization certified as bargaining agent, except that any university, academy or community college employee may present at any time that employee's grievance to the employer and have that grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of any collective bargaining agreement then in effect and the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of that grievance. [1991, c. 166 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

[1991, c. 622, Pt. O, §10 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

§1026. Obligation to bargain

1. Negotiations. It is the obligation of the university, academy, community college or state schools for practical nursing and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

A. To meet at reasonable times; [1989, c. 878, Pt. A, §71 (rpr).]

B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes if the parties have not otherwise agreed in a prior written contract; [1993, c. 84, §1 (amd).]

C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party is compelled to agree to a proposal or required to make a concession; [1993, c. 84, §1 (amd).]

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation, but not to exceed 3 years; and [1989, c. 878, Pt. A, §71 (rpr).]

E. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section. [1989, c. 878, Pt. A, §71 (rpr).]

[1993, c. 84, §1 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

1-A. Additional bargaining; community college employees. Cost items in any collective bargaining agreement of community college employees must be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted must be returned to the parties for further bargaining. "Cost items" includes salaries, pensions and insurance.

Cost items related to a collective bargaining agreement reached under this chapter and submitted to the Legislature for its approval under this subsection may not be submitted in the same legislation that contains cost items for employees exempted from the definition of "community college employee" under section 1022, subsection 11. [2003, c. 76, §2 (amd); §4 (aff); c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Mediation.

A. It is the declared policy of the State to provide full and adequate facilities for the settlement of disputes between the employer and employees or their representatives through mediation. [1975, c. 603, §1 (new).]

B. Mediation procedures, as provided by section 965, subsection 2, shall be followed whenever either party to a controversy requests such services prior to arbitration, or at any time on motion of the Maine Labor Relations Board or its executive director. [1975, c. 671, §12 (amd).]

C. The employer, union or employees involved in collective bargaining shall notify the Executive Director of the Maine Labor Relations Board, in writing, at least 30 days prior to the expiration of a contract, or 30 days prior to entering into negotiations for a first contract between the employer and the employees, or whenever a dispute arises between the parties threatening interruption of work, or under both conditions. [1975, c. 671, §12 (amd).]

D. Nothing in this section shall be construed as preventing the parties, as an alternative to mediation under section 965, from jointly agreeing to elect mediation from either the Federal Mediation and Conciliation Service or the American Arbitration Association, in accordance with the procedures, rules and regulations of those organizations. [1975, c. 603, §1 (new).]

E. Any information disclosed by either party to a dispute to a mediator or to a mediation panel or any of its members in the performance of this subsection shall be privileged. [1975, c. 603, §1 (new).]

[1975, c. 671, §12 (amd).]

Notes of Decision - 1. Negotiations - Pursuant to University of Maine System Labor Relations Act, university is required to bargain and negotiate in good faith and that requirement includes the obligation to maintain the status quo following the expiration of a contract. Board of Trustees of University of Maine System v. Associated Colt Staff of University of Maine System (1995) Me., 659A.2d 842.

Labor Relations Board's application of its dynamic status quo rule so as to require university to continue paying to its employees the annual step increases in wages included in expired collective bargaining agreement contravened the statutory language and legislative history of the University of Maine System Labor Relations Act providing that university must confer and negotiate in good faith with respect to wages, hours and working conditions except that by such obligation neither party is compelled to agree to a proposal or required to make a concession; the payment of wages constituted substantial concession by university in direct contravention of the prohibition contained in Act. Board of Trustees of University of Maine System v. Associated Colt Staff of University of Maine System (1995) Me., 659 A.2d 842.

3. Fact-finding.

A. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Maine Labor Relations Board to arrange for fact-finding services and recommendations to be provided by the Maine Board of Arbitration and Conciliation, or to pursue some other mutually acceptable fact-finding procedure, including use of the Federal Mediation and Conciliation Service or the American Arbitration Association according to their respective procedures, rules and regulations. [1975, c. 671, §13 (amd).]

B. If the parties do not jointly agree to call upon the Maine Labor Relations Board or to pursue some other procedure, either party to the controversy may request the executive director to assign a fact-finding panel. If so requested, the executive director shall appoint a fact-finding panel, ordinarily of 3 members, in accordance with rules and procedures prescribed by the board for making such appointments. [1975, c. 671, §13 (amd).]

C. The fact-finding proceedings shall be as provided by section 965, subsection 3. [1975, c. 603, §1 (new).]

4. Arbitration.

A. At any time after participating in the procedures set forth in subsections 2 and 3, either party, or the parties jointly, may petition the board to initiate arbitration procedures. On receipt of the petition, the executive director shall within a reasonable time determine if an impasse has been reached; the determination must be made administratively, with or without hearing, and is not subject to appeal. If the executive director so determines, the executive director shall issue an order requiring arbitration and requesting the parties to select one or more arbitrators. If the parties, within 10 days after the issuance of the order, have not selected an arbitrator or a Board of Arbitration, the executive director shall then order each party to select one arbitrator and the 2 arbitrators so selected shall select a 3rd neutral arbitrator. If the 2 arbitrators cannot in 5 days select a 3rd neutral arbitrator, the executive director shall submit identical lists to the parties of 5 or more qualified arbitrators of recognized experience and competence. Each party has 7 days from the submission of the list to delete any names objected to, number the remaining names indicating the order of preference and return the list to the executive director. In the event a party does not return the list within the time specified, all parties named therein are deemed acceptable. From the arbitrators who have been approved by both parties and pursuant to the order of mutual preference, the executive director shall appoint a neutral arbitrator. If the parties fail to agree upon any arbitrators named, or if for any other reason the appointment cannot be made from the initial list, the executive director shall then submit a 2nd list of 5 or more additional qualified arbitrators of recognized experience and competence from which they shall strike names with the determination as to which party shall strike first being determined by a random technique administered through the Executive Director of the Maine Labor Relations Board. Thereafter, the parties shall alternately strike names from the list of names submitted, provided that, when the list is reduced to 4 names, the 2nd from the last party to strike shall be entitled to strike 2 names simultaneously, after which the last party to strike shall so strike one name from the then 2 remaining names, such that the then remaining name shall identify the person who must then be appointed by the executive director as the neutral arbitrator.

Nothing in this subsection may be construed as preventing the parties, as an alternative to procedures in the preceding paragraph, from jointly agreeing to elect arbitration from either the Federal Mediation and Conciliation Service or the American Arbitration Association, under the procedures, rules and regulations of that association, provided that these procedures, rules and regulations are not inconsistent with paragraphs B and C. [2011, RR 2, §76 (amd).]

B. If the controversy is not resolved by the parties themselves, the arbitrators shall proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators will recommend terms of settlement and may make findings of fact; such recommendations and findings will be advisory only and will be made, if reasonably possible, within 60 days after the selection of the neutral arbitrator. The arbitrators may in their discretion make such recommendations and findings public, and either party may make such recommendations and findings public if agreement is not reached with respect to such findings and recommendations within 10 days after their receipt from the arbitrators. With respect to a controversy over subjects other than salaries, pensions and

insurance, the arbitrators shall make determinations with respect thereto if reasonably possible within 60 days after the selection of the neutral arbitrator. Such determinations may be made public by the arbitrators or either party and if made by a majority of the arbitrators, such determinations will be binding on both parties and the parties will enter an agreement or take whatever other action that may be appropriate to carry out and effectuate such binding determinations, and such determinations will be subject to review by the Superior Court in the manner specified by section 1033. The results of all arbitration proceedings, recommendations and awards conducted under this section shall be filed with the Maine Labor Relations Board at the offices of its executive director simultaneously with the submission of the recommendations and award to the parties. In the event the parties settle their dispute during the arbitration proceeding, the arbitrator or the chairman of the arbitration panel will submit a report of his activities to the Executive Director of the Maine Labor Relations Board not more than 5 days after the arbitration proceeding has terminated. [1983, c. 153, §2 (amd).]

C. In reaching a decision under this section, the arbitrators shall consider the following factors:

- (1) The interests and welfare of the students and the public and the financial ability of the university, academy or community colleges to finance the cost items proposed by each party to the impasse;
- (2) Comparison of the wages, hours and working conditions of the employees involved in the arbitration proceeding with the wages, hours and working conditions of other employees performing similar services in public and private employment competing in the same labor market;
- (3) The overall compensation presently received by the employees, including direct salary and wage compensation, vacation, holidays, life and health insurance, retirement and all other benefits received;
- (4) Such other factors not confined to the factors set out in subparagraphs (1) to (3), which are normally and traditionally taken into consideration in the resolution of disputes involving similar subjects of collective bargaining in public higher education;
- (5) The need of the university, academy or community colleges for qualified employees;
- (6) Conditions of employment in similar occupations outside the university, academy or community colleges;

(7) The need to maintain appropriate relationships between different occupations in the university, academy or community colleges; and

(8) The need to establish fair and reasonable conditions in relation to job qualifications and responsibilities. [1989, c. 443, §70 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

[1989, c. 443, §70 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

5. Costs. The following costs must be shared equally by the parties to the proceedings: the costs of the fact-finding board, including, if any, per diem expenses and actual and necessary travel and subsistence expenses; the costs of the neutral arbitrator or arbitrators, including, if any, per diem expenses and actual and necessary travel and subsistence expenses; the costs of the Federal Mediation and Conciliation Service or the American Arbitration Association; and the costs of hiring the premises where any fact-finding or arbitration proceedings are conducted. All other costs must be assumed by the party incurring them. The services of the Panel of Mediators and the State Board of Arbitration and Conciliation and any state allocation program charges must be shared equally by the parties to the proceedings and must be paid into a special fund administered by the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by members of the Panel of Mediators and the State Board of Arbitration and Conciliation is the responsibility of the executive director. All costs must be paid from that special fund. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing or the mediator is assigned. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this provision remains in the special fund administered by the Maine Labor Relations Board and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this provision through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. [1991, c. 798, §7 (amd).]

Notes of Decision - Arbitration. Under University of Maine System Labor Relations Act, arbitrators may only recommend, and not bind the parties, as to salaries and pensions, Board of Trustees of University of Maine System v. Associated Colt Staff of University of Name System (1955) Mc., 659 A2d 842.

§1027. Prohibited acts of the university, university employees and university employee organizations

1. University, academy and community colleges; prohibitions. The university, its representatives and agents, the academy, its representatives and agents and the community colleges, their representatives and agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023; [1975, c. 603, §1 (new).]

B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; [1975, c. 603, §1 (new).]

C. Dominating or interfering with the formation, existence or administration of any employee organization; [1975, c. 603, §1 (new).]

D. Discharging or otherwise discriminating against an employee because the employee has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter; [1989, c. 443, §71 (amd).]

E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 1026; [2007, c. 415, §11 (amd).]

F. Blacklisting of any employee organization or its members for the purpose of denying them employment; [2007, c. 415, §12 (amd).]

G. Requiring an employee to join a union, employee association or bargaining agent as a member; and [2007, c. 415, §13 (new).]

H. Terminating or disciplining an employee for not paying union dues or fees of any type. [2007, c. 415, §14 (new).]

[1989, c. 443, §71 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. University, academy, community colleges; prohibitions. University employees, university employee organizations, their agents, members and bargaining agents; academy employees, academy employee organizations, their agents, members and bargaining agents; and community college employees, community college employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023 or the university, academy and community colleges in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances; [1989, c. 443, §72 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

B. Refusing to bargain collectively with the university, academy and community colleges as required by section 1026; and [1989, c. 443, §72 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. Engaging in:

(1) A work stoppage, slowdown or strike; and

(2) The blacklisting of the university, academy or community colleges for the purpose of preventing them from filling employee vacancies.[1989, c. 443, §72 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

[1989, c. 443, §72 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Negotiation of union security. Nothing in this chapter shall be interpreted to prohibit the negotiation of union security, excepting closed shop. [1975, c. 603, §1 (new).]

3-A. Negotiation of initial probationary period. The length and terms of an employee's probationary period upon initial employment is a negotiable item in accordance with the procedures set forth in section 1026, except that, at a minimum, the probationary period must include the first 6 months of the employee's active employment. During the initial 6 months of active employment, an employee may be terminated without just cause. [2003, c. 76, §3 (new); §4 (aff).]

4. Violations. Violations of this section shall be processed by the board in the manner provided in section 1029. [1975, c. 603, §1 (new).]

§1028. Rule making procedure and review of proceedings

1. Rule making procedure. Proceedings conducted under this chapter shall be subject to the rules and procedures of the board promulgated under section 968, subsection 3. [1975, c. 603, §1 (new).]

2. Review of representation proceedings. Any person aggrieved by any ruling or determination of the executive director under sections 1024-A and 1025 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period is 5 working days, to the Maine Labor Relations Board. Upon receipt of such an appeal, the board shall within a reasonable time, hold a hearing, having first caused 7 days' notice, in writing, of the time and place of the hearings to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. The hearings and the procedures established in furtherance thereof must be in accordance with section 968. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. [2007, c. 695, Part C, § 17(amd).]

§1029. Prevention of prohibited acts

1. Board power to prevent prohibited acts. The board is empowered, as provided, to prevent any person, the university, any university employee, any university employee organizations, the academy, any academy employees, any academy employee organizations, the community colleges, any community college employee, any community college employee organizations; or any bargaining agent from engaging in any of the prohibited acts enumerated in section 1027. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law or otherwise. [1989, c. 443, §73 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Complaints. The university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the community colleges, any community college employee, any community college employee organization, or any bargaining agent which believes that any person, the university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the community colleges, any community college employee, any community college employee organization or any bargaining agent has engaged in or is engaging in any such prohibited practice may file a complaint with the executive director of the board stating the charges in that regard. No such complaint shall be filed with the executive director until the complaining party shall have served a copy thereof upon the party named in the complaint. Upon receipt of such complaint, the executive director or a designee shall review the charge to determine whether the facts as alleged may constitute a prohibited act. If it is determined that the facts do not, as a matter of law, constitute a violation, the charge shall be dismissed by the executive director, subject to review by the board. If a formal hearing is deemed necessary by the executive director or by the board, the executive director shall serve upon the parties to the complaint a notice of the prehearing conference and of the hearing for the prehearing conference or the hearing, as appropriate, provided that no hearing shall be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director. The party complained of shall have the right to file a written answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed for the hearing. In the discretion of the board, any other person or organization may be allowed to intervene in that

proceeding and to present testimony. Nothing in this subsection may restrict the right of the board to require the executive director or a designee to hold a prehearing conference on any prohibited practice complaint prior to the hearing before the board and taking whatever action, including dismissal, attempting to resolve disagreements between the parties or recommending an order to the board, as the executive director or a designee may deem appropriate, subject to review by the board. [1989, c. 443, §74 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Board action after hearing and argument. After hearing and argument, if, upon a preponderance of the evidence received, the board shall be of the opinion that any party named in the complaint has engaged in or is engaging in any such prohibited practice, then the board shall, in writing, state its findings of fact and the reasons for its conclusions and shall issue and cause to be served upon such party an order requiring such party to cease and desist from such prohibited practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or dismissed, or the payment to him of any back pay, if such individual was suspended or dismissed for cause. [1975, c. 603, §1 (new).]

4. Dismissals. After hearing and argument, if, upon a preponderance of the evidence received, the board shall not be of the opinion that the party named in the complaint has engaged in or is engaging in any such prohibited practice, then the board shall, in writing, state its findings of fact and the reasons for its conclusions and shall issue an order dismissing said complaint. [1975, c. 603, §1 (new).]

5. Failure to comply with board order. If after the issuance of an order by the board requiring any party to cease and desist or to take any other affirmative action, said party fails to comply with the order of the board, then the party in whose favor the order operates or the board may file a civil action in the Superior Court in Kennebec County, to compel compliance with the order of the board. In such action to compel compliance, the Superior Court shall not review the action of the board other than to determine questions of law. If an action to review the decision of the board is pending at the time of the commencement of an action for enforcement pursuant to this subsection or is thereafter filed, the 2 actions shall be consolidated. [1975, c. 603, §1 (new).]

6. Simultaneous injunctive relief. Whenever a complaint is filed with the executive director of the board alleging that the university, academy or community colleges have violated section 1027, subsection 1, paragraph F, or alleging that an employee, employee organization or bargaining agent of the university, academy or community colleges have violated section 1027, subsection 2, paragraph C, the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter. [1989, c. 443, §75 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

7. Court review. Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, provided the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by

certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing at the earliest possible time and shall cause all interested parties and the board to be notified. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, which must be held not less than 7 days after notice of the hearing, the court may enforce, modify, enforce as so modified, or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6. [RR 1993, c. 1, §69 (cor).]

8. Judicial proceeding involving injunctive relief. In any judicial proceeding authorized by this subsection in which injunctive relief is sought, subsections 5 and 6 shall apply, except that neither an allegation nor proof of unavoidable substantial and irreparable injury to the complainant's property shall be required to obtain a temporary restraining order or injunction. [1975, c. 603, §1 (new).]

§1030. Hearings

1. Conduct of hearings. Hearings conducted by the board shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other evidence deemed relevant by the board may be received. [1975, c. 603, § 1 (new).]

2. Power of chairman. The chairman shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the presentation of books, records and other evidence relative or pertinent to the issues presented to the board for determination. Witnesses subpoenaed by the board shall be allowed the same fees as are paid to witnesses in the Superior Court. These fees, together with all necessary expenses of the board, shall be paid by the Treasurer of State on warrants drawn by the State Controller. [1975, c. 603, § 1 (new).]

§1031. Scope of binding contract arbitration

A collective bargaining agreement between the university, the academy or the community colleges and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of collective bargaining agreement. An arbitrator with the power to make binding decisions pursuant to any such provisions shall have no authority to add to, subtract from or modify the collective bargaining agreement. [1989, c. 443, §76 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

§1032. Suits by and against unincorporated employee organizations

In any judicial proceeding brought under this chapter or to enforce any of the rights guaranteed by this chapter, any unincorporated employee organization may sue or be sued in the name by which it is known. [1975, c. 603, § 1 (new).]

§1033. Review of arbitration awards

1. Court review. Either party may seek a review by the Superior Court of a binding determination by an arbitration panel. Such review shall be sought in accordance with the Maine Rules of Civil Procedure, Rule 80B. [1979, c. 541, Pt. A, § 174 (amd).]

2. Determination final on questions of fact. In the absence of fraud, the binding determination of an arbitration panel or arbitrator shall be final upon all questions of fact. [1975, c. 603, § 1 (new).]

3. Power of reviewing court. The court may, after consideration, affirm, reverse or modify any such binding determination or decision based upon an erroneous ruling or finding of law. An appeal may be taken to the law court as in any civil action. [1975, c. 603, § 1 (new).]

§1034. Separability

1. Severability. If any clause, sentence, paragraph or part of this chapter, or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter and the application of such provision to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this chapter would have been adopted had such invalid provisions not been included. [1975, c. 603, § 1 (new).]

2. No restriction on eligibility for federal grant-in-aid or assistance programs. Nothing in this chapter or any contract negotiated pursuant to this chapter may in any way be interpreted or allowed to restrict or impair the eligibility of the university, any of its campuses or units, academy or community colleges in obtaining the benefits under any federal grant-in-aid or assistance programs. [1989, c. 443, §77 (amd). ; 2003, c. 20, Pt. OO, §2 (amd); §4 (aff)]

§1035. Publication of initial proposals

Either party to negotiations may publicize the parties' written initial collective bargaining proposals. No proposals may be publicized until 10 days after both parties have made their initial proposal. [1979, c. 125, § 3 (new).]

§1036. Continuation of grievance arbitration provisions

If a contract between a public employer and a bargaining agent signed after October 1, 2005 expires prior to the parties' agreement on a new contract, the grievance arbitration provisions of the expired contract remain in effect until the parties execute a new contract. In any arbitration that is conducted pursuant to this section, an arbitrator shall apply only those provisions enforceable by virtue of the static status quo doctrine and may not add to, restrict or modify the applicable static status quo following the expiration of the contract, unless the parties have otherwise agreed in the collective bargaining agreement. All such grievances that are appealed to arbitration are subject exclusively to the grievance and arbitration process contained in the expired agreement and the board does not have jurisdiction over such grievances. The arbitrator's determination is subject to appeal pursuant to the Uniform Arbitration Act. Disputes over which provisions in an expired contract are enforceable by virtue of the static status quo doctrine first must be resolved by the board, subject to appeal pursuant to applicable law. The grievance arbitration is stayed pending resolution of this issue by the board. The board may adopt rules as necessary to establish a procedure to implement the intent of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Nothing in this section expands, limits or modifies the scope of any grievance arbitration provisions, including procedural requirements. [2005, c. 324, §3 (new).]

Preference to Maine Workers and Contractors

§1301. Local residents preferred; exception

The State, counties, cities and towns, and every charitable or educational institution which is supported in whole or in part by aid granted by the State or by any municipality shall, in the awarding of contracts for constructing, altering, repairing, furnishing or equipping its buildings or public works, give preference to workmen and to bidders for such contracts who are residents of this State, provided the bids submitted by such resident bidders are equally favorable with bids submitted by contractors from without the State. This section shall not apply to construction or repairs amounting to less than \$1,000 or to emergency work or to state road work.

Any contract for public improvement that is awarded by the State or any department or agency of the State is subject to the competitive bidding process established under Title 5, chapter 155, subchapter I-A. [1995, c. 524, §2 (new).]

....

§ 1302-A. Insurance coverage posted on public construction projects

[2011, c. 403, §1 (REPEALED).]

§1303. Public works; minimum wage and benefits

In the employment of laborers in the construction of public works, including state highways, by the State or by persons contracting for the construction, preference must first be given to citizens of the State who are qualified to perform the work to which the employment relates and, if they can not be obtained in sufficient numbers, then to citizens of the United States. Every contract for public works construction must contain a provision for employing citizens of this State or the United States. The hourly wage and benefit rate paid to laborers employed in the construction of public works, including state highways, may not be less than the fair minimum rate as determined in accordance with section 1308. Any contractor who knowingly and willfully violates this section is subject to a fine of not less than \$250 per employee violation. Each day that any contractor employs a laborer at less than the wage and benefit minimum stipulated in this section constitutes a separate violation of this section. [1997, c. 757, §1 (amd).]

§1304. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 463, §1 (rpr).]

1. Board. "Board" means the Minimum Wage Rate on Construction Projects Board as constituted in sections 1304 to 1313. [1967, c. 403 (rpr).]

2. Construction. "Construction" means any construction, reconstruction, demolition, improvement, enlargement, painting, decorating or repair of any public works let to contract. The term "construction" shall not be construed to include engineering or architectural services, temporary or emergency repairs or any contract of less than \$10,000. [1967, c. 403 (rpr).]

3. Construction industry. "Construction industry" means that industry which is composed of employees and employers engaged in construction, demolition, repair or moving of buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures or works whether private or public on which construction work, as defined in subsection 2, is performed. [1967, c. 403 (rpr).]

4. Employee. "Employee" shall not include such persons as are employed or hired by the public authority on a regular or temporary basis or engaged in making temporary or emergency repairs. [1967, c. 403 (rpr).]

5. Fair minimum wage and benefits. "Fair minimum wage and benefits" means the prevailing wage and benefits as determined by the Director of the Bureau of Labor Standards according to section 1306. [1997, c. 757, §2 (amd).]

5-A. Interested party. "Interested party" means a bidder, contractor or subcontractor for a public works contract covered by this chapter. [2011, c. 463, §2 (new).]

6. Locality. "Locality" means where the construction is to be performed and the adjacent areas from which labor would be recruited for work on the project, and, in appropriate circumstances, it may be deemed to include the entire State. [1967, c. 403 (rpr).]

7. Public authority. "Public authority" means the Maine Turnpike Authority or any officer, board, commission or agency of the State that is authorized by law to enter into contracts for the construction of public works and is supported in whole or in part by public funds of the State . Sections 1304 to 1313 apply to expenditures made in whole or in part from public funds. [1997, c. 743, §2 (amd).]

8. Public works. "Public works" includes public schools and all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, demolition, waterworks, airports and all other structures upon which construction may be let to contract by the State and which contract amounts to \$50,000 or more. [2009, c. 453, §1 (amd).]

9. Prevailing wage and benefits. "Prevailing wage and benefits" means the hourly wage and benefits paid to the median number of workers employed in a trade or occupation on the 2nd and 3rd week in September. [1997, c. 757, §3 (amd).]

§1305. Policy declared

It is declared to be the policy of the State that a wage of no less than the prevailing hourly rate of wages and benefits for work of a similar character in this State must be paid to all workers employed in the construction of public works. [1997, c. 757, §4 (amd).]

Business Enterprise Program

....

§1418-F. Business enterprise program

To provide blind persons with remunerative employment, enlarge the economic opportunities of blind persons and encourage blind persons to become self-supporting, the officer, board or other authority in charge of a public building or property shall grant to the division authority: [1995, c. 560, Pt. F, §13 (new).]

1. Vending facility. To install in that building or property a vending facility whenever a vending facility may be operated by a blind person; and [1995, c. 560, Pt. F, §13 (new).]

2. Vending machines. To place vending machines operated by the division in a building or property if a vending facility operated by a blind person is not warranted. Income from these vending machines must be used for the purposes set forth in this section. [1995, c. 560, Pt. F, §13 (new).]

....

§1418-L. Correctional, mental and certain educational institutions

This article does not apply to or authorize the installation of vending facilities in a building wholly used by a correctional or mental institution or by an educational institution of any type supported in whole or in part from public funds, unless that educational institution is a university, college, junior college or a community college. [1995, c. 560, Pt. F, §13 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

....

TITLE 27

Confidentiality of Library Records

§121. Confidentiality of library records

Records maintained by any public library, as defined in section 110, subsection 10, the Maine State Library, the Law and Legislative Reference Library and libraries of the University of Maine System, Maine Community College System and the Maine Maritime Academy that contain information relating to the identity of a library patron relative to the patron's use of books or other materials at the library are confidential. Those records may only be released with the express written permission of the patron involved or as the result of a court order. [2013, c. 82, §12 (amd)]

Archaeology

....

§377. Protection of site location information

In order to protect the site or protected site from unlawful excavation or harm, any information in the possession of the Maine Historic Preservation Commission, the State Museum, the Division of Parks and Public Lands, other state agencies or the University of Maine System about the location or other attributes of any site or protected site may be designated by the Maine Historic Preservation Commission or State Museum as confidential and exempt from Title 1, chapter 13. Such data must be made available for the purpose of archaeological research. The directors of the Maine Historic Preservation Commission and the State Museum shall jointly adopt rules establishing standards and procedures for obtaining the data, and may impose reasonable requirements on its use, including requirements of confidentiality. The directors of the Maine Historic Preservation Commission and the State Museum shall establish procedures for reviewing no less frequently than once every 10 years information designated as confidential under this section in order to determine whether continued confidentiality is necessary and, if not, to remove the confidentiality designation. [2013, c. 89, §7 (amd).]

....

State Poet Laureate

§421. Honorary office created

1. Appointment. During Maine Cultural Heritage Week as established in Title 1, section 118, the Governor shall appoint a poet to serve as State Poet Laureate, nominated by an advisory selection committee created in subsection 3-A. [1999, c. 217, §2 (rpr).]

2. Term. The State Poet Laureate is appointed for a 5-year term and may be reappointed for a 2nd term. An individual may serve as State Poet Laureate for no more than 2 consecutive terms, but may be reappointed after a break in service. [1999, c. 217, §2 (rpr).]

3. Advisory panel. [1999, c. 217, §2 (rp).]

3-A. Advisory selection committee. The State Poet Laureate Advisory Selection Committee as established in Title 5, section 12004-I, subsection 5-A, referred to in this subchapter as the "advisory selection committee," is created in accordance with the following provisions.

A. The Maine Arts Commission shall assemble an advisory selection committee of no more than 5 members with expertise in poetry. The Director of the Maine Arts Commission and the Director of the Maine State Library or their delegates shall cochair this advisory selection committee. [1999, c. 217, §2 (new).]

B. Five months prior to the expiration of the State Poet Laureate's tenure, the advisory selection committee shall advertise in the appropriate media for nominations of potential candidates. By March 1st of the year in which the term of a poet laureate is due to end, the advisory selection committee shall recommend one name to the Governor for appointment as the State Poet Laureate. [1999, c. 217, §2 (new).]

C. If a vacancy occurs within the term of the State Poet Laureate, the advisory selection committee shall select as soon as possible a nominee for appointment by the Governor to fill the remainder of the term. [1999, c. 217, §2 (new).]

D. Members of the advisory selection committee are not entitled to per diem or compensation for expenses. [1999, c. 217, §2 (new).]

[1999, c. 217, §2 (new).]

4. Eligibility. The individual appointed State Poet Laureate must be a poet who is a resident of the State and must have published distinguished poetry. [1999, c. 217, §2 (rpr).]

5. Duties. [1999, c. 217, §2 (rp).]

6. Copyright. [1999, c. 217, §2 (rp).]

....

Percent for Art

§451. Purpose

Recognizing the need to enhance culture and the arts and to encourage the development of artists, it is the intent of the Legislature to establish the Percent for Art Program to provide funds for and authorize the acquisition of works of art for certain public buildings and public facilities. [1989, c. 912, §1 (amd).]

....

§455. Determination of amount for acquisition of art

The commission, in consultation with the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System or the Maine Community College System, whichever has budgetary authority over the project, shall determine the minimum amount to be made available for the purchase of art for each public building or facility. [1993, c. 435, §8 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

....

§457. Duties of commission

The commission shall: [1989, c. 912, §6 (new).]

1. Consult. Consult with the architect and contracting agency about any administrative costs or design services required in connection with the selection of works of art; [1989, c. 912, §6 (rpr).]

2. Procedures for participation of architect. Advise the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System and the Maine Community College System concerning procedures for participation and compensation of the architect in connection with the acquisition of works of art under this chapter; [1993, c. 435, §9 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

3. Contracting agency. Advise the contracting agency; [1989, c. 912, §6 (new).]

4. Selection. Approve the process used by the contracting agency in selection of the artist or works of art. If the commission does not approve the process used to select the artist or works of art, then the contracting agency shall use another selection process in accordance with the procedure authorized in section 456, subsection 4; [1989, c. 912, §6 (new).]

5. Acquisition of art. Review the design, execution, placement and acceptance of any works of art that are, or are intended to be, acquired under this chapter; and [1989, c. 912, §6 (new).]

6. Standards for maintenance. Adopt standards for the maintenance, conservation, relocation and transfer of ownership of works of art acquired under this chapter. [1989, c. 912, §6 (new).]

....

§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.

[2011, c. 263, §1 (amd).]

TITLE 28-A

State and Agency Liquor Stores

§351. Proximity to churches and schools

1. State or agency liquor store may not be located within 300 feet of school or church. The bureau may not license an agency liquor store located within 300 feet of any public or private school, church, chapel or parish house.

A. The bureau, after holding a public hearing near the proposed location, may locate an agency liquor store within 300 feet of a church, chapel, parish house or postsecondary school. [1997, c. 373, §38 (amd).]

[2013, c. 368, §V-26 (amd).]

2. Method of measurement. The distance must be measured from the main entrance of the agency liquor store to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel. [2013, c. 368, §V-26 (amd).]

.....

Liquor Licenses

§701. Proximity to schools; exception

1. Location within 300 feet of churches and schools. Except as provided in paragraphs B and C, the bureau may not issue a new license for the sale of liquor to be consumed on the premises to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application for the new license is made.

A. [1987, c. 342, §33 (rp).]

B. The bureau may after holding a public hearing near the proposed location issue licenses to premises that are either in or within 300 feet of a church, chapel, parish house or postsecondary school. [1997, c. 373, §64 (amd).]

C. The restriction in this subsection does not apply if a public or private school, school dormitory, church, chapel or parish house:

(1) Locates in a commercial zone that includes restaurants or bars as permitted uses and that had been established pursuant to a zoning ordinance as defined in Title 30-A, section 4301, subsection 15-A prior to the public or private school, school dormitory, church, chapel or parish house locating in the commercial zone; or

(2) Is located in a downtown as defined in Title 30-A, section 4301, subsection 5-A.

[2005, c. 269, §1 (new).]

[2005, c. 269, §1 (amd).]

2. Method of measurement. The distance must be measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel. [1987, c. 45, Pt. A, §4 (new).]

....

§705. Sales for cash; sales to certain persons restricted

....

2. Prohibited sales of liquor or imitation liquor to be consumed off the premises. A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt liquor, imitation liquor or wine to be consumed off the premises to:

....

E. A minor." Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph. [1993, c. 266, §10 (amd).]

....

3. Prohibited sales of liquor or imitation liquor to be consumed on the premises. No licensee or licensee's employee or agent may sell, furnish, give, serve or permit to be served any liquor or imitation liquor to be consumed on the premises where sold to:

....

E. A minor. Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph. [1993, c. 266, §12 (amd).]

....

4. Permitting consumption or possession by a minor on the premises. No licensee, or agent or employee of a licensee, may permit a minor to consume or possess liquor or imitation liquor on the premises. [1993, c. 266, §14 (amd).]

....

Prohibited Acts by Minors

§2051. Prohibited acts by minors

1. Prohibited acts. A minor may not:

A. Purchase liquor or imitation liquor. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

B. Consume liquor or imitation liquor, except in a home in the presence of the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

C. Have on the minor's person liquor or imitation liquor in any premises licensed for the sale of liquor to be consumed on the premises. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

D. Present or offer to a licensee, the licensee's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the minor's own, for the purpose of:

(1) Ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving of any liquor or imitation liquor. The following penalties apply to violations of this subparagraph.

(a) A minor who violates this subparagraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(b) A minor who violates this subparagraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which must be suspended except as provided in subsection 2, paragraph B.

(c) A minor who violates this subparagraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; or

(2) Gaining access to a licensed premise when minors are not allowed. The following penalties apply to violations of this subparagraph.

(a) A minor who violates this subparagraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(b) A minor who violates this subparagraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which must be suspended except as provided in subsection 2, paragraph B.

(c) A minor who violates this subparagraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

D-1. Have in the minor's possession a false identification card. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600

must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

D-2. Sell, furnish or give a false identification card to a minor. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B;

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

E. [2003, c. 452, Pt. P, §4 (rp); Pt. X, §2 (aff).]

E-1. Except as provided in subsection 5, have any liquor or imitation liquor in the minor's possession. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; or

[2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

F. [2003, c. 452, Pt. P, §4 (rp); Pt. X, §2 (aff).]

F-1. Except as provided in subsection 5, have in the minor's possession equipment specifically constructed, manufactured or marketed for the purpose of brewing malt liquor or fermenting or making wine. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

[2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

2. Penalties. The following apply to the penalties imposed for violations of this section.

A. When a person is adjudged to have committed a first offense under this section, the judge shall inform that person that the fines for the 2nd and subsequent offenses are mandatory and cannot be suspended except as provided in paragraph B. Failure to inform the first offender that subsequent fines are mandatory is not a ground for suspension of any subsequent fine. [2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

B. The judge, as an alternative to or in addition to the civil fines required by this subsection, may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution. [2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

[2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

3. Minor can not be charged with more than one offense. A minor may not be charged with more than one offense under this section in any given instance in which the same set of facts is involved. [2003, c. 452, Pt. P, §4 (amd); Pt. X, §2 (aff).]

4. Illegal possession and illegal transportation. If a minor is charged with illegal possession under this section, the minor may not be charged with illegal transportation under section 2052. [1997, c. 373, §147 (amd).]

5. Exceptions. A minor is not in violation of subsection 1, paragraph E-1 or F-1 if the minor possesses:

A. Liquor or imitation liquor or equipment described in subsection 1, paragraph F-1 in the scope of the minor's employment; [2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

B. Liquor or imitation liquor in a home in the presence of the minor's parent, guardian or custodian, as defined in Title 22, section 4002; or [2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

C. Equipment described in subsection 1, paragraph F-1 in the minor's own home under the supervision of the minor's parent, guardian or custodian, as defined in Title 22, section 4002. [2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. P, §4 (new); Pt. X, §2 (aff).]

....

TITLE 29-A

University of Maine System; Special Registration Plates

§456. University of Maine System; special registration plates

1. University of Maine System plate. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the registration fee required by section 501 and the administrative fee and voluntary contribution provided for in subsection 2, shall issue a registration certificate and a set of University of Maine System registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. [1995, c. 645, Pt. A, §2 (amd); §18 (aff).]

2. Administrative fee and contribution to University of Maine System Scholarship Fund. University of Maine System special registration plates are not required for registration of a motor vehicle. A person may contribute to the University of Maine System Scholarship Fund by applying for the special registration plates and submitting, in addition to the regular motor vehicle registration fee, a sum of \$20, which must be deposited with the Treasurer of State and credited as follows:

A. Fourteen dollars to the University of Maine System Scholarship Fund established in Title 20-A, section 10909; [2007, c. 703, §3 (amd).]

B. Five dollars to the Highway Fund for administrative and production costs; and [2007, c. 703, §3 (amd).]

C. One dollar to the Specialty License Plate Fund established under section 469. [2007, c. 703, §3 (new).]

3. Design. The Secretary of State shall determine a design for the special University of Maine System plates. If the design accommodates the use of numbers and letters as provided in section 453, the

Secretary of State shall issue upon request University of Maine System plates that are also vanity plates. University of Maine System vanity plates are issued in accordance with the provisions of this section and section 453. [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

4. Not transferable. [1995, c. 65, Pt. A, §153 (aff); Pt. C, §2 (rp); §15 (aff).]

5. Renewal fee. In addition to the regular motor vehicle registration fee prescribed by law, the annual renewal contribution for University of Maine System registration plates is \$15, which must be deposited with the Treasurer of State and credited as follows:

A. Thirteen dollars to the University of Maine System Scholarship Fund established in Title 20-A, section 10909; [2007, c. 703, §3 (amd).]

