

**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER..... Bill carried over to Second Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Not signed by Governor within 10 days
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

Table of Contents

	Page #
Table Of Legislative Activity By Committee	4
Summary of Overall Legislative Action	5
Agriculture, Conservation and Forestry Committee	
Summary of Committee Action	6
Subject Index	19
Banking and Insurance Committee	
Summary of Committee Action	23
Subject Index	53
Business and Economic Development Committee	
Summary of Committee Action	57
Subject Index	72
Criminal Justice Committee	
Summary of Committee Action	74
Subject Index	92
Education and Cultural Affairs Committee	
Summary of Committee Action	95
Subject Index	113
Human Resources Committee	
Summary of Committee Action	117
Subject Index	139
Inland Fisheries and Wildlife Committee	
Summary of Committee Action	146
Subject Index	155

Judiciary Committee	
Summary of Committee Action	158
Subject Index	182
Labor Committee	
Summary of Committee Action	188
Subject Index	204
Legal and Veterans Affairs Committee	
Summary of Committee Action	207
Subject Index	226
Marine Resources Committee	
Summary of Committee Action	229
Subject Index	242
Natural Resources Committee	
Summary of Committee Action	245
Subject Index	270
State and Local Government Committee	
Summary of Committee Action	276
Subject Index	296
Transportation Committee	
Summary of Committee Action	301
Subject Index	314
Utilities and Energy Committee	
Summary of Committee Action	317
Subject Index	332
First Special Session, 117th Legislature, November 28 to December 1, 1995	
Summary of Action	335
Subject Index - General	348
LD Index	354

**117th LEGISLATURE
SECOND REGULAR SESSION**

Table of Legislative Activity by Committee
(Corrected Version 6/10/96)

COMMITTEE	Bills	Carried	Bills	Unanimous Reports			Divided	Bills
	Introduced	Over*	Rept'd. Out	OTP	OTP-AM	ONTP	Reports	Enacted
ACF	11	4	15	1	11	3	0	11
% of ACF bills	73%	27%	100%	7%	73%	20%	0%	73%
AFA	14	7	21	0	4	11	6	9
% of AFA bills	67%	33%	100%	0%	19%	52%	29%	43%
BAN	22	10	32	0	12	10	10	19
% of BAN bills	69%	31%	100%	0%	38%	31%	31%	59%
BEC	13	4	17	3	7	4	3	12
% of BEC bills	76%	24%	100%	18%	41%	24%	18%	71%
CRJ	11	6	17	2	8	2	5	13
% of CRJ bills	65%	35%	100%	12%	47%	12%	29%	76%
EDU	17	7	24	5	11	2	6	18
% of EDU bills	71%	29%	100%	21%	46%	8%	25%	75%
HUM	20	3	23	1	17	4	1	18
% of HUM bills	87%	13%	100%	4%	74%	17%	4%	78%
IFW	5	4	9	0	4	4	1	4
% of IFW bills	56%	44%	100%	0%	44%	44%	11%	44%
JUD	20	13	33	4	18	7	4	24
% of JUD bills	61%	39%	100%	12%	55%	21%	12%	73%
LAB	14	4	18	2	9	1	6	13
% of LAB bills	78%	22%	100%	11%	50%	6%	33%	72%
LVA	15	6	21	0	7	6	8	8
% of LVA bills	71%	29%	100%	0%	33%	29%	38%	38%
MAR	10	2	12	1	6	5	0	7
% of MAR bills	83%	17%	100%	8%	50%	42%	0%	58%
NAT	18	4	22	1	11	3	7	17
% of NAT bills	82%	18%	100%	5%	50%	14%	32%	77%
SLG	23	6	29	5	15	6	3	18
% of SLG bills	79%	21%	100%	17%	52%	21%	10%	62%
TAX	23	15	38	2	18	10	8	17
% of TAX bills	61%	39%	100%	5%	47%	26%	21%	45%
TRA	17	3	20	1	13	3	3	15
% of TRA bills	85%	15%	100%	5%	65%	15%	15%	75%
UTE	16	6	22	1	10	7	4	13
% of UTE bills	73%	27%	100%	5%	45%	32%	18%	59%
Bills Not Ref.	23	0	0	0	0	0	0	23
% Unref. bills	100%	0%	0%	0%	0%	0%	0%	100%
TOTAL	292	104	373	29	181	88	75	259
% of All bills	74%	26%	94%	7%	46%	22%	19%	65%