B. One dollar to the Highway Fund; and [2007, c. 703, § 3 (amd).]

C. One dollar to the Specialty License Plate Fund established under section 469. [2007, c. 703, §3 (new).]

6. REPEALED [2007, c. 703, §3 (rpr).]

6-A. Transfer of fees. On a quarterly basis, the Secretary of State shall transfer the revenue from the issuance and renewal of the University of Maine System registration plates to the Treasurer of State for deposit and crediting pursuant to subsections 2 and 5. [2007, c. 703, §3 (new).]

....

§456-B. Maine Black Bears registration plates

1. Maine Black Bears plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of Maine Black Bears special registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. [2001, c. 623, §4 (new).]

2. Contribution to Maine Black Bears Scholarship Fund. In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the initial contribution for Maine Black Bears plates is \$20, which must be deposited with the Treasurer of State and credited as follows:

A. Ten dollars to the Maine Black Bears Scholarship Fund established in Title 20-A, section 10971; [2007, c. 703, §5 (amd).]

B. Nine dollars to the Highway Fund for administrative and production costs; and [2007, c. 703, §5 (amd).]

C. One dollar to the Specialty License Plate Fund established under section 469. [2007, c. 703, §5 (new).]

3. Design. The Secretary of State, in consultation with the alumni association of the University of Maine, shall determine a design for the Maine Black Bears special registration plates. The joint standing committee of the Legislature having jurisdiction over transportation matters shall review the final design prior to manufacture of the plates. The Secretary of State shall issue upon request Maine Black Bears plates that are also vanity plates. Maine Black Bears plates are issued in accordance with the provisions of this section and section 453. [2001, c. 623, §4 (new).]

4. Renewal fee. In addition to the regular motor vehicle registration fee prescribed by law, the annual renewal contribution for Maine Black Bears special registration plates is \$15, which must be deposited with the Treasurer of State and credited as follows:

A. Ten dollars to the Maine Black Bears Scholarship Fund established in Title 20-A, section 10971; [2007, c. 703, §5 (amd).]

B. Four dollars to the Highway Fund for administrative and production costs; and [2007, c. 703, §5 (amd).]

C. One dollar to the Specialty License Plate Fund established under section 469. [2007, c. 703, §5 (new).]

5. REPEALED [2007, c. 703, §5 (rpr).]

6. REPEALED [2007, c. 703, §5 (rpr).]

6-A. Transfer of fees. On a quarterly basis, the Secretary of State shall transfer the revenue from the issuance and renewal of the Maine Black Bears special registration plates to the Treasurer of State for deposit and crediting pursuant to subsections 2 and 4. [2007, c. 703, §5 (new).]

7. Duplicate plates. The Secretary of State shall issue a Maine Black Bears plate in a 3-number and 3-letter combination sequence. Vanity plates may not duplicate vanity plates issued in another class of plate. [2001, c. 623, §4 (new).]

8. Weight limit. A Maine Black Bears plate may be issued for a motor vehicle that does not exceed 10,000 pounds [2007, c. 383, §4 (amd.)]. A motor vehicle that exceeds 6,000 pounds is subject to the fees in section 504. [2001, c. 623, §4 (new).]

9. Date of first issue. The Secretary of State shall issue the first Maine Black Bears plate on or after November 1, 2003. [2001, c. 623, §4 (new).]

Vehicle Registration

....

§517. Government vehicles

1. Exemption. The following vehicles are exempt from registration fees, but must be registered and are subject to inspection requirements:

....

I. Vehicles loaned to the University of Maine System and the Maine Community College System and used in organized programs; [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff); 2003, c.20, Pt. OO, §2 (amd); §4 (aff).]

J. Vehicles owned by the University of Maine System; [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

....

2. Plates. The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Notwithstanding section 501, subsection 11, the Secretary of State shall issue distinctive municipal plates under this subsection to a low-speed vehicle owned by a municipality or loaned by a dealer to a municipality. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

....

3. Exception. If an exempt vehicle is leased or rented for commercial purposes, registration fees must be paid for that vehicle. [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

....

Operation of Vehicles

....

§2073. Authority to regulate speeds

....

4. Other ways. The Department of Transportation is not required to erect speed signs on a town way, unimproved state aid highway or on a way constructed to interstate standards. [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

Notwithstanding the provisions of Private and Special Law 1865, chapter 532, section 8-A, speed limits within the limits of the property owned by or under the control of the University of Maine System must be

established by the Department of Transportation and the Maine State Police as provided in this section. The speed limits must be posted by the University of Maine System in accordance with written directions or policies of the Department of Transportation. [1993, c. 683, Pt. A, §2 (new); Pt. B, §5 (aff).]

....

TITLE 30-A

Authority of Municipal Officers to Enact Ordinances

§3009. Authority of municipal officers to enact ordinances

1. Exclusive authority. The municipal officers have the exclusive authority to enact all traffic ordinances in the municipality, subject to the following provisions.

A. The municipal officers may regulate pedestrian traffic in the public ways, including, but not limited to, setting off portions of a municipality's public ways for sidewalks and regulating their use; providing for the removal of snow and ice from the sidewalks by the owner, occupant or agent having charge of the abutting property; and establishing crosswalks or safety zones for pedestrians.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of ordinances governing pedestrian traffic on the public ways may waive all court action by payment of specified fees within stated periods of time.

[1991, c. 549, §16 (amd); §17 (aff).]

B. The municipal officers may regulate the operation of all vehicles in the public ways and on publicly owned property.

(1) The violation of any ordinance authorized by this paragraph is a civil violation.

(2) A municipality may not adopt or enforce an ordinance authorized by this paragraph that is the same as or conflicts with any speed or other traffic control limits imposed by the Department of Transportation pursuant to Title 23 or 29-A.

[1999, c. 753, §8 (amd).]

C. The municipal officers may regulate the parking of motor vehicles on any public way or public parking area, including, but not limited to, providing for the installation of parking meters, providing the fact that any vehicle is illegally parked or is in a metered space when the time signal on the parking meter for that space indicates no parking permitted without the deposit of a coin or coins is prima facie evidence that the vehicle has been parked illegally by the person in whose name the vehicle is registered, and establishing reasonable charges for metered parking.

(1) Illegal parking of a vehicle in violation of any ordinance authorized by this paragraph is a civil violation.

(2) The municipal officers may establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within stated periods of time.

(3) The revenue collected from parking meters must be used:

(a) To purchase, maintain and police the meters;

(b) To construct and maintain public ways;

(c) To acquire, construct, maintain and operate public parking areas; and

(d) For no other purpose.

(4) A vehicle that exhibits a permanent placard, a temporary placard or a disability registration plate issued under Title 29-A, section 521 may park at a parking area with a meter without a charge and may park a length of time that does not exceed twice the time limit otherwise allowed. [2001, c. 151, §2 (amd).]

D. The following provisions apply to the establishment and policing of parking spaces and access aisles for disabled persons.

(1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5. The municipality shall post a sign adjacent to and visible from each disability parking space established by the municipality. The sign must display the international symbol for accessibility.

(2-A) Enforcement of disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a fine of not less than \$200 and not more than \$500. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(4) The municipal officers may establish and enforce the time limit for use of a parking space reserved as a disability parking space on a public way or public parking area. [2005, c. 528, §3 (amd).]

....

Consumer rights and protection

§3010. Consumer rights and protection

...

2-A. Notice on subscriber bills; credits and refunds. Every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection 1. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type. [2007, c. 104, §1 (new).]

TITLE 32

Nurses and Nursing

....

§2104. Education programs

1. Application for approval. An institution desiring to conduct a nursing education program to prepare professional or practical nurses must apply to the board and submit evidence that:

A. It is prepared to carry out the prescribed professional nursing curriculum or the prescribed curriculum for practical nursing, as the case may be; and

B. It is prepared to meet other standards as established by this chapter and by the board. [1993, c. 600, Pt. A, §114 (amd).]

[1993, c. 600, Pt. A, §114 (amd).]

2. Survey. A survey of the institution and its entire nursing education program must be made by either or both the executive director or other authorized appointee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an approved nursing education program are met, the institution must be approved as a nursing education program for professional or practical nurses.

From time to time as determined necessary by the board, it is the duty of the board, through its executive director or other authorized representative of the board, to survey all nursing education programs in the State. Written reports of the surveys must be submitted to the board. If the board determines that an approved nursing education program is not maintaining the standards required by statute and by the board, notice in writing specifying the defect or defects must be immediately given to the institution conducting the program. If a program fails to correct these conditions to the satisfaction of the board within a reasonable time, the board shall take appropriate action pursuant to section 2153.

[1993, c. 600, Pt. A, §114 (amd).]

3. In-service training. Nothing in this chapter applies to in-service teaching or training programs for paramedical personnel.

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: [2011, c. 257, §22 (amd).]

A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board; [1993, c. 600, Pt. A, §114 (amd).]

B. That it is prepared to meet those standards established by the board; [1993, c. 600, Pt. A, §114 (amd).]

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 [2009, c. 628, §3 (amd).]

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. [1993, c. 600, Pt. A, §114 (amd).]

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. [2009, c. 628, §3 (amd).]

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Psychologists

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§3812. Unlawful practice

An individual or organization may not profess or be presented to the public by any title incorporating the name "psychological," "psychologist" or "psychology," other than those so licensed by this chapter, except that any psychological scientist employed by a recognized research laboratory, college, university or state or federal agency may use the title conferred upon the scientist by the administration of such or equivalent laboratory, college, university or state or federal agency. Nothing in this section may be construed as permitting such persons to offer their service to any other persons or organizations as consultants or to accept remuneration for any psychological services other than that of their institutional salaries unless they have been licensed under this chapter. Visiting lecturers from recognized laboratories, colleges or universities are exempt from this section and may utilize their academic research title when presenting lectures to similar institutions or organizations. Students of psychology, psychological interns and other persons preparing for the profession of psychological examiner or psychologist under qualified supervision in recognized training institutions or facilities may be designated by such titles as "psychological intern", "psychological trainee" or others clearly indicating such training status. [1967, c. 544, § 82 (new).]

The use of occasional services of qualified consultant psychologists from another state or jurisdiction or the use of the services of organizations from another state or jurisdiction employing qualified psychologists does not constitute the unlawful practice of psychology. [2007, c.402, § Q-2 (amd).]

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Foresters

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§5503. Exemptions to licensing

A license is not required for forestry activities conducted by: [2001, c. 261, §4 (new).]

1. Forestry instructional and educational institutions. A forestry instructional and educational institution approved by the Commissioner of Education pursuant to the laws of the State or a program of education at an institution licensed or approved by the State to grant a bachelor's or higher degree; [2001, c. 261, §4 (new).]

2. Federal Government employee. Federal Government employees conducting forestry practices within the scope of their employment; [2001, c. 261, §4 (new).]

3. Person registered and practicing forestry. A person registered and practicing forestry under the supervision of a forester as set forth by section 5515, subsection 10, paragraph B; or [2007, c. 402, §T-1 (amd).]

4. Owner. An owner managing or otherwise conducting forestry practices on that owner's land. [2001, c. 261, §4 (new).]

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Speech Language Pathologists and Audiologists

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§6005. Persons and practices not affected [2007, c. 369, §C-2 (REPEALED AND REPLACED by 32 M.R.S.A. §17104)]

Money Transmitters

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§6103. License required

1. License required. On or after January 1, 1998, a person, except one exempt pursuant to section 6104, may not engage in the business of money transmission without a license as provided in this subchapter. [1997, c. 155, Pt. A, §2 (new).]

2. Single license; multiple locations. A licensee may conduct business in this State at one or more locations, directly or indirectly owned, or through one or more authorized delegates, or both, pursuant to the single license granted to the licensee, subject to the registration requirements of section 6109. [1997, c. 155, Pt. A, §2 (new).]

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Alcohol and Drug Counselors

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§6206. Exemptions

1. Peer groups; self-help. Nothing in this chapter may prevent any person from engaging in or offering substance abuse services such as self-help, sponsorship through alcoholics or narcotics anonymous groups or other uncompensated substance abuse assistance. [1991, c. 456, §11 (new).]

2. Government and school employees. Nothing in this chapter may be construed to apply to the activities and services of an employee or other agent of a recognized academic institution; a federal, state, county or local government institution, a program agency or facility; or a school committee, school district, school approved for attendance purposes pursuant to Title 20-A, section 2901, school board or board of trustees, if the individual is performing those activities solely within the agency or under the jurisdiction of that agency and if a license granted under this chapter is not a requirement for employment. [1991, c. 456, §11 (new).]

3. Clergy. Nothing in this chapter may be construed to apply to the activities and services of any priest, rabbi, member of the clergy, Christian Science healer, or minister of the gospel of any religious denomination when performing counseling services as part of religious duties and in connection with a specific synagogue or church of any religious denomination. [1991, c. 456, §11 (new).]

4. Interns. Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee in substance abuse counseling pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study. [1991, c. 456, §11 (new).]

5. Other licensed professionals. Nothing in this chapter may prevent any other licensed person in the field of medicine, psychology, nursing, social work or professional counseling who is qualified to provide substance abuse counseling services by virtue of the requirements for that profession from engaging in or offering substance abuse counseling services if such a person does not profess to be providing the service of a substance abuse counselor as the sole professional service rendered by that person. These professionals may not be required to obtain additional certification in order to provide substance abuse counseling services as permitted by this subsection. [1993, c. 635, §1 (amd).]

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. [2011, c. 222, §2 (new).]

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Polygraph Examiners

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§7166. [2013, c. 316, § 2 (rpr).]

§7364. Limitations on uses in employment

1. Preemployment screening. An employer may not, directly or indirectly, require, request or suggest that an applicant for employment submit to a polygraph examination as a condition of obtaining employment or administer or cause to be administered to an applicant such an examination or use or refer to the results of such an examination for hiring purposes. For purposes of this subsection, "employer" includes an employment agency and "applicant" includes a person seeking to use an employment agency's services.

2. Current employees. An employer may not, directly or indirectly, require, request or suggest that an employee submit to a polygraph examination as a condition of continued employment or administer or cause to be administered to an employee such an examination or use or refer to the results of such an examination for employment purposes.

3. Exception. This section does not apply to employees of or applicants for employment with law enforcement agencies.

4. Voluntary request. This section does not prohibit an employee from voluntarily requesting a polygraph examination in connection with employment or an employer from using or referring to the results of any examination so requested, except that the results of that examination may not be used against the employee by the employer for any purpose, the employer must give the employee a copy of this chapter when the employee requests the examination and the examination must be recorded or a witness of the employee's choice must be present during the examination, or both, as the employee requests. [2013, c. 316, § 3 (new).]

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Hypodermic Syringes; Prescriptions

§13787-A. Sale of hypodermic apparatus

1. Authorized seller. A hypodermic apparatus, as defined in Title 17-A, section 1101, subsection 2, may be sold only by a manufacturer or dealer of embalming supplies, manufacturer or dealer of medical or dental supplies, wholesale druggist, manufacturing pharmacist, pharmacist, veterinarian, agricultural supply store or manufacturer of surgical instruments. [1993, c. 394, §2 (new).]

2. Purchaser. Any person who is 18 years of age or older may purchase a hypodermic apparatus from a seller described in subsection 1. [1993, c. 394, §2 (new).]

3. Criminal immunity. Immunity from criminal prosecution is governed by the following.

A. A seller described in subsection 1 is "expressly authorized" within the meaning of Title 17-A, section 1110, subsection 1-B, paragraph A. [2003, c. 688, Pt. A, §39 (amd).]

B. A seller described in subsection 1 or a purchaser described in subsection 2 is "expressly authorized" within the meaning of Title 17-A, section 1111, subsection 1, paragraph A. [1993, c. 394, §2 (new).]

[2003, c. 688, Pt. A, §39 (amd).]

4. Immunity limited. This section does not limit prosecution for violation of any law prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled substances, scheduled drugs or drug paraphernalia. [1993, c. 394, §2 (new).]

5. Medicaid not affected. This section does not diminish, expand or otherwise affect Medicaid reimbursement for hypodermic apparatuses. [1993, c. 394, §2 (new).]

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Counseling Professionals

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§13852. Board of Counseling Professionals Licensure; establishment; compensation

1. Establishment. The Board of Counseling Professionals Licensure within the department as established by Title 5, section 12004-A, subsection 9-C, shall carry out the purposes of this chapter. [2007, c. 402, §EE-2 (amd).]

2. Members. The board consists of 8 members, 7 of them appointed by the Governor. Each member must be a resident of this State. Six members must be licensed clinical counseling professionals under this chapter, 4 of whom must be professional clinical counselors, one of whom must be a marriage and family therapist and one of whom must be a pastoral counselor. Each counselor member must have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. One member must be public member as defined in Title 5, Section 12004-A and may not be currently practicing counseling or receiving compensation for counseling services. 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 counselors. [2007, c. 621, §14 (amd).]

3. Officers. [2007, c. 402, §EE-2 (REPEALED).]

4. Terms of office. Appointments are for terms of 3 years each. Appointments of members must comply with Title 10, section 8009. [2007, c. 402, §EE-2 (amd).]

5. Removal. The Governor may remove any member of the board for cause and the reason for the termination of each appointment must be communicated to each member so terminated. The appointment of any member of the board must be terminated if a member is absent for 6 consecutive board meetings without good and just cause that is communicated to the chair. [1989, c. 465, §3 (new); c. 895, §4 (amd).]

6. Compensation. [1995, c. 397, §113 (rp).]

7. Meetings; chair. The board shall meet at least once a year to conduct its business and 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. [2013, c. 246, §B-25 (amd).]

32 §13852 Board of Counseling Professionals Licensure; establishment; compensation (REPEALED by PL 1989, c. 878, Pt. A, §101)

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§13856. Exemptions to licensure

1. Other professionals. Nothing in this chapter may be construed to apply to the activities and services of members of other professions licensed, certified or registered by the State such as, but not limited to, psychiatrists, physicians, psychologists, registered nurses, social workers and substance abuse counselors performing counseling consistent with the laws of the State governing their practices. [1989, c. 465, §3 (new); c. 895, §9 (amd).]

2. Government and school employees. Nothing in this chapter may be construed to apply to the activities and services of an employee or other agent of a recognized academic institution; employee assistance program; a federal, state, county or local government institution, program, agency or facility; or a school committee, school district, school approved for attendance purposes pursuant to Title 20-A, section 2901, school board or board of trustees, provided that the individual is performing those activities solely

within the agency or under the jurisdiction of that agency and provided further that a license granted under this chapter is not a requirement for employment. [1989, c. 465, §3 (new); c. 895, §9 (amd).]

3. Clergy. Nothing in this chapter may be construed to apply to the activities and services of any priest, rabbi, clergyman, including a Christian Science healer, or minister of the gospel of any religious denomination when performing counseling services as part of religious duties and in connection with a specific synagogue or church of any religious denomination. [1989, c. 465, §3 (new); c. 895, §9 (amd).]

4. Interns. Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee in counseling or marriage and family therapy pursuing a course of study in counseling or marriage and family therapy in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study. [1989, c. 465, §3 (new).]

5. Lecturers; consultants. Nothing in this chapter may be construed to apply to the activities and services of visiting lecturers or the occasional services of qualified consultants from outside the State, or the use of occasional services of organizations from outside the State employing qualified counselors. [1989, c. 465, §3 (new).]

6. Peer groups; self-help groups. Nothing in this chapter shall be construed to prevent members of peer groups or self-help groups from performing peer counseling solely in the context of the peer groups or self-help groups. [1989, c. 465, §3 (new).]

7. Management consultants. Nothing in this chapter applies to the activities and services of any management consultant when performing services, counseling or otherwise, with clients other than private individuals. Such clients include, but are not limited to, for-profit and nonprofit corporations, partnerships, sole proprietorships, academic institutions and governmental entities. [1989, c. 895, §10 (new).]

8. Educational and career consultants. Nothing in this chapter applies to the counseling activities of educational, vocational or career consultants when performed as an adjunct to their prime function of educational, vocational or career consultation. [1989, c. 895, §10 (new).]

9. Human resource and organizational developers. Nothing in this chapter applies to the counseling activities of human resource developers and organizational developers when this counseling is an adjunct to their prime function. [1989, c. 895, §10 (new).]

10. Other exemptions. Nothing in this chapter applies to the activities and services of individuals who practice as expressive art therapists, energy field workers, astrologers, tarot card readers, psychic

diviners, aromatherapists, crystal workers, palm readers or practitioners of similar disciplines as determined by the board. [1989, c. 895, §10 (new).]

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Speech Language Pathologists and Audiologists

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§ 17104. Exemptions to audiology and speech-language pathology

Nothing in this chapter may be construed as preventing or restricting:

1. Hearing aid dealer and fitter. A hearing aid dealer and fitter licensed under this chapter or the holder of a trainee permit under this chapter from the fitting of hearing aids or the testing of hearing for the purpose of fitting hearing aids; [2007, c. 369, §C-3 (new)]
2. Individual holding valid and current credential. An individual who holds a valid and current credential as a speech-language or hearing clinician, issued by the Department of Education, from providing services within a local educational agency or an individual employed as a speech-language pathologist or audiologist by the Federal Government, if the individual performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the organization by which that individual is employed. The individual may, without obtaining a license under this chapter, consult with or disseminate research findings and other scientific information to speech-language pathologists and audiologists outside the jurisdiction of the organization by which that individual is employed. The individual may also offer lectures to the public for a fee, monetary or other, without being licensed under this chapter. The individual may additionally elect to be subject to this chapter; or [2007, c. 369, §C-3 (new)]
3. Physician. A physician or osteopathic physician licensed by this State from testing, diagnosing and treating medical problems related to disorders of language, speech or hearing, nor permitting a speech-language pathologist or audiologist to practice medicine, surgery or other healing arts. [2007, c. 369, §C-3 (new)]
4. REPEALED [2007, c. 695, §A-40 (REP)]

...

An individual who is enrolled in a course of study leading to a degree in speech-language pathology or audiology at an accredited college or accredited university is exempt as long as such activities and services constitute a part of the course of study. [2007, c. 695, §A-39 (new)]

This Act takes effect December 1, 2007. [2007, c. 369, §C-5 (new)]

TITLE 33

Statute of Frauds - Contracts by Minors

§52. Written ratification of minor's contracts required; contracts to further higher education

No action shall be maintained on any contract made by a minor, unless he, or some person lawfully authorized, ratified it in writing after he arrived at the age of 18 years, except for necessities or real estate of which he has received the title and retains the benefit. [1971, c. 598, § 83 (amd).]

Provided that any minor 16 years of age or over, who receives aid and assistance from the New England Higher Education Assistance Foundation for the purpose of furthering his higher education in professional, technical, scientific or literary fields in the form of a loan or loans made or guaranteed in full or in part by said foundation, shall have full legal capacity for such purpose to act in his own behalf in the matter of notes, contracts and other transactions, and with respect to such acts done by him, he shall have rights, powers and privileges and be subject to the obligations of persons of full age.

Provided that any minor 16 years of age or over, who for the purpose of furthering his higher education in the professional, educational, scientific or literary fields, shall have full legal capacity to act in his own behalf in the matter of making notes, contracts and other transactions, and with respect to such acts done, shall have rights, powers and privileges and be subject to the obligations of persons of full age.

Uniform Unclaimed Property Act

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§1953. Presumptions of abandonment

1. Presumptive abandonment periods. Property is presumed abandoned if it is unclaimed by the apparent owner during the times, as follows for the particular property:

A. A traveler's check, 15 years after issuance; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

B. A money order, 7 years after issuance; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

C. Stock or other equity interest in a business association or financial organization, including a security entitlement under Title 11, Article 8, except for property described in paragraph Q, 3 years after the earlier of:

(1) The date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or

(2) The date of the 2nd mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

[2003, c. 20, Pt. T, §18 (amd).]

D. A debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner; [2003, c. 20, Pt. T, §19 (amd).]

E. A demand, savings or time deposit 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property. In the case of certain types of deposits, the following rules apply:

(1) In the case of a time deposit that is automatically renewable and whose term is longer than one year, at the date of maturity following the 5th renewal of the deposit after the last indication of interest by the owner; and

(2) In the case of a deposit for the benefit of a minor, the later of 3 years after the last indication of interest by the owner or the date on which the minor reaches 18 years of age;

[2003, c. 20, Pt. T, §20 (amd).]

F. Money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

G. A gift obligation or stored-value card, 2 years after December 31st of the year in which the obligation or the most recent transaction involving the obligation or stored-value card occurred, whichever is later, including the initial issuance and any subsequent addition of value to the obligation or stored-value card.

(1) The amount unclaimed is 60% of the gift obligation's or stored-value card's face value.

(2) A gift obligation or stored-value card sold on or after December 31, 2011 is not presumed abandoned if the gift obligation or stored-value card was sold by a single issuer who in the past calendar year sold no more than \$250,000 in face value of gift obligations or stored-value cards. Sales of gift obligations and stored-value cards are considered sales by a single issuer if the sales were by businesses that operate either: (a) Under common ownership or control with another business or businesses in the State; or (b) As franchised outlets of a parent business.

(3) A period of limitation may not be imposed on the owner's right to redeem the gift obligation or stored-value card.

(4) Notwithstanding section 1956, fees or charges may not be imposed on gift obligations or stored-value cards, except that the issuer may charge a transaction fee for the initial issuance and for each occurrence of adding value to an existing gift obligation or stored-value card. These transaction fees must be disclosed in a separate writing prior to the initial issuance or referenced on the gift obligation or stored-value card.

(5) Beginning November 1, 2008, if the gift obligation or stored-value card is redeemed in person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the gift obligation or stored-value card must refund the balance in cash to the consumer. This subparagraph does not apply to a prepaid telephone service card, a gift obligation or nonreloadable stored-value card with an initial value of \$5 or less or a stored-value card that is not purchased but provided as a promotion or as a refund for merchandise returned without a receipt,

(6) This paragraph does not apply to prefunded bank cards;

[2011, c. 433, §1 (amd).]

G-1. A prefunded bank card, 3 years after December 31st of the year in which the obligation or the most recent activity involving the prefunded bank card occurred, whichever is later, including the initial issuance and any subsequent addition of value to the prefunded bank card. A period of limitation may not be imposed on the owner's right to redeem the prefunded bank card. Any terms

and conditions must be disclosed in a separate writing prior to the initial issuance and referenced on the prefunded bank card; [2005, c. 357, §5 (new).]

H. The amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

I. Property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

J. Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

K. Property held by a court, government, governmental subdivision, agency or instrumentality, one year after the property becomes distributable; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

L. Wages or other compensation for personal services, one year after the compensation becomes payable; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

M. A deposit or refund owed to a subscriber by a utility or by a competitive electricity provider, one year after the deposit or refund becomes payable; [1999, c. 657, §17 (amd).]

N. Property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, including property described in this subsection, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; [1999, c. 284, §2 (amd).]

O. All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs; [2003, c. 20, Pt. T, §22 (amd).]

P. Notwithstanding paragraph E, property contained in a prearranged funeral or burial plan described in Title 32, section 1401, including deposits containing funds from such a plan, 3 years after the death of the person on whose behalf funds were paid into the plan; and [2001, c. 439, Pt. L, §3 (amd).]

Q. Property distributable in the course of a demutualization or related reorganization of an insurance company, 2 years after the earlier of:

(1) The date of the distribution of the property; or

(2) The date of last contact with a policyholder.

[2001, c. 439, Pt. L, §4 (new).]

[2005, c. 357, §§4, 5 (amd).]

2. All other property rights presumed abandoned. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned. [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

3. Unclaimed. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or the holder's representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner. [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

4. Indication of interest. An indication of an owner's interest in property includes:

A. The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

B. Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

C. The making of a deposit to or withdrawal from a bank account; [1999, c. 284, §4 (amd).]

D. The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions; and [1999, c. 284, §4 (amd).]

E. For deposits in which the apparent owner has another relationship or account with the holder:

(1) The fact that the apparent owner has indicated an interest with respect to the other relationships or accounts; or

(2) The fact that there is a memorandum or other record on file prepared by the holder indicating that the holder has communicated in writing with the apparent owner with regard to the deposit at the address to which communication regarding the other relationships or deposits are regularly sent.

[1999, c. 284, §5 (new).]

[1999, c. 284, §§4, 5 (amd).]

5. Payable or distributable. Property is payable or distributable for purposes of this Act notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment. [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

....

§1955. Rules for taking custody

Except as otherwise provided in this Act or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if: [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

1. Apparent owner in this State. The last known address of the apparent owner, as shown on the records of the holder, is in this State; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

2. Person entitled to property in this State. The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this State; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

3. Person entitled or holder in this State. The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

A. The last known address of the person entitled to the property is in this State; or [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

B. The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the State of the last known address of the apparent owner or other person entitled to the property; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

[1997, c. 508, Pt. A, §2 (new); §3 (aff).]

4. Apparent owner in another state. The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State or when the holder has failed to report or remit the property to the state of the last known address of the apparent owner, in which case the State may take custody of that property temporarily on behalf of the state of the last known address of the apparent owner; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

5. Apparent owner in foreign country. The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State; [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

6. Transaction in this State. The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

7. Traveler's check. The property is a traveler's check or money order purchased in this State, or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased. [1997, c. 508, Pt. A, §2 (new); §3 (aff).]

....

TITLE 34-A

Sex Offender Registration and Notification

....

§11222. Duty of registrant

1. Determination by court. An offender has a duty to register under this chapter after notification has been given to the offender by a court of jurisdiction, the department, the bureau or a law enforcement agency. A court shall notify the offender at the time of sentence of the duty to register pursuant to this chapter. Notification of the duty to register under this chapter also may be given to the offender at any time after the imposition of sentence.

At any time, the bureau may correct the term of a registration erroneously assigned to an offender or registrant. In such instances, the bureau shall notify the offender or registrant, the district attorney and court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.[2009, c. 365, Pt. B, §15 (rpr).]

1-A. When duty to register must be exercised. Following notification by a court, the department, the bureau or a law enforcement agency under subsection 1, an offender shall register as follows.

A. If the offender is sentenced to a wholly suspended sentence with probation or administrative release, or to a punishment alternative not involving imprisonment, the duty to register is triggered at the time the person commences in actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment is imposed, unless the court orders a stay of execution, in which event the duty is triggered by the termination of the stay. [2009, c. 365, Pt. B, §15 (amd).]

B. If the offender is sentenced to a straight term of imprisonment or to a split sentence, the duty to register is triggered by discharge or conditional release. [2009, c. 365, Pt. B, §15 (amd).]

C. If the offender is committed under Title 15, section 103, the duty to register is triggered by discharge or conditional release under Title 15, section 104-A. [2009, c. 365, Pt. B, §15 (amd).]

D. If the events stated in paragraphs A to C have passed, an offender must register within 5 days after having received notice of that duty from a court, the department, the bureau or a law enforcement agency. [2009, c. 365, Pt. B, §15 (new).]

E. Proof that the name and date of birth of the person notified of the duty to register pursuant to this chapter are the same as those of a person who has been convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person notified of the duty to register is the same person as that person convicted of the offense requiring registration. [2009, c. 365, Pt. B, §15 (new).]

1-B. Duty to notify law enforcement agency. An offender shall notify the law enforcement agency having jurisdiction in those areas where the offender is domiciled, resides, works or attends school within 24 hours of becoming a domiciliary or a resident or beginning work or attending school. If the location is a municipality with an organized municipal police department, the law enforcement agency having jurisdiction is the municipal police department. If the location is a school having an organized police department, the law enforcement agency having jurisdiction is the campus police department. If the location is neither a municipality nor a school with an organized police department, the law enforcement agency having jurisdiction is the sheriff's department. [2009, c. 365, Pt. B §15 (amd).]

2. Responsibility of ensuring initial registration. The department, the county jail or the state mental health institute that has custody of an offender shall inform the offender, prior to discharge or conditional release, of the duty to register. If an offender does not serve a period of institutional confinement, the court

shall inform the offender at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

A. Inform the offender of the duty to register and obtain the information required for the initial registration; [2009, c. 365, Pt. B §15 (amd).]

A-1. Inform the offender of the requirement to notify the law enforcement agency having jurisdiction pursuant to subsection 1-B; [2009, c. 365, Pt. B §15 (amd).]

B. Inform the offender that if the offender changes domicile or changes residence, place of employment or college or school being attended, the offender shall give the new address to the bureau in writing within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours; [2009, c. 365, Pt. B §15 (amd).]

C. Inform the offender that if that offender changes domicile to another state, the offender shall register the new address with the bureau and if the new state has a registration requirement, the offender shall register with a designated law enforcement agency in the new state not later than 5 days after establishing domicile in the new state; [2009, c. 365, Pt. B §15 (amd).]

D. Inform the offender that if that offender has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that offender enrolls in any type of school in another state on a part-time or full-time basis, the offender shall give the bureau the offender's place of employment or school to be attended in writing within 5 days after beginning work or attending school and if the other state has a registration requirement, shall register with the designated law enforcement agency in the other state; [2009, c. 365, Pt. B §15 (amd).]

E. Obtain fingerprints and a photograph of the offender or the court may order the offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency within 3 days if the fingerprints and photograph have not already been obtained in connection with the offense that necessitates registration; and [2009, c. 365, Pt. B §15 (amd).]

F. Enforce the requirement that the offender read and sign a form provided by the bureau that states that the duty of the offender to register under this section has been explained. [2009, c. 365, Pt. B §15 (amd).]

[2009, c. 365, Pt. B §15 (amd).]

2-A. Duty of registrant sentenced from June 30, 1992 to September 17, 1999 to register. Notwithstanding subsection 1 and except as provided in subsection 2-B, a person coming within the definition of a 10-year registrant or lifetime registrant who has been sentenced on or after June 30, 1992 but before September 18, 1999 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or lifetime registrant, whichever is applicable, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender shall register with the bureau within 5 days of notice. [2009, c. 365, Pt. B §15 (amd).]

2-B. Duty to register for new crimes. For a person otherwise subject to subsection 2-A who has been sentenced for a crime added by an amendment to the definition of sex offense or sexually violent offense in section 11203 since September 1, 2002, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency, that person shall register as a 10-year registrant or a lifetime registrant, whichever is applicable. The offender shall register with the bureau within 5 days of notice. [2009, c. 365, Pt. B §15 (amd).]

2-C. Duty of registrant sentenced from January 1, 1982 to June 29, 1992 to register. Notwithstanding subsection 1, a person who meets the definition of a 10-year registrant or a lifetime registrant who has been sentenced on or after January 1, 1982 but before June 30, 1992 for a sex offense or a sexually violent offense shall register either as a 10-year registrant or a lifetime registrant, whichever is applicable, if the duty to register has been triggered under subsection 1-A, paragraph A, B or C, and the offender has been notified of the duty to register by a court of jurisdiction, the department, the bureau or a law enforcement agency. The offender shall register with the bureau within 5 days of notice. [2009, c. 365, Pt. B §15 (amd).]

3. Transfer of initial registration information to bureau and FBI. The department, county jail, state mental health institute or court within 3 days of receipt of the information described in subsection 2 shall forward the information to the bureau. If the court orders the offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency, the law enforcement agency shall submit the fingerprints and photograph to the bureau within 3 days. The bureau shall immediately enter the information into the registration system, notify the law enforcement agencies having jurisdiction where the offender expects to be domiciled and reside and transmit the information to the FBI for inclusion in the national FBI sex offender database. [2009, c. 365, Pt. B §15 (amd).]

4. Verification. During the period a registrant sentenced on or after September 18, 1999 is required to register, the bureau shall require the registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant on each anniversary of the 10-year registrant's initial registration date and shall verify a lifetime registrant's registration information every 90 days after that lifetime registrant's initial registration date. Verification of the registration information of a 10-year registrant or lifetime registrant occurs as set out in this subsection.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities. [2005, c. 423, §17 (amd).]

B. [2005, c. 423, §17 (rp).]

C. The registrant shall take the completed verification form and a current photograph of the registrant to the law enforcement agency having jurisdiction within 5 days of receipt of the form. [2009, c. 570, §2 (amd).]

D. The law enforcement agency having jurisdiction shall verify the registrant's identity, have the registrant sign the verification form, take the registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau. [2003, c. 711, Pt. C, §21 (amd); Pt. D, §2 (aff).]

[2009, c. 570, §2 (amd).]

4-A. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a 10-year registrant. During the period a 10-year registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the 10-year registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a 10-year registrant in writing as provided by the bureau on each anniversary of the 10-year registrant's initial registration date and once every 5 years in person. Verification of the registration information of a 10-year registrant occurs as set out in this subsection.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the 10-year registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The 10-year registrant shall mail to the bureau the completed written verification form and a current photograph on each anniversary of the 10-year registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the 10-year registrant shall take the completed verification form and a current photograph of the 10-year registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the 10-year registrant's initial registration or, if there is a reason to believe the offender's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the 10-year registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction or the bureau, to submit a new photograph without appearing in person.[2011, c. 420, §C-4 (amd).]

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the 10-year registrant's identity, have the 10-year registrant sign the verification form, take the registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

[2009, c. 570, §3 (new).]