*Includes bills carried over from the First Regular and First Special sessions

**117th Legislature
Second Regular Session
Summary of Overall Legislative Action**
(Corrected Version 6/10/96)

<u>I. BILLS CONSIDERED</u>	<u>Number</u>	<u>% of Bills Considered</u>
A. Bills referred to committee	269	67.9%
B. Bills carried over from First Regular Session	101	25.5%
C. Bills carried over from First Special Session	3	0.8%
D. Bills introduced without reference to committee	<u>23</u>	<u>5.8%</u>
Total Bills Considered	396 *	100.0%
<u>II. BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out</u>
A. Unanimous Reports		
<i>OTP</i>	29	7.8%
<i>OTP-AM</i>	181	48.5%
<i>ONTP</i>	<u>88</u>	<u>23.6%</u>
Total Unanimous Reports	298	79.9%
B. Divided Reports		
<i>2-Way</i>	72	19.3%
<i>3-Way</i>	2	0.5%
<i>4-Way</i>	<u>1</u>	<u>0.3%</u>
Total Divided Reports	75	20.1%
Total Unanimous and Divided Reports	373 *	100.0%
<u>III. FINAL DISPOSITION OF ALL BILLS</u>	<u>Number</u>	<u>% of Bills Considered</u>
A. Bills enacted or finally passed		
<i>Public Laws</i>	199	50.3%
<i>Private and Special Laws</i>	33	8.3%
<i>Resolves</i>	26	6.6%
<i>Constitutional Resolutions</i>	<u>1</u>	<u>0.3%</u>
Total Enacted or Finally Passed	259	65.4%
B. Vetoes		
<i>Overrides</i>	0	0.0%
<i>Sustained</i>	0	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%
<u>IV. NUMBER OF CONFIRMATION SESSIONS</u>	50	N/A

* Includes some bills reported out pursuant to Law or Joint Order.

Summary of Committee Action by Joint Standing Committee on Agriculture, Conservation and Forestry

	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
I. <u>BILLS CONSIDERED</u>			
A. Bills referred to committee	11	73.3%	2.8%
B. Bills carried over from 1st Regular Session	3	20.0%	0.8%
C. Bills carried over from 1st Special Session	<u>1</u>	<u>6.7%</u>	<u>0.3%</u>
Total Bills Considered	15	100.0%	3.8%
		<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>		
A. Unanimous Reports			
<i>OTP</i>	1	6.7%	0.3%
<i>OTP-AM</i>	11	73.3%	2.9%
<u><i>ONTP</i></u>	<u>3</u>	<u>20.0%</u>	<u>0.8%</u>
Total Unanimous Reports	15	100.0%	4.0%
B. Divided Reports			
<i>2-Way</i>	0	0.0%	0.0%
<i>3-Way</i>	0	0.0%	0.0%
<u><i>4-Way</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	0	0.0%	0.0%
Total Bills Reported Out	15	100.0%	4.0%
		<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>		
A. Bills enacted or finally passed			
<i>Public Laws</i>	8	53.3%	2.0%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	3	20.0%	0.8%
<u><i>Constitutional Resolutions</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	11	73.3%	2.8%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<u><i>Pocket</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	4	N/A	N/A

Joint Standing Committee on Agriculture, Conservation and Forestry

LD 1267 **An Act to Establish the Maine Outdoor Recreation Council** ONTP

Sponsor(s)
O'DEA

Committee Report
ONTP

Amendments Adopted

LD 1267 proposed to establish the Maine Outdoor Recreation Council. The council would have consisted of 14 members representing State Government, business interests and various public interests. The council would have coordinated the development and promotion of outdoor recreation and facilities in the State. Members of the council would have received no compensation. The council would have received assistance, within available resources, from the Department of Conservation, Bureau of Parks and Recreation.