4-B. Verification for person sentenced on or after January 1, 1982 and prior to September 18, 1999 who is a lifetime registrant. During the period a lifetime registrant sentenced on or after January 1, 1982 and prior to September 18, 1999 is required to register, the bureau shall require the lifetime registrant to verify registration information including domicile, residence, mailing address, place of employment and college or school being attended. The bureau shall verify the registration information of a lifetime registrant in writing as provided by the bureau every 90 days after that lifetime registrant's initial registration date and once every 5 years in person. Verification of the registration information of a lifetime registrant occurs as set out in this subsection.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the lifetime registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The lifetime registrant shall mail to the bureau the completed written verification form and a current photograph every 90 days after that lifetime registrant's initial registration date within 5 days of receipt of the form, except as provided in paragraph C.

C. In lieu of mailing the completed verification form under paragraph B, the lifetime registrant shall take the completed verification form and a current photograph of the lifetime registrant to the law enforcement agency having jurisdiction once every 5 years after the anniversary of the lifetime registrant's initial registration or, if there is a reason to believe the lifetime registrant's appearance has changed significantly, the law enforcement agency having jurisdiction or the bureau may instruct the lifetime registrant in writing:

(1) To appear in person at the law enforcement agency having jurisdiction with a current photograph or to allow a photograph to be taken; or

(2) If authorized in writing by the law enforcement agency having jurisdiction or the bureau, to submit a new photograph without appearing in person. [2011, c. 420, §C-5 (amd).]

D. Whenever in-person verification is mandated pursuant to paragraph C, the law enforcement agency having jurisdiction shall verify the lifetime registrant's identity, have the lifetime registrant sign the verification form, take the lifetime registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

[2009, c. 570, §4 (new).]

5. Change of domicile, residence, place of employment or college or school being attended. An offender shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within 5 days and shall notify the law enforcement agency having jurisdiction within 24 hours after changing that domicile, residence, place of employment or college or school being attended.

A. If the offender establishes a new domicile, residence, place of employment or college or school being attended in the State, the bureau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the offender was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender is currently domiciled, residing, employed or enrolled. [2009, c. 365, Pt. B §15 (amd).]

B. If the offender establishes a domicile, residence, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the offender was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender is currently domiciled, residing, employed or enrolled. [2009, c. 365, Pt. B §15 (amd).]

[2009, c. 365, Pt. B §15 (amd).]

....

§11224. Duty of person employed or attending college or school

The following provisions govern registration duties for a person not domiciled or residing in this State but who is employed or attending college or school in this State. [2005, c. 423, §20 (rpr).]

1. Time. A person who has been sentenced at any time for a military, tribal or federal offense requiring registration pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248; or in a jurisdiction other than this State and who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in that jurisdiction or, if not so required, who has been sentenced on or after January 1, 1982 for an offense that includes the essential elements of a sex offense or a sexually violent offense shall register as a 10-year registrant or lifetime registrant, whichever is applicable, within 5 days and shall notify the law enforcement agency having jurisdiction:

A. Within 24 hours of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year in this State; or [2005, c. 423, §20 (new).]

B. Within 24 hours of beginning college or school on a full-time or part-time basis in this State. [2005, c. 423, §20 (new).]

[2009, c. 365, Pt. B §15 (amd).]

2. Process for notifying bureau. The person under subsection 1 shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau. [2005, c. 423, §20 (new).]

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TITLE 34-B

Military Bureau - Penalties

....

§342. Prohibited acts; penalties

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5. Employment; leave of absence. It is unlawful for any public or private employer to penalize any member of the National Guard or the Reserves of the United States Armed Forces, with regard to compensation, hiring, tenure, terms, conditions, or privileges of employment or to deny any other incident or advantage of employment due to the employee's membership or participation in the National Guard or the Reserves of the United States Armed Forces.

A. Any person, including an employer described in this subsection, who willfully deprives a member of the National Guard or the Reserves of the United States Armed Forces, of the member's employment, prevents the member's employment, interferes with the member's employment rights as described in this subsection, or otherwise obstructs the member or the member's employer with respect to the member's occupation or business because of the member's membership in the National Guard or the Reserves of the United States Armed Forces, or who dissuades any person from enlisting in, the National Guard or the Reserves of the United States Armed Forces by threat of injury to the member's occupation or business, is guilty of a Class E crime. [2001, c. 662, §36 (amd).]

B. All officials and employees of the State who are members of the National Guard or the Reserves of the United States Armed Forces must have a leave of absence not to exceed 17 work days each calendar year from their respective duties, without loss of pay or time, when performing military duty and without loss of time or leave for all other military duty, during which the members are so engaged. [2003, c. 583, §7 (amd).]

[2003, c. 583, §7 (amd).]

6. Discrimination against members of the National Guard or Reserves of the United States Armed Forces. Anyone who discriminates against personnel of the National Guard or the Reserves of the United States Armed Forces must be punished as follows.

A. No association or corporation organized to promote the trade, occupation or business of its members may by a rule or act discriminate against any member of the National Guard or the Reserves of the United States Armed Forces with respect to the member's eligibility for membership in the association or corporation, nor the member's right to retain the member's membership. Whoever aids in enforcing a rule or action against a member of the National Guard or the Reserves of the United States Armed Forces, with intent to discriminate against the member, is guilty of a Class E crime. [2001, c. 662, §37 (amd).]

B. Whoever without good cause discriminates against any uniformed member of the National Guard or the Reserves of the United States Armed Forces with respect to the enjoyment of any public place of amusement, the use of any public conveyance, access to public lodging or the receipt of other services generally available to the public is guilty of a Class E crime. [2001, c. 662, §37 (amd).]

[2001, c. 662, §37 (amd).]

....

TITLE 35-A

Utility Facilities in the Public Way

...

§2301-A. University of Maine System may install lines on existing facilities.

The University of Maine System may install wires or lines on existing utility facilities located within or along a public right-of-way for the purpose of transmitting data and communications between and among University of Maine System facilities and partnering entities, wherever located, subject to the conditions and restrictions provided in this chapter and chapter 25. For purposes of this section, "lines" does not include utility poles and "partnering entities" means organizations, wherever located, authorized to use

the university's regional optical network for education and research institutions or other university data and communications systems. [2007, c. 268, §1 (new)]

Regulation of Facilities in the Public Way

§2501. Applicability.

...

2. Applicability of section 2503. Except as otherwise provided, a person may not construct facilities upon and along highways and public roads without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; the University of Maine System, for purposes described in section 2301-A; every dark fiber provider for the purposes of constructing and maintaining its federally supported dark fiber; and any other person engaged in telecommunications or the transmission of heat or electricity. [2009, c. 612, §8 (amd)]

Electric Industry Restructuring

....

§3210. Renewable resources

1. Policy. In order to ensure an adequate and reliable supply of electricity for Maine residents and to encourage the use of renewable, efficient and indigenous resources, it is the policy of this State to encourage the generation of electricity from renewable and efficient sources and to diversify electricity production on which residents of this State rely in a manner consistent with this section. [1999, c. 398, Pt. I, §1 (amd).]

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

A. "Efficient resource" means a source of electrical generation that:

(1) Qualifies as a qualifying cogeneration facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997, was constructed prior to January 1, 1997 and meets the following efficiency standard:

(a) During any calendar year, the sum of the useful power output and the useful thermal energy output of the facility is no less than 60% of the total energy input to the facility.

For purposes of this paragraph, the term "useful power output" means the electrical or mechanical energy made available for use, exclusive of any energy used in the power production process. For purposes of this paragraph, the term "useful thermal energy" means thermal energy made available to an industrial or commercial process, net of any heat contained in condensate return and makeup

water, used in a heating application or used in a space cooling application. [1999, c. 398, Pt. I, §2 (rpr).]

A-1. "Alternative compliance payment rate" means a certain dollar amount per kilowatt-hour set by the commission that a competitive electricity provider may pay to the commission to satisfy the portfolio requirements of subsection 3-A. [2007, c. 403, §1 (new).]

B. "Eligible resource" means a source of electrical generation that:

(1) Generates power that can physically be delivered to the control region in which the New England Power Pool, or its successor as approved by the Federal Energy Regulatory Commission, has authority over transmission, or to the Maritimes Control Area; and

(2) Is either a renewable resource or an efficient resource.

[1999, c. 398, Pt. I, §2 (rpr).]

B-1. [2009, c. 542, §1 (REPEALED).]

B-2. "Renewable energy credit" means a tradable instrument that represents an amount of electricity

generated from eligible resources or renewable capacity resources. [2009, c. 542, §2 (amd).]

B-3. "Renewable capacity resource" means a source of electrical generation:

(1) Whose total power production capacity does not exceed 100 megawatts and relies on one or more of the following:

- (a) Fuel cells;
- (b) Tidal power;
- (c) Solar arrays and installations;
- (d) Geothermal installations;
- (e) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator; or
- (f) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(2) That relies on wind power installations. [2009, c. 542, §3 (new).]

B-4. "New" as applied to any renewable capacity resource means a renewable capacity resource that:

- (1) Has an in-service date after September 1, 2005;
- (2) Was added to an existing facility after September 1, 2005;
- (3) For at least 2 years was not operated or was not recognized by the New England independent system operator as a capacity resource and, after September 1, 2005, resumed operation or was recognized by the New England independent system operator as a capacity resource; or

- (4) Was refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

For the purposes of this paragraph, "capacity resource" has the same meaning as in section 3210C, subsection 1, paragraph A. For the purposes of this paragraph, "to refurbish" means to make an investment in equipment or facilities, other than for routine maintenance and repair, to renovate, reequip or restore the renewable capacity resource. [2011, c. 413, §1 (amd).]

C. "Renewable resource" means a source of electrical generation:

- (1) That qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997; or
- (2) Whose total power production capacity does not exceed 100 megawatts and that relies on one or more of the following:
 - (a) Fuel cells;
 - (b) Tidal power;
 - (c) Solar arrays and installations;
 - (d) Wind power installations;
 - (e) Geothermal installations;
 - (f) Hydroelectric generators;
 - (g) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; ; or
 - (h) Generators fueled by municipal solid waste in conjunction with recycling.

[2009, c. 542, §5 (amd).]

3. Portfolio requirements. As a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that no less than 30% of its portfolio of supply sources for retail electricity sales in this State is accounted for by eligible resources. If a competitive electricity provider represents to a customer that the provider is selling to the customer a portfolio of supply sources that includes more than 30% eligible resources, the resources necessary to supply more than 30% of that customer's load may not be applied to meet the aggregate 30% portfolio requirement. Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A. [1999, c. 398, Pt. I, §3 (amd).]

3-A. Portfolio requirements; new renewable capacity resources. Portfolio requirements for new renewable capacity resources are governed by this subsection. [2007, c. 403, §4 (new).]

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;

- (4) Four percent for the period from January 1, 2011 to December 31, 2011;
- (5) Five percent for the period from January 1, 2012 to December 31, 2012;
- (6) Six percent for the period from January 1, 2013 to December 31, 2013;
- (7) Seven percent for the period from January 1, 2014 to December 31, 2014;
- (8) Eight percent for the period from January 1, 2015 to December 31, 2015;
- (9) Nine percent for the period from January 1, 2016 to December 31, 2016; and
- (10) Ten percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3. [2009, RR 2, §20 (amd).]

B. Suspensions of scheduled increases in the portfolio requirements as provided in paragraph A are governed by this paragraph.

- (1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission determines that investment in new renewable capacity resources in the preceding 2 calendar years has not been sufficient for competitive electricity providers to meet the portfolio requirements under paragraph A and that the resulting use of renewable energy credits pursuant to subsection 8 or the alternative compliance payment mechanism pursuant to subsection 9, or both of these methods, has burdened electricity customers in the State without providing the benefits of new renewable capacity resources, the commission may suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.
- (2) If the commission finds that alternative compliance payments are made pursuant to subsection 9 in 3 consecutive calendar years, the commission shall temporarily suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.
- (3) If the commission suspends any scheduled increases in the portfolio requirements under paragraph A pursuant to subparagraph (1) or (2), the commission may resume increases, limited to no more than one percentage point per year over the previous year, in the portfolio requirements after a minimum of one year. [2007, c. 403, §4 (new).]

C. No later than March 31, 2008 and annually thereafter, the commission shall submit a report regarding the status of new renewable capacity resources in the State and compliance with the portfolio requirements under paragraph A to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters. The report must include, but is not limited to, a description of new renewable capacity resources available to meet the portfolio requirements under paragraph A, documentation of the loss of any existing renewable generation capacity in the State, the status of implementation of the new renewable capacity resources portfolio requirements, including any suspensions pursuant to paragraph B, and recommendations to stimulate investment in new renewable capacity resources. [2007, c. 403, §4 (new).]

D. Retail electricity sales pursuant to a supply contract or standard-offer service arrangement executed by a competitive electricity provider that is in effect on the effective date of this subsection is exempt from the requirements of this subsection until the end date of the current term of the supply contract or standard-offer service arrangement. [2007, c. 403, §4 (NEW).]

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection

are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 403, §4 (new) .]

4. Report. In view of property tax benefits, developments in other states and the development of a market for tradable credits for satisfying eligible resource requirements, the commission shall review the 30% portfolio requirement and make a recommendation for any change to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters no later than 5 years after the beginning of retail competition. [1999, c. 398, Pt. I, §3 (amd).]

5. 5. Funding for research and development; community demonstration projects. The commission by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund community demonstration projects using renewable energy technologies. The program must:

- A. Include 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 commission;
- C. Provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development;
- D. Provide for a distribution of the funds to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30A, section 2351, community-based renewable energy projects, as defined in section 3602, subsection 1 and school administrative units as defined in Title 20A, 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.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2A.

This subsection is repealed July 1, 2010. [2009, c. 565, §1 (rpr).]

6. [2009, c. 565, §2 (REPEALED).]

6-A. [2009, c. 565, §3 (REPEALED).]

7. Information. 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. 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. [2011, c. 283, §1 (amd) .]

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists. When renewable energy credits are used to satisfy the portfolio requirements of subsections 3 and 3-A, the value of a renewable energy credit for electricity generated by a community-based renewable energy project, as defined in section 3602, that is participating in the community-based renewable energy pilot program established in section 3603 and elects the renewable energy credit multiplier under section 3605 is 150% of the amount of the electricity. [2009, c. 329, §A-2 (amd).]

9. Alternative compliance payment; portfolio requirements for new renewable capacity resources. The commission shall allow competitive electricity providers to satisfy the portfolio requirements for new renewable capacity resources under subsection 3-A through an alternative compliance payment mechanism in accordance with this subsection.

A. The commission shall set the alternative compliance payment rate by rule and shall publish the alternative compliance payment rate by January 31st of each year. In setting the rate, the commission shall take into account prevailing market prices, standard-offer service prices for electricity, reliance on alternative compliance payments to meet the requirements of subsection 3-A and investment in new renewable capacity resources in the State during the previous calendar year. [2007, c. 403, §7 (new).]

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 6 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. [2011, c. 314, §1 (amd).]

The commission shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 403, §7 (new) .]

....

Telecommunications

....

§7104-B. Access to information services

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

A. "Qualified library" means a public library as defined in Title 27, section 110, subsection 10; a research center as defined in Title 27, section 110, subsection 12; or a library that provides free public access to all advanced telecommunications services available at that library and whose collection serves as a statewide resource, if the commission determines, in consultation with the Maine Library Commission, that including that library as a qualified library is in the public interest. [1999, c. 409, §2 (new).]

B. "Qualified school" means a public school as defined in Title 20-A, section 1, subsection 24; a private school approved under Title 20-A, section 2901 or 2951; or a school that provides free public access to all advanced telecommunications services available at that school, if the commission determines, in consultation with the Department of Education, that including that school as a qualified school is in the public interest. [1999, c. 409, §2 (new).]

C. "Telecommunications carrier" and "telecommunications service" have the same meanings as set forth in 47 United States Code, Section 153. [1999, c. 409, §2 (new).]

[1999, c. 409, §2 (new).]

2. Authority. Pursuant to the authority granted in section 7104 and in order to carry out the policy goals established by section 7101, subsections 1, 2 and 4, the commission shall establish a telecommunications education access fund, referred to in this section as the "fund," and require all telecommunications carriers offering telecommunications services in the State and any other entities identified by the commission pursuant to subsection 8 to contribute to the fund. The fund must be available, with any accumulated interest, to qualified libraries, qualified schools and the Raymond H. Fogler Library at the University of Maine to assist in paying the costs of acquiring and using advanced telecommunications technologies. [2001, c. 522, §1 (amd).]

3. Limitations. In carrying out the authority granted by subsection 2, the commission shall:

A. Limit the amount collected to no more than 0.7% of retail charges for telecommunications services as determined by the commission, excluding interstate tolls or interstate private line services; [2005, c. 251, §1 (amd).]

B. Ensure that the funds are collected in a competitively neutral manner; [1999, c. 409, §2 (new).]

C. Integrate the collection of the charge with any state universal service fund developed by the commission; [1999, c. 409, §2 (new).]

D. Require explicit identification on customer bills of any charge imposed under this section; and [1999, c. 409, §2 (new).]

E. Commence any assessment for this fund no earlier than July 1, 2001. [1999, c. 409, §2 (new).]

[2005, c. 251, §1 (amd).]

4. Use of fund. The fund must be used to provide discounts to qualified libraries, qualified schools and the Raymond H. Fogler Library at the University of Maine for the following:

A. Telecommunications services; [1999, c. 409, §2 (new).]

B. Internet access; [1999, c. 409, §2 (new).]

C. Internal connections; [1999, c. 409, §2 (new).]

D. Computers; [2001, c. 522, §2 (amd).]

E. Training; and [2001, c. 522, §2 (amd).]

F. Content. [2001, c. 522, §2 (new).]

[2001, c. 522, §2 (amd).]

4-A. State Librarian; Commissioner of Education. The State Librarian or the Commissioner of Education may enter into contracts or order services on behalf of qualified schools and qualified libraries in connection with the fund and may take advantage of any discounts available pursuant to the federal Telecommunications Act of 1996. [2009, c. 274, §18 (new).]

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; [1999, c. 409, §2 (new).]

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; [2001, c. 522, §2 (amd).]

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; [1999, c. 409, §2 (new).]

D. To provide for necessary equipment to use the services obtained through the fund; [1999, c. 409, §2 (new).]

E. To provide for internal connections necessary to use the services obtained through the fund; [1999, c. 409, §2 (new).]

F. To provide training to teachers so that they may assist and educate their students in the use of the advanced technology equipment; [2001, c. 522, §2 (amd).]

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 [2001, c. 522, §2 (amd).]

H. To provide for electronic database content to be used for the purposes of accessing information by schools and libraries. [2001, c. 522, §2 (new).]

[2011, c. 54, §1 (amd).]

6. Coordination with federal funds. Except as provided in paragraph A, qualified schools and qualified libraries shall apply for any federal discounts available pursuant to the federal Telecommunications Act of 1996. The level of discount, pursuant to subsection 4, is determined by the commission.

A. A qualified library is not required to apply for a federal discount pursuant to the federal Telecommunications Act of 1996 if the library determines that satisfying conditions for receiving that discount would substantially compromise the library's standards or mission. If the qualified library does not receive a federal discount as a result of a determination made in accordance with this paragraph, the commission shall establish an enhanced level of discount pursuant to subsection 4 to ensure the library is not substantially disadvantaged by that determination. The commission shall establish a level of discount that mitigates, to the maximum extent the commission determines

appropriate, the financial impact on the library resulting from its not receiving the federal discount. [2003, c. 673, Pt. III, §1 (new).]

[2003, c. 673, Pt. III, §1 (amd).]

7. Coordination with existing facilities. Any existing facilities developed to provide services to qualified schools, qualified libraries and the Raymond H. Fogler Library at the University of Maine, as directed by the commission under this section, must continue to provide services to qualified schools, qualified libraries and the Raymond H. Fogler Library at the University of Maine at rates that reflect the incremental costs to use those facilities. [2001, c. 522, §2 (amd).]

8. Review by commission. The commission shall periodically examine the services provided and entities assessed a fee under this section. The purpose of the review is to ensure that the fees assessed under this section are competitively neutral by including services provided by any entity, including but not limited to cable television companies, Internet service providers or any other relevant business, to the extent that those entities offer services that provide a method of delivering 2-way interactive communications services comparable to those offered by telecommunications carriers. In accordance with subsection 2, the assessment of fees on entities that provide services other than 2-way interactive communications services comparable to those offered by telecommunications carriers must be based on the entities' retail charges for delivering 2-way interactive communications, excluding interstate toll and interstate private line services, and may not be related to other services provided by the entity. [1999, c. 409, §2 (new).]

....

§ 10121. Renewable Resource Fund

1. Funding for renewable resource research and development; community demonstration projects. 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. 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 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 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 30A, section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20A, 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.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2A. [2009, c. 565, §7 (new).]

TITLE 36

Training of Assessors

§318. Training of assessors

The State Tax Assessor may establish, either on the assessor's own initiative or in conjunction with professional or educational agencies, or both, a program of training to meet the needs of the State of Maine for a sufficient supply of competently trained assessors. Where possible, such training must be conducted by the Margaret Chase Smith Center for Public Policy of the University of Maine System or an institution of higher education. For such purposes, the State Tax Assessor may designate what programs either within or outside the State are acceptable for these training purposes. [1993, c. 78, §4 (amd).]

Primary assessing units may expend funds for educational and training activities, including reimbursement for tuition, travel, meals, lodging, textbooks and miscellaneous instructional expenses. In addition, upon authorization of the executive committee of the primary assessing area, leaves of absence with pay may be approved for this purpose. The Bureau of Revenue Services may expend funds for training activities. [P&SL 1975, c. 78, §21 (amd); 1997, c. 526, §14 (amd).]

Tree Growth Tax Law

....

§572. Purpose

It has for many years been the declared public policy of the State of Maine, as stated in sections 563 and 564, to tax all forest lands according to their productivity and thereby to encourage their operation on a sustained yield basis. However, the present system of ad valorem taxation does not always accomplish that objective. It has caused inadequate taxation of some forest lands and excessive taxation and forfeiture of other forest lands. [1979, c. 127, § 196 (amd).]

It is declared to be the public policy of this State that the public interest would be best served by encouraging forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource. [1971, c. 616, § 8 (new).]

This subchapter implements the 1970 amendment of Section 8 of Article IX of the Maine Constitution providing for valuation of timberland and woodlands according to their current use by means of a classification and averaging system designed to provide efficient administration. [1973, c. 308, § 1 (new).]

Therefore, this subchapter is enacted for the purpose of taxing forest lands generally suitable for the planting, culture and continuous growth of forest products on the basis of their potential for annual wood production in accordance with the following provisions. [1971, c. 616, § 8 (new).]

....

§576-B. Discount factor and capitalization rate

The percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 must be reduced to reflect the growth that can be extracted on a sustained basis is 10%. The capitalization rate applied to the value of the annual net wood production pursuant to section 576 is 8.5%. [1997, c. 504, §7 (rpr).]

....

Taxation

....

§652. Property of institutions and organizations

1. Property of institutions and organizations. The property of institutions and organizations is exempt from taxation as provided in this subsection. [2007, c. 627, §20 (amd).]

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State are exempt from taxation. Such an institution may not be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit the funds are applied.

For the purposes of this paragraph, "benevolent and charitable institutions" includes, but is not limited to, nonprofit nursing homes licensed by the Department of Health and Human Services pursuant to Title 22, chapter 405, nonprofit residential care facilities licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663, nonprofit community mental health service facilities licensed by the Commissioner of Health and Human Services pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" refers to an institution that has been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c)(3) of the Code; [2007, c. 627, §20 (amd).]

B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions are exempt from taxation. If any building or part of a building is used primarily for employee housing, that building, or that part of the building used for employee housing, is not exempt from taxation. [2007, c. 627, §20 (amd).]

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this section must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require;

....

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as

follows: Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or mental retardation;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code.

[2007, c. 627, §20 (amd)]

D. [1979, c. 467, §3 (rp).]

E. The real estate and personal property owned, occupied and used for their own purposes by posts of the American Legion, Veterans of Foreign Wars, American Veterans, Sons of Union Veterans of the Civil War, Disabled American Veterans and Navy Clubs of the U.S.A., that are used solely by those organizations for meetings, ceremonials or instruction, or to further the charitable activities of the organization, including all facilities that are appurtenant to that property and used in connection with those purposes, are exempt from taxation. If an organization is not the sole occupant of the property, the exemption granted under this paragraph applies only to that portion of the property owned, occupied and used by the organization for its purposes. [2007, c. 627, §20 (amd)]

Further conditions to the right of exemption are that:

REVISION NOTE: Preceding paragraph beginning with the word "Further" should be blocked to paragraph E.

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

[2007, c. 627, § 20 (amd).]

F. The real estate and personal property owned and occupied or used solely for their own purposes by chambers of commerce or boards of trade in this State are exempt from taxation.

Further conditions to the right of exemption are that:

(1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;

(2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

[2007, c. 627, §20 (amd).]

G. Houses of religious worship, including vestries, and the pews and furniture within them; tombs and rights of burial; and property owned and used by a religious society as a parsonage up to the value of \$20,000, and personal property not exceeding \$6,000 in value are exempt from taxation, except that any portion of a parsonage that is rented is subject to taxation. For purposes of this paragraph, "parsonage" means the principal residence provided by a religious society for its cleric whether or not the principal residence is located within the same municipality as the house of religious worship where the cleric regularly conducts religious services. [2007, c. 627, § 20 (amd).]

H. Real estate and personal property owned by or held in trust for fraternal organizations, except college fraternities, operating under the lodge system that are used solely by those fraternal organizations for meetings, ceremonials, or religious or moral instruction, including all facilities that are appurtenant to that property and used in connection with those purposes are exempt from taxation. If a building shall not be used in its entirety for such purposes, but shall be is used in part

for those purposes and in part for any other purpose, only the part used for those purposes is exempt.

Further conditions to the right of exemption under this paragraph are that:

- (1) A director, trustee, officer or employee of any organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;
- (2) All profits derived from the operation of the organization and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized; and
- (3) The institution, organization or corporation claiming exemption under this paragraph must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require.

[2007, c. 627, §20 (amd).]

I. [1979, c. 467, §7 (rp).]

J. The real and personal property owned by one or more of the organizations in paragraphs A and B and E to H and occupied or used solely for their own purposes by one or more other such organizations are exempt from taxation. [2007, c. 627, §20 (amd).]

K. Except as otherwise provided in this subsection, the real and personal property leased by and occupied or used solely for its own purposes by an incorporated benevolent and charitable organization that is exempt from taxation under section 501 of the Code, as amended, and the primary purpose of which is the operation of a hospital licensed by the Department of Health and Human Services, a health maintenance organization or a blood bank are exempt from taxation. For property tax years beginning on or after April 1, 2012, the exemption provided by this paragraph does not include real property. [2009, c. 425, §1 (amd).]

L. Service charges. [2007, c. 627, § 20 (rep)]

An organization or institution that desires exemption under this section must make written application accompanied by written proof of entitlement for each parcel on or before the first day of April in the year in which the exemption is first requested with the assessors of the municipality in which the property would otherwise be taxable. If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer qualified. Proof of entitlement must indicate the specific basis upon which exemption is claimed. [2007, c. 627, §20 (amd).]

Notes of Decision to Title 36 s. 652

2. Construction - Taxation is rule and tax exemption is exception, and thus tax exemption statutes must be strictly construed, which means that all doubt and uncertainty as to meaning of statute and legislative intent must be weighed against exemption. Silverman v. Town of Alton (1982) Me., 451 A.2d 103.

Exemption from taxation, while entitled to reasonable interpretation in accordance with its purpose, is not to be extended to situations not clearly within scope of statutory provisions. Silverman v. Town of Alton (1982) Me., 451 A.2d 103.

7. Literary and scientific institutions. Where settlor's primary purpose in setting up wildlife trust was creation and maintenance of wildlife refuge or sanctuary, which in and of itself is not scientific institution or organization, incidental scientific objective to benefit university by permitting the use of premises in conjunction with certain academic or scientific programs of university was insufficient to qualify for exemption under this section exempting from taxation "real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions." Silverman v. Town of Alton (1982) Me., 451 A.2d 103.

9. College Fraternities. Under section 553 of this Title, providing for taxation of real estate against the person in possession, a university fraternity in possession of a chapter house, built on the campus under a contract to purchase from the university, was liable for taxes assessed against the property; the fraternity not being exempt as a literary or scientific institution within this section. Inhabitants of Orono v. Kappa Sigma Society (1911) 108 Me. 320, 80 A. 831.

A Greek letter fraternity maintaining a chapter house on the campus of the University of Maine was not entitled to exemption from property tax as an educational, literary or scientific institution. Inhabitants of Orono v. Sigma Alpha Epsilon Society (1909) 105 Me. 214, 74 A. 19.

20. Use or occupancy - Generally. Only such real property of literary and scientific institutions is exempt from taxation under this section, as is occupied for their own purposes, or by any officer thereof as a residence. Inhabitants of Orono v. Sigma Alpha Epsilon Society, (1909) 105 Me. 214, 74 A. 19.

19. Ownership - Where trust indenture, although tied in with purpose to benefit university, invested Trustees with such broad powers and active duties of management as to negate any possibility of viewing university's equitable title, so-called, as equivalent to meaning of ownership and occupation or use of property solely for its own purposes by university as scientific institution within intendment of this section, it did not create "dry trust" and did not compel finding of practical ownership of property by university; thus, Trustees did not establish right to tax exemption. Silverman V. Town of Alton (1982) Me., 451 A.2d 103.

....

Excise Tax on Motor Vehicles

....

§1483. Exemptions

The following are exempt from the excise tax:

....

8. Literary and scientific institutions. Vehicles owned and used solely for their own purposes by literary and scientific institutions that are entitled to exemption from property tax under section 652, subsection 1; [2009, c. 434, §20 (amd)]

....

Sales and Use Tax

§1752. Definitions. The following words, terms, and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

...

14-E. School. "School" means a public or incorporated nonprofit elementary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank. [2007, c. 438, §30 (amd)]

....

§1760. Exemptions

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with: [1999, c. 521, Pt. A, §6 (amd).]

....

6. Certain Meals. Sales of meals:

A. Served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school; [1979, c. 663, §220 (amd).]

B. To patients of institutions licensed by the Department of Health and Human Services for the hospitalization or nursing care of human beings, or to patients or residents of institutions licensed by the Department of Health and Human Services under Title 22, Subtitle 6 or Title 22, section 1781; [2007, c. 438, §33 (amd).]

C. By hospitals, schools, long-term care facilities, food contractors and restaurants to incorporated nonprofit area agencies on aging for the purpose of providing meals to the elderly; [1999, c. 502, §1 (amd).]

D. To residents of incorporated nonprofit church-affiliated congregate housing facilities for the elderly in which at least 75% of the units are available for leasing to eligible lower-income residents; [2007, c. 529, §1 (amd).]

E. Served by a college to its employees if the meals are purchased with debit cards issued by the college; [2011, c. 380, §DDDD-2 and c. 240, §17 (amd).]

F. Served by youth camps licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16; and [2011, c. 380, §DDDD-3 (amd).]

G. Served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the cost of the meals is included in or paid with a comprehensive fee that includes the right to reside in a residential dwelling unit and meals

or other services, whether that fee is charged annually, monthly, weekly or daily. [2011, c. 380, §DDDD-4 (amd).]

...

9. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. A purchase of 200 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection. [2009, c. 625, §7 (amd)]

...

9-B. Residential electricity. Sale and delivery of the first 750 kilowatt hours of residential electricity per month. For purposes of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels . Where residential electricity is furnished through one meter to more than one residential unit and where the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For purposes of this subsection, "delivery" means transmission and distribution; [2007, c. 438, §35 (amd)]

9-C. Residential gas. Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels . [2007, c. 438, §36 (amd)]

...

16. Hospitals, research centers, churches and schools. Sales to:

A. Incorporated hospitals;

B. Incorporated nonprofit nursing homes licensed by the Department of Health and Human Services;

C. Incorporated nonprofit residential care facilities licensed by the Department of Health and Human Services;

D. Incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Health and Human Services;

E. Incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended;

F. Incorporated nonprofit rural community health centers;

G. Incorporated nonprofit dental health centers;

G-1. Incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured; [2007, c. 416, §§1 and 2 (new)]

H. Incorporated nonprofit organizations organized for the sole purpose of conducting medical research;

I. Incorporated nonprofit organizations organized for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology;

J. Institutions incorporated as nonprofit corporations for the purpose of operating educational television or radio stations;

K. Schools;

L. Incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia; and

M. Regularly organized churches or houses of religious worship.

REPEALED AND REPLACED [2005, c. 622, §6 (RP)(new).]

....

19. Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school. [2003, c. 588, §7 (amd).]

20. Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days or more at any one hotel, rooming house, tourist camp or trailer camp if:

Tax paid by such a person to the retailer under section 1812 during the initial 28-day period must be refunded by the retailer. If the tax has been reported and paid to the State by the retailer, it may be taken as a credit by the retailer on the return filed by the retailer covering the month in which the refund was made to the tenant. [2007, c. 438, §37 (amd) .]

A. The person does not maintain a primary residence at some other location; or [1989, c. 588, Pt. E, (new).]

B. The person is residing away from that person's primary residence in connection with employment or education. [1989, c. 588, Pt. E, (new).]

...

21-A. Certain loaner vehicles. The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty. [2007, c. 627, § 47 (amd)]

....

23-D. Certain vehicles purchased or leased by qualifying resident businesses. The sale or lease of a motor vehicle, except an automobile rented for a period of less than one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.

For purposes of this subsection, "qualifying resident business" includes any individual, association, society, club, general partnership, limited partnership, limited liability company, trust, estate, corporation or any other legal entity that [2007, c. 410, §§4 and 6(new)] :

A. Is organized under the laws of this State or has its principal place of business in this State; and [2007, c. 410, §4 (NEW); §6 (AFF).]

B. Conducts business activities from a fixed location or locations outside the State. [2007, c. 410, §§4 and 6(new)]

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

...

26. Nonprofit fire departments and nonprofit ambulance services. Sales to incorporated nonprofit fire departments , sales to incorporated nonprofit ambulance services, sales to air ambulance services that are limited liability companies all of whose members are nonprofit organizations and sales of tangible personal property leased to air ambulance services that are limited liability companies all of whose members are nonprofit organizations. [2007, c. 419, §1 (amd)]

...

29. Water pollution control facilities. Sales of water pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility. [2007, c. 438, §42 (amd)]

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

A. "Disposal system" means any system used primarily for disposing of or isolating industrial or other waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial or other waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacture of products. [1973, c. 575, §1 (amd)]

B. "Facility" means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial or other waste, except septic tanks and the pipelines and leach fields connected or appurtenant thereto. [1973, c. 575, §1 (amd)]

C. "Industrial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any process, or the development of any process, of industry or manufacture. [1969, c. 471, (new)]

D. "Treatment works" means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial or other waste. [1973, c. 575, §1 (amd)]

30. Air pollution control facilities. Sales of air pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility. [2007, c. 438, §43 (amd)]

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

A. "Facility" means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial or other air pollutants.

Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person, and facilities designed or installed for the reduction or control of automobile exhaust emissions shall not be deemed air pollution control facilities for purposes of this subsection. [1973, c. 575, §2 (amd)]

...

39. Residential water. Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels . [2007, c. 438, §44 (amd)]

...

...

§1760-C. Exempt activities

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing property or services intended to be used by the holder primarily in the exempt activity. If the holder of an exemption certificate furnishes that certificate to a person for use in purchasing tangible personal property or taxable services that are physically incorporated in, and become a permanent part of, real property that is not used by the holder of the certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid tax against the holder of the certificate as provided in section 141. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes, except for those exemptions provided in section 1760, subsection 6, do not apply to the sale of meals or lodging or the rental of automobiles. [2009, c. 382, §B-33 (amd).]

....

Service Provider Tax

§2551. Definitions.

...

16. School. "School" means a public or incorporated nonprofit elementary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank. [2007, c. 438, §55 (amd)]

Blueberry Tax

§4301. Purpose

The production and marketing of wild blueberries is one of the most important agricultural industries of the State, and this chapter is enacted into law to conserve and promote the prosperity and welfare of this State and of the wild blueberry industry of this State by fostering research and extension programs, by supporting the development of promotional opportunities and other activities related to the wild blueberry industry. [1997, c. 511, §3 (amd).]

....

§4303-A. [2013, c. 331, §C-24 (REPEALED).]

....

§4311-A. Appropriations of money received

Money received from the tax levied by sections 4303 must be appropriated for the following purposes: [2013, c. 331, §c-29 (amd).]

1. Collection and enforcement. The commission shall pay a sum to the State Tax Assessor representing the cost incurred by the State in collection of the taxes imposed by this chapter and the enforcement of this chapter; [1997, c. 511, §18 (amd).]

1-A. Transfer, allocation and appropriation. Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4303, must be transferred to the Wild Blueberry Commission of Maine in its capacity as an independent agency on a monthly basis by the 15th of the month following collection and be used for all activities of the commission authorized under this chapter. All money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4303, must be allocated or appropriated to the commission by the Legislature. Money received by the commission does not lapse and may be invested until expended for activities authorized under this chapter; [2013, c. 331, §c-30 (amd).]

2. Promotion and advertising. The Wild Blueberry Commission of Maine may implement programs and activities to promote and advertise wild blueberries; and join with any local, state, federal or private agency, department, firm, corporation or association to implement the purposes of this section; [1997, c. 511, §18 (amd).]

3. Research and extension educational programs. Thirty percent of the funds collected, but not to exceed \$85,000, must be dedicated to the University of Maine System for the purpose of supplementing its research and extension programs related to improved methods of growing, harvesting, processing, product development and marketing of wild blueberries. The Wild Blueberry Commission of Maine may allocate

additional funds to the University of Maine System or other organizations for research and extension programs as may be appropriate to implement the purposes of this section; [1997, c. 511, §18 (amd).]

4. Administration and other activities. The commission may allocate funds necessary for the administration of this chapter and for other activities related to the economic viability of the Maine wild blueberry industry; and [1997, c. 511, §18 (amd).]

5. Balance of funds. Any funds remaining over and above the expenses incurred under subsection 3 do not lapse, but must be carried forward to the same fund and for the same purposes for the next fiscal year. [1997, c. 511, §18 (amd).]

§4312. Advisory committee

The University of Maine System Wild Blueberry Advisory Committee, as authorized by Title 5, chapter 379, is appointed by the Wild Blueberry Commission of Maine. The committee consists of 7 members who are active in and representative of the wild blueberry industry. The duty of the committee is to advise and work with the University of Maine System to develop and approve a plan of work and budgets for research and extension programs related to the production and use of wild blueberries. [1997, c. 511, §19 (amd).]

Current members of the advisory committee shall continue to serve for the duration of their current appointments. New appointments to the advisory committee shall be for terms of 4 years and no appointee may be eligible for reappointment until the lapse of one year from the expiration of a previous appointment. [1983, c. 836, § 9 (new).]

....

Real Estate Transfer Tax

....

§4641-C. Exemption

The following are exempt from the tax imposed by this chapter: [2001, c. 559, Pt. I, §5 (amd); §15 (aff).]

1. Governmental entities. Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that real property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes; gifts of real property to governmental entities; and deeds transferring real property to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax; [1997, c. 504, §10 (amd).]

....

Income Tax Credits

§5217-D. Credit for educational opportunity.

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

A. "Benchmark loan payment" means the monthly loan payment for the amount of the principal cap paid over 10 years at the interest rate for federally subsidized Stafford loans under 20 United States Code, Section 1077a applicable during the individual's last year of enrollment at an accredited Maine community college, college or university. [2013, c. 525, §15 (amd)]

A-1. "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education. [2011, c. 665, §7 (new)]

B. "Employer" has the same meaning as the term "employing unit," as defined in Title 26, section 1043, subsection 10. [2007, c. 469, Pt. B, §1 (new)]

C. "Full time" employment means employment with a normal workweek of 32 hours or more. [2007, c. 469, Pt. B, §1 (new)]

D. "Part time" employment means employment with a normal workweek of between 16 and 32 hours. [2007, c. 469, Pt. B, §1 (new)]

E. "Qualified employee" means an employee who is employed at least part time and who is eligible for the credit provided in this section or who would be eligible for the credit in this section by meeting all the criteria established under Title 20-A, section 12542 except that the employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university. [2011, c. 665, §8 (amd)]

F. [2009, c. 553, Pt. B §2 (REPEALED)]

G. "Opportunity program participant" means an individual who obtains the specified degree and complies with the requirements under Title 20-A, section 12542. [2009, c. 553, Pt. B, §3 (amd)]

H. "Resident individual" means someone:

(1) Who is domiciled in this State; or

(2) Who is not domiciled in this State, 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 a member of the Armed Forces of the United States.[2011, c. 665, §9 (rpr)]

I. "Seasonal employment" has the same meaning as in Title 26, section 1251 and in regulations promulgated thereunder. [2007, c. 469, Pt. B, §1 (new)]

J. "Term of employment" includes all months when the individual is actually employed. It includes time periods when an individual is on leave or vacation. It extends to the full year for individuals working for employers who customarily operate only during a regularly recurring period of 9 months or more in a calendar year. For individuals working for employers who customarily operate only during regularly recurring periods of less than 9 months in a calendar year, including seasonal employment, the term of employment extends only to time periods when the individual is actually working. [2007, c. 469, Pt. B, §1 (new)]

2. Credit allowed. A taxpayer constituting an opportunity program participant or an employer of a qualified employee is allowed a credit against the tax imposed by this Part for each taxable year under the terms established in this section. The credit is created to implement the Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

A. A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 10 years the portion, as reduced from year to year, of any unused credits.

B. More than one taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders to benefit a single opportunity program participant, but no 2 taxpayers may claim the credit based on the same payment.

C. Except as provided in paragraph D, the credit may not reduce the tax otherwise due under this Part to less than zero. The credit allowed to an employer of a qualified employee may not reduce the tax otherwise due under this Part to less than zero.

D. Notwithstanding paragraph C, the credit allowed to an opportunity program participant is refundable if the opportunity program participant obtains an associate degree or bachelor's degree in science, technology, engineering or mathematics. [2011, c. 665, §10 (rpr)]

3. Calculation of the credit. The credit in this section is determined on the basis of the amount under paragraph A or paragraph B, whichever is less, multiplied by the proration factor. For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31, 2007 by the total number of academic credit hours earned for the bachelor's or associate degree. [2009, c. 553, Pt. B, §4 (amd)]

A. If the benchmark loan payment is less than the actual monthly amount, then the credit claimed may not exceed the product of the benchmark loan payment and the number of months during the taxable year in which the taxpayer made loan payments. [2009, c. 553, Pt. B, §4 (amd)]

B. If the opportunity program participant's actual monthly loan payment is less than the benchmark loan payment, the credit must be based only the actual loan payments made during the taxable year. [2009, c. 553, Pt. B, §4 (amd)]

C. [2009, c. 553, Pt. B, §4 (REPEALED)]

4. Conditions for an opportunity program participant claiming the credit. An opportunity program participant may claim the credit only if the participant is a resident individual. The participant may claim the credit based only on regular payments made during months in which the individual was working for an employer located in this State is deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces. As used in this subsection, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A. A married couple filing jointly under Title 36, section 5221 may claim the credit only to the extent that the spouse on whose behalf the credit is claimed meets these requirements. [2011, c. 665, §11 (amd)]

5. Conditions for an employer claiming the credit. A taxpayer constituting an employer may claim the credit under this section under the following circumstances. The employer may undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf of a qualified employee, having taken reasonable steps to ascertain that the employee is in fact a qualified employee, and may claim a credit based on amounts that came due and were paid by the employer during the term of employment. To receive the credit, the employer must retain for 5 years any proof of eligibility that the employee or independent contractor provides. [2007, c. 469, Pt. B, §1 (new)]

The employer may claim a credit for the amount that the qualified employee could have claimed during any months when the qualified employee was employed, had the qualified employee made the partial or full loan payments instead, under conditions where the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed only on a part-time basis, the employer may claim a credit only up to half of the total that the qualified employee could have claimed had the qualified employee made all payments and earned sufficient income to claim the full credit for the taxable

year, but the amount the employer claims must still be based on amounts actually paid. An employer is not disqualified under this section if the qualified employee is not eligible to claim the credit solely because the employee's associate degree or bachelor's degree was awarded by an accredited non-Maine community college, college or university. [2011, c. 665, §12 (amd)]

[2009, c. 434, §78 (amd)]

Setoff of Debts Against Refunds

§5276-A. Setoff of debts against refunds

1. Generally. An agency of the State, including the University of Maine System or the Maine Community College System, that is authorized to collect from an individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The assessor, upon notification, shall assist the requesting agency by setting off that debt against a refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Health and Human Services has contracted to collect, pursuant to Title 19-A, section 2103 or 2301, subsection 2, are eligible, under the provisions of this section, for setoff against a refund due the obligated individual. The assessor shall provide the creditor agency with the name, address and social security number of each debtor whose refund is subject to setoff. [1997, c. 393, Pt. A, §43 (rpr); §44 (aff); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff); c. 689, Pt. B, §6 (rev).]

2. Notice and hearing. At the time a setoff is made, the assessor shall provide notice to the taxpayer of the setoff and of the taxpayer's right to request, within 60 days of the taxpayer's receipt of notice of the setoff, a hearing before the creditor agency. The hearing must be held in accordance with the provisions of the Maine Administrative Procedure Act, but is limited to the issues of whether the debt became liquidated and whether any postliquidation event has affected the liability. [2011, c. 1, §BB-2 (amd).]

3. Finalization of setoff. [1993, c. 395, §23 (rp).]

3-A. Transfer of proceeds. After providing the notice required by subsection 2, the assessor shall transfer the setoff refund amount to the creditor agency or agencies. [1993, c. 395, §23 (new).]

3-B. Finalization of setoff; release of refund to taxpayer. If the taxpayer fails to make a timely request for hearing or a hearing is held before the creditor agency and a liquidated debt is determined to be due to that agency, the setoff is final except as determined by further appeal. The creditor agency must release to the taxpayer any setoff refund amount determined after hearing not to be a liquidated debt due to the agency within 90 days of such determination or as otherwise provided by the creditor agency in a promulgated rule. [1993, c. 395, §23 (new).]

4. Appeal. The decision of the agency seeking setoff as to the existence of a liquidated debt constitutes final agency action appealable under the Maine Administrative Procedure Act, Title 5, chapter 375. [1981, c. 504, §4 (new).]

5. Collection fee. A collection fee equal to the estimated costs incurred by the State Tax Assessor in assisting in the collection must annually be deducted from setoff refund amounts transferred to creditor agencies and deposited in the General Fund. If a creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially handle debts collected, the State Tax Assessor shall transfer to that agency the gross proceeds from setoffs made in its behalf, and that agency shall promptly reimburse the collection fee to the State Tax Assessor for deposit in the General Fund. [1993, c. 395, §23 (amd).]

6. Accounting. The creditor agency shall credit the account of the individual whose refund has been set off with the full amount of the setoff, including the collection fee retained by, or reimbursed to, the State Tax Assessor, except that the collection fee may not be credited to the account of an individual required to make restitution as provided in Title 17-A, section 1152, subsection 2-A. [2005, c. 389, §9 (amd).]

7. Priority. In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the State Tax Assessor shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Health and Human Services; [1991, c. 564 (new); 2003, c. 689, Pt. B, §6 (rev).]

B. Fines owed to any of the courts; and [1991, c. 564 (new).]

C. All other claims in the order of their receipt by the State Tax Assessor. [1991, c. 564 (new).]

[1991, c. 564 (amd); 2003, c. 689, Pt. B, §6 (rev).]

8. Disclosure of information. In any civil or criminal action in which a fine, forfeiture, order to pay or money judgment is entered in favor of the State or any agency or department thereof, or in any action in which counsel is appointed for an indigent party, the court may require the party so indebted to the State, its agencies or department, or the party for whom counsel has been appointed, to provide that party's social security number and other financial information under oath and on such forms as may be prepared by the Judicial Department in order to effectuate the purposes of this section. [1985, c. 501, Pt. B, §21 (new).]

TITLE 37-B

Maine National Guard Education Assistance Program

....

§352. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 488, §4 (new); §5 (aff).]

1. Course. "Course" means a class taught over a semester, trimester, quarter or term. [2003, c. 488, §4 (new); §5 (aff).]

2. Degree program. "Degree program" means a course of study designed to culminate in a specific degree, diploma or certificate. [2003, c. 488, §4 (new); §5 (aff).]

3. Member. "Member" means a member of a federally recognized unit of the Maine National Guard. [2003, c. 488, §4 (new); §5 (aff).]

4. State postsecondary education institution. "State postsecondary education institution" means the University of Maine System, the Maine Maritime Academy, the Maine Technical College System or any other college or university system established as a public instrumentality of this State. [2003, c. 488, §4 (new); §5 (aff).]

5. Tuition. "Tuition" means the total semester, trimester, quarter or term or credit hour cost of instruction to the student as periodically published in the catalog of a state postsecondary education institution, including mandatory fees and lab fees but excluding all other expenses such as book charges, room and board. [2003, c. 488, §4 (new); §5 (aff).]

6. Tuition benefit. "Tuition benefit" means tuition provided by the Maine National Guard using either state or federal funds. [2003, c. 488, §4 (new); §5 (aff).]

7. Unsatisfactory participant. "Unsatisfactory participant" means a member who has accumulated 9 or more unexcused absences from unit training assemblies or who, without proper authorization, fails to attend or complete the entire period of annual training. [2003, c. 488, §4 (new); §5 (aff).]

§353. Tuition grant for member

A member who meets the prerequisites of section 354 is entitled to a tuition benefit that may not exceed tuition costs incurred at any state postsecondary education institution. A member who attends classes in Maine at a regionally accredited private Maine college or university is entitled to a tuition benefit that may not exceed the tuition costs incurred at that private college or university or a tuition benefit not to exceed tuition assessed for a similar degree program at any state postsecondary education institution, whichever is less. Notwithstanding any other provision of law, the Maine National Guard shall use federal funds; state general funds not to exceed \$5,000 in any fiscal year; or state funds from the Armory Rental Fund as established in section 152, the Capital Repair, Maintenance, Construction and Acquisition Account as established in section 154 or the reimbursement fund as established in section 155 or from revenue generated by the Maine Military Authority to pay tuition benefits. [2013, c. 469, §5 (amd).]

....

§355. Cessation of tuition benefit

The tuition benefit granted under this subchapter for a member ceases upon: [2003, c. 488, §4 (new); §5 (aff).]

1. Credit hours. Accumulation of 150 credit hours or the equivalent of the tuition benefit as provided in this subchapter; [2003, c. 488, §4 (new); §5 (aff).]

2. Unsatisfactory participation. Unsatisfactory participation in the Maine National Guard as certified to the state postsecondary education institution or regionally accredited private college or university by the Adjutant General; or [2003, c. 488, §4 (new); §5 (aff).]

3. Good academic standing. Failure by the member to maintain good academic standing at the state postsecondary education institution or regionally accredited private college or university. [2003, c. 488, §4 (new); §5 (aff).]

....

§357. Instate tuition rates

Regardless of the state of residence, a member who has met the requirements of this subchapter and is attending a state postsecondary education institution qualifies for instate tuition rates. [2003, c. 488, §4 (new); §5 (aff).]

Educational Leave of Absence

§388. Educational leave of absence

Whenever any member of the National Guard or the Reserves of the United States Armed Forces is ordered to military duty in response to federal or state orders, the educational institution in which the member is enrolled shall grant the member a military leave of absence from the educational institution. Upon release from military duty, a person on military leave of absence from an educational institution is entitled to be restored to the educational status that person had attained prior to being ordered to military duty without loss of academic credits earned, scholarships or grants awarded to tuition, room and board and other fees paid prior to the commencement of military duty. The educational institution shall proportionately refund tuition, room and board and other fees paid or credit them to the next semester or term after the termination of the educational military leave of absence, at the option of the member. [2001, c. 662, §40 (new).]

Aid to Veterans and Their Dependents

§505. Aid to veterans and their dependents

1. Financial assistance. [2001, c. 439, Pt. QQ, §1 (rp).]

1-A. Financial assistance. Financial assistance may be granted as follows.

A. A. The bureau may provide a grant of temporary assistance not to exceed \$600 to a veteran currently a resident of this State who has filed a valid claim for a veteran's pension, pending notification of the award of such a pension, if that veteran is not incarcerated or a permanent resident of a nursing home and requests such assistance. For purposes of this paragraph, "claim for a veteran's pension" means a claim filed with the federal Veterans' Administration pursuant to 38 United States Code, Chapter 15.[2009, c. 415, §A-24 (rpr).]

B. The bureau may provide a grant of emergency assistance not to exceed \$500 to a veteran currently a resident of this State who demonstrates to the bureau's satisfaction a financial need and suffers an emergency, such as damage to that veteran's home due to fire, flood or hurricane, that is not fully compensable by insurance; illness or the illness of an immediate family member; or a similar emergency. In the case of a veteran with terminal illness or catastrophic injury, the director may provide a grant of up to \$1,000. No more than \$1,000 in emergency assistance may be provided to a veteran in any 12-month period. For the purposes of this paragraph, "veteran" has the same meaning as "eligible veteran" in section 504, subsection 4, paragraph A-1. Grants may not be issued for fuel assistance or due to loss of income due to unemployment while the veteran is receiving other unemployment benefits. [2009, c. 415, §A-25 (rpr).]

C. A veteran who requests either temporary assistance under paragraph A or emergency assistance under paragraph B and is denied such assistance may request a reconsideration and review of this decision by the director. The decision of the director is final and may not be appealed to a court. [2001, c. 439, Pt. QQ, §2 (new).]

D. The department may adopt rules to implement this subsection. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 521, §2 (amd).]

[2007, c. 521, §2 (amd).]

2. Educational benefits. Educational benefits are granted as follows.

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

(1) "Child" means a natural child whose mother or father is or was a veteran or a child who was adopted prior to turning 18 years of age and whose adoptive mother or father is or was a veteran and who:

(a) Is at least 16 years of age;

(b) Has graduated from high school; and

(c) Enrolled in a degree program and was awarded benefits under this subsection prior to the child's 22nd birthday. If the child is unable to enroll in a degree program prior to turning 22 years of age due to service in the United States Armed Forces, then the child may apply to begin this benefit until reaching 26 years of age. Other requirements must be met as described in paragraph F.

"Child" also means a stepchild who is a member of a veteran's household either at the time of application or, in the event of the veteran's death, at the time of death, and who continues as a member of the household after the death of the veteran. At least 5 years must have elapsed since the veteran married the parent of the stepchild before the stepchild is eligible for educational benefits, and the biological parent of the stepchild must reside in the veteran's household while the stepchild receives educational benefits. [2007, c. 167, §6 (amd).]

(2) "Spouse" means the person currently legally married to a living veteran or the unremarried widow or widower of a deceased veteran, not previously divorced from that veteran.

Awards under the educational benefits program are authorized to provide benefits to only one spouse per veteran.

(3) "Veteran" means any person who served in the military or naval forces of the United States and entered the service from this State or has been a resident of this State for 5 years immediately preceding application for aid and, if living, continues to reside in this State throughout the duration of benefits administered under the educational benefits program and who:

(a) Has a total permanent disability resulting from a service-connected disability as a result of service;

(b) Was killed in action;

(c) Died from a service-connected disability as a result of service;

(d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or

(e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

The continuous residency requirement of this subparagraph does not apply to a person who is receiving educational benefits under this chapter on or before January 1, 2006.

[2007, c. 521, §3 (amd).]

B. [2001, c. 662, §66 (rp).]

C. [2001, c. 662, §66 (rp).]

D. [2001, c. 662, §66 (rp).]

E. Spouses of veterans who are attending state-supported postsecondary vocational schools or institutions of collegiate grade must be admitted free of tuition including mandatory fees and lab fees for a certificate program or an associate's, bachelor's, or master's degree program. Room and board may not be waived. Spouses are entitled to receive up to 120 credit hours of educational benefits and have 10 years from the date of first entrance to complete the program. This paragraph applies to all spouses enrolled in the educational benefits program as of September 1, 2007. [2007, c. 521, §4 (amd).]

F. A child of a veteran who is attending state-supported postsecondary vocational schools or institutions of collegiate grade must be admitted free of tuition including mandatory fees and lab fees for associate and bachelor's programs. The tuition waiver provided under this paragraph may be reduced by an amount necessary to ensure that the value of this waiver, combined with all other grants and benefits received by the student, does not exceed the total cost of education. Room and board may not be waived. A child of a veteran has 6 academic years from the date of first entrance to complete 120 credit hours. For degree programs that require more than 120 credit hours, the state-supported postsecondary vocational school or institution of collegiate grade may grant a tuition waiver beyond 120 credit hours. If such a waiver is granted, the state-supported postsecondary vocational school or institution of collegiate grade shall notify the director. The director may waive the limit of 6 consecutive academic years when the recipient's education has been interrupted by severe medical disability, learning disability, illness or other hardship, making continued attendance impossible, however, the extension may not exceed 2 academic years. Students must maintain at least a 2.0 or "C" grade point average to continue receiving educational benefits. If a student's grade point average falls below 2.0 or a "C," then the student has one semester to bring the grade point average up to at least 2.0 or a "C." If after that semester the student's grade point average is below 2.0 or a "C," the student loses educational benefits under this paragraph until the student achieves a grade point average of at least 2.0 or a "C." [2013, c. 569, §3 (amd).]

G. In order to be eligible for benefits under this subsection, a student must apply for a Federal Pell Grant under 20 United States Code, Section 1070a. The director shall estimate the number of students anticipated that will use this program and provide the estimate to state institutions upon request. [2013, c. 237, §1 (amd).]

H. A school that provides tuition assistance pursuant to this subsection shall provide any information, such as enrollment verification, current contact information, semester grade point average, accumulated credit hours and transcripts, to the bureau as necessary for the bureau to properly administer the educational benefits described in this subsection in accordance with current laws. [2009, c. 406, §10 (new).]

3. Fraud. Whoever knowingly makes a false statement, oral or written, relating to a material fact in support of application for aid under this section is guilty of a violation of Title 17-A, section 353. [1983, c. 460, §3 (new).]

4. Vietnam and atomic veterans. [2001, c. 662, §67 (rp).]

5. Public assistance designation. Assistance granted to veterans or their dependents pursuant to this section is designated public assistance. The department retains administrative responsibility for assistance granted under this section. [2007, c. 539, Pt. N, §73 (amd).]

6. Determination of residency. The bureau shall verify that a person seeking benefits as provided by this section is a current resident of the State. The forms of identification sufficient to determine residency in accordance with this section are:

A. A valid state driver's license;

B. A valid state-issued identification card;

C. A current state motor vehicle registration form;

D. A current state fishing or hunting license; and

E. Items other than those listed in paragraphs A to D that allow the bureau to reasonably determine residency.

[2007, c. 521, §5 (new).]

Dam Safety

....

§1131. Establishment of commission

1. Establishment of commission. The River Flow Advisory Commission, as established by Title 5, section 12004-G, subsection 13-E and referred to in this section as the "commission," shall act as a technical advisory commission to the department and the Governor's office on issues of flow of the State's rivers and streams. The commission shall also facilitate communication of river flow data between dam operators, river basin managers, state agencies, the United States Geological Survey and the National Weather Service during floods and droughts and shall administer the State's hydrologic monitoring program in cooperation with the United States Geological Survey. [2001, c. 662, §99 (new).]

2. Membership. The commission is composed of these members:

....

N. The director of the Senator George J. Mitchell Center for Environmental and Watershed Research at the University of Maine, or the director's designee. [2003, c. 404, §13 (new).]
[2003, c. 404, §§11-13 (amd); 689, Pt. B, §7 (rev).]

....

TITLE 38

Clean Government Initiative

§343-H. Clean Government Initiative

1. Initiative established; directors. The Clean Government Initiative, referred to in this section as the "initiative," is established to assist state agencies and state-supported institutions of higher learning in meeting applicable environmental compliance requirements and to incorporate environmentally sustainable practices into all state government functions. The initiative is jointly directed by the commissioner, the Commissioner of Administrative and Financial Services, the Chancellor of the University of Maine System or the chancellor's designee and the President of the Maine Community College System or the president's designee, referred to in this section as the "directors." [2001, c. 695, §1 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

1-A. State-supported institution of higher learning. For purposes of this section, "state-supported institution of higher learning" means the University of Maine System, the Maine Maritime Academy and the Maine Community College System. [2001, c. 695, §1 (new); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Duties; responsibilities. The directors of the initiative shall:

A. Establish a coordinated state government environmental plan to ensure that:

- (1) All agencies and state-supported institutions of higher learning comply with state and federal environmental laws; and
- (2) Environmentally sustainable practices are incorporated into state government planning, operations and regulatory functions;

[2001, c. 695, §1 (amd).]

B. Establish metrics to measure and assess the environmental compliance and performance of state agencies and state-supported institutions of higher learning. In developing those metrics, the directors shall seek to achieve continuous improvement in environmental compliance and performance of all state agencies through:

- (1) Pollution prevention;
- (2) Improvements in energy efficiency, including facility siting, design, construction and management; and
- (3) Procurement of environmentally friendly commodities and services, as assessed on a life cycle basis, including technically comparable, cost-effective and reasonably available alternatives to products that may release dioxin or mercury to the environment, recycling of waste products and enhanced fleet efficiency;

[2001, c. 695, §1 (amd).]

C. Advise and assist state agencies and state-supported institutions of higher learning in developing environmental compliance audits and plans and in implementing those plans; [2001, c. 695, §1 (amd).]

D. Advise the Governor and the Legislature in the formulation of policies for the effective achievement of initiative goals; and [2001, c. 333, §5 (new).]

E. Ensure that the capital master plan established under Title 5, section 299 is implemented in a manner consistent with the initiative. [2001, c. 333, §5 (new).]

[2001, c. 695, §1 (amd).]

3. Responsibilities of state agencies and state-supported institutions of higher learning. State agencies and state-supported institutions of higher learning shall cooperate with the directors in implementing the initiative and shall provide staff assistance and technical support upon request. In addition, each state agency and state-supported institution of higher learning shall:

A. Complete or demonstrate completion of an audit of its facilities to determine compliance with applicable state and federal environmental laws; [2001, c. 333, §5 (new).]

B. REPEALED [2009, c. 121, §3 (RP).]

C. Appoint an employee in the agency or state-supported institution of higher learning to be responsible for ensuring the development and implementation of agency activities under the initiative; and [2001, c. 695, §1 (amd).]

D. Establish standards for leasing or building state facilities consistent with the initiative. [2001, c. 333, §5 (new).]

Each agency and state-supported institution of higher learning shall fund costs associated with implementing this initiative from within existing budgeted resources. [2001, c. 695, §1 (amd).]

4. Reporting. The directors shall jointly report on the activities of all state agencies and state-supported institutions of higher learning under the initiative to the joint standing committee of the Legislature having jurisdiction over natural resources matters and the joint standing committee of the Legislature having jurisdiction over state government matters. The directors must submit their report no later than January 1, 2006, and biennially thereafter. The report must identify the successes of and the obstacles to implementation of the initiative and may include recommendations for any statutory changes necessary to accomplish the initiative. [2009, c. 121, §4 (amd).]

Outside Review of Applications

§344-A. Outside review of applications

The commissioner may enter into agreements with individuals, partnerships, firms and corporations outside the department, referred to throughout this section as "outside reviewers," to review applications or portions of applications submitted to the department. The commissioner has sole authority to determine the applications or portions of applications to be reviewed by outside reviewers and to determine which outside reviewer is to perform the review. When selecting an outside reviewer, all other factors being equal, the commissioner shall give preference to an outside reviewer who is a public or quasi-public entity, such as state agencies, the University of Maine System or the soil and water conservation districts. Except for an agreement for outside review regarding review of an application for a wind energy development as defined in Title 35-A, section 3451, subsection 11, a certification pursuant to Title 35-A, section 3456, an application for an offshore wind power project as defined in section 480-B, subsection 6A or a general permit pursuant to section 480-HH or section 636-A, or an application for a hydropower project, as defined in section 632, subsection 3, that uses tidal action as a source of electrical or mechanical power, the

commissioner may enter the commissioner may enter into an agreement with an outside reviewer only with the consent of the applicant and only if the applicant agrees in writing to pay all costs associated with the outside review. [2009, c. 615, Pt. E, § E-4 (amd).]

1. Standards for outside review. Prior to entering into an agreement with an outside reviewer, the commissioner must determine that:

A. The agreement protects the public interest and the interest of the applicant; [1991, c. 471 (new).]

B. The agreement ensures a fair, consistent and adequate review of the application; [1991, c. 471 (new).]

C. The agreement provides the public with the same opportunity to comment on the application as would be provided if the application were reviewed by the department; [1991, c. 471 (new).]

D. The outside reviewer meets the minimum qualification standards established by the commissioner; and [1991, c. 471 (new).]

E. The application can not be reviewed by existing departmental personnel in a reasonable period of time. [1991, c. 471 (new).]

[1991, c. 471 (new).]

2. Qualifications. The commissioner shall establish qualification standards for outside reviewers and shall develop a list of qualified outside reviewers. Standards established by the commissioner must include initial qualification standards and standards ensuring that outside reviewers continue to maintain a high level of scientific and regulatory expertise in one or more relevant areas of knowledge. [1991, c. 471 (new).]

3. Conflict of interest. An outside reviewer may not review any portion of an application submitted by an applicant who directly or indirectly employed the reviewer in any capacity at any time during the 12-month period immediately preceding the submission of the application. An outside reviewer must sign a written agreement with the commissioner not to be employed, directly or indirectly, by any applicant whose application was reviewed by that reviewer for at least 12 months from the date the review of the application is complete. [1991, c. 471 (new).]

4. Penalty. Notwithstanding section 349, any person who knowingly violates subsection 3 is guilty of a Class D crime. Notwithstanding Title 17-A, sections 4-A and 1301, the fine for each violation may not be less than \$5,000 nor more than \$25,000. [1991, c. 471 (new).]

5. Repeal. [1993, c. 356, §2 (rp).]

Water Classification Program

§464. Classification of Maine waters

...

4. General Provisions. The classification system for surface waters established by this article shall be subject to the following provisions.

A. Notwithstanding section 414-A, the department may not issue a water discharge license for any of the following discharges:

(1) Direct discharge of pollutants to waters having a drainage area of less than 10 square miles, except that:

(a) Discharges into these waters that were licensed prior to January 1, 1986 are allowed to continue only until practical alternatives exist;

(b) Storm water discharges in compliance with state and local requirements are exempt from this subparagraph;

(c) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species are exempt from this subparagraph;

(d) Chemical discharges for the purpose of restoring water quality in GPA waters approved by the department are exempt from this subparagraph;

(e) Discharges of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety using materials and methods that provide for protection of nontarget species are exempt from this subparagraph. When the department issues a license for the discharge of aquatic pesticides authorized under this division, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website; and

(f) Discharges of pesticides approved by the department are exempt from this subparagraph that are:

(i) Unintended and an incidental result of the spraying of pesticides;

(ii) Applied in compliance with federal labeling restrictions; and

(iii) Applied in compliance with statute, Board of Pesticides Control rules and best management practices

(2) New direct discharge of domestic pollutants to tributaries of Class-GPA waters;

(3) Any discharge into a tributary of GPA waters that by itself or in combination with other activities causes water quality degradation that would impair the characteristics and designated uses of downstream GPA waters or causes an increase in the trophic state of those GPA waters except for the following:

(a) Aquatic pesticide or chemical discharges approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency for the purpose of restoring biological communities affected by an invasive species in the GPA waters or a tributary to the GPA waters; or

(b) Discharges of pesticides approved by the department that are:

(i) Unintended and an incidental result of the spraying of pesticides;

(ii) Applied in compliance with federal labeling restrictions; and

(iii) Applied in compliance with statute, Board of Pesticides Control rules and best management practices.

(4) Discharge of pollutants to waters of the State that imparts color, taste, turbidity, toxicity, radioactivity or other properties that cause those waters to be unsuitable for the designated uses and characteristics ascribed to their class;

(5) Discharge of pollutants to any water of the State that violates sections 465, 465-A and 465-B, except as provided in section 451; causes the "pH" of fresh waters to fall outside of the 6.0 to 8.5 range; or causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range;

(6) New discharges of domestic pollutants to the surface waters of the State that are not conveyed and treated in municipal or quasi-municipal sewage facilities. For the purposes of this subparagraph, "new discharge" means any overboard discharge that was not licensed as of June 1, 1987, except discharges from vessels and those discharges that were in continuous existence for the 12 months preceding June 1, 1987, as demonstrated by the applicant to the department with clear and convincing evidence. The volume of the discharge from an overboard discharge facility that was licensed as of June 1, 1987 is determined by the actual or estimated volume from the facilities connected to the overboard discharge facility during the 12 months preceding June 1, 1987 or the volume allowed by the previous license, whichever is less, unless it is found by the department that an error was made during prior licensing. The months during which a discharge may occur from an overboard discharge facility that was licensed as of June 1, 1987 must be determined by the actual use of the facility at the time of the most recent license application prior to June 1, 1987 or the actual use of the facility during the 12 months prior to June 1, 1987, whichever is greater. If the overboard discharge facility was the primary residence of an owner at the time of the most recent license application prior to June 1, 1987 or during the 12 months prior to June 1, 1987, then the facility is considered a year-round residence. "Year-round residence" means a facility that is continuously used for more than 8 months of the year. For purposes of licensing, the department shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge takes place as a new discharge of domestic pollutants;

(7) After the Administrator of the United States Environmental Protection Agency ceases issuing permits for discharges of pollutants to waters of this State pursuant to the administrator's authority under the Federal Water Pollution Control Act, Section 402(c)(1), any proposed license to which the administrator has formally objected under 40 Code of Federal Regulations, Section 123.44, as amended, or any license that would not provide for compliance with applicable requirements of that Act or regulations adopted thereunder;

(8) Discharges for which the imposition of conditions can not ensure compliance with applicable water quality requirements of this State or another state;

(9) Discharges that would, in the judgment of the Secretary of the United States Army, substantially impair anchorage or navigation;

(10) Discharges that would be inconsistent with a plan or plan amendment approved under the Federal Water Pollution Control Act, Section 208(b); and

(11) Discharges that would cause unreasonable degradation of marine waters or when insufficient information exists to make a reasonable judgment whether the discharge would cause unreasonable degradation of marine waters.

Notwithstanding subparagraph (6), the department may issue a wastewater discharge license allowing for an increase in the volume or quantity of discharges of domestic pollutants from any university, college or school administrative unit sewage facility, as long as the university, college or school administrative unit has a wastewater discharge license valid on the effective date of this paragraph and the increase in discharges does not violate the conditions of subparagraphs (1) to (5) and (7) to (11) or other applicable laws. [2013, c. 193, §1 (amd).]

General Permit for Offshore Wind Energy Demonstration Project

§ 480-HH. General permit for offshore wind energy demonstration project

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

- A. "Coastal area" has the same meaning as in section 1802, subsection 1.
- B. "Generating facilities" has the same meaning as in Title 35-A, section 3451, subsection 5.
- C. "Maine Offshore Wind Energy Research Center" means the offshore wind energy test area designated pursuant to Title 12, section 1868, subsection 2.
- D. "Meteorological tower" means an elevated structure or other support platform with attached equipment, such as an anemometer, a wind direction vane and temperature and pressure sensors and other measurement devices, to measure and assess the wind resource in the project area.
- E. "Net project removal cost" means the total cost of removal of an offshore wind energy demonstration project, estimated in accordance with the plan required under subsection 3, paragraph G, minus the net salvage value of the project equipment.
- F. "Ocean energy generating unit" means a wind turbine that converts wind energy to electrical energy that may be employed pursuant to a general permit under this section, a wave energy converter that may be employed pursuant to a general permit issued under this section or a tidal energy demonstration project that may be employed pursuant to a permit issued under section 636-A.
- G. "Ocean sensor package" means a floating, submerged or seabed-mounted instrument that measures currents over the full range of site depths, wave data, seawater temperature and seawater salinity and other measurement devices to assess the wave resources in the project area.
- H. "Offshore wind energy demonstration project" or "project" means a wind energy development that uses a wind turbine to convert wind energy to electrical energy and that employs no more than 2 wind energy turbines, each of which may use different technology, for the primary purpose of testing and validating a turbine blade design, floating platform or other support structure, mooring or anchoring system or other offshore wind energy technology that the applicant certifies is designed for use in ocean waters and is not in use elsewhere in the Gulf of Maine for commercial production of electricity and that may also include:
 - (1) Up to 3 meteorological towers per wind energy turbine proposed;
 - (2) One submerged utility line that is sized to transmit:
 - (a) An amount of electricity less than or equal to that produced by the offshore wind energy demonstration project; or
 - (b) Up to 25 megawatts of electricity if the line is intended to serve multiple offshore wind energy demonstration projects located within the Maine Offshore Wind Energy Research Center and the department has not previously granted approval for such a submerged utility line pursuant to this section; and

(3) A wave energy test project.

I. "Offshore wind energy test area" means a specific geographic area located on state-owned submerged lands in the coastal area identified as suitable for construction and operation of an offshore wind energy demonstration project pursuant to Title 12, section 1868, including the Maine Offshore Wind Energy Research Center.

J. "Wave energy converter" means a device that uses the motion of ocean surface waves to generate electricity.

K. "Wave energy test project" means a hydropower project, as defined by section 632, subsection 3, that uses ocean wave action to produce electricity and that:

(1) Is proposed as part of an offshore wind energy demonstration project and is designed and sited to test production of electricity from wave energy in conjunction with and in a manner that complements electricity produced by an offshore wind energy turbine;

(2) Employs up to 2 wave energy converters, each of which may use different technology, that the applicant certifies are designed for use in the ocean and are not in use elsewhere in the Gulf of Maine for commercial production, for the primary purpose of testing and validating the overall design of the converter and its related systems, subsystems or components; and

(3) May include one or more of the following additional elements:

(a) A mooring or anchoring system; and

(b) An ocean sensor package.

2. General permit. A person may apply for a general permit for an offshore wind energy demonstration project in accordance with this section. If a general permit is granted pursuant to this section, a permit is not required under section 480-C for the construction and operation of an offshore wind energy demonstration project.