LD 1404 **An Act to Amend the Law Regarding the Lease of Submerged Lands** PUBLIC 666

Sponsor(s)
KILKELLY
GOULD

Committee Report
OTP-AM

Amendments Adopted
H-728

LD 1404 proposed to repeal existing law related to the granting of leases and easements for submerged and intertidal lands held in trust by the State and establish a new procedure for allowing use and construction upon those lands. Entities, public and private, that use submerged lands for fishing, navigation, fowling or other traditional public trust uses would be granted exclusive use of the submerged lands without requirement of lease or easement as long as those uses continue. Structures that facilitate those traditional uses would be required to be registered and be subject to a \$100 registration fee. Structures that do not facilitate those uses would have to obtain a lease from the Bureau of Public Lands and pay a one-time administrative fee of \$100. This bill also proposed to establish a Submerged Lands Public Trust Review Board with authority to adopt rules governing submerged lands and to hear appeals of submerged lands leasing related decisions made by the Director of the Bureau of Public Lands.

Committee Amendment "A" (H728) proposed to require interest earned from submerged lands income be credited to the Submerged Lands Fund; reduce the annual lease rent paid for upland uses from 10% to 2% of the municipally assessed value per square foot of adjacent upland; authorize the renewal of a lease at any time, provided the terms of an existing lease were met at the time of renewal application (If a lease did not conform with all applicable laws, regulations and public trust principles in effect at the time of renewal, the lease would have been amended to reflect current law, rules and principles); raise the minimum annual rent for a submerged lands lease from \$75 to \$100; establish a maximum rent of \$1,200 for any lease; raise the registration fee for easements from \$25 every 5 years to \$50 every 5 years; extend, to December 31, 1996, the deadline for the Bureau of Parks and Lands to register all structures that were upon submerged and intertidal lands as of October 1, 1975; and establish the Submerged Lands Advisory Board to provide advice and information to the Director of the Bureau of Parks and Lands on the management of submerged lands.

Enacted law summary

Public Law 1995, chapter 666 amends the current submerged lands law in the following manner:

1. It requires interest earned from submerged lands income be credited to the Submerged Lands Fund;
2. It reduces the annual lease rent paid for upland uses from 10% to 2% of the municipally assessed value per square foot of adjacent upland;
3. It authorizes the renewal of a lease at any time, provided the terms of an existing lease are met at the time of renewal application. If a lease does not conform with all applicable laws, regulations and public trust principles in effect at the time of renewal, the lease must be amended to reflect current law, rules and principles;
4. It raises the minimum annual rent for a submerged lands lease from \$75 to \$100;
5. It establishes a maximum rent of \$1,200 for any lease;
6. It raises the registration fee for easements from \$25 every 5 years to \$50 every 5 years;
7. It extends, to December 31, 1996, the deadline for the Bureau of Parks and Lands to register all structures that were upon submerged and intertidal lands as of October 1, 1975; and
8. It establishes the Submerged Lands Advisory Board to provide advice and information to the Director of the Bureau of Parks and Lands on the management of submerged lands.

**LD 1469 **Resolve, Directing the Commissioner of Agriculture,
Food and Rural Resources to Research the Reinstatement
of a State-operated Meat Inspection Program****

RESOLVE 78

Sponsor(s)
KILKELLY
CASSIDY

Committee Report
OTP-AM

Amendments Adopted
H-749
S-593

LD 1469 proposed to reenact, with updated language, the Maine Meat Inspection Act repealed in 1980. It would have provided for state inspection and regulation of the slaughter, processing, labeling, sale and transportation of cattle, sheep, swine, goats or horses, mules or other equines in intrastate commerce.