3. Application requirements. An applicant for a general permit must file with the department an application that contains:

A. Written certification that the offshore wind energy demonstration project, other than any submerged utility line, will be located wholly within an offshore wind energy test area;

B. A site plan that includes the following elements:

(1) A plan view drawing of the entire project area that shows, with geographic positioning system references, the proposed location of the generating facilities and all other project elements, including but not limited to any submerged utility line or meteorological tower;

(2) A narrative description of the proposed activities and methods for construction, operation and removal of the offshore wind energy demonstration project that addresses on-site management of fuels, lubricants and other materials used for project operations or maintenance;

(3) A scale drawing that shows the design and location of the proposed mooring or anchoring system;

(4) A drawing showing the location of the submerged utility line, if any, and plans for its construction in compliance with the permit by rule standards regarding construction of a submerged utility line established in rules adopted by the board; and

(5) A drawing showing the proposed location of each wind turbine in relation to any other offshore wind energy demonstration project within 10 kilometers of the proposed project and written verification that the project will not interfere with the operation of any such previously approved project.

C. A report, prepared following consultation with the Department of Marine Resources, that:

(1) Describes existing information regarding commercial fishing and other existing uses in the project area; and

(2) Describes, based on a field investigation, the marine resources, including benthic communities, in the marine waters and on the submerged lands and immediately adjacent areas in, on or over which the applicant proposes to locate any mooring, anchoring system, meteorological tower, ocean sensor package, submerged utility line or other project element that is secured to the seabed;

D. Written acknowledgment that, in accordance with this section, the department may require the applicant to take remedial action, at the applicant's expense, pursuant to subsection 13, including but not limited to removal of the generating facilities and submerged utility line and termination of the project;

E. A fish and wildlife monitoring plan that includes provisions for conducting monitoring, throughout the term of the general permit, of the behavior and interaction of species listed as threatened or endangered in Title 12, section 6975 or Title 12, section 12803, subsection 3; avian species, including seabirds, passerines, raptors, shorebirds, water birds and waterfowl; bats; and marine mammals and other marine resources with the project, including but not limited to the generating facilities and mooring or anchoring systems employed, and identifying potential adverse effects. The plan, at a minimum, must include:

(1) A detailed description of the methods and equipment that will be used for monitoring fish and wildlife behavior and activity in the vicinity of the project;

(2) A detailed description of how the fish and wildlife monitoring data will be analyzed and provided to the department in electronic format, with specific criteria by which to evaluate adverse effects;

(3) A detailed implementation schedule, including the frequency and timing of data recovery, maintenance of the monitoring equipment and quarterly reporting to the department;

(4) A detailed monitoring schedule that considers ocean conditions, seasonal variations in species' presence or absence and other pertinent biological factors;

(5) Provisions for identifying and implementing remedial measures if monitoring identifies any adverse changes in fish or wildlife behavior or use of ocean habitats;

(6) A detailed description of the methods and equipment that will be used to determine and monitor ambient noise levels, electromagnetic fields and noise associated with project construction and subsequent operations and the effectiveness of any devices that are proposed to avoid and minimize the potential for related foreseeable adverse effects, if any; and

(7) Provisions for filing an annual report with the department describing the monitoring results and any recommendations for modifying the generating facilities or other project elements, or commencing the approved project removal plan, if necessary to minimize adverse effects on natural resources identified pursuant to plans required under this section. Thirty days prior to submission of the report to the department, the applicant shall provide a draft of the report to the Department of Marine Resources, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the United States Fish and Wildlife Service and the National Marine Fisheries Service and shall include in the annual report any comments from those agencies and the applicant's responses to them;

F. A navigation safety plan to protect the public and project facilities from such events as: collisions between commercial and recreational vessels and project facilities; entanglement of fishing gear, anchors, dredging equipment or other underwater devices that may damage or become entangled with project transmission, anchoring and mooring lines; release of or damage to the project's submerged utility line, anchoring system or other project elements in, on or over the seabed; and electrocution. The plan must, at a minimum, consider the need and provide for as appropriate:

(1) A boundary defining an exclusion zone around the proposed generating facilities, anchoring system, submerged utility line and other project elements, if any, in which specified types of navigation and underwater activities incompatible with project operations may not be conducted. Any such exclusion zone must be specified with global positioning system coordinates and be designed to minimize potential conflicts with other existing uses in the area and may be no larger than the applicant demonstrates is necessary to achieve the purposes of the offshore wind energy demonstration project;

(2) Marking the extreme corners of the exclusion zone, specified pursuant to subparagraph (1), with lights, buoys or other indicators sufficient to warn vessels of the above-water and underwater project elements and the boundaries of the exclusion zone during both day and night;

(3) Marking the generating facilities with fog signals, low-intensity navigation lights, hazard marking lights or other aids to navigation and painting and lighting the generating facilities in a way that considers the aesthetic resources of the project area as well as the safety of the public and project facilities and meets applicable Federal Aviation Administration guidelines and United States Coast Guard requirements;

(4) Procedures to ensure the safety of the public near the project area; and

(5) A description of monitoring for and actions the applicant will take to prevent and address an emergency that specifies: procedures the applicant will take during an emergency, including but not limited to immediate shutdown; a protocol for coordination with and reporting an emergency to local, state and federal agencies; contingency measures to modify operations to address reasonably foreseeable emergency conditions;

and a schedule for annual testing of emergency equipment, including the project's emergency shutdown system;

G. A project removal plan that the applicant will, at its expense, initiate within 60 days of expiration or termination of a general permit granted pursuant to this section and that provides for:

(1) Removal of the project in its entirety from all project lands and waters, except for any part of the project regarding which the applicant provides the department substantial evidence of plans for continued beneficial use, including but not limited to an executed lease of state-owned submerged lands, as applicable, or for partial removal or other modification adequate to avoid foreseeable adverse effects on natural resources and existing uses;

(2) Minimizing seabed disturbances and suspended sediments during removal of any underwater facilities;

(3) Monitoring the effects of the removal activities on species listed as threatened or endangered species in Title 12, section 6975 or Title 12, section 12803, subsection 3 and marine resources both during and subsequent to completion of removal activities;

(4) An implementation schedule that provides for all removal and restoration activities to be completed within one year of the expiration date of the general permit pursuant to subsection 9;

(5) An estimate of the total project removal cost, without regard to salvage value of the equipment, and the net project removal cost, prepared by a licensed professional engineer; and

(6) Written evidence and certification that the applicant has posted and will maintain funds for project removal in an amount equal to the net project removal cost, except that at no point may such funds be less than 25% of the total project removal cost. The applicant shall post and maintain project removal funds with a bonding company or federal-chartered or state-chartered lending institution that is authorized to do business in the State and chosen by the applicant and considered acceptable by the department posting the financial security. Project removal funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that the department considers adequate to ensure funds posted pursuant to this paragraph will remain inviolate and available for project removal if the applicant ceases to exist, declares bankruptcy or becomes insolvent or otherwise unable to finance the project removal plan required under this paragraph;

H. Documentation that, in developing each plan required under paragraphs E to G, the applicant consulted with: the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and the Department of Conservation; the Maine Land Use Regulation Commission and the Executive Department, State Planning Office; the United States Army Corps of Engineers, the United States Coast Guard, the National Marine Fisheries Service, the National Park Service and the United States Fish and Wildlife Service; the lobster management policy council established under Title 12, section 6447 for the lobster management zone in which the offshore wind energy demonstration project is proposed; each municipality in which or adjacent to which the project is proposed; and any other local, state or federal agency the applicant considers appropriate. This documentation must include copies of these agencies' comments and recommendations on the plan, if any, and specific descriptions of how the agencies' comments are accommodated by the plan, including the applicant's reasons, based on project-specific information, for any agency

recommendation not adopted. The applicant shall allow a minimum of 60 days for the agencies to review and make comments and recommendations on each draft plan before it is filed with the department. No more than 30 days prior to its initiation, the applicant shall notify each municipality within or adjacent to which it intends to site and operate an offshore wind energy demonstration project and invite its participation in the consultation required under this paragraph;

I. Documentation, including certificates of insurance, that the applicant has and will maintain a current general liability policy for the project that covers bodily injury, property damages and environmental damages in an amount considered reasonable by the department in consideration of the scope, scale and location of the project;

J. Documentation that the applicant has the financial and technical capacity to construct and operate the project as proposed;

K. Certification that neither the applicant nor any corporation, partnership, person or other legal entity with an ownership, leasehold or other direct financial interest in the proposed project holds or has an application pending for approval of a general permit under this section for any other offshore wind energy demonstration project located in the offshore wind energy test area in which the project is proposed. This paragraph does not apply to an application by the University of Maine System for a project, funded in whole or part with state or federal funds and proposed for location in the Maine Offshore Wind Energy Research Center, that employs offshore wind energy technology for which the department has not previously granted a general permit under this section; and

L. For an offshore wind energy demonstration project proposed for location within the Maine Offshore Wind Energy Research Center, written evidence that the proposed development will be undertaken by or in cooperation with the University of Maine System and on terms and in a manner that the University of Maine System determines consistent with and in furtherance of its offshore wind energy research and development-related objectives, including but not limited to any such objectives to be supported with state bond revenues.

4. Review period. There is a 60-day review period for applications for a general permit for an offshore wind energy demonstration project under this section. The review period begins on the date that the department has accepted an application for processing. This review period may be extended pursuant to section 344-B with the consent of the applicant.

5. Notification. Except as otherwise provided by subsection 13, the department shall notify an applicant in writing within the review period pursuant to subsection 4 if the department determines that the requirements of this section have not been met. The notification must specifically cite the requirements of this section that have not been met. If the department has not notified the applicant under this subsection within the review period, a general permit is deemed to have been granted as of the date immediately following the final day of the review period specified in subsection 4.

6. Fees. The department shall assess a fee for review of applications filed pursuant to this section, including a request for modification under subsection 13. Except as otherwise provided by section 344-A, the fee must be commensurate with the amount assessed, pursuant to section 352, to activities requiring an individual permit for coastal wetland alterations.

7. Violation. Any action taken by a person receiving a general permit under this section that is not in compliance with the plans submitted under subsection 3 or as subsequently modified with the approval of the department in consultation with agencies and other entities with whom the applicant consulted in accordance with subsection 3 is a violation of the general permit.

8. General permit term. Except as otherwise provided in subsections 9 to 12, a general permit granted under this section authorizes conduct of the approved offshore wind energy demonstration project in accordance with this subsection:

A. If the offshore wind energy demonstration project is not located in the Maine Offshore Wind Energy Research Center, conduct of the project is authorized for 3 years from the date that construction of a permitted structure on submerged lands is initiated or 5 years from the date on which the general permit has been granted pursuant to subsection 5, whichever first occurs; or

B. If the offshore wind energy demonstration project is located in the Maine Offshore Wind Energy Research Center, conduct of the project is authorized for 5 years from the date that construction of a permitted structure on submerged lands is initiated or 7 years from the date on which the permit has been granted pursuant to subsection 5, whichever first occurs.

The applicant must provide the department written notice of the date of initiation of construction within 7 days of its commencement. Except as otherwise provided by subsection 9, the department may not extend the term of a general permit granted under this section.

9. Extensions to permit term. The department may grant one or more extensions of the general permit term in accordance with this subsection.

A. The department may grant one or more extensions of the general permit term, each for a period of 6 months or less, if, prior to expiration of the general permit term, the applicant has filed completed applications for all requisite state license and permit approvals for a wind energy development, as defined by Title 35-A, section 3451, subsection 11, located wholly or partly where the offshore wind energy demonstration project is located. The department may not grant an extension under this paragraph for a project located in the Maine Offshore Wind Energy Research Center.

B. The department shall grant one or more extensions, each of which may not exceed 3 years, of the general permit term for an offshore wind energy demonstration project that is funded in whole or in part with state or federal funds and is located in the Maine Offshore Wind Energy Research Center if the applicant provides written evidence that the University of Maine System has determined that the extension is necessary to fulfill the research and development objectives of the project.

10. Surrender; demonstrated progress required. If the department determines that the applicant has not completed or made substantial and ongoing progress to complete construction of all project elements within one year of the date on which the general permit has been granted pursuant to subsection 5, the applicant must surrender its general permit, subject to conditions regarding project removal pursuant to subsection 11. An applicant may surrender to the department a general permit granted pursuant to this section prior to its expiration pursuant to subsection 8 or 9. Subject to conditions regarding project removal under subsection 11, the general permit terminates on the date of its surrender pursuant to this subsection.

11. Project removal. Within 60 days of expiration or termination of a general permit pursuant to subsection 8, 9, 10 or 12, the applicant shall initiate implementation of the project removal plan provided for under subsection 3, paragraph G. If the applicant fails to begin implementing the plan within this 60-day period, the department may take such measures as it considers necessary to initiate and fully implement the plan by drawing on the financial surety provided pursuant to the project removal plan. The applicant's acceptance of the general permit constitutes agreement and consent by the applicant and its heirs, successors

and assigns that the department may take such action as necessary to initiate and fully implement the project removal plan. The holder of the project removal funds shall release the project removal funds when the applicant has demonstrated and the department concurs that the project removal plan has been satisfactorily completed or upon written authorization by the department in the event the department implements the plan pursuant to this subsection.

12. Remedial action. If the department determines, based on information provided in annual or periodic reports provided pursuant to subsection 3 or other information, that there is substantial evidence that the project is having a significant adverse effect on a protected natural resource, wildlife, including avian wildlife, bat species, marine mammals, fish or other marine resources or public health or safety, the department shall order the applicant to take action that the department considers necessary to address that adverse effect. Remedial action required by the department may include, but is not limited to:

- A. Suspension or modification of project operations; or
- B. Cessation of operations and removal of some or all elements of the project, including but not limited to the generating facilities, if there is no practicable alternative to address the adverse effect.

13. Permit modification; relocation. Following the granting of a general permit under this section, the department may authorize an applicant to move the generating facilities to another location within the same offshore wind energy test area, as long as the applicant provides an amended site plan that meets the requirements of subsection 3, paragraphs B, C, E, F and H. The department shall notify the applicant in writing within 30 days of acceptance for processing if the department determines that the requirements of this section have not been met. Any such notification must specifically cite the requirements of this section that have not been met. If the department has not notified the applicant under this subsection within the specified time period, a permit modification is deemed to have been granted.

14. Relationship to other laws. Notwithstanding any other provision of law to the contrary, an offshore wind energy demonstration project that has been granted a general permit under this section is not subject to review by or required to obtain a development permit, rezoning authorization or other approval or authorization from the Maine Land Use Regulation Commission and is not otherwise subject to review or approval by the department pursuant to this subchapter.

A municipality may not enact or enforce any land use, zoning or other standard, conditions or requirement regarding an offshore wind energy demonstration project located within the municipality that is stricter than standards, conditions or requirements of this section. The municipality has the burden of proof regarding the location of the project in relation to its boundaries. Any action by the municipality regarding its authorization to site, construct or operate an offshore wind energy demonstration project must be taken within 60 days of the grant of a general permit under this section or within 30 days of the granting of a permit modification pursuant to subsection 13.

15. Number of projects in the Maine Offshore Wind Energy Research Center. Notwithstanding any provision of law to the contrary, a general permit may not be granted under this section for an offshore wind energy demonstration project that is proposed for location within the Maine Offshore Wind Energy Research Center if grant of that general permit would authorize more than 6 ocean energy generating units to be sited and in operation at any one time within the Maine Offshore Wind Energy Research Center.

[2009, c. 270, §A-2 (new).]

Site Location of Development

§481. Findings and purpose

The Legislature finds that the economic and social well-being of the citizens of the State of Maine depends upon the location of state, municipal, quasi-municipal, educational, charitable, commercial and industrial developments with respect to the natural environment of the State; that many developments because of their size and nature are capable of causing irreparable damage to the people and the environment on the development sites and in their surroundings; that the location of such developments is too important to be left only to the determination of the owners of such developments; and that discretion must be vested in state authority to regulate the location of developments which may substantially affect the environment and quality of life in Maine. [1987, c. 812, §§1, 18 (amd).]

The Legislature further finds that certain geological formations particularly sand and gravel deposits, contain large amounts of high quality ground water. The ground water in these formations is an important public and private resource, for drinking water supplies and other industrial, commercial and agricultural uses. The ground water in these formations is particularly susceptible to injury from pollutants, and once polluted, may not recover for hundreds of years. It is the intent of the Legislature, that activities that discharge or may discharge pollutants to ground water may not be located on these formations. [1981, c. 449, §3 (new).]

The purpose of this subchapter is to provide a flexible and practical means by which the State, acting through the department, in consultation with appropriate state agencies, may exercise the police power of the State to control the location of those developments substantially affecting local environment in order to insure that such developments will be located in a manner which will have a minimal adverse impact on the natural environment within the development sites and of their surroundings and protect the health, safety and general welfare of the people. [1989, c. 890, Pt. A, §40 (aff); Pt. B, §84 (amd).]

The Legislature further finds that noise generated at development sites has primarily a geographically restricted and frequently transient impact that is best regulated at the municipal level pursuant to a municipality's economic development and land use plans. It is the intent of the Legislature that regulation of noise from developments be primarily the responsibility of local municipal governments. [1993, c. 383, §2 (amd); §42 (aff).]

§482. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 700, §2 (amd).]

....

4. Person. "Person" means any person, firm, association, partnership, corporation, municipal or other local governmental entity, quasi-municipal entity, state agency, federal agency, educational or charitable organization or institution or other legal entity. [1993, c. 383, §12 (amd); §42 (aff).]

....

Site Location and Development

§488 Applicability

This article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying 100 kilovolts or more,

nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way. For purposes of this paragraph, development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under this article. When determining if development meets the definition of "development of state or regional significance that may substantially affect the environment" and therefore is subject to review under this article, the department may not consider development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. When reviewing a proposal for development of state or regional significance that may substantially affect the environment under this article, the department may not consider in the review any development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. [2011, c. 551, §1 (amd).]

....

27. Exemption for educational institutions. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article as provided in this subsection. For purposes of this subsection, "educational institution" means any private or public school or postsecondary institution.

A. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article if the additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required at an educational institution permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

D. Nothing in this subsection authorizes a person to undertake an activity on a parcel of land affected by an order or permit issued by the department that is contrary to that order or permit.

28. Applicability of exemptions. Unless otherwise specifically provided, nothing in this section exempts any activity from any requirements under this Title, rules adopted pursuant to this Title or the terms or conditions of a license, permit or order issued by the board or the commissioner. [2011, c. 551, §3 (new).]

29. Exemption for new construction at or modification of existing development. New construction at or modification of an existing licensed development that is permitted pursuant to this article is exempt from review under this article if:

- A. The additional disturbed area not to be revegetated does not exceed 10,000 square feet ground area in any calendar year and does not exceed 20,000 square feet ground area in total; and
- B. The construction or modification does not involve a division of the parcel of land.

The permittee shall annually notify the department of any new construction or modification undertaken during the previous 12 months that is governed by this subsection. The notice must identify the type,

location and ground area of the new construction or modification. At the time of the annual notification, the permittee shall provide to the department development plans, certified by a professional engineer, for new construction or modification governed by this subsection. [2013, c. 183, §1 (new).]

Control Of Acid Rain

§603-B. Acid deposition control

1. Legislative findings and intent. The Legislature finds that acid deposition, commonly referred to as "acid rain," resulting from commercial, industrial or other emissions of sulfur dioxide and nitrogen oxides, is occurring in the State. The Legislature also finds that acid deposition poses a present and severe threat to the State's natural resources, including its fish and wildlife, agriculture and water resources, as well as to the State's economy and public health. Increasing evidence suggests that acid deposition also affects the State's economy by reducing the growth productivity of the State's forest resources. [1985, c. 498, § 1 (new).]

2. Nitrogen oxides emission inventory. The department shall prepare an inventory of both current and potential nitrogen oxide emission sources in the State. The department shall also evaluate the contribution of nitrogen oxide emissions to acid deposition and other air pollution problems in the State. The inventory and evaluation shall be completed and submitted to the Legislature by January 31, 1987. [1985, c. 498, § 1 (new).]

3. Acid rain impact study. The department shall complete a study covering the following areas:

A. A resampling and measuring of the response of the State's lakes located in sensitive geologic areas; [1985, c. 498, § 1 (new).]

B. An identification of sensitive receptor areas throughout the State based on, but not limited to, the following criteria: Geology; elevation; lake size; watershed area; and aquatic and terrestrial flora; [1985, c. 498, § 1 (new).]

C. An assessment of the impact of acid deposition on the growth and productivity of the State's forest resources; and [1985, c. 498, §1 (new).]

D. A determination through long-range modeling techniques of the contribution of both in-state sources and out-of-state sources to acid rain deposition in the State. [1985, c. 498, § 1 (new).]

In preparing this study, the department shall coordinate with and utilize as fully as possible the research being conducted at the University of Maine and research conducted by the United States Environmental Protection Agency regarding the acid rain problem. Results of this study shall be reported to the Legislature, together with recommendations for further actions, no later than January 31, 1987. [1985, c. 779, § 84 (amd).]

Maine Waste Management Agency

§2101. Solid waste management hierarchy

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which must be based on the following order of priority:

A. Reduction of waste generated at the source, including both amount and toxicity of the waste; [1989, c. 585, Pt. A, §7 (new).]

B. Reuse of waste; [1989, c. 585, Pt. A, §7 (new).]

C. Recycling of waste; [1989, c. 585, Pt. A, §7 (new).]

D. Composting of biodegradable waste; [1989, c. 585, Pt. A, §7 (new).]

E. Waste processing that reduces the volume of waste needing land disposal, including incineration; and [2007, c. 583, §7 (amd).]

F. Land disposal of waste. [1989, c. 585, Pt. A, §7 (new).]

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

[2007, c. 583, §7 (amd).]

....

§2137. State Government recycling and waste reduction

The Department of Administrative and Financial Services shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State. [1995, c. 656, Pt. A, §40 (amd).]

1. Waste reduction and recycling plan. [1995, c. 465, Pt. A, §55 (rp); Pt. C, §2 (aff).]

2. Capitol complex recycling program. [1995, c. 465, Pt. A, §55 (rp); Pt. C, §2 (aff).]

3. Recycling. Each state agency shall establish and implement a source separation and collection program for recyclable materials produced as a result of agency operations, including, at a minimum, high grade paper and corrugated paper. The source separation and collection program must include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers. Each agency shall appoint a recycling coordinator for every 50 employees at a minimum and shall conduct educational programs for its employees on the recycling program. [1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

4. Waste reduction. Each state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program must be designed and implemented to achieve the maximum feasible reduction of waste generated as a result of agency operations. [1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

5. University of Maine System. The following provisions apply to the University of Maine System.

A. [1995, c. 465, Pt. A, §55 (rp); Pt. C, §2 (aff).]

B. Each campus of the University of Maine System shall establish and implement a source separation and collection program for recyclable materials, including at a minimum high grade paper, corrugated paper and glass. The source separation and collection program must include

procedures for collecting and storing recyclable materials, bins or containers for storing materials and contractual and other arrangements with buyers. Each campus shall appoint a recycling coordinator and shall conduct educational programs for students and employees on the recycling program. [1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

C. Each campus of the University of Maine System shall establish and implement a waste reduction program for materials used in the course of its operations. The program must be designed and implemented to achieve the maximum feasible reduction of waste. [1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

D. Each campus of the University of Maine System shall establish a leaf composting program. [1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

E. Each campus of the University of Maine System shall assess the status of its recycling efforts, evaluate existing programs and, within available resources, develop necessary new programs for recycling to reduce the generation of solid waste by the campus. [1995, c. 465, Pt. A, §55 (new); Pt. C, §2 (aff).]

[1995, c. 465, Pt. A, §55 (amd); Pt. C, §2 (aff).]

TITLE 39-A

Workers' Compensation

....

§403. Insurance by assenting employer; requirements as to self-insurers

An employer subject to this Act shall secure compensation and other benefits to the employer's employees in one or more of the ways described in this section. The failure of any employer subject to this Act to procure insurance coverage for the payment of compensation and other benefits to the employer's employees in one of the ways described in this section constitutes failure to secure payment of compensation provided for by this Act within the meaning of section 324, subsection 3 and subjects the employer to the penalties prescribed by that section. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

1. Insuring under workers' compensation insurance policy. The employer may comply with this section by insuring and keeping insured the payment of such compensation and other benefits under a workers' compensation insurance policy. The insurance company shall file with the board notice, in the form required by the board, of the issuance of any workers' compensation policy to an employer. The insurance may not be canceled within the time limited in such policy for its expiration until at least 30 days after the insurance company mails to the board and to the employer a notice of the cancellation of the insurance. In the event that the employer has obtained a workers' compensation policy from another insurance company, or has otherwise secured compensation as provided in this section, and such insurance or other security becomes effective prior to the expiration of the 30-day notice period, cancellation takes effect on the effective date of the other insurance or on receipt of security. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

2. Pilot projects. [2001, c. 48, §1 (amd); §2 (aff); T. 39-A, §403, sub-§2, paragraph D (rp).]

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 superintendent, in such sum as the superintendent may determine pursuant to subsection 8, the Treasurer of State and 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 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 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. [2011, c.180, §1 (amd)]

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, are 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. [2007, c. 75, §1 (amd)]

....

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. [1997, c. 126, §7 (amd).]

....

§409. Assessment for the expenses of administering the Self-insurer's Workers' Compensation Program

The Superintendent of Insurance shall annually make an assessment on self-insuring employers approved pursuant to section 403, respecting the operations of each self-insurer conducted in the State to

defray the cost of administration of the Bureau of Insurance. On or before March 1st of each year, every individual workers' compensation self-insurer and group workers' compensation self-insurer shall report to the superintendent the self-insurer's experience modification factor for the previous calendar year. The superintendent shall calculate the amount of annual standard premium that would have been paid during the previous calendar year for every individual workers' compensation self-insurer and group workers' compensation self-insurer. The annual assessment upon approved self-insuring employers must be calculated using the imputed annual standard premium relating to business operations in the State that each self-insurer would have paid during the previous calendar year pursuant to manual rates established by the principal rating organization in the State and using the experience rating procedure approved by the Superintendent of Insurance for that self-insurer. For the purposes of this section, the definitions of annual standard premium in section 404, subsection 4 apply. The assessment must be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment must be in an amount not exceeding 11/100 of 1% of the imputed annual standard premium. When the superintendent calculates the amount of the annual assessment, the superintendent may consider, among other things, the staffing level required to administer workers' compensation self-insurance oversight responsibilities of the bureau. All information filed by self-insurers in compliance with this section is confidential in accordance with section 403, subsection 15. [1997, c. 126, §13 (amd).]

....

9. Exclusions. This section does not apply to the State or the University of Maine System. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

RESOLVES

HIGHMOOR FARM, AUTHORITY TO PURCHASE ADDITIONAL LAND (1925 Res., c. 54)

Resolved: That authority be granted to the Trustees of the University of Maine and the director of the Maine Agricultural Experiment Station to purchase additional land for Highmoor Farm*, so called in the town of Monmouth. The amount to be paid for the same not to exceed three thousand dollars, said sum to be taken from any funds granted to the Maine Agricultural Experiment Station by the eighty-second legislature.

* Conveyed to Trustees, then to University, in 1965.

AUTHORIZING THE ATTORNEY GENERAL TO CONVEY CERTAIN LANDS (1966 Res., c. 86)

Resolved: That the Attorney General is authorized to convey to the Trustees of the University of Maine, their successors and assigns, the following parcels of land, now used and occupied by the University of Maine:

1. Orono. The land and buildings in Orono, County of Penobscot, conveyed by the trustees of the State College of Agriculture & Mechanic Arts to the State of Maine on July 28, 1870, together with the buildings and structures subsequently erected thereon.

2. Highmoor Farm. The land and buildings known as Highmoor Farm in Monmouth, County of Kennebec, conveyed by Frederick H. Munday to the State of Maine on July 23, 1909, and by Katherine Grosser to the State of Maine on July 10, 1925, together with the buildings and structures subsequently erected thereon.

3. Aroostook Farm. The land and buildings known as Aroostook Farm in Presque Isle, County of Aroostook, conveyed by Sanford R. Greenwood to the State of Maine on October 28, 1913, and by Thomas A. Phair to the State of Maine on October 22, 1915, together with the buildings and structures subsequently erected thereon.

BLACKFLY CONTROL. (1977 Res., c. 56)

Appropriations; There is appropriated from the General Fund to the University of Maine the sum of \$5,000 for the fiscal year 1977-78 for the purpose of supporting research directed by members of the University of Maine staff on blackfly biology, on quantifying the adverse economic impact caused by blackflies, on the economic benefits that might accrue from their control, on environmentally safe insecticidal control of blackflies and on locating streams

where blackflies would be susceptible to control, except that none of the funds appropriated shall be used for the application of insecticides to streams, rivers, lake, ponds or other waters in the State. The appropriation mentioned above may be supplemented with donations from cities and towns.

TEACHER TRAINING IN THE UNIV. OF MAINE SYSTEM. (1986 Res., c. 52; as amended, 1987 Res., c. 44)

Special commission created. RESOLVED: The Senate concurring, that: a Special Commission to Study Teacher Training in the University of Maine System, referred to as the commission be established to review teacher preparation programs at the campuses of the University of Maine System, report its findings to the people of the State and make recommendations to the Second Regular Session of the 113th Legislature; and be it further

Membership. RESOLVED: That the commission shall consist of 13 members selected jointly by the Speaker of the House and President of the Senate. Three of the members shall be members of the Joint Standing Committee on Education; one shall be a member of the Board of Trustees of the University of Maine System; one shall be a member of the State Board of Education; one shall be a member of the New England Board of Higher Education; one shall be a member of the National Council of Accreditation of Teacher Educators; 3 shall be heads of colleges, departments, divisions or offices of education at campuses of the University of Maine System; one shall be an elementary or secondary school administrator; one shall be an elementary school teacher and one shall be a secondary school teacher. The members shall select a chairman from among themselves; and be it further

Reimbursement. RESOLVED: That members of the commission shall not be paid per diem. Members of the commission who are Legislators shall be reimbursed for expenses as provided in the Maine Revised Statutes, Title 3, section 2. Members of the commission who are not Legislators shall be reimbursed for expenses in accordance with the Maine Revised Statutes, Title 5, chapter 379, and be it further

Issues to be considered. Resolved: That the commission examine the status of teacher preparation at the University of Maine, including the following:

1. Admission requirements for prospective teachers, including test scores, grade point average and other criteria;
2. Profile of incoming teachers as compared to other students based on test scores, grade point average and other criteria;
3. Motivation of incoming teachers determined by a survey conducted by the commission or other appropriate means;
4. Graduation requirements, including practicum experience;
5. Career counseling provided to prospective teachers;
6. Placement of graduates of teacher preparation programs;
7. Assessment of student and graduate opinions of the teacher preparation programs determined by a survey of recent graduates conducted by the commission;
8. Teacher preparation methods employed in undergraduate and graduate programs;
9. Professional staff -- qualifications and rate of turnover;
10. Materials and resources available for teacher preparation programs;

11. Appropriateness of the level of funding of teacher preparation programs;
12. Impact of the new certification law on teacher preparation programs; and
13. Comparison of programs' offerings between campuses; and be it further

Legislative conference on teacher training. Resolved:

That following consideration of the issues listed in this resolve, the commission shall schedule a series of public meetings to be known as the Legislative Conference on Teacher Training. The purpose of the conference shall be to present the commission's findings on the status of teacher training in Maine and to receive public comments on that status and ways in which it may be improved. The meetings shall be scheduled at a convenient place and time in the evening and shall be widely advertised to encourage attendance by interested persons; and be it further

Report to the Legislature. Resolved: That the commission shall report its recommendations, including recommendations for changes, if any, to the Second Regular Session of the 113th Legislature. The report shall be scheduled at a convenient place and time in the evening and shall be widely advertised to encourage attendance by interested persons; and be it further

Staff. Resolved: That the commission may request staff assistance from the Legislative Council; and be it further

...

COMMISSION ON MAINE'S FUTURE (1987 Res., c. 60)

Resolved: That there is created and established a Commission on Maine's Future, in this resolve referred to as the "commission." It shall be the responsibility of the commission to recommend a desirable and feasible description of the State's future, including an integrated and progressive plan for reaching the goals contained in that description. The description and plan shall be based upon comprehensive analysis of factual information and projections pertinent to the description and plan. The commission may use the technical expertise of the State Planning Office and the Office of Policy and Legal Analysis to construct models and identify parameters to be used in determining the best long-range goals of the State. These findings shall be articulated into a working document; and be it further

Resolved: That the Commission on Maine's Future shall consist of 40 members. The Director of the State Planning Office and 19 members shall be appointed by the Governor. The 19 members shall be apportioned among the planning and development districts established pursuant to the Maine Revised Statutes, Title 30, section 4521, according to relative population shares. Each county shall have at least one representative. There shall be 20 members, 10 appointed by the President of the Senate and 10 by the Speaker of the House. The members appointed by the President of the Senate and the Speaker of the House shall be chosen to reflect a geographic balance. The Governor shall appoint the chairman of the commission from the membership and the chairman shall serve at the Governor's pleasure. The commission members shall serve terms to expire on July 1 1989, to enable the commission to advise the Legislature with respect to the proposals and to follow the implementation of the proposals of the commission. Any vacancy in membership on the commission shall be filled by the appointing authority authorized to appoint the member whose position has become vacant; and be it further

Resolved: That the duties of the commission are to prepare for consideration by the Governor, the Legislature and the people of Maine:

1. A proposed growth and development policy for the State and step-by-step recommendations concerning means to most effectively implement the policy;
2. Reports assembling, analyzing and projecting relevant information regarding the future of the State, including, but not limited to:

- A. Statewide and regional demographic information on growth, interstate and intrastate migration patterns, age distribution and dependency ratios as factors in the cultural, social and economic life of the State;
 - B. Availability of various natural resources, including energy, and an analysis of their importance to, and effect upon, the cultural, social and economic life of the State; and
 - C. A description of the future of the State as envisioned by its people;
- 3. An examination of long-range plans by state departments and agencies, including the University of Maine System, and an assessment of their possible impact on state growth and development;
 - 4. Reports on the implications of major state decisions;
 - 5. A progress report on commission activities to be submitted to the Governor and the Joint Standing Committee on State and Local Government not later than April 1, 1988; and
 - 6. A formal final report on commission activities to be submitted to the Governor and to the joint standing committee of the Legislature having jurisdiction over state and local government not later than January 1, 1989. The final report shall contain any necessary implementing legislation.
- In the performance of its duties, the commission may hold public hearings and conferences with any person, persons, organizations and governmental agencies concerned with Maine's future. The commission shall be provided information, reports or other assistance from any agency, department, legislative committee or other instrumentality of the State, with the consent of the head of the respective organization. State agencies shall, on request, assist the commission in carrying out the purposes of this resolve; and be it further

Resolved: That the State Planning Office shall staff the commission to conduct research and prepare reports for the commission; and be it further

That legislative members of the commission shall receive legislative per diem. All other members shall receive expenses only; and be it further

Resolved: That the commission is authorized to accept and employ any funding available to carry out the purpose of this resolve.

RESOLVE, REGARDING THE STUDY OF LOW-LEVEL RADIOACTIVE WASTE IN THE TOWN OF GREENBUSH (1988 Res., c. 113; as amended 1989 Res., c. 5)

University of Maine System and Greenbush to study.

Resolved: That the University of Maine System and the Town of Greenbush shall jointly retain a consultant to study the former University of Maine System low-level radioactive waste disposal site on Department of Conservation land in the Town of Greenbush. The University of Maine System and the town may seek the advice of the State Geologist and the Department of Environmental Protection in reviewing the consultant's report. The University of Maine System shall pay all costs associated with the study. The study shall include the following elements:

- 1. An assessment of the adequacy of the existing ground water monitoring system and past sampling programs. This assessment will determine the need for an expanded monitoring well system and the preparation of a 5-year monitoring program to assess the impacts on ground water quality;

2. An evaluation of the effectiveness of past remedial actions taken at the site, including the existing sand and plastic cap on the site, to limit long-term impacts on ground water quality;

3. An evaluation of the health and environmental risks of removing the radioactive waste materials and other hazardous materials to an approved disposal site; and

4. The preparation of a permanent closure plan for the site which meets all federal and state requirements for the closure of low-level radioactive waste disposal sites; and be it further

Resolved: Report. That the University and the Town shall issue a report on the findings to the Joint Standing Committee of the Legislature on Energy and Natural Resources by January 15, 1990; and be it further

Resolved: Future Fiscal Responsibility. That the University of Maine System shall incorporate the funds necessary to implement the recommended actions in its budget proposal to the Legislature for fiscal year 1990 and beyond.

Note: 12 MRSA Subsection 8003, Para. M - as enacted in 1993, P.L. C. 680 and amended in 1997, P.L., c. 536 authorized the Director of Bureau of Forestry to transfer to the University of Maine the low-level radioactive waste site.

TRAINING PROGRAM FOR NURSE PRACTITIONERS (1989 Res., c. 42)

Board of Trustees of the University of Maine System authorized to study establishment of training program.

Resolved: That the Board of Trustees of the University of Maine System is directed to conduct a study to determine the costs of establishing an advanced nursing degree program for nurse practitioners in northern Maine; and be it further

Reporting date established. Resolved: That. the Board of Trustees shall report its findings, including proposed location of the program, to the Legislature by February 1, 1990.