Committee Amendment "A" (H749) proposed to replace the bill and make it a resolve. It proposed to provide the Department of Agriculture, Food and Rural Resources a \$20,000 General Fund appropriation to research establishment of a state-operated meat inspection program and initiate a pilot project under an inspection process known as "hazard analysis critical control point." Contingent upon the Department of Agriculture, Food and Rural Resources receiving the appropriation, the Commissioner of Agriculture, Food and Rural Resources would have been required to report by March 15, 1997 on the department's progress.

Senate Amendment "A" to Committee Amendment "A" (S93) proposed to replace Committee Amendment "A". It proposed to require the Commissioner of Agriculture, Food and

Rural Resources to establish a state meat inspection advisory committee and to perform the following tasks: develop for custom meat processors in this State a hazard analysis critical control point manual that complies with United States Department of Agriculture standards; develop legislation to establish a hazard analysis critical control point program for meat inspection in this State; determine the feasibility and criteria for a hazard analysis critical control point pilot project; and negotiate with the United States Department of Agriculture to establish a hazard analysis critical control point pilot project for meat inspection in this State. It proposed to remove from the bill the \$20,000 General Fund appropriation and require the Department of Agriculture, Food and Rural Resources to accomplish the tasks to the extent possible within existing budgeted resources.

Enacted law summary

Resolve 1995, chapter 78 requires the Commissioner of Agriculture, Food and Rural Resources to establish a state meat inspection advisory committee and to perform the following tasks: develop for custom meat processors in this State a hazard analysis critical control point manual that complies with United States Department of Agriculture standards; develop legislation to establish a hazard analysis critical control point program for meat inspection in this State; determine the feasibility and criteria for a hazard analysis critical control point pilot project; and negotiate with the United States Department of Agriculture to establish a hazard analysis critical control point pilot project for meat inspection in this State. The commissioner must report on these tasks by February 1, 1997 to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry.

LD 1593 An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council

PUBLIC 693
EMERGENCY

Sponsor(s)
KERR
CARPENTER

Committee Report
OTP-AM

Amendments Adopted
H-843
S-527

LD 1593 proposed to repeal the Animal Welfare Board and transfer the board's responsibilities regarding investigation of pet animal cruelty complaints to the commissioner. Other powers and responsibilities of the board, such as the appointment of intermittent humane agents and the operation of a spaying and neutering fund, would be transferred to the commissioner. The role as well as the membership of the Animal Welfare Advisory Committee would be expanded. The committee would have included one member who is or has been a licensed veterinarian and another member who represents the interest of the public in animal welfare, generally. All committee members would have continued to be appointed by the Governor, but would no longer be subject to legislative review and confirmation.

The bill proposed to make adjustments to Other Special Revenue allocations for the Maine Dairy Promotion Board and provide for the elimination of the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council. The department would have carried out the board's and council's programs with the assistance and advice of a new Maine Dairy and Nutrition Advisory Council and a Maine Dairy Promotion Advisory Board.

Committee Amendment "A" (H843) proposed to make the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council independent public instrumentalities of the State. It proposed to strike those sections of the bill that would have made the council and the board advisory bodies to the Department of Agriculture, Food and Rural Resources.

The amendment also proposed to make technical changes to Maine's dairy laws. It also proposed to strike sections of the bill related to Maine's animal welfare laws because those sections were enacted by the Legislature during the 1995 Special Session.

Senate Amendment "A" (S527) proposed replacing a section of the bill to take into account a change made by Public Law 1995, chapter 502, Part C, section 3.

Enacted law summary

Public Law 1995, chapter 693 makes the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council independent public instrumentalities of the State. The amendment also makes technical changes to Maine's dairy laws.

Chapter 693 was enacted as an emergency measure effective April 11, 1996.