LEARNING DISABILITIES STUDY (1989 Res., c. 22)

Resolved: That the Department of Educational and Cultural Services, the Board of Trustees of the University of Maine System and the State Board of Education are directed to conduct a comprehensive review of the final report of the Joint Select Committee for Learning Disabled Children and prepare a report to the Legislature on the implementation of the report's recommendations; and be it further

Resolved: That the Department of Educational and Cultural Services is responsible for reviewing the report's recommendations pertaining to local school administrative units and reporting on the implementation of those recommendations; and be it further

Resolved: That the Board of Trustees of the University of Maine System is responsible for reviewing the report's recommendations pertaining to private post-secondary educational institutions and reporting on the implementation of those recommendation; and be it further

Resolved: That the Department of Educational and Cultural Services, the University of Maine System and the State Board of Education coordinate the results of their reviews and present their consolidated report to the Joint Standing Committee on Education by December 1, 1989; and be it further

Resolved: That the Joint Standing Committee on Education review the report and is authorized to introduce appropriate legislation for consideration by the Second Regular Session of the 114th Legislature.

STUDY OF THE ESTABLISHMENT OF A TESTING PROGRAM FOR THE PURITY OF AGRICULTURAL FOOD PRODUCTS (1989 Res., c. 77)

Study and Report Required. Resolved: That the Cooperative Extension Service of the University of Maine System shall consider as a part of the activities of its ongoing food safety team the need for a testing program for Maine agricultural products within the State. Issues addressed shall include: whether food safety testing should occur at a public or private facility; the advantages and disadvantages of establishing a food safety testing facility within the University of Maine System or the Department of Human Services; and the types and probable expense of tests needed. The Cooperative Extension Service shall report its conclusions on these issues by January 15, 1991, to the Office of the Executive Director of the Legislative Council for distribution the Joint Standing Committee on Agriculture.

ESTABLISHING THE COMMISSION TO ASSESS THE IMPACT OF INCREASED STATE SPENDING ON THE UNIVERSITY OF MAINE SYSTEM (1989 Res., c. 101)

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

Whereas, following the blue ribbon commission report on the University of Maine System in 1986, the Legislature appropriated a supplemental \$15,000,000 “down payment” to the system to address areas of deficiency; and Whereas, over the intervening years, the Legislature and the public have continued to support extraordinary appropriations and bond issue authorizations for programs and projects of the University of Maine System; and

Whereas, this increased level of financial support indicates the importance the people of the State place on the University of Maine System as an academic, economic development, public service, and cultural resource of the State; and

Whereas, there is need for immediate assessment of the impact of recent spending patterns of the University of Maine System in light of continued increased requests on behalf of the system in order to evaluate the effectiveness of that spending and to prioritize needs for future spending; and

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

Sec.1. Commission created and charged. Resolved: That there is created the Commission to Assess the Impact of Increased State Spending on the University of Maine System. The commission shall gather and analyze information concerning the rate of increase of state appropriations to the University of Maine System since 1986 and assess the impact of that increase on the following aspects of the system:

1. Construction of educational facilities;
2. Acquisition of equipment, supplies and services;
3. Impact on the quality, size, turnover and morale of the faculty, including changes in class sizes and student to faculty ratios;
4. Investments to improve the quality of student life;

5. Range of academic offerings;
6. Comparison of increases in administrative costs relative to increases in program and operating costs;
7. Distribution of funds among the campuses, and
8. Other issues determined relevant by the commission; and be it further

Sec.2. Appointment. Resolved: That the commission consists of 8 voting members and one nonvoting ex officio member appointed in the following manner:

1. Three legislative members to be appointed jointly by the President of the Senate and Speaker of the House of Representatives;
2. Two students from different campuses of the University of Maine System to be appointed jointly by the President of the Senate and the Speaker of the House of Representatives;
3. Two faculty members from different campuses of the University of Maine System to be appointed jointly by the President of the Senate and Speaker of the House of Representatives;
4. One member representing the Board of Trustees of the University of Maine System appointed by the Trustees; and
5. One nonvoting ex officio representative from the Office of the Chancellor of the University of Maine System to be appointed by the chancellor; and be it further

Sec.3. Convening of commission. Resolved: That when the appointment of all commission members is completed, the Executive Director of the Legislative Council shall convene the first meeting within 30 days of the final appointment. At the first meeting, the commission shall elect a chair from among its members. To the extent possible, all meetings must be held in Orono; and be it further

Sec.4. Report. Resolved: That the commission shall present its findings, together with any recommended legislation, to the First Regular Session of the 115th Legislature and the Office of the Chancellor by December 1, 1990; and be it further

Sec. 5. Compensation. Resolved: That all members of the commission, with the exception of the ex officio members, are entitled to reimbursement for expenses upon application to the Executive Director of the Legislative Council; and be it further

Sec.6. Funding. Resolved: That funding for this study must be made available from the existing budgeted resources of the University of Maine System.

STUDY AND EVALUATE THE STATUS OF EDUCATION REFORM IN MAINE (1989 Res., c. 88)

Sec. 1. There is created the Special Commission to Study and Evaluate the Status of Education Reform in Maine. The special commission shall conduct a thorough assessment of the various elements of education reform instituted since 1984, including the following.

...

6. In conducting the study authorized by this resolve, the special commission shall:

A. Hold 5 public hearings across the State to assess public opinion on the status of education reform. The special commission shall schedule the public hearings at a convenient time and place, advertise the public hearings widely and, in cooperation with the University of Maine System, utilize the Interactive Television System whenever possible to achieve the broadest possible participation in the public hearings;

...

Sec. 5. Assistance. The special commission may hire consultants or researchers to assist in performing its duties. With the approval of the Legislative Council, the special commission may apply for grants or technical assistance from public or private organizations. Agencies of the State Government shall provide information requested by the special commission. In conducting surveys and policy research, the special commission may request assistance from the University of Maine System. If additional staff assistance is desired, assistance may be requested from the Legislative Council, and be it further

....

COMMISSION TO STUDY THE HISTORY, STATUS, IMPACT AND ROLE OF INDEPENDENT HIGHER EDUCATION IN MAINE (1991 Res., c. 44)

Whereas, independent higher education plays a critical role in the State; and

Whereas, more than 5,000 Maine students annually attend one of the 12 independent institutions of higher education in the State, many in programs not offered by the state- supported institutions; and

Whereas, Maine's future ability to be competitive economically, financially and intellectually depends in large measure on the availability of quality higher education; now, therefore, be it

Sec. 1. Commission established. Resolved: that the Commission to Study the History, Status, Impact and Role of Independent Higher Education in Maine is established; and
be it further

Sec. 2. Membership. Resolved: That the commission consists of 9 members appointed as follows.

....

Sec. 3. Appointments; meetings; chair. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The commission shall select a chair from among its members. When the appointment of the members is completed, the Chair of the Legislative Council shall call the first meeting within 30 days; and be it further

Sec. 4. Duties. Resolved: That the commission shall study the history, status, impact and role of independent higher education in the State and make recommendations for the future role of these institutions. In conducting this study, the commission shall:

1. Examine the historical significance of, as well as the current educational opportunities provided by, independent higher education for the people of this State, including program offerings available to the students of this State, the impact of research programs and teaching activities, the availability of facilities and community programs and student enrollments;

2. Evaluate the capacity of independent higher educational institutions to meet future educational and economic needs of the State and examine how these institutions may work together with state-supported institutions to better serve such needs;

3. Review the mechanisms by which independent higher educational institutions can complement the State's public higher education systems by providing education, research or other services;

4. Evaluate the state student financial aid policy and practice and the extent to which it supports independent higher educational institutions;

5. Analyze the relative cost of independent and public higher education with and without the support of public funds; and

6. Make recommendations on how state policy and law may be changed to provide a more meaningful role for independent higher educational institutions in state education planning and services; and be it further

Sec. 5. Report. Resolved: That the commission shall submit its reports together with any necessary implementing legislation, to the First Regular Session of the 116th Legislature and the Office of the Executive Director of the Legislative Council by November 1, 1992; and be it further

....

ANALYZE UNFUNDED MANDATES (1993 Res., c. 5)

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

Whereas, quantitative data is needed to assess the impact of unfunded federal mandates on the budget of State Government; and

Whereas, this data must be presented to the United States Congress at the earliest opportunity in an effort to gain fiscal relief as the State struggles with its budget problems; and

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

Sec. 1. Data on unfunded federal mandates. Resolved: That all departments and agencies of State Government, including independent agencies and the institutions of higher education that receive an appropriation from the General Fund, shall collect data on the federal mandates that have been imposed on those agencies for which no or partial funding has been provided. Data must be organized in such a way as to identify individual mandated activities, the federal statutes or rules that created each mandate and the estimated cost to fulfill each mandate for state fiscal years 1993-94 and 1994-95.

For the purpose of this resolve, "federal mandate" means any federal legislation or administrative rule adopted by a federal agency that has necessitated a state department or agency to make additional expenditures; and be it further

Sec. 2. Report to the Joint Standing Committee on Appropriations and Financial Affairs. Resolved: That each department or agency subject to the provisions of section 1 of this resolve shall report its findings to the Joint Standing Committee on Appropriations and Financial Affairs no later than April 1, 1993.

REDUCE THE ADMINISTRATIVE COSTS OF STATE GOVERNMENT (1993 Res., c. 11)

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 General Fund faces a budget gap for the 1994-95 biennium of approximately \$1,100,000,000; and

Whereas, State Government must decrease its administrative costs as part of establishing a balanced budget for the upcoming biennium; and

Whereas, additional data is necessary to review effectively administrative costs in all departments and agencies of State Government; and

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

Sec. 1. Management reviews. Resolved: That all departments and agencies of State Government, including, without limitation, each department and agency in the executive branch, the legislative branch and the judicial branch; the Office of the Secretary of State, the Office of the Attorney General, the Office of Treasurer of State, the Office of the State Auditor, the Finance Authority of Maine, the Maine State Housing Authority and all other independent agencies; and institutions of higher education that receive an appropriation from the General Fund shall conduct an internal management review to identify administrative inefficiencies and ways to eliminate those inefficiencies and administrative costs, including the cost of administrative personnel, and ways to reduce those administrative costs.

The goal of each department's or agency's review is to identify administrative cost savings for fiscal year 1993- 94 and fiscal year 1994-95 that reduce administrative costs by 10% or allocations. The management review conducted pursuant to this section must identify administrative inefficiencies and administrative cost savings related to, but not limited to, the agency, including its various subunits and programs; the supervision of employees; policy development; policy implementation; and the execution of any other functions that do not provide a direct service to the public.

The Highway Fund, the Federal Expenditure Fund, other Special Revenue and all other funds of the State must be included in each department's or agency's management review and must be treated in an equitable manner relative to the General Fund; and be it further

Sec. 2. Report to Joint Standing Committee on Appropriations and Financial Affairs. Resolved: That each department, or agency subject to section 1 of this resolve shall report its findings and recommendations to the Joint Standing Committee on Appropriations and Financial Affairs no later than January 4, 1994. The report must include an estimate of the impact that the administrative cost reductions will have on that individual department or agency. Administrative cost-saving recommendations must be segregated by fiscal year, fund and program.

ESTABLISH PUBLIC SERVICE STUDY COMMITTEE (1993 Res., c. 33)

Sec. 1. Committee established. Resolved: That the Academy for Public Service Study Committee is established; and be it further

Sec. 2. Committee membership. Resolved: That the committee consists of the following 13 members: one member of the Senate appointed by the President of the Senate; 2 members of the House of Representatives appointed by the Speaker of the House of

Representatives; the Commissioner of Administration or the commissioner's designee; 6 representatives of higher education, selected jointly by the Governor, the President of the Senate and the Speaker of the House of Representatives from applications submitted to the Governor, 3 of whom are representatives from the University of Maine System, one of whom is a representative of the Maine Technical College System, one of whom is a representative of the Maine Maritime Academy and one of whom is a representative of the private colleges in this State; the President of the Maine Development Foundation or the president's designee; the Executive Director of the

Maine State Employees Association or the executive director's designee; and a member of the public appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and be it further

Sec. 3. Appointments; meetings. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. When the appointment of all members has been completed, the Chair of the

Legislative Council shall call and convene the first meeting of the committee no later than October 15, 1993. The committee shall select a chair from among its members; and be it further

Sec. 4. Duties. Resolved: That the committee shall examine to what extent the existing resources of the University of Maine System and independent colleges meet the education and training needs of State Government and local government. The committee shall also study the feasibility of organizing and coordinating resources within higher educational systems and State Government to create an academy for public service for personnel in direct services, supervisory, administrative and elected positions.

In examining these issues, the committee may:

1. Meet at convenient times and locations within Augusta;
2. Hold informational sessions for discussions with knowledgeable persons.
3. Conduct, summarize and analyze the results of a literature search;
4. Conduct, tabulate and analyze the results of a survey of the public or affected persons and groups;
5. Procure and analyze relevant data;
6. Conduct legal research and prepare opinions on legal questions within the scope of the study; and
7. Determine and summarize the legislative actions or governmental programs undertaken in other jurisdictions related to issues within the scope of the study; and be it further

Sec. 5. Staff assistance. Resolved: That staffing assistance for the committee must be provided by the University of Maine System and other institutions whose members serve on the committee; and be it further

....

DEPARTMENT OF LABOR & UNIVERSITY OF MAINE TO INSTITUTE CONFERENCES ON EMERGING TRENDS IN LABOR RELATIONS (1995 Res., c. 27)

Sec. 1 - Conferences on labor-management relations. Resolved: That the Department of Labor and the Bureau of Labor Education and the College of Business Administration at the University of Maine shall work together to plan and offer, if feasible, a conference or a series of statewide conferences on labor-management systems. The emphasis of the conferences must be on emerging trends in labor-management relations. The Department of Labor and the Bureau of Labor Education and the College of Business Administration at the University of Maine shall serve as the facilitators and coordinators of these

conferences to ensure that maximum value is gained for the participants. The conferences must be paid for by participant fees or by the receipt of grants or gifts donated for that purpose. The responsible agencies shall publicize the conferences and encourage all interest groups to participate and attend.

ESTABLISH ADDITIONAL FUNDING FOR THE UNIVERSITY OF MAINE SYSTEM (1997 Res., c. 70)

Sec. 1. Board of Trustees and chancellor; review and report. Resolved: That the Board of Trustees of the University of Maine System and the chancellor shall review the current method of distributing state resources in light of distinctive missions, enrollment shifts, program priorities, changing program costs, demographic patterns and emerging needs of the State. As part of the review, the trustees and chancellor shall ensure that the needs of the State's nontraditional students are met in a more equitable manner. The trustees and chancellor shall report back to the Joint Standing Committee on Education and Cultural Affairs by January 15, 1998 with a funding formula proposal that will be implemented during the fiscal year 1999-2000; and be it further

Sec. 2. Appropriation. Resolved: That the following funds are appropriated from the general fund to carry out the purposes of this resolve.

UNIVERSITY OF MAINE SYSTEM BOARD OF TRUSTEES OF THE
Educational and General Activities - UMS
All other \$250,000

Provides funds to provide additional support at the University of Name System.

ESTABLISH A POLICE CADET PROGRAM FOR THE STATE, MUNICIPAL AND COUNTY LAW ENFORCEMENT AGENCIES. (1999 Res., c. 58)

Sec. 1. Police Cadet program. Resolved: That the Department of Public Safety, in cooperation with the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Marine Resources, the Maine Chiefs of Police Association, the Maine Sheriffs association and the University of Maine at Augusta, shall develop and implement a police cadet program for youth who have graduated from high school or have a high school equivalency diploma. Existing police cadet programs in this State and in other states may be used as models; and be it further

Sec. 2. Proposal and report. Resolved: That the Department of Public Safety shall report to the Joint Standing Committee on Criminal Justice by December 15, 1999 regarding all proposals to implement and fund the state, local and municipal law enforcement agency cadet program.

ESTABLISH THE NATIONAL GUARD EDUCATION ASSISTANCE PILOT PROGRAM (1999 Res., c. 121)

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 National Guard is a valuable resource for the State of Maine; and

Whereas, those in service to Maine deserve to be recognized and rewarded for their service; and

Whereas, it is imperative that this legislation take effect in time to allow members of the Maine National Guard to attend classes in the summer; and

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

Sec. 1. Resolved: That the National Guard Education Assistance Pilot Program is established.

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

A. "Course" means a class taught over a semester, trimester, quarter or term.

B. "Degree program" means a course of study programmed to culminate in a specific degree, diploma or certificate.

C. "Maine National Guard Member" or "member" means a member of the federally recognized unit, of the Maine National Guard.

D. "State postsecondary education institution" means the University of Maine System, the Maine Maritime Academy, the Maine Technical College System or any other college or university system established as a public instrumentality in this State.

E. "Tuition" means the total semester, trimester, quarter or term or classroom-hour cost of instruction to the student as periodically published in the catalog of a state postsecondary education institution, including mandatory fees and lab fees but excluding all other expenses such as books charges room and board.

F. "Unsatisfactory participant" means a member of the Maine National Guard who has accumulated 9 or more unexcused absences from unit training assemblies who, without proper authority fails to attend or complete the entire period of annual training.

2. Tuition grant for Maine National Guard member. A Maine National Guard member who meets the prerequisites of subsection 3 is entitle to 100% tuition grant at any state postsecondary education institution. The Maine National Guard shall provide the cost of tuition to a member who meets the requirements of subsection 3.

3. Minimum prerequisites. To qualify for a tuition waiver pursuant to subsection 2, the Maine National Guard member must:

A. Have successfully completed basic training or received a commission;

B. Be a satisfactory participant in the Maine National Guard; and

C. Enter into a written contractual commitment with the Maine National Guard to serve in the Maine National Guard for at least one year beyond the end of the term for which a tuition grant is granted.

4. Cessation of benefits. The tuition waiver benefits granted under this subsection cease upon:

A. Accumulation of 150 credit hours, or the equivalent, of tuition grant assistance by the Maine National Guard member;

B. Unsatisfactory participation by the Maine National Guard member in the Maine National Guard as certified to the state postsecondary education institution by the Adjutant General; or

C. Failure of the Maine National Guard member to maintain good academic standing at the state postsecondary education institution.

5. Restitution. Repayment of tuition waiver benefits is required pursuant to this subsection.

A. A Maine National Guard member shall repay the Maine National Guard the full amount of education assistance received f or each course during the preceding semester, trimester, quarter or term that:

(1) The member fails to complete; or

(2) The member completes but for which the member earns a grade lower than 2.0 on a 4.0 scale

B. If the member becomes an unsatisfactory participant with the Maine National Guard or does not remain in good academic standing with the state postsecondary education institution, then the Maine National Guard member shall repay the full amount of tuition grant received for all courses taken during the preceding semester, trimester, quarter or term to the Maine National Guard.

C. If the member does not fulfill the member's contractual obligation to the Maine National Guard as defined in subsection 3, paragraph C, then the Adjutant General shall notify the Maine National Guard member in writing that the member is liable for restitution and the member shall repay the Maine National Guard the full amount of the tuition grant received during the last school year.

A member may appeal the requirement to make restitution pursuant to this subsection if the member files a written notice of intent to appeal with the Adjutant General within 30 days of notice that the member is liable for restitution. During the pendency of the appeal, the requirement of restitution is postponed. If the Adjutant General determines that the member, in fact, met the requirements for restitution as described in paragraph A, B, or C and that there were not sufficient extenuating circumstances to excuse the failure of the member to complete satisfactorily the course or participation in the Maine National Guard, the Adjutant General shall inform the member of this determination and the member shall make restitution to the Maine National Guard for those courses for which the Adjutant General determines the member is liable. The decision of the Adjutant General is final and may not be appealed.

6. In-state tuition rates. Regardless of the state of residence, a member of the Maine National Guard who has met the requirements of this section and is attending a state postsecondary education institution qualifies for in-state tuition rates; and be it further

Sec. 2. Data-keeping; report. Resolved That the Department of Defense, Veterans and Emergency Management shall keep and analyze data on the effects of the education assistance pilot program on recruitment and retention of Maine National Guard members. The department shall report to the joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs in January 2001 and 2002; and be it further

Sec. 3. Funding cap. Resolves: That grants may not be made after June 30, 2001 or after the funds allocated in this resolve are exhausted, whichever is later; and be it further

Sec. 4. Application. Resolved: That this resolve applies to school semesters, trimesters, quarters or terms beginning on or after the effective date of this resolve; and be it further

Sec. 5. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purpose of this resolve.

DEFENSE, VETERANS AND EMERGENCY	2000-01
MANAGEMENT, DEPARTMENT OF	
Military Educational Benefits	
All other	\$300,000

Provides one-time funds for the
Cost of tuition for eligible
members of the Maine National
Guard.

Emergency Clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.
Effective May 2, 2000.

ASSESS THE CONDITION OF HISTORICAL RECORDS IN MAINE HISTORICAL RECORDS REPOSITORIES (2001 Res., c. 10)

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

Whereas, historical records in historical records repositories must be protected and preserved; and

Whereas, the condition of historical records in historical records repositories throughout the State must be assessed in order to provide for their protection, preservation and access; and

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

Sec. 1. Assessment. Resolved: That the Secretary of State and the University of Maine System, in consultation with professionals with expertise in the preservation of documents, shall develop a comprehensive plan for assessing:

1. The condition of historical records in the State;
2. Threats to the integrity of those records; and
3. Accessibility of those records.

For the purpose of this resolve, the term “historical records” includes rare books and other published materials with unique historical value as well as original records with historical value. The plan must include an educational component that provides assistance to historical records repositories in protecting, preserving and providing access to those historical records; and be it further

Sec. 2. Report. Resolved: That the Secretary of State and the University of Maine System, in cooperation with the Maine Historical Records Advisory Board and other organizations and individuals concerned with historical records, shall submit a report along with any recommended legislation to the Joint Standing Committee on Education and Cultural Affairs no later than February 1, 2002. The Joint Standing Committee on Education and Cultural Affairs may report out a bill to the Second Regular Session of the 120th Legislature pertaining to the preservation and protection of historical records and access to those records.

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved. Effective May 8, 2001

ASSESS THE CONSEQUENCES OF CLIMATE CHANGE IN THE STATE (2001 Res., c. 28)

Sec. 1. To establish a cooperative program to assess climate change in the State. Resolved: That the commissioner of Environmental Protection in consultation with the Institute for Quaternary and Climate Studies at the University of Maine shall develop for submission to the Second Regular Session of the 120th Legislature no later than December 31, 2001 a plan to collect data, conduct research and communicate information about climate change impacts in Maine. The climatologist at the institute is designated as the “Maine State Climatologist” and shall work cooperatively with the Department of Environmental Protection and other relevant state agencies. The Department of Environmental Protection shall assist with the coordination of and shall provide support for activities related to data collection and dissemination of information to the public and the private sector. The responsibilities of the Maine State Climatologist, with the assistance of and in consultation with the department. include:

1. The design and development of a statewide environmental monitoring network to detect changes in key environmental conditions related to climate. The program must be designed to increase the public awareness of climate-related phenomena and to identify actions that may be taken to lower risks of climate change and its effects on public health and welfare. When practical the program must involve schools in collecting data. The information developed by the program must be available to the public and organized in a manner to help businesses, natural resource managers, farmers and governmental agencies plan for future effects of climate change; and

2. Evaluating for this State the following:

A. Past climate patterns and trends both historical and prehistorical, including geological evidence and sea-level and coastal environmental changes;

B. Biotic responses to climate change; and

C. Variability in physical conditions, including, but not limited to, frequency and severity of storms, levels of precipitation and seasonal temperature fluctuations, attributable to climate change,

As part of the plan submitted pursuant to this section, the Department of Environmental Protection shall identify a process for collecting and reporting statewide emissions of greenhouse gases on a regular basis. The department shall also develop and maintain a voluntary registry of actions taken subsequent to 1989 by persons or corporations to control emissions of greenhouse gases, including the sequestration of carbon that otherwise might have been released as carbon dioxide.

EXAMINE THE DOCTORATE-LEVEL EDUCATIONAL OPPORTUNITIES AVAILABLE THROUGH THE UNIVERSITY OF MAINE SYSTEM (2001 Res., c. 77)

Preamble. Whereas, the educational, economic and social challenges of the 21st century present greater opportunities for citizens of the State who can attain postgraduate levels of education and also provide significant prospects for economic and community development of the State; and

Whereas, excellence in doctorate-level education is an integral component of the research and development initiatives undertaken by the University of Maine System; and

Whereas, doctorate-level educational programs that support the economic development across the State and expand educational, economic and cultural opportunities available to Citizens of the State are an important part of the responsibility of the University of Maine System; now, therefore, be it

Sec. 1. Review of doctorate-level educational opportunities. Resolved: That the Board of Trustees of the University of Maine System shall establish a review of doctorate-level educational opportunities provided through the University of Maine System; and be it further

Sec. 2. Duties. Resolved; That the review under section 1 must examine the following issues concerning the availability of and demand for doctorate-level educational programs through the University of Maine System:

1. The current array of doctorate-level educational programs available to citizens of the State through the University of Maine System;

2. The capacity and enrollment levels for the current doctorate-level educational programs available to citizens of the State through the University of Maine System; and

3. The demand for doctorate-level educational programs not currently provided through the University of Maine System, including an analysis of the costs and benefits of expanding or revising the current array of doctorate-level educational programs available to the citizens of the State; and be it further

Sec. 3. Report. Resolved: That the Board of Trustees of the University of Maine System shall submit a report that includes its findings and recommendations, including any suggested legislation, to the joint standing committee of the Legislature having jurisdiction over education matters and to the Legislative Council by December 1,, 2002. Following receipt and review of the report., the joint standing committee of the Legislature having jurisdiction over education matters may report out a bill to the First Regular Session of the 121 Legislature. If the Board of Trustees of the University of Maine System requires a limited extension of time to complete its report, it may apply to the Legislative Council, which may grant the extension.

IMPLEMENT THE RECOMMENDATIONS OF THE HEALTH CARE WORKFORCE STEERING COMMITTEE (2001 Res. C. 89)

Sec. 1. Health Care Workforce Leadership Council. Resolved: That the Health Care Workforce Leadership Council, referred to in this resolve as the "council," is established to provide input on all policy initiatives, laws and rules concerning the skilled health care workforce to the Commissioner of Human Services, the Commissioner of Labor and the Department of Human Services, Bureau of Medical Services.

For the purposes of this resolve, "skilled health care workforce" consists of those health care workers who require a postsecondary education to work in the health care industry, including nurses, radiologic technologists and technicians, health information technicians, surgical technologists, pharmacists, pharmacy technicians, medical transcriptionists, respiratory therapists, medical and clinical laboratory technologists and laboratory technicians, social workers and other skilled workers other than physicians.

1. Goal. The goal of the council is to ensure an adequate supply of skilled health care workers to the State's health care industry, including hospitals, nursing facilities, physicians' offices, laboratories, outpatient service providers and home care service providers. Issues to be considered regarding the skilled health care workforce include providing adequate capacity in educational programs to meet the demand for skilled health care workers, attracting students to health care fields of study, recruiting new employees to health care positions, retaining employees in health care positions and retaining trained health care workers in their professions.

2. Membership; appointment. The council consists of 13 members appointed as follows.

A. The Governor shall appoint 5 members as follows.

- (1) Three must represent postsecondary educational institutions that offer training for skilled health care workers, of which one must represent a private postsecondary educational institution and 2 must represent public postsecondary educational institutions.
- (2) One must represent a labor organization that represents skilled health care workers.
- (3) One must represent a professional organization that represents skilled health care workers working in the administration of care for patients.

B. The President of the Senate shall appoint 4 members as follows.

- (1) Two must represent employers of skilled health care workers.
- (2) One must represent a labor organization that represents skilled health care workers.

(3) One must represent a professional organization that represents skilled health care workers working in direct care for patients.

C. The Speaker of the House of Representatives shall appoint 4 members as follows.

(1) One must represent a labor organization that represents skilled health care workers.

(2) One must represent a professional organization that represents skilled health care workers working in direct care for patients.

(3) Two must represent employers of skilled health care workers.

3. Meetings. By September 1, 2002, the Executive Director of the Legislative Council or the designee of the executive director shall convene the first meeting of the council, at which the members shall elect a chair from among the members of the council. The council shall meet as often as necessary and appropriate to achieve the goals of the council. Members of the council serve as volunteers and are not entitled to reimbursement for expenses or to per diem payment.

4. Staff. The Maine Technical College System shall provide staff support to the council.

5. Report. By February 1, 2003, the council shall provide an interim report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the work of the council and any initiatives, laws or rules pertaining to the skilled health care workforce regarding which the council provided input to the Commissioner of Human Services, the Commissioner of Labor or the Department of Human Services, Bureau of Medical Services. By November 3, 2004 the council shall provide a final report on the same issues and in the same manner as the interim report.

Effective July 25, 2002, unless otherwise indicated.

REGARDING LEGISLATIVE REVIEW OF CHAPTER 7: RULES ADVANCING THE PERFORMANCE OF SOUND STUDENT SAFETY PRACTICES IN MAINE'S PUBLIC SCHOOLS AND COLLEGES, A MAJOR SUBSTANTIVE RULE OF THE DEPARTMENT OF LABOR, BUREAU OF LABOR STANDARDS, BOARD OF OCCUPATIONAL SAFETY AND HEALTH (2003 Res., c. 56)

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

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

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

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

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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 7: Rules Advancing the Performance of Sound Student Safety Practices in Maine's Public Schools and Colleges, a provisionally adopted major substantive rule of the Department of Labor, Bureau of Labor Standards, Board of Occupational Safety and Health that has been submitted

to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows.

1. The rule must be amended in the part designated "I. Summary of purpose" by deleting the 2nd sentence, which summarizes parts of the rule that are not authorized for final adoption.

2. The rule must be amended by deleting the part designated "III. Educational institution's duty to respond."

3. The rule must be amended by deleting the part designated "V. Board of Occupational Safety and Health oversight of this rule."

4. The rule must be amended by deleting the part designated "VI. Educational institutions' additional duties to advance student safety through sound student safety practices initiatives."

5. The rule must be amended by deleting the part designated "VII. Enforcement"; and be it further

Sec. 2. Finding. Resolved: That the Legislature has determined that the portions of Chapter 7: Rules Advancing the Performance of Sound Student Safety Practices in Maine's Public Schools and Colleges that are not authorized for final adoption as provided in section 1 would add new requirements to the existing health and safety requirements already mandated to school administrative units and that these new requirements could have a significant fiscal impact on school administrative units. The Legislature has also determined that the portions of the provisionally adopted major substantive rule that are authorized for final adoption as provided in section 1 are sufficient to permit the Department of Labor, Bureau of Labor Standards to communicate allegations of unsafe student conditions in educational institutions and to provide any technical assistance that may be necessary to these educational institutions. The Board of Occupational Safety and Health is not required to hold hearings or conduct other formal proceedings prior to finally adopting this rule in accordance with this resolve.

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

Effective June 2, 2003.

TO ESTABLISH THE WABANAKI TRAIL (2005 Res., c. 42)

Sec. 1. Task force established to develop Wabanaki Trail. Resolved: That the Department of Economic and Community Development and its Office of Tourism, the Department of Transportation and the University of Maine System in conjunction with the Penobscot Nation shall constitute a task force, referred to in this resolve as "the task force," to jointly develop the Wabanaki Trail. The task force shall designate roads, routes and points of interest, create signage and create web-based maps that include old canoe trails on waterways. In developing the Wabanaki Trail, the task force shall consult the pamphlet "A Wabanaki Guide to Maine" published by the Maine Indian Basketmakers Alliance; and be it further

Sec. 2. Rules. Resolved: That the Department of Transportation may adopt rules to carry out the purposes of section 1. Rules adopted pursuant to this section are minor technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A; and be it further

Sec. 3. Report. Resolved: That the task force shall report to the Joint Standing Committee on Transportation on its progress in developing the Wabanaki Trail and any recommended legislation no later than December 7, 2005.

RESOLVE, TO PROMOTE TRAINING CENTERS FOR ENTREPRENEURSHIP (2005 Res., c. 210)

Sec. 1. University of Maine System and Maine Community College System to review entrepreneurship curriculum and promote campuses as entrepreneur training centers.

Resolved: That the University of Maine System and the Maine Community College System shall each undertake a review of their current offerings and programs with a goal of presenting their offerings in a way that highlights the University of Maine System and the Maine Community College System as training centers for entrepreneurship for nascent entrepreneurs and existing business owners and operators; and be it further

Sec. 2. Review of entrepreneurship education. Resolved: That the Commissioner of Education, the Chancellor of the University of Maine System and the President of the Maine Community College System shall meet regularly to review entrepreneurship education within elementary, secondary and postsecondary schools and report on the state of entrepreneurship education in the State to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs no later than February 1, 2007.

RESOLVE, DIRECTING THE SECRETARY OF STATE TO ESTABLISH A TASK FORCE TO DEVELOP A PLAN FOR THE MAINE STATE CULTURAL BUILDING IN AUGUSTA (2005 Res., c. 168)

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 State Cultural Building is experiencing a severe shortage of archive space and physical building damage that could lead to the loss of cultural artifacts, books and archived records; and

Whereas, the task force established in this resolve will need time to develop options for the improvement of the Maine State Cultural Building and to investigate funding sources; and

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

Sec. 1. Secretary of State directed to establish task force to develop plan for cultural building in Augusta. Resolved: That the Secretary of State shall establish a task force to develop a plan for the Maine State Cultural Building. The task force shall include representatives from the Capitol Planning Commission; the Maine Historic Preservation Commission; the Maine State Library; the Maine State Museum; the Maine State Archives; the Department of Administrative and Financial Services, Bureau of General Services; the University of Maine System; the City of Augusta; the Maine Archives and Museums Association; the Maine Library Association; and other individuals or organizations with a demonstrated interest in the cultural affairs of the State; and be it further

Sec. 2. Task force duties. Resolved: That the task force established in section 1 shall examine and make recommendations regarding the following issues concerning the Maine State Cultural Building:

1. Space limitations, mechanical problems, energy inefficiencies and physical deterioration;
 2. The possibility of constructing a new building;
 3. Obtaining federal sources of funds to be used for upgrading and expanding cultural facilities in Augusta;
 4. Obtaining private sources of funds to be used for upgrading and expanding cultural facilities in Augusta;
- and

5. Ways for the State to work collaboratively with universities to develop cooperative agreements to meet the cultural needs of the State. Recommendations for building and grounds improvements must be consistent with the Capitol Planning Commission master plan and rules; and be it further

Sec. 3. Report and recommendations. Resolved: That the task force established in section 1 shall report its findings and recommendations under section 2, including any suggested legislation jointly to the joint standing committee of the Legislature having jurisdiction over state and local government matters and the Capitol Planning Commission no later than January 15, 2007; and be it further

Sec. 4. Authority to report out legislation. Resolved: That the joint standing committee of the Legislature having jurisdiction over state and local government matters is authorized to report out legislation concerning the finding and recommendations under section 2 to the First Regular Session of the 123rd Legislature.

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

RESOLVE, TO DETERMINE THE IMPACT OF FUNDING FOR STATE HIGHER EDUCATION ON THE DISTRIBUTION OF HIGHER EDUCATION COSTS AMONG FAMILIES, TAXPAYERS AND PUBLICLY SUPPORTED INSTITUTIONS OF HIGHER EDUCATION (2007 Res., c. 119)

Sec. 1. Review of funding for state higher education. Resolved: That the University of Maine System, the Maine Community College System, Maine Maritime Academy and the Finance Authority of Maine, referred to in this resolve as "the review panel," shall collaboratively conduct a review of the impact of funding for publicly supported higher education in the State during the period from fiscal year 2002-03 to fiscal year 2006-07 on the following policy questions.

1. How have Maine finance policies related to the distribution of public subsidies influenced the distribution of student-related higher education costs among parents and students, state taxpayers, federal taxpayers and publicly supported institutions of higher education in the State?

2. As perceived by the review panel, what conclusions and implications can be drawn from the data concerning the degree to which state finance policies related to the distribution of public subsidies have sustained access, advanced equity of higher education opportunity and promoted equitable cost-sharing for all Mainers?

The review panel shall determine the methodology for this review in accordance with section 2; and be it further

Sec. 2. Scope of review; methodology. Resolved: That the review panel shall determine the methodology for this review after consideration of the research literature on higher education finance pertaining to the implications of state appropriations for the operating costs of publicly supported institutions of higher education and pertaining to the distribution of the costs and benefits of higher education for students and their families, state taxpayers, federal taxpayers and the publicly supported institutions of higher education. The data compiled and analyzed must include, but is not limited to, the following:

1. The amounts and levels of state general funds appropriated during each year from fiscal year 2002-03 to fiscal year 2006-07 to support the so-called "educational and general" operational expenditures of the University of Maine System, the Maine Community College System and Maine Maritime Academy;

2. The amounts and levels of state general funds appropriated during each year from fiscal year 2002-03 to fiscal year 2006-07 to the Finance Authority of Maine for awarding need-based grants through the Maine State Grant Program in order to subsidize tuition prices and provide need-based tuition assistance for eligible students to attend publicly supported institutions of higher education in the State;

3. The amounts and levels of state tax support for higher education, including state General Fund appropriations for universities, colleges, community colleges and state higher education agencies compiled by the Grapevine project at the Center for the Study of Education Policy at Illinois State University. The review team shall consider the Grapevine project data reported for the level of state appropriations for higher education as a percentage of the total state appropriations, on a per capita basis, and as a percentage of income. The review team shall also compare these state appropriation trends for Maine, for the New England states and for an appropriate set of comparison states whose demographic profile and higher education systems are reasonably comparable to the system of higher education in Maine;
4. The proportion of state General Fund appropriations as a source of revenue as compared to the total revenues of the University of Maine System, the Maine Community College System and Maine Maritime Academy;
5. The proportion of revenues received from sources other than state General Fund appropriations, including revenues from tuition, mandatory fees and room and board, revenues from the Federal Government and from other philanthropic organizations or individuals, as compared to the total revenues of the University of Maine System, Maine Community College System and Maine Maritime Academy;
6. The amounts and levels of education subsidies, including state and federal student financial assistance, provided to resident students attending the University of Maine System, the Maine Community College System and Maine Maritime Academy as compiled from institutional expenditure data and reported annually to the Integrated Postsecondary Education Data System and from financial aid packaging reports provided to the Finance Authority of Maine;
7. Data compiled by the Finance Authority of Maine on the Maine State Grant Program recipients at publicly supported institutions of higher education in the State reported as full-time equivalent students, including the average amounts of grants awarded and the average levels of unmet need for the prototypical grant recipients at each institution disaggregated by family income quartiles; and
8. State-level and higher education institution data regarding family income, state tax appropriations, institutional finances, enrollments, attendance costs, student aid, and any other relevant data reported to the Integrated Postsecondary Education Data System, the National Center for Education Statistics and the United States Department of Commerce, Bureau of Economic Analysis; and be it further

Sec. 3. Report. Resolved: That the review panel shall present its report, including findings, recommendations and any necessary legislation, to the Joint Standing Committee on Education and Cultural Affairs no later than January 31, 2008. The Joint Standing Committee on Education and Cultural Affairs may submit a bill based on the report presented pursuant to this resolve to the Second Regular Session of the 123rd Legislature.

RESOLVE, TO ESTABLISH A PILOT PROGRAM TO PROVIDE GREATER COOPERATION AND COORDINATION BETWEEN THE UNIVERSITY OF MAINE SYSTEM AND THE MAINE COMMUNITY COLLEGE SYSTEM (2009 Res., c. 28)

Sec. 1. Pilot program established. Resolved: That Southern Maine Community College and Kennebec Valley Community College shall develop a pilot program with the University of Southern Maine and the University of Maine at Augusta, respectively, to provide a seamless transition process for students attending the Maine Community College System to earn an associate degree and to transfer their college credits to attend the University of Maine System with the goal of graduating with a baccalaureate degree; and be it further

Sec. 2. Goals. Resolved: That the goals of the pilot program are to develop a model for further collaboration between the participating colleges and universities in the service of student success, retention and degree completion and to

provide data for future academic policy for all future student success. To achieve these goals, the participating colleges and universities shall ensure that the pilot program is a student-centered model that:

1. Leads to a seamless pathway between a community college and a university;
2. Supports students in obtaining appropriate information leading to course selection that maximizes the transfer of credits between institutions;
3. Produces a pathway that supports student completion of an associate degree at a participating community college and a baccalaureate degree at a participating university with the minimum number of credits required to graduate from each participating institution;
4. Supports and promotes student success in and between each participating institution; and
5. Leads to higher completion rates for students.

The participating colleges and universities shall ensure that they achieve their goals by designing an evaluation instrument to monitor progress of the pilot program; and be it further

Sec. 3. Report. Resolved: That the Maine Community College System and the University of Maine System shall provide an interim report on the progress of the pilot program no later than January 1, 2010 to the Joint Standing Committee on Education and Cultural Affairs. Following the completion and graduation of the first participating class of students involved in the pilot program, the Maine Community College System and the University of Maine System shall submit a report with an assessment and recommendations to the joint standing committee of the Legislature having jurisdiction over education matters on the future of the pilot program. The joint standing committee is authorized to submit legislation regarding the report during the legislative session in which the report is submitted.

RESOLVE, DIRECTING THE STUDY OF A POTATO VARIETY DEMONSTRATING RESISTANCE TO THE COLORADO POTATO BEETLE (2009 Res., c. 80)

Sec. 1. Potato variety to be studied. Resolved: That the Maine Potato Breeding Program established at the University of Maine, referred to in this resolve as "the breeding program," shall determine the genetic integrity of the potato variety known as the "Shaw Potato." If the Director of the Maine Potato Breeding Program, referred to in this resolve as "the director," determines that the potato does not contain any proprietary material, the director shall work with the Maine Potato Board to develop a plan for the study of the Shaw Potato, its resistance to the Colorado potato beetle and its suitability for commercial production.

Before beginning the study, the director, in cooperation with the Maine State Grange, shall obtain the plant material to be studied and the written approval of the developer of the potato variety to proceed with the study; and be it further

Sec. 2. Funding. Resolved: That funding sources for the study include existing funds available to the breeding program from the Maine Potato Board, federal funding through the United States Department of Agriculture and grants; and be it further

Sec. 3. Report. Resolved: That the Maine Potato Board shall submit a copy of the study plan under section 1 and provide a progress report to the Joint Standing Committee on Agriculture, Conservation and Forestry and to the Maine State Grange no later than December 15, 2009.

RESOLVE, TO UNDERSTAND AND ASSIST IN EFFORTS TO PROMOTE SCIENCE, TECHNOLOGY, ENGINEERING AND MATH EDUCATION (2009 Res., c. 98)

Sec. 1. Collect information. Resolved: That the Department of Education and the University of Maine System shall collect science, technology, engineering and math information and data by November 1, 2009 on science, technology, engineering and math initiatives in consultation with the State Board of Education, public and private partnerships, including pilot projects and nonprofit and other organizations and businesses that work on promoting science,

technology, engineering and math initiatives through mentoring and other programs and any science, technology, engineering and math initiatives collaborative efforts; and be it further

Sec. 2. Report. Resolved: That with the data and information collected on science, technology, engineering and math initiatives under section 1, the Department of Education shall produce a report with its findings and recommendations for review by the Joint Standing Committee on Education and Cultural Affairs no later than December 15, 2009. The report must focus on the following:

1. Informing the Joint Standing Committee on Education and Cultural Affairs about the initiatives that work to inspire students in the science, technology, engineering and math areas of education;
2. The benefits of promoting science, technology, engineering and math education, including, but not limited to, job possibilities, job availability, wages and how promoting science, technology, engineering and math is tied to economic development of the State;
3. Suggestions for expanding science, technology, engineering and math initiatives throughout the State, including ideas for professional development;
4. Ideas of how to integrate and promote science, technology, engineering and math education in prekindergarten to grade 12 to inspire students to continue education in those subjects when pursuing undergraduate and graduate degrees;
5. Possible funding sources to further promote science, technology, engineering and math education; and
6. Helpful data or information to assist the Joint Standing Committee on Education and Cultural Affairs.

The Joint Standing Committee on Education and Cultural Affairs may submit legislation based on the findings and recommendations of the report submitted by the Department of Education to the Second Regular Session of the 124th Legislature by February 1, 2010.

RESOLVE, TO EXPAND ACCESS TO RENEWABLE ENERGY PROGRAMS (2009 Res., c. 131)

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

Whereas, promoting renewable energy and energy efficiency are significant priorities of the American Recovery and Reinvestment Act of 2009; and

Whereas, significant funding from the American Recovery and Reinvestment Act of 2009 will be disbursed to the Public Utilities Commission in the immediate future for energy initiatives, including renewable energy programs; and

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

Sec. 1. Renewable energy outreach programs. Resolved: That the Public Utilities Commission, in cooperation with the University of Maine Cooperative Extension Service, shall conduct a 2-year outreach and education program to provide information to residents statewide regarding renewable energy technology and systems for residential use and the renewable energy programs and incentives available through federal, state and local agencies. The program must include at least one informational presentation in each of the 16 counties of the State; and be it further

Sec. 2. Reports. Resolved: That the Public Utilities Commission, in cooperation with the University of Maine Cooperative Extension Service, shall prepare and submit an interim report and a final report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the outreach and education program required by section 1. The interim report must address the status and progress of the program and must be submitted no later than April 1, 2010. The final report on the program and results achieved must be submitted no later than December 31, 2011; and be it further

Sec. 3. Rules. Resolved: That the Public Utilities Commission may adopt rules as necessary to implement this resolve. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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

RESOLVE, TO EVALUATE CLIMATE CHANGE ADAPTATION OPTIONS FOR THE STATE (2009 Res., c. 16)

Sec. 1. Creation of stakeholder group; membership. Resolved: That the Department of Environmental Protection, referred to in this resolve as "the department," shall establish and convene a stakeholder group to evaluate the options and actions available to Maine people and businesses to prepare for and adapt to the most likely impacts of climate change. Convening this group to respond to climate change must not reduce continued strong state efforts to reduce greenhouse gas emissions. The department shall include in its stakeholder group and the evaluation process performed under section 2:

1. Representatives of business, industry and trade associations;
2. Representatives of nongovernmental organizations; and
3. State agencies with a current interest in these concerns and likely involvement in the implementation of recommendations.

The department must ensure that a balance of interests is represented in decision making. The department may ask the University of Maine and other higher education institutions to provide scientific and technical expertise to the stakeholder group; and be it further

Sec. 2. Evaluation. Resolved: That the department shall build upon the 2009 climate impact assessment by the University of Maine in evaluating the options available to Maine people and businesses for adapting to the likely environmental effects of climate change. That assessment concluded that climate change is already occurring in this State as a result of increased levels of greenhouse gases in the atmosphere and that, even with the greenhouse gas reduction goals set forth in the Maine Revised Statutes, Title 38, section 576, more thorough planning is necessary to identify and implement the State's responses to climate change in the areas of:

1. Ensuring sustainable opportunities for the development of greenhouse gas offset projects and low-greenhouse gas emission technologies and processes in the various sectors of Maine's economy;
2. Built infrastructure, including coastal and inland flooding effects on roads and facilities, heat effects in urban centers and beach scouring;
3. Habitat and fish and wildlife species, including the effects of invasive species, a lack of adequate conservation areas, a lack of connectivity between habitat and wildlife and inadequate wetlands protection;
4. Marine ecosystems;
5. Forests and forest management practices, including a higher incidence of pests and fires and a lack of biomass availability;
6. Agricultural and farming practices;
7. Human health, including increases in heat-related and vector-borne diseases;
8. Water supplies and drinking water; and
9. Emergency response systems and planning; and be it further

Sec. 3. Report. Resolved: That by February 27, 2010 the department shall report recommendations related to the evaluation under this resolve, along with any necessary implementing legislation, to the Joint Standing Committee on Natural Resources. The recommendations must be organized by the affected natural resource and economic sectors and may include proposals for legislation, modifications to existing rules and specific initiatives for one or more agencies to undertake in collaboration with stakeholder organizations to implement the recommendations. The Joint

Standing Committee on Natural Resources is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4. Funding of report. Resolved: That the department is authorized to accept public and private funds for the costs incurred to prepare the report under section 3. All funds received for these purposes must be deposited into the Maine Environmental Protection Fund established in the Maine Revised Statutes, Title 38, section 351 and must be used exclusively for purposes related to the preparation of this report.

RESOLVE, TO SUPPORT THE DEVELOPMENT OF MAINE'S ECONOMIC FUTURE BY PROMOTING SCIENCE, TECHNOLOGY, ENGINEERING AND MATH EDUCATION (2009 Res., c. 151)

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 Department of Education and the University of Maine System have submitted a report to the Joint Standing Committee on Education and Cultural Affairs pursuant to Resolve 2009, Chapter 98, "Resolve, To Understand and Assist Efforts to Promote Science, Technology, Engineering and Math Education"; and

Whereas, this report on the status of Maine science, technology, engineering and mathematics learning initiatives notes that limited gains in student scores in mathematics and science on the National Assessment of Educational Progress, and unfavorable comparisons to student performance in other countries, are factors that are leading to a significant focus on science, technology, engineering and mathematics education in the State and the nation; and

Whereas, this report proposes that, by conducting a study, the Department of Education can further promote science, technology, engineering and mathematics learning initiatives in Maine while assisting Maine in documenting the current efforts necessary to enable the department to complete a successful application to the federal Race to the Top competitive grant fund; and

Whereas, it is necessary to enact this legislation immediately so that the Department of Education may submit the State's application for the federal Race to the Top competitive grant program by the deadline of June 2010; and

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

Sec. 1. State plan for science, technology, engineering and mathematics learning. Resolved: That the Legislature supports the development of a state plan for the learning of science, technology, engineering and mathematics, in order that the Department of Education may submit the State application for the federal Race to the Top competitive grant program established under sections 14005 and 14006 of the federal American Recovery and Reinvestment Act of 2009 prior to the Phase Two deadline for applications in June 2010. The Department of Education shall conduct a study to provide comprehensive baseline data to support State and local efforts to improve science, technology, engineering and mathematics learning. The department shall use its review of existing plans related to the following three aspects of the priority on science, technology, engineering and mathematics, identified by the federal Department of Education; learning shall be used to develop a strategic plan that addresses the need to:

1. Offer a rigorous course of study in mathematics, the sciences, technology, and engineering;
2. Cooperate with industry experts, museums, universities, research centers, and other community partners to prepare and assist teachers in integrating science, technology, engineering and mathematics content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and
3. Prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering and mathematics.

The Department of Education shall consult with educational partners at the University of Maine System and the Maine Community College System in the development of the strategic plan to ensure that the State application for the federal Race to the Top competitive grant program includes a high quality plan that addresses all three aspects of the science, technology, engineering and mathematics priority established by the United States Education Department. The Department of Education shall produce the strategic plan by May 15, 2010; and be it further

Sec. 2. Department of Education review. Resolved: That the Department of Education shall review existing state learning standards for kindergarten to grade 12 public education to determine whether students have sufficient opportunity to develop the skills and gain the knowledge that will be incorporated as part of a national assessment of technological literacy beginning in 2012. The Department of Education review must include an evaluation of the following areas that, as part of the National Assessment of Educational Progress assessment, the National Assessment Governing Board will include in its assessment of technological literacy:

1. Technology and society; including:

- A. Interactions of technology and humans;
- B. Effects of technology on the natural world;
- C. Effects of technology on the world of information and knowledge; and
- D. Ethics, equity and responsibility;

2. Design and systems, including:

- A. Nature of technology;
- B. Engineering design;
- C. Systems thinking; and
- D. Maintenance and troubleshooting;

3. Information and communication technology, including:

- A. Construction and exchange of ideas and solutions;
- B. Information research;
- C. Investigation of problems;
- D. Acknowledgement of ideas and information; and
- E. Selection and use of digital tools; and be it further

Sec. 3. Report. Resolved: That the Department of Education shall submit a report by February 1, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters on the status of the State plan for science, technology, engineering and mathematics learning prepared pursuant to section 1 and on the review of state learning standards and opportunities for learning related to technological literacy pursuant to section 2. The joint standing committee of the Legislature having jurisdiction over education matters may submit a bill based on the findings and recommendations of the report submitted by the Department of Education to the First Regular Session of the 125th Legislature.

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

RESOLVE, TO TRANSFER THE OWNERSHIP OF THE FORT KENT ARMORY FROM THE MILITARY BUREAU TO THE UNIVERSITY OF MAINE AT FORT KENT (2009 Res., c. 212)

Sec. 1. Fort Kent Armory ownership transfer. Resolved: That, notwithstanding the requirement in the Maine Revised Statutes, Title 37B, section 264 that the Fort Kent Armory property must be sold for no less than its appraised value, the Adjutant General is authorized to transfer the land and buildings constituting the Fort Kent Armory to the University of Maine at Fort Kent for \$150,000 by means of a quitclaim deed as long as the University of Maine at Fort Kent agrees to indemnify and hold harmless the State from all claims, including any environmental clean-up

costs that may arise in connection with the land or the buildings constituting the armory. The University of Maine System may make payments for the ownership transfer in up to 5 annual installments; and be it further

Sec. 2. Use of proceeds from transfer of ownership. Resolved: That, notwithstanding the Maine Revised Statutes, Title 37B, section 264, the payments made by the University of Maine System in connection with the transfer of the Fort Kent Armory from the Department of Defense, Veterans and Emergency Management to the University of Maine at Fort Kent under section 1 must be deposited by the State Controller into the Sale of State Property, Other Special Revenue Funds account within the Department of Administrative and Financial Services. As a first priority, the amount deposited must be used to meet the outstanding Maine Governmental Facilities Authority obligations associated with prior improvements to the armory. Any balance remaining after meeting the outstanding Maine Governmental Facilities Authority obligations, as determined by the Commissioner of Administrative and Financial Services, must be used for maintenance and repair costs at National Guard armories; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Public Improvements - Planning/Construction - Administration 0057

Initiative: Allocates funds to meet Maine Governmental Facilities Authority obligations for prior improvements to the Fort Kent Armory and for maintenance and repairs costs at National Guard armories.

OTHER SPECIAL REVENUE FUNDS 2009-10 2010-11

All Other

\$0 \$30,000

OTHER SPECIAL REVENUE FUNDS TOTAL \$0 \$30,000

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS 2009-10 2010-11

OTHER SPECIAL REVENUE FUNDS \$0 \$30,000

DEPARTMENT TOTAL - ALL FUNDS \$0 \$30,000

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

Educational and General Activities - UMS 0031

Initiative: Provides funds for the first installment payment to transfer ownership of the Fort Kent Armory to the University of Maine at Fort Kent.

GENERAL FUND 2009-10 2010-11

All Other \$0 \$30,000

GENERAL FUND TOTAL \$0 \$30,000

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

DEPARTMENT TOTALS 2009-10 2010-11

GENERAL FUND \$0 \$30,000

DEPARTMENT TOTAL - ALL FUNDS \$0 \$30,000

SECTION TOTALS 2009-10 2010-11

GENERAL FUND \$0 \$30,000

OTHER SPECIAL REVENUE FUNDS

\$0 \$30,000

SECTION TOTAL - ALL FUNDS \$0 \$60,000

RESOLVE, TO ESTABLISH A STAKEHOLDER GROUP TO REVIEW THE MAINE STATE GRANT PROGRAM (2011 Res., c. 14)

Sec. 1. Stakeholder group to review Maine State Grant Program. Resolved: That the Finance Authority of Maine, referred to in this resolve as "the authority," shall establish a stakeholder group, through a partnership with other appropriate entities, to work together to review the Maine State Grant Program, established in the Maine Revised Statutes, Title 20-A, section 11612 and referred to in this resolve as "the program"; and be it further

Sec. 2. Participants. Resolved: That the authority shall invite the following to participate in the stakeholder group:

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. A representative of Maine's private, nonprofit higher education institutions;
5. A Maine college or university student;
6. A representative of the Maine Compact for Higher Education;
7. A representative of the Maine Association of Student Financial Aid Administrators;
8. A representative of the Senator George J. Mitchell Scholarship Research Institute; and
9. Other interested parties at the discretion of the authority; and be it further

Sec. 3. Duties. Resolved: That the review must include, but is not limited to, the following:

1. A review of the history and efficacy of the program and any necessary changes;
2. Ideas to enhance the program in light of current and future higher education trends and needs;
3. Options to increase funding for the program in the face of increased higher education costs and declining state funding; and
4. Current and future grant and financial aid needs of Maine students and families; and be it further

Sec. 4. Report. Resolved: That, by December 1, 2011, the authority shall submit a written report of the findings of the review under this resolve and any recommendations resulting from the review to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs. The joint standing committee may introduce a bill during the Second Regular Session of the 125th Legislature to implement the recommendations on matters relating to the review.

RESOLVE, TO STUDY THE CREATION OF A SCHOOL OF HOSPITALITY AND HOTEL MANAGEMENT WITHIN THE UNIVERSITY OF MAINE SYSTEM (2011 Res., c. 53)

Sec. 1. Stakeholder group. Resolved: That the Board of Trustees of the University of Maine System shall convene a stakeholder group to explore the creation of a hospitality and hotel management baccalaureate degree program within the system. The stakeholder group shall include, but is not limited to, representatives of the following:

1. The University of Maine System;
2. The Maine Community College System;
3. The Department of Economic and Community Development, Office of Tourism;
4. The Maine Tourism Association;
5. The Maine Innkeepers Association;
6. The Maine Restaurant Association; and

7. The Maine State Chamber of Commerce; and be it further

Sec. 2. Review and recommendations. Resolved: That, no later than November 1, 2011, the stakeholder group shall submit a written report to the Board of Trustees of the University of Maine System with their findings and recommendations on the necessity, feasibility and financial implications of creating a hospitality and hotel management baccalaureate degree program within the system; and be it further

Sec. 3. Report. Resolved: That, by January 31, 2012, the Board of Trustees of the University of Maine System, or the board's designee, shall present a report, including its conclusions and any recommendations resulting from the review conducted under sections 1 and 2, to the Joint Standing Committee on Education and Cultural Affairs. The joint standing committee may introduce a bill during the Second Regular Session of the 125th Legislature to implement the recommendations relating to the report.

RESOLVE, DIRECTING THE DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES, BUREAU OF REVENUE SERVICES TO DEVELOP A PILOT PROJECT FOR A TAX SIMULATION MODEL FOR STATE DYNAMIC FISCAL ANALYSIS (2011 Res., c. 114)

Sec. 1 Undertake pilot project to develop and evaluate a tax simulation model for

state dynamic fiscal analysis. Resolved: That the Department of Administrative and Financial Services, Bureau of Revenue Services, referred to in this resolve as "the bureau," shall undertake a pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis, which is analysis to estimate the effect a change in the tax laws would have on state revenue as well as the fiscal impact of the changes in taxpayer behavior and overall economic activity that may occur due to the tax law change. The bureau may enter into a memorandum of understanding with the University of Maine to develop and evaluate the pilot project model for state dynamic fiscal analysis. The bureau may disclose information otherwise protected under the Maine Revised Statutes, Title 36, section 191 to specific University of Maine staff members and students identified in the memorandum of understanding for the purpose of developing and evaluating the pilot project model for state dynamic fiscal analysis; and be it further

Sec. 2 Recommendations and report. Resolved: That, no later than November 15, 2012, the bureau and the Office of Fiscal and Program Review shall each evaluate the completed pilot project model and submit a joint report that includes the findings of the evaluation and provides recommendations to the Joint Standing Committee on Taxation. The report must include justification for the recommendations of continued use or development of the pilot project model, or of acquisition of other existing models for state dynamic fiscal analysis, and the estimated costs, timeline for implementation and description of the functional capabilities of any such model and of its development or acquisition. The report may include suggested legislation to implement the recommendations.

RESOLVE, TO AMEND THE RESOLVE ESTABLISHING THE TASK FORCE ON FRANCO-AMERICANS (2011 Res., c. 119)

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective

until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Task Force on Franco-Americans was established by Resolve 2011, chapter 102

to find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens; and **Whereas**, the study must be initiated before the 90-day period expires in order that the study may be convened and completed and a report prepared in time for submission to the next legislative session; and

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

Sec. 1 Resolve 2011, c. 102, §4, amended. Resolved: That Resolve 2011, c. 102, §4 is amended to read:

Sec. 4 Appointments; convening of task force. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The the appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. The chairs may call and convene the first meeting of the task force during the Second Regular Session or any subsequent special session of the 125th Legislature. If 30 days or more after the effective date of this resolve adjournment of the Second Regular Session or any subsequent special session of the 125th Legislature a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further; and be it further

Sec. 2 Resolve 2011, c. 102, §6, amended. Resolved: That Resolve 2011, c. 102, §6 is amended to read:

Sec. 6 Staff assistance. Resolved: That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Franco-American Center at the University of Maine shall provide necessary staffing services to the task force when the Legislature is in regular or special session; and be it further; and be it further

Sec. 3 Resolve 2011, c. 102, §7, amended. Resolved: That Resolve 2011, c. 102, §7 is amended to read:

Sec. 7 Report. Resolved: That, no later than December 7, 2011, the task force shall provide a preliminary report with draft recommendations to the Second Regular Session of the 125th Legislature. The notwithstanding Joint Rule 353, the final report, including findings and recommendations, must be submitted to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by November 7 December 15, 2012. That joint standing committee is authorized to

introduce a bill to the First Regular Session of the 126th Legislature related to the subject matter of the report; and be it further; and be it further

Sec. 4 Resolve 2011, c. 102, §8, amended. Resolved: That Resolve 2011, c. 102, §8 is amended to read:

Sec. 8 Meetings; outside funding. Resolved: That the task force is authorized to hold 4 meetings. The task force shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed; and be it further; and be it further

Sec. 5 Retroactivity. Resolved: That this resolve applies retroactively to July 6, 2011.

RESOLVE, TO PROMOTE THE EXPANSION OF THE MAINE MAPLE SUGAR INDUSTRY (2011 Res., c. 132)

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

Whereas, the task force convened in accordance with Resolve 2011, chapter 48 has determined that Maine's forest resource is able to support significant expansion in maple sugar production and has identified obstacles to expansion; and

Whereas, continuing involvement of stakeholders is vital to facilitate the expansion of this industry; and

Whereas, in order to provide the task force created in this resolve the most time possible to complete its work, it is necessary that it be convened 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

Sec. 1 Task force. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, referred to in this resolve as "the commissioner," shall convene a task force to develop strategies to address obstacles to the expansion of Maine's maple sugar industry. The commissioner shall invite members of the task force convened under Resolve 2011, chapter 48 to continue to serve. The commissioner shall invite others to serve as needed to ensure that each of the following are represented on the task force:

1. A statewide association of producers of Maine maple sugar products;
2. A regional association of producers of maple sugar products in southern Maine;
3. An association of producers of maple sugar products in Somerset County;
4. A producer of maple sugar products in Aroostook County;
5. A producer of maple sugar products with more than 5,000 taps;
6. A producer of maple sugar products with 1,000 or fewer taps;

7. A statewide organization of small woodlot owners;
8. A statewide organization representing the forest products industry;
9. The University of Maine Cooperative Extension; and
10. A statewide farming association with a committee actively involved with maple sugar production; and be it further

Sec. 2 Chair; convening of initial meeting. Resolved: That the commissioner shall designate a person to serve as chair of the task force and shall convene the initial meeting no later than 30 days following the effective date of this resolve; and be it further

Sec. 3 Duties. Resolved: That the task force shall:

1. Monitor and analyze growth in maple sugar production and demand for maple sugar products;
2. Work with private landowners, foresters and managers of public lands to develop guidance on and facilitate the leasing of forest lands for maple sugar production;
3. Develop strategies to increase educational opportunities for producers;
4. Work with education professionals on a curriculum to increase awareness of the maple sugar industry and train workers for the industry;
5. Develop recommendations for establishing an ongoing council in statute to guide the expansion of Maine's maple sugar industry and oversee a comprehensive promotion initiative. The task force shall make recommendations as to the membership, terms and responsibilities of the council;
6. Identify funding sources to support the maple sugar industry, including recommendations for allocating resources within the Department of Agriculture, Food and Rural Resources and the University of Maine Cooperative Extension; and
7. Develop recommendations for a comprehensive promotion program for the maple sugar industry, including a funding source or sources. In developing its recommendations, the task force shall review models that have been successfully employed to promote other Maine food product industries, including marine products and agricultural products such as potatoes and blueberries; and be it further

Sec. 4 Meetings. Resolved: That the chair, in consultation with the commissioner, shall schedule meetings of the task force as necessary to complete the task force's assigned duties. The commissioner shall notify members of the Joint Standing Committee on Agriculture, Conservation and Forestry and other Legislators with a known interest in the maple sugar industry of all meetings of the task force; and be it further

Sec. 5 Staffing and funding. Resolved: That the Department of Agriculture, Food and Rural Resources shall provide staff support to the task force from existing resources. The Department of Conservation, Bureau of Forestry and Bureau of Parks and Lands shall provide staff from existing resources to assist in discussions relating to landowner education, forest management and leasing land for maple sugar production. The commissioner and the Commissioner of Conservation may use contributions of money, services and supplies accepted under existing authority to support the work of the task force; and be it further

Sec. 6 Agency cooperation. Resolved: That the commissioner, the Commissioner of Conservation, the Commissioner of Economic and Community Development and the Chief Executive Officer of the Finance Authority of Maine shall each designate a representative from their respective agencies to serve as a resource to the task force, respond to information requests and attend task force meetings upon request; and be it further

Sec. 7 Final report. Resolved: That, no later than December 4, 2013, the commissioner shall submit a report that includes the findings and recommendations of the task force, including suggested legislation to implement the recommendations, for presentation to the joint standing committee of the Legislature having jurisdiction over agriculture matters; and be it further

Sec. 8 Authority to submit legislation. Resolved: That the joint standing committee of the Legislature having jurisdiction over agriculture matters may submit legislation pertaining to the Maine maple sugar industry to the Second Regular Session of the 126th Legislature.

Resolve, To Establish a Veteran-to-farmer Training Pilot Program (2013 Res. C. 69)

Sec. 1. Veteran-to-farmer training pilot program. Resolved: That the Department of Agriculture, Conservation and Forestry and the University of Maine Cooperative Extension, in consultation with the agriculture program at Kennebec Valley Community College, the Maine Apprenticeship Program in the Department of Labor, the Finance Authority of Maine and the Department of Defense, Veterans and Emergency Management, Bureau of Veterans' Services, shall design a veteran-to-farmer training pilot program to enable veterans of the Armed Forces of the United States to develop necessary skills in farming while also addressing the difficulties some veterans face in their transition back to civilian life after military service. The pilot program designed under this resolve must:

1. Use existing programs and resources to the extent possible;
2. Establish a certificate program that provides a hands-on farming skills training curriculum, classroom-based business training, business start-up support and health monitoring for veterans; and
3. Enable veterans, upon completion of the certificate program under subsection 2, to create new farm businesses and to meet the requirements to acquire the leases and loans needed to farm.

After its design, the curriculum for the pilot program must be submitted to the United States Department of Veterans Affairs for approval in order to allow eligible veterans to use education benefits available pursuant to the federal Servicemen's Readjustment Act of 1944, as amended, for participation in the certificate program; and be it further

Sec. 2. Report. Resolved: That the Department of Agriculture, Conservation and Forestry and the University of Maine Cooperative Extension shall jointly submit a report, including findings and recommendations, on the pilot program designed under section 1 to the Joint Standing Committee on Education and Cultural Affairs no later than January 10, 2014. The joint standing committee may report out a bill related to the report to the Second Regular Session of the 126th Legislature.

Resolve, To Establish the Commission To Study College Affordability and College Completion (2013 Res. C. 109)

Sec. 1. Commission established. Resolved: That, notwithstanding Joint Rule 353, the Commission To Study College Affordability and College Completion, referred to in this resolve as "the commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of 13 members as follows:

1. The President of the Senate shall appoint:

A. Two members of the Senate who serve on the Joint Standing Committee on Education and Cultural Affairs, including one member of the party holding the highest and one member of the party holding the 2nd highest number of seats in the Legislature;

B. One person representing a statewide association of independent higher education institutions; and

C. One person representing a statewide association of student financial aid directors;

2. The Speaker of the House shall appoint

A. Three members of the House of Representatives who serve on the Joint Standing Committee on Education and Cultural Affairs, including 2 members of the party holding the highest and one member of the party holding the 2nd highest number of seats in the Legislature;

B. One person with expertise in higher education policy issues representing a nonprofit entity in the State that provides financial assistance to students or to high schools to assist students for college enrollment; and

C. One person with expertise in higher education policy issues representing a statewide education policy research institute; and

3. Four members of the publicly supported higher education systems in the State, including:

A. The Chancellor of the University of Maine System or the chancellor's designee;

B. The President of the Maine Community College System or the president's designee;

C. The President of the Maine Maritime Academy or the president's designee; and

D. The Chief Executive Officer of the Finance Authority of Maine or the chief executive officer's designee; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission; and be it further

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission, which must be no later than 30 days following the appointment of all members; and be it further

Sec. 5. Duties. Resolved: That the commission shall examine and make recommendations on the development of strategies to keep the cost of public postsecondary education in the State affordable and to increase the graduation rate of students enrolled in state-supported public institutions of higher education. The strategies and related cost issues to be reviewed include:

1. Oregon's "Pay Forward, Pay Back" pilot project's model of funding public postsecondary education, under which a student enrolled in a public institution of higher education, in lieu of paying tuition or fees, contracts to pay to the State a certain percentage of the student's annual income upon graduation for a specified number of years;

2. Increased funding to the State of Maine Grant Program established in the Maine Revised Statutes, Title 20-A, section 11612 that boosts the minimum grant from \$1,000 to \$1,500 for eligible Maine residents;

3. The initiatives proposed by the public and independent colleges and universities in the State as part of the March 2014 "Improving College Affordability and Completion in Maine" report submitted to the Joint Standing Committee on Education and Cultural Affairs;

4. The extent to which Maine's public institutions of higher education support the state reforms included in the October 2013 "The Game Changers" report prepared by Complete College America, which recommends implementing the following strategies to enable more college students to complete degree programs and certificate

programs and graduate from college: Performance Funding; Corequisite Remediation; Full-Time is 15; Structured Schedules; and Guided Pathways to Success;

5. The mandatory fees charged to students beyond the price of tuition charges, including technology and laboratory fees;

6. The affordability of college textbooks, including consideration of the costs and benefits of open source text books, for college students in the State; and

7. Other strategies that a majority of the commission members agree to include in this review.

The commission shall review previous reports prepared and submitted to the Legislature on college affordability and the rate of college degree completion in the State, including the "Statewide Education and Workforce Development Strategic Plan" report submitted by the Education Coordination Committee to the Joint Select Committee on Maine's Workforce and Economic Future on January 30, 2014; and be it further

Sec. 6. Staffing assistance; information. Resolved: That the University of Maine System, the Maine Community College System and the Maine Maritime Academy shall provide staffing assistance to the commission. The Finance Authority of Maine shall provide the commission with access to any nonconfidential aggregate information in its student financial assistance database for postsecondary education students in the State necessary to carry out the duties pursuant to section 5. The Office of Policy and Legal Analysis shall provide drafting assistance to the commission; and be it further

Sec. 7. Outside funding for commission activities. The commission may seek outside funds to provide staff support, consulting or other services or to fund the costs of carrying out the duties and requirements of the commission. Contributions to support the work of the commission may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the commission's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of the funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of the funds. The Executive Director of the Legislative Council shall administer any funds received by the commission; and be it further

Sec. 8. Report; recommendations. Resolved: That the commission shall submit a report containing its findings and recommendations pursuant to section 5, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over education matters by December 9, 2014. The joint standing committee may submit a bill related to this report to the First Regular Session of the 127th Legislature.

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

Private & Special Laws

And Public Laws not incorporated into the MRSA

ADMISSION OF FEMALES (1872 P & SL, c. 147)

Females who possess the suitable qualifications for admission to the several classes, may be admitted as students in the college; subject to the requirements of labor and study, which may be determined by the faculty of instruction and by the Trustees of the college.

GRADUATES (1897 P & SL, c. 547)

Graduates of, the state college shall enjoy before state boards, and in the practice of any profession, or the pursuit of any calling, for which they may be prepared, rights, privileges and exemptions, equal to those granted to the graduates of any other institutions within or without the state.

TRUSTEE POWERS. (1903 P & SL, c. 393; as amended 1979 P & SL, c. 22)

The Trustees of the University of Maine System are hereby empowered to guarantee loans for the construction, upon the grounds of said university, of society houses, which shall serve as student dormitories, provided that nothing herein contained shall be construed as binding the State of Maine to pay said loans or any of them, or any part thereof, or any interest thereon; and provided further that no appropriation therefor shall hereafter be asked of the State of Maine. The term "society houses" shall include, but not be limited to, fraternity and sorority houses.

TUITION. (1913 P & SL, c. 128)

That said Trustees are hereby directed to charge all students a reasonable tuition, but they may abate said tuition to such worthy pupils resident in the state as may be financially unable to pay the same, and to students pursuing the courses in agriculture and in Home Economics.

AROOSTOOK FARM. (1913 P & SL, c. 190)

Section 1. The State Department of Agriculture shall conduct scientific investigations bearing especially upon the agriculture of Aroostook County and particularly with reference to the growing and raising of potatoes, and to this end, there shall be purchased, stocked and equipped for the use and benefit of said State Department of Agriculture, a suitable experimental and seed farm*, situate as the committee on selection and purchase herein named shall determine, in some town in the County of Aroostook.

* The Aroostook Farm in Presque Isle was conveyed to Trustees, then to University, 1965.

Section 4. The Maine Agricultural Experiment Station shall have the general supervision, management and control of such farm, and of all experiments and investigations conducted thereon, and may, if it sees fit, or deems it best, authorize any agent or agents of the United States Department of Agriculture to conduct experiments upon such farm upon such terms as it deems best. And it may appoint an agent residing in said County of Aroostook to represent it in the supervision, management and control of said farm.

Section 6. The Maine Agricultural Experiment Station shall in its reports fully state the nature of experiments conducted on said farm and the results shown and obtained by such experiments.

UNIVERSITY OF MAINE FOUNDATION. (1935 P & SL, c. 10; REPEALED 1988 P & SL, c. 735)

Note: Recommendation No. 21-B of the 113th Legislature Joint Standing Committee on Audit and Program Review to repeal.

SCIENTIFIC INVESTIGATION OF BLUEBERRIES. (1945 P & SL, c. 121)

Section 1. Scientific investigations; experimental blueberry farm.

The Maine Agricultural Experiment Station shall conduct scientific investigations bearing especially upon the cultivation, harvesting, processing and marketing of blueberries, and to this end, there shall be purchased, stocked and equipped for the use and benefit of said experiment station, a suitable experimental blueberry farm, situate as the committee on selection and purchase hereinafter named shall determine.

Section 2. Committee of selection and purchase.

Roy Allen of North Sedgwick; Fred C. Black of Rockland; Cole Bridges of Calais; Henry Kontio of West Rockport; Russell Mace of Aurora; George F. Marston of Jonesboro, and Charles Stewart of Cherryfield are hereby made and constitute a committee of selection and purchase and as such committee are hereby authorized, instructed and directed to select and purchase, in the name of the State of Maine, such land for an experimental blueberry farm as said committee may deem needful, necessary and appropriate for the purpose aforesaid. If there should be any vacancy in said committee caused by death, resignation or otherwise, the governor shall fill any such vacancy by appointment. The members of said committee shall not be entitled to receive any compensation from the state for their services under the provisions of this section.

Section 3. Appropriation.

The sum of \$25,000 shall be and hereby is appropriated from the unappropriated surplus account for the purpose of purchasing land for a farm as aforesaid, for stocking and equipping the same, erecting any and all necessary buildings on the same, making repairs on buildings and for paying the necessary expenses in running and operating such farm during the biennium ending June 30, 1947. Said committee shall have full power and authority to determine how much of said sum shall be expended and used for each of the purposes stated and named in this section.

Section 4. Supervision, management and control.

The Maine Agricultural Experiment Station shall have the general supervision, management and control of such farm, and of all experiments and investigations conducted thereon, and may, if it sees fit or deems it best, authorize any agent or agents of the United States Department of Agriculture to conduct experiments upon such farm, upon such terms as it deems best.

Section 5. Payment of Expenses.

The governor and council may, at any time in their discretion, authorize the state controller to draw warrants for the payment of any money authorized to be expended under the provisions of this act.

Section 6. Reports.

The Maine Agricultural Experiment Station shall in its reports fully state the nature of the experiments conducted on said farm and the results shown and obtained by such experiments.

Section 7. Repayment.

All net revenues derived from the experimental blueberry farm shall be paid over to the Treasurer of State at the end of each fiscal year and shall be credited to the unappropriated surplus of the general fund of the state until such time as the appropriation for such farm has been repaid to the state by such revenue.

AUTHORIZATION TO CONVEY LAND. (1949 P & SL, c. 51)

Section 1. Trustees of University of Maine authorized to convey certain land in Old Town.

The Trustees of the University of Maine are empowered to sell and convey a certain parcel of land in the city of Old Town no longer required by the University, said parcel of land being described as follows:

A certain lot or parcel of land situated in the city of Old Town, county of Penobscot and State of Maine bounded and described as follows, to wit:

Beginning at a concrete monument set in the ground on the southeasterly line of Stillwater avenue where said avenue line is intersected by the northerly line of lot No. 8 as shown on a plan of James W. Sewall recorded in the Penobscot registry of deeds in plan book 13, page 26; thence southwesterly along said avenue line a distance of 280.6 feet; thence south-easterly at right angles to said avenue line 109.2 feet to a concrete monument; thence southwesterly and parallel to said avenue line, a distance of 97 feet to a concrete monument; thence southeasterly a distance of 129.2 feet to a concrete monument; thence southwesterly a distance of 82.4 feet to a concrete monument, said monument locating the northerly corner of the northwesterly property line of the so-called Nellie H. Lampher lot; thence southeasterly along the northeasterly line of said Lampher lot and the adjacent Minnie A. Cookson lot so-called, a distance of 330 feet; thence southerly a distance of 155.9 feet to a concrete monument set in the westerly edge of a brook bed and on the northeasterly boundary of College street, so-called; thence southeasterly along said street line a distance of about 3 feet to the center or thread of the brook; thence in a northeasterly and northerly direction along the thread of said brook to the northerly property line of said lot No 8; thence westerly along said property line about 125 feet to the point of beginning. Said parcel of land contains about 5 acres.

The above described parcel of land being a part of the land conveyed to the Trustees of the University of Maine by Mary E. Woodward by warranty deed, recorded in the Penobscot registry of deeds, book 793, page 261, the boundaries of which are more clearly fixed and delineated by the following quitclaim deeds to the University of Maine in 1931 and recorded in the Penobscot registry of deeds, as follows:

Thomas S. Morton, volume 1055, page 103

Minnie A. Cookson, volume 1055, page 90

Section 2. Trustees authorized to convey land in Chapman.

The Trustees of the University of Maine are empowered to sell and convey, without compensation, a parcel of land in the town of Chapman to the federal government for the use of its bureau of plant. industry in connection with the cooperative potato breeding program. Said parcel of land is described as follows:

A certain lot or parcel of land situated in the town of Chapman (range 2, section II), county of Aroostook, State of Maine, bounded and described as follows, to wit:

Starting at the southwest corner of lot 61, according to survey and plan of said township made and returned to the state land office in 1859 by Hiram Chapman, surveyor, thence due north along said lot line a distance of 900 feet to the point of beginning; thence continuing due north a distance of 500 feet; thence due east a distance of 435.6 feet; thence due south a distance of 500 feet; thence due west a distance of 435.6 feet to the point of beginning. Said parcel of land contains 5 acres, more or less.

Said parcel of land is part and parcel of the same real estate conveyed to University of Maine by deed of Edwin E. Parkhurst and Carl A. Weick, dated April 29, 1941 and recorded in the south Aroostook registry of deeds, volume 501, page 144.

POWER OF TRUSTEES. (1953 P & SL, c. 122; as amended 1976 PL, c. 771)

Educational contracts by Trustees. The Trustees of the University of Maine System are hereby authorized to enter into contracts with other colleges and universities in other states and with private institutions of higher education within this state for the purpose of furnishing additional educational opportunities to any qualified student who is a resident of this state, in fields of study not provided for in the curricula of the university system, and for the further purpose of furnishing such educational opportunities to similarly qualified students of colleges and universities in other states and private institutions of higher education within this state. Such contract shall be approved by the governor, for a term not exceeding 2 years and within available appropriations. No student shall receive assistance for a period exceeding 4 years under the provisions of this act.

PORTLAND JUNIOR COLLEGE. (1957 P & SL, c. 176; as amended 1970 P & SL, c. 238, which deleted the designation of U. of M. In Portland)

Section 1. Transfer of assets and control of Portland Junior College to the University of Maine.

The directors of Portland Junior College, formerly Portland University Extension Courses, Inc., a corporation organized under Chapter 70 of the Revised Statutes of 1930, of which the name was changed and to which certain powers were added by Chapter 129 of the Private and Special Laws of 1953, having votes to transfer, assign and convey to the University of Maine all of its physical assets, real and personal, belonging to and used in connection with the obligation of said Portland Junior College and the Trustees of the University of Maine having adopted a vote to accept the same subject to authority thereof or being granted, the University of Maine is authorized to accept title to said assets when transferred and conveyed and the University of Maine shall thereupon assume the care, control and disposition of said property of Portland Junior College together with all its duties and obligations and the management of its former affairs.

Upon transfer and conveyance of said assets, the Portland Junior College shall be operated as an integral part of the University of Maine and shall be governed by its Board of Trustees in accordance with the duties and powers conferred upon them by law.

Section 2. Termination. Upon transfer of assets as provided in section 1, the corporate of the Portland Junior College shall terminate.

PORTLAND UNIVERSITY. (1961 P & SL, c. 213)

Section 1. Transfer of assets and control of Portland University to the University of Maine. The Trustees of Portland University, incorporated in 1921 and reorganized and chartered as a non-profit, charitable and educational corporation in 1945 under the laws of the State of Maine, having voted to transfer, assign and convey to the University of Maine all of its physical assets, real and personal, belonging to and used in connection with the obligation of said Portland University, and the Trustees of the University of Maine having voted to accept the same, subject to authority therefor being granted, the University of Maine is authorized to accept title to the said assets when transferred and conveyed and the University of Maine shall assume the care, control and disposition of said property of Portland University, together with all its duties and legal obligations and management of its former affairs.

Upon transfer, and conveyance of said assets, Portland University shall be operated as an integral part of the University of Maine and shall be governed by its Board of

Trustees in accordance with the duties and powers conferred upon them by law.

Section 2. Termination. Upon completion of the transfer of assets as stated above, the corporate existence of Portland University shall terminate.

RESEARCH AND ADVANCE STUDY BUILDING AT UNIVERSITY OF MAINE IN PORTLAND. (1967 P & SL, c. 183; as amended 1971 P & SL, c. 28)

Section 1. University of Maine authorized to construct a research and advanced study building at University of Maine in Portland. The University of Maine is authorized to plan, construct, furnish and equip a research and advanced study building at the University of Maine in Portland at a cost not to exceed \$1,800,000. The cost of such planning, construction, furnishing and equipping shall be taken and appropriated from the proceeds of bonds issued under the authority of this Act.

...

Section 9. Advisory committee. There may be appointed by the Chancellor of the University of Maine System an advisory committee consisting of 15 members. The committee shall be composed of representatives of research, industry and education, one of whom shall be designated by the Chancellor to serve as chairman of the committee. It shall be the responsibility of the committee to serve in an advisory capacity for the foundation of policy, design criteria, objectives, areas of study, equipment and furnishings, and all related aspects in connection with the establishment of a research and advance study center. The members of the committee shall receive no compensation for their services but shall be allowed actual expenses incurred in the discharge of their duties. Such expenses shall be paid from the funds made available under this Act.

AUGUSTA CIVIC CENTER. (1971 P & SL, c. 16)

Section 1. Authorization. The City of Augusta is authorized to include facilities which may be used by the University of Maine System as part of the proposed new Civic Center to be constructed by said city, to lease such facilities to the University of Maine System for a period not exceeding 20 years and renew any such lease for a further period or periods, and to appropriate money for the construction of such facilities.

Section 2. Validation. All proceedings heretofore taken by the City of Augusta in connection with the adoption on December 30, 1970, of Order No. 530 appropriating and authorizing the borrowing of \$2,500,000 for the construction and equipping of a new Civic Center which may include space to be leased to the University of Maine System and all action heretofore taken pursuant thereto or in connection therewith, by said city and its officers, agents, and employees are hereby confirmed, validated and made effective and said City of Augusta is hereby authorized to issue and sell its bonds pursuant to said order.

Sec. 1. PROJECT ASPIRE; UNIVERSITY OF MAINE SYSTEM. (1987 P & SL, c. 57; as amended 1988 P & SL, c. 147)

There is established Project ASPIRE, to be administered by the Board of Trustees of the University of Maine System, with technical assistance by the Department of Educational and Cultural Services, to raise the aspiration of high school students in the State and to encourage them to pursue post-secondary educational opportunities. Project ASPIRE is a cooperative program between the University of Maine System and school districts which choose to participate. Project ASPIRE allows high school seniors to take regular college courses in their own schools and it may fund other activities consistent with the purposes of this Act.

Sec. 2. Objectives of Project ASPIRE. The project established by this Act shall be administered, as determined appropriate by the Board of Trustees, in accordance with section 3 and the following objectives.

1. Any program shall be implemented only with local school Board support and approval and shall be flexible enough to allow tailoring by local school boards to meet the needs of their students.

2. To encourage full access, no fee or tuition may be charged to participating students.

3. Participation in the program shall be unduly limited based on the residence of the students involved.

4. Courses shall be offered in important and relevant subject, such as English; math; and science; and shall be college level courses for which credit at University of Maine System campuses may be earned.

5. Courses or other activities may be offered during the regular school day or, if determined appropriate by the Board of Trustees and the local school Board, outside of the traditional school day or week.

Sec.3. Implementation and review. Project ASPIRE, created by this Act, shall be implemented by the Board of Trustees as a pilot project during school years 1987-88, 1988-89, and 1989-90. The program shall be established at a limited number of public school sites chosen from among those which apply for participation. These sites shall represent a balanced mix of geographical location, school size and current percentage of students going on to post-secondary study. The purpose of the pilot projects is to provide experience on which to base an assessment of the benefits, disadvantages, possible improvements and costs of these programs. In setting up, conducting and evaluating

the pilot projects, the Board shall give consideration to programs offered outside the traditional school day or week, offering courses through audio-visual and computer network hookups, the issue of recognition and transferability of credits by the university system and the possibility of participation in the university system program by non-high school students. The Board of Trustees shall conduct a preliminary review of the operation of the pilot projects and report their findings to the Governor and the Joint Standing Committee on Education by April 1, 1988. A final report shall be issued by December 30, 1989.

Sec. 4. Funding. The cost of participating in the pilot projects to school administrative units, which choose to participate in 1987-88, 1988-89, and 1989-90 shall be funded through grants from funds appropriated for this purpose. For projects which are continued after 1989-90 the cost of participation to the school administrative unit may be added to the school unit's subsidized cost under the Maine Revised Statutes, Title 20-A, chapter 606. Any funds not spent by the end of fiscal year 1988-89 shall be carried over and not lapse until the end of fiscal year 1989-90.

UNIVERSITY OF MAINE SYSTEM INSTRUCTIONAL TELEVISION ADVISORY COUNCIL (1988 P & SL, c. 816, pt. FF)

Section 1. University of Maine System Instructional Advisory Council. There is established within the University of Maine System the University of Maine System Instructional Television Advisory Council. The purpose of the council is to develop a plan for the use of the University of Maine System's Instructional Television Delivery System.

Section 2. University of Maine System Instructional Television Delivery System Plan. The Council shall develop a plan to ensure that the Instructional Television Delivery System serves all educational levels and needs and may be accessed by all the State's educational resources. The plan shall address, but not be limited to the following:

- A. Establishing appropriate policies, procedures and responsibilities for non-University use of the Instructional Television Delivery System;
- B. Establishing procedures for determining the allocation of time for non-University users of the Instructional Television Delivery System; and
- C. Developing plans for the comprehensive use of off-campus centers and extended sites.

Section 3. Membership. The University of Maine System Instructional Television Advisory Council shall consist of 13 members to be appointed as follows: One superintendent of a Maine school administrative unit, one Maine high school principal, and 3 representatives of the Department of Education to be appointed by the Commissioner of Education; one member to be appointed by the Board of Trustees of the Maine Technical College System, one member to be appointed by the Board of Trustees of the Maine Maritime Academy; one member representing private colleges to be appointed by the Maine Independent Colleges Association; one representative from the Department of Labor, the Department of Human Services and the Department of Administration to be appointed by their respective commissioners; and a representative of the Maine Cooperative Extension Service to be appointed by the Board of Trustees of the University of Maine System. The President of the University of Maine at Augusta also shall be a member and shall serve as the chair until the council votes otherwise. The Executive Director of Community College Planning shall serve as an ex officio member and staff to the council.

Section 4. Reimbursement. Members of the council shall not be reimbursed for their expenses.

Section 5. First Report. The council shall report to the joint standing committee having jurisdiction over appropriations and financial affairs by June 1, 1989, on the status of the following:

- A. The installation of technology;
- B. The definition of the criteria by which non-University users of the system are selected;
- C. The listing of the sites established or planned; and
- D. The procedures for allocating time to these users.

Section 6. Second report. The council shall further report to the joint standing committee having jurisdiction over appropriations and financial affairs by March 15, 1990, on the following:

- A. The development of off-campus centers and extended sites and their use;
- B. The success of the program to date when measured against goals, implementation plan and budget projections;
- C. The success of the integration between the Instructional Television Advisory Council and the Community College program;
- D. The level of performance of and acceptance by non-University users of the Instructional Television Delivery System; and
- E. A plan for future comprehensive use of off-campus centers including timetables and cost projections.

UNIVERSITY OF MAINE SYSTEM STUDY OF GENDER EQUITY CURRICULUM (1989 P & SL, c. 889)

The Trustees of the University of Maine System shall study and report to the 115th Legislature and the Joint Standing Committee on Education on:

1. How the University of Maine System, in cooperation with the Department of Educational and Cultural Services and the Maine Human Rights Commission, will address the recommendations of the Blue Ribbon Task Force to Promote Equity of Opportunity for Women in the Public School System; and
2. How the University of Maine System will develop and implement a curriculum on cultural difference that is a requirement of program certification.

The University of Maine System through its undergraduate and graduate programs in the College of Education, shall include the study of gender equity and cultural differences. The University of Maine System shall support its campuses in the delivery of this curriculum.

STATE MENTAL HEALTH PLAN (1991 P & SL, c. 781)

Sec. B-2. Task Force on Mental Health Education and Licensure; University of Maine System.

The Chancellor of the University of Maine System shall convene, organize and provide staff for the Task Force on Mental Health Education and Licensure, referred to in this section as the "task force." The task force consists of the following members: representatives of each of the campuses of the University of Maine System knowledgeable about mental health and related educational programs and student services, named by the Chancellor; a representative of the Maine Technical College System, named by the president of the system; a representative of the University of New England knowledgeable about mental health and related educational programs, named by the president of that university; and a representative from each of Maine's mental health licensing boards, including social workers, substance abuse counselors, professional counselors, psychologists, psychiatrists and others determined appropriate, named by the chairs of those boards. In making appointments, the chancellor shall include representatives from associate degree programs, bachelor degree programs and graduate degree programs. A representative from the Department of Mental Health and Mental Retardation, the Executive Department, Office of Substance Abuse and the Department of Human Services must be named by their respective department heads and serve ex officio without vote. At least 4 members must be consumers of substance abuse services, mental health services or both.

The task force shall develop recommendations for basic interdisciplinary continuing education and training programs for Maine mental health and substance abuse professionals; recommended interdisciplinary knowledge qualifications for individuals who may be employed as staff or key consultants in key leadership or training positions in mental health and substance abuse programs; and requirements for interdisciplinary continuing education, licensure and service support in state- provided or state-funded mental health and substance abuse programs. The Task force shall convene no later than August 1, 1992, and issue its final report, with statutory recommendations, no later than

February 1, 1993, to the Governor, the joint standing committee of the legislature having jurisdiction over education matters, the joint standing committee of the legislature having jurisdiction over human resources matters and the advisory boards and commissions with jurisdiction over substance abuse and mental health.

The University of Maine System shall undertake the charge outlined in this section within existing resources.

SUPPLEMENTAL UNIVERSITY APPROPRIATIONS

Part II (1991 PL, c. 662; as amended 1991 PL, c. 671)

Sec. 1. Salary adjustment rescinded. Notwithstanding any other provision of law the 3% cost-of-living salary adjustment received on or subsequent to April 1, 1991, by any persons employed by the State of Maine, including probationary employees, who are in positions excluded from bargaining units pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and j, and including similar employees of the Legislature, Judicial Department and independent agencies, is rescinded effective at the beginning of the pay period closest to January 1, 1992. The most recent negotiated pay raise received by non-represented, professional employees, chancellors or presidents of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy for any such individual whose salary exceeds \$50,000 is rescinded effective at the beginning of the pay period closest to January 1, 1992. This section does not apply to non-represented faculty department chairs of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and full-time faculty of the University of Maine School of Law. Resulting savings must be used to offset any proposed or implemented tuition increase.

Sec. 2. Additional salary adjustment. Notwithstanding any other provision of law, the annual salary of any persons employed by the State of Maine, including probationary employees, who are in positions excluded from bargaining units pursuant to the Maine Revised Statutes, Title 26, section 979-A, subsection 6, paragraphs B, C, D, I and J, and including similar employees of the Legislature, the Judicial Department, independent agencies and non-represented, professional employees, chancellor or presidents of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy, that exceeds \$50,000 after adjustments for time off without pay resulting from the 7% or 5% salary adjustments, or both, and the rescinding of any 3% salary adjustments is reduced by 2% effective at the beginning of the pay period closest to January 1, 1992. This section does not apply to non-represented faculty department chairs of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and full-time faculty of the University of Maine School of Law. Any savings realized by the University of Maine System, the Maine Technical College System and the Maine Maritime Academy must be used to offset any proposed or implemented tuition increases.

Part III (1991 PL, c. 780; as amended 1993 PL, c. 243)

Sec. 1. Salary adjustment. Notwithstanding any other provision of law, the annual salary of any person who received at least a 3% cost-of-living salary adjustment on or subsequent to April 1, 1991 and who is employed by the State, including probationary employees and including employees of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy, and whose annual salary exceeds \$50,000 is reduced by 3% effective at the beginning of the pay period closest to July 1, 1992. Any savings realized by the University of Maine System, the Maine Technical College System and the Maine Maritime Academy must be used to offset any proposed or implemented tuition increase.

This section does not apply to represented employees of the University of Maine System, non-represented faculty department chairs of the University of Maine System and full-time faculty of the University of Maine School of Law.

Sec. 2. Additional salary adjustment. Notwithstanding any other provision of law, the annual salary of any person employed by the State, including probationary employees and including employees of the University of Maine

System, the Maine Technical College System and the Maine Maritime Academy, that exceeds \$50,000 is reduced by 2% effective at the beginning of the pay period closest to July 1, 1992. Any savings realized by the University of Maine System, the Maine Technical College System and the Maine Maritime Academy must be used to offset any proposed or implemented tuition increases.

This section does not apply to represented employees of the University of Maine System, non-represented faculty department chairs of the University of Maine System and full-time faculty of the University of Maine School of Law.

...

Part UU (1991 PL, c. 780)

Sec. 1. Commuting vehicle stipend. Notwithstanding any other provision of law, no commuting vehicle stipend may be awarded, authorized or implemented to any non-represented employee of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy as of the effective date of this Act. Any savings realized by the University of Maine System, the Maine Technical College System and the Maine Maritime Academy must be used to offset any proposed or implemented tuition increase.

Sec. 2. Report required. The University of Maine System, the Maine Technical College System, and the Maine Maritime Academy shall report total cost savings pursuant to section 1 of this Part and Part II, section 1 and 2 to the Joint Standing Committee on Appropriations and Financial Affairs by February 1, 1992.

Part V (1991 PL, c. 780; as amended 1993 PL, c. 17)

Sec. 1. Merit increases. Notwithstanding the Maine Revised Statutes, Title 26, section 979-D and any other provisions of law, any merit increase, regardless of funding source, scheduled to be awarded between July 1, 1992 and June 30, 1993 to any person employed by the State, including probationary employees, employees of the Legislature, Judicial Department and independent agencies and employees of the University of Maine System, and Maine Maritime Academy, may not be awarded, authorized or implemented. Any savings realized by the University of Maine System, and Maine Maritime Academy must be used to offset any proposed or implemented tuition increases.

COMMISSION ON HIGHER EDUCATION GOVERNANCE (1995 PL, c. 395; as amended 1996 PL, c. 509)

Q-1. Commission established. The Commission on Higher Education Governance referred to in this Part as the "commission," is established.

Q-2. Commission membership. The commission consists of 11 members, none of whom may be employed by public or private institutions of higher education in the State, appointed as follows:

1. Five members, including the chair of the commission, appointed by the Governor;
2. Three members appointed by the President of the Senate; and
3. Three members appointed by the Speaker of the House of Representatives.

Q-3. Appointments; meetings. All appointments must be made no later than 30 days following the effective date of this Part. Within 15 days of the appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the commission.

Q-4. Duties. The commission shall:

1. Review the missions, roles, organizational structure and leadership structure of the State's public institutions of higher education, including the Maine Maritime Academy, the Maine Technical College System and the University of Maine System;

2. Examine the adequacy of opportunities offered to meet the diverse needs of people of the State by public institutions of higher education and the role of the State's private institutions of higher education in complementing those opportunities;

3. Examine how effectively and productively resources are utilized to achieve higher education institutional missions and address the State's economic and social needs;

4. Conduct a review of state funding levels among all constituent entities of public higher education in the State in relationship to each other and to national averages and trends;

5. Review the level and type of state-funded financial aid available to resident students;

6. Examine the provision of community college services, associate degree programs, baccalaureate programs and graduate programs to ensure that the full range of needed academic programs are widely available in the State and are delivered without wasteful overlap by the appropriate institutions;

7. Examine the role, scope, nature and resource needs of distance learning through instructional television provided by the University of Maine System; and

8. Examine the relationship between State Government and the State's private institutions of higher education, including the role of the Legislature in approving degree programs at private institutions of higher education.

Q-5. Staff assistance. The commission shall request staffing assistance from the Legislative Council and the University of Maine System. The commission may also contract for necessary professional assistance.

Q-6. Reimbursement. The members of the commission are entitled to receive the legislative per diem and must be reimbursed for expenses upon approval of the chair of the commission and application to the Executive Director of the Legislative Council.

Q-7. Report. The commission shall submit an interim report to the Legislative Council and the Joint Standing Committee on Education and Cultural Affairs by March 1, 1996, that must address the following issues: access to opportunity for higher education in Maine; systems and inter-system governance structures and opportunities for improvement; and community college issues. The commission shall also submit a work plan and budget to the Legislative Council. A final report outlining the commission's findings pursuant to section 4 of this Part, submitted to the Second Regular Session of the 117th Legislature no later than June 30, 1996. The commission must meet the deadline for the interim report and must submit a work plan and budget in order for the commission to be authorized to continue working until June 30, 1996.,

Q-8. Appropriation.

MAINE ECONOMIC IMPROVEMENT TASK FORCE ESTABLISHED

I. Establishment. The Maine Economic Improvement Task Force, referred to in this Act as the "task force," is established. The task force shall review and summarize the current policies and programs within the State in support of applied research and development in the following target areas:

A. Aquaculture and marine sciences and technology;

B. Biotechnology;

C. Composite materials engineering;

D. Environmental sciences and technology; and

E. Information sciences and technology.

The task force shall create a plan to coordinate and maximize these policies and programs throughout the State.

2. Membership. The task force consists of 9 members, appointed as follows:

A. Two members from the University of Maine System, appointed by the Chancellor of the University of Maine System.

....

PROMOTE THE DEVELOPMENT OF HIGH-TECHNOLOGY INDUSTRY IN MAINE (1997 PL, c. 784)

Sec. 1. Establishment of Ph.D. programs. The Chancellor of the University of Maine System shall identify , within the University of Maine System, the high-technology disciplines that would be the most productive for the establishment of programs, including Ph.D. programs, to provide educational and professional opportunities for Maine students and economic opportunities through the establishment of significant academic high-technology resources. The chancellor shall consider especially the establishment of Ph.D. programs in computer science and electrical engineering as well as other areas where Ph.D. programs do not currently exist within the target areas identified by the Maine Science and Technology Foundation: biotechnology, environmental technology, composite technology, information technology and marine science technology. The chancellor shall present a report on the need for any additional high technology degree programs, including any necessary implementing legislation, to the joint select committee of the Legislature having jurisdiction over research and development matters, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the 119th Legislature by January 1, 1999, for the establishment of Ph.D. programs in a timely manner.

Sec. 2. Financial aid programs. The Finance Authority of Maine shall review existing student financial aid programs for supporting students pursuing high- technology courses of study and make recommendations to the 119th Legislature by January 19, 1999, including any necessary implementing legislation, to provide additional resources to support such students.

...

Sec. 6. The Maine Science and Technology Foundation, working with the Maine Development Foundation, the Finance Authority of Maine, the Department of Economic and Community Development, the State Planning Office, the Department of Labor, the University of Maine System, the Technical College System and the high-technology industry, shall, establish a statewide clearinghouse for information and assistance to persons seeking to conduct research and development and to develop high-technology businesses in the State. The clearinghouse may include, but is not limited to, the following information and assistance a complete inventory of existing high- technology resources; sources of federal and private financial support research and development and assistance in grant writing; and development of technology business plans, accessing capital, obtaining legal and other professional assistance, managing business growth and marketing, the science and technology report card and information of the availability of a skilled workforce. The foundation shall submit a progress report by September 1, 1999, to the joint standing committees of the Legislature having jurisdiction over business and economic development matters on the

establishment of the clearinghouse. The report may include recommendations on legislation required for full implementation of the statewide clearinghouse.

UNIVERSITY OF MAINE AT FORT KENT TO LEASE LAND (1997 PL, c. 643, pt. GG-1)

Sec. GG-1. University of Maine at Fort Kent to lease land. Using funds provided in this Part, the University of Maine at Fort Kent may lease land from the Bureau of Parks and Lands. The land is located more than ¼ of a mile behind the state-owned restricted zone that extends an average of 500 feet from the high water mark of all the lakes, ponds and rivers included in the Allagash Wilderness Waterway.

Sec. GG-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this part.

1997 -98

University of Maine System,
Board of Trustees of the

Board of Trustees of the
University of Maine System
All other

\$100,000

Provides funds to assist the
University of Maine at Fort
Kent in constructing and
relocating a facility for forestry
and environmental programs

ACT TO PROMOTE AND ENCOURAGE THE CULTIVATION OF CRANBERRIES IN THE STATE (1997 PL, c. 93)

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

Sec. 1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

University of Maine System
Board of Trustees

1998-99

All other

\$50,000

Notwithstanding the Maine Revised Statutes, Title 7, section 2402 and any other provision of law, provides funds for the University of Maine Cooperative Extension Service integrated pest management program for cranberries including a position devoted primarily to cranberries.

MAINE ECONOMIC IMPROVEMENT STRATEGY (1997 PL, c. 24, pt. S)

Sec. 5-3. Transfer to the Board of Trustees of the University of Maine System. Notwithstanding any other provision of law, after the State Controller closes the financial accounts of the State for the fiscal year ending June 20, 1998, an amount not to exceed \$2,000,000 must be transferred to the Board of Trustee of the University of Maine System for the Maine Economic Improvement Strategy from the balance remaining in the General Fund after the deduction of all appropriations, financial commitments or other designated funds to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

ACT TO PROMOTE THE CRANBERRY INDUSTRY AND TO ENCOURAGE CULTIVATION OF CRANBERRIES IN THE STATE (1999 P & SL, c. 45)

Emergency preamble. Whereas, Acts 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, continuation of the pest management program during the summer months is of critical importance; 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. Integrated pest management program for cranberries; University of Maine Cooperative Extension. The funding for the integrated pest management program for cranberries at the University of Maine Cooperative Extension first provided in the fiscal year 1998-99 in Private and Special Law 1997, chapter 93 and currently funded at approximately \$50,000 per year is ongoing funding to be used for that purpose only. Any cost-of-living adjustments provided for the "current services" budget of the University of Maine System must also be applied to the funding for this program.

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

Effective June 11, 1999.

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY ENHANCING EDUCATIONAL OPPORTUNITIES (2005 P & SL, c. 69)

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

Whereas, this legislation needs to be an emergency so that the savings can be realized in the 2005-06 fiscal 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. Adult education college transition programs; selection of sites. The Department of Education shall collaborate with representatives of adult education programs, the Maine Community College System, the University of Maine System, the Maine Compact for Higher Education, the MELMAC Education Foundation, the Maine Adult Education Association and other interest groups identified by the Commissioner of Education to establish criteria for selecting sites for adult education college transition programs.

Sec. 2. Expansion of college transition programs. The Department of Education shall work with stakeholders to expand the number of college transition programs offered in an adult education setting to 30 over a 5-year period. The department and its collaborators shall use the 7 pilot programs in operation in the 2005-2006 school year as a model for additional programs.

Sec. 3. Progress reports. The Department of Education shall report to the joint standing committee of the Legislature having jurisdiction over education matters no later than January 15, 2007 on progress made in expanding college transition programs offered in an adult education setting. By January 15, 2008, the Department of Education shall report to the joint standing committee of the Legislature having jurisdiction over education matters on the implementation of the number and location of college transition programs established, the number of students served, completion rates and number of participants enrolled in college. The report must also include a plan for complete implementation of a program at 30 sites by 2011.

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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Homestead Property Tax Exemption Reimbursement 0886

Initiative: Deappropriates excess funds in fiscal year 2006-07.

GENERAL FUND	2005-06	2006-07
All Other	\$0	(\$5,100,000)
GENERAL FUND TOTAL	\$0	(\$5,100,000)

Debt Service - Government Facilities Authority 0893

Initiative: Deappropriates excess funds in fiscal year 2005-06.

GENERAL FUND	2005-06	2006-07
All Other	(\$700,000)	\$0

GENERAL FUND TOTAL	(\$700,000)	\$0
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ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

DEPARTMENT TOTALS	2005-06	2006-07
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GENERAL FUND	(\$700,000)	(\$5,100,000)
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DEPARTMENT TOTAL	(\$700,000)	(\$5,100,000)
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- ALL FUNDS

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

Educational and General Activities - UMS 0031

Initiative: Provides for additional ongoing funds for general operating costs.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$4,200,000

GENERAL FUND TOTAL	\$0	\$4,200,000
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UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

DEPARTMENT TOTALS	2005-06	2006-07
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GENERAL FUND	\$0	\$4,200,000
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DEPARTMENT TOTAL	\$0	\$4,200,000
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- ALL FUNDS

COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE

Maine Community College System - Board of Trustees 0556

Initiative: Provides for additional ongoing funds for general operating costs.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$1,600,000
GENERAL FUND TOTAL	\$0	\$1,600,000

COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE

DEPARTMENT TOTALS	2005-06	2006-07
GENERAL FUND	\$0	\$1,600,000
DEPARTMENT TOTAL	\$0	\$1,600,000
- ALL FUNDS		
SECTION TOTALS	2005-06	2006-07
GENERAL FUND	(\$700,000)	\$700,000
SECTION TOTAL - ALL FUNDS (\$700,000)		\$700,000

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

AN ACT TO CREATE A GRADUATE SCHOOL OF BIOMEDICAL SCIENCES AT THE UNIVERSITY OF MAINE (2005 P & SL, c. 28)

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

Sec. 1. P&SL 1865, c. 532, §9-B is enacted to read:

Sec. 9-B. Graduate school of biomedical sciences. The Board of Trustees of the University of Maine System is authorized to establish a graduate school of biomedical sciences, referred to in this section as "the school," to educate and train students in basic and clinical fields of biomedicine and the biosciences. If the board establishes a graduate school of biomedical sciences, it must be in accordance with the following:

A. The school must be established in partnership with the Jackson Laboratory, the Maine Medical Center Research Institute and the Mount Desert Island Biological Laboratory, referred to in this section as "partner institutions."

B. The mission of the school is to administer a graduate education and fellowship program that is open on a competitive basis to its partner institutions, other Maine biomedical research institutions, Maine private education institutions and the University of Maine System.

C. To attract the most highly qualified graduate students from around the country and around the world, the school shall make every effort to ensure that the stipends offered by the school are sufficient to compete with the fellowship offers of the leading universities in the United States.

D. The Board of Trustees of the University of Maine System shall administer the school with the aid of an advisory committee composed of one representative from each of the partner institutions; one representative from the University of Southern Maine; one representative from the University of Maine System; and one representative from another research institution or institution of higher education in the State.

E. The school shall serve as the coordinating entity for interdisciplinary or interinstitutional graduate programs, including but not limited to doctoral programs in functional genomics, the Institute for Molecular Biophysics, cooperative doctoral programs in biochemistry and the Maine Institute for Human Genetics and Health.

F. The school shall work towards developing a college of allied health professions.

STUDY OF REMEDIAL COURSE OFFERINGS (2007 PL, c. 240, pt. UUU-1 and UUU-2)

Study. The Commissioner of Education shall convene a working group to study the current offering of remedial college courses at the University of Maine System and the Maine Community College System. The commissioner shall invite participation from the Maine Compact for Higher Education, the Maine Adult Education Association, the MELMAC Education Foundation, the Maine Community College System, the University of Maine System, the Mitchell Institute and other interested parties. The study must include a review of the process used to determine whether students need to take one or more developmental courses, the number of students that are required to take remedial courses while taking classes within the University of Maine System or the Maine Community College System each year, how much financial aid is used by students to take the remedial courses, what the graduation rate is of those students who have taken remedial courses and what developmental courses are offered by the Maine Community College System and the University of Maine System and whether similar courses are offered or could be offered by Maine's adult education programs.

Report. The working group shall provide a report to the Joint Standing Committee on Education and Cultural Affairs with findings and recommendations for changes in the delivery of remedial college courses no later than February 1, 2008.

HIGHER EDUCATION ADMINISTRATIVE SAVINGS GROUP (2007 PL, c. 240, pt. UUUU-1)

Administrative savings group. On or before September 1, 2007, the Chancellor of the University of Maine System, the President of the Maine Community College System and the President of the Maine Maritime Academy shall form an administrative savings group, referred to in this Part as "the group," to review potential savings in noninstructional costs for the 3 systems by combining administrative services to the extent practicable. The group shall review the feasibility of joint purchasing; joint contractual services; sharing of administrative personnel; coordinating payroll

services, facilities management and food services; and cooperative use of human resources services and information technology. The group shall report to the respective boards of trustees and to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Education and Cultural Affairs on or before January 1, 2008 with proposed savings for the current biennial budget and for future state budgets.

AN ACT TO PROVIDE FUNDING TO EDUCATE HOMEOWNERS IN INTEGRATED PEST MANAGEMENT (2009 P & SL, c. 31)

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

Sec. 1. Transfer from the Board of Pesticides Control to University of Maine Cooperative Extension. Notwithstanding any other provision of law, the State Controller shall transfer \$50,000 by August 1, 2010 from the Board of Pesticides Control program, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources to the UM Cooperative Extension - Pesticide Education program, Other Special Revenue Funds account within the University of Maine System.

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

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE
UM Cooperative Extension - Pesticide Education Z059

Initiative: Allocates one-time funds for the homeowner integrated pest management education program. The university may not assess facilities or administration charges on this grant.

OTHER SPECIAL REVENUE FUNDS 2009-10 2010-11

All Other	\$0	\$50,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$50,000
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