LD 1686 An Act to Remove the 50foot Buffer Requirement When Cutting ONTP
Trees

Sponsor(s)
LORD

Committee Report
ONTP

Amendments Adopted

LD 1686 would have prohibited the requirement that separation zones be left on sides of a lot when cutting trees.

LD 1691 An Act to Amend the Law Allowing the Growth and Sale of PUBLIC 556
Cultivated Ginseng in Maine EMERGENCY

Sponsor(s)
CASSIDY
KILKELLY

Committee Report
OTP-AM

Amendments Adopted
S-434

LD 1691 proposed to provide the Department of Agriculture, Food and Rural Resources with the authority to maintain maps and locations of ginseng plantings in the State as confidential business information.

Committee Amendment "A" (S434) proposed to clarify language in the bill by stating that records required of cultivated ginseng licensees by the department pertaining to the location of ginseng plantings may not be made available for public inspection. The amendment also proposed to remove from public inspection ginseng license applications and the names and addresses of licensees. This confidential status would terminate when the records are used by the department as evidence for an enforcement action pursuant to this chapter or are subpoenaed in any proceeding to enforce a provision of this chapter, or are used in any prosecution for a criminal violation. A licensee could authorize in writing the disclosure of records pertaining to license applications and the names and addresses of licensees.

Enacted law summary

Public Law 1995, chapter 556 provides that records required of cultivated ginseng licensees by the department pertaining to the location of ginseng plantings are not available for public inspection. It also removes from public inspection ginseng license applications and the names and addresses of licensees. This confidential status terminates when the records are used by the department as evidence for an enforcement action pursuant to this chapter or are subpoenaed in any proceeding to enforce a provision of this chapter, or are used in any prosecution for a criminal violation. A licensee may authorize in writing the disclosure of records pertaining to license applications and the names and addresses of licensees.

Chapter 556 was enacted as an emergency measure effective March 20, 1996.

LD 1712 An Act to Increase the Municipal Share of Dog Licensing Fees

PUBLIC 557

Sponsor(s)
STROUT

Committee Report
OTP-AM

Amendments Adopted
H-729

LD 1712 proposed to change the allocation of dog license fees between municipalities and the State. It proposed to increase the money that may be retained by municipalities by allowing municipalities to retain \$3 from each license for a dog capable of producing young and \$11 from each kennel license. Municipalities had been retaining \$1 from each license for a dog capable of producing young and \$5 from each kennel license. The additional revenue to municipalities would be used to meet legal obligations with respect to animal control, care of injured and abandoned animals and support of animal shelters. The bill also proposed to repeal provisions allowing animal shelters to recover \$4 per day for a period of 6 days for housing strays on behalf of municipalities and requiring notice to municipalities of a dog's being found. This bill also corrects references to chapters pertaining to duties and responsibilities of the municipalities.

Committee Amendment "A" (H729) proposed to remove those sections of the bill that would have repealed the provisions allowing animal shelters to recover \$4 per day for a period of 6 days for housing strays on behalf of municipalities and requiring notice to municipalities of a dog being found.

The amendment also proposed to alter a section of the bill that makes changes in those chapters of the animal welfare laws that municipal officers and other municipal agents are required to follow or be subject to fines. The amendment proposed to delete from the requirement spelled out in the bill those chapters of the animal welfare laws under which municipal officers or agents are not required to perform functions.

The amendment also proposed to change the distribution of license fees paid for dogs or wolf hybrids incapable of producing young. The amendment also proposed to increase the amount deposited in a municipality's animal welfare account from \$1 to \$2 and decrease the amount deposited in the state's Animal Welfare Fund from \$2 to \$1.

Enacted law summary

Public Law 1995, chapter 557 changes the distribution of license fees paid for dogs or wolf hybrids incapable of producing young. It increases the amount deposited in a municipality's animal welfare account from \$1 to \$2 and decreases the amount deposited in the state's Animal Welfare Fund from \$2 to \$1. The law also makes changes in those chapters of the animal welfare

laws that municipal officers and other municipal agents are required to follow or be subject to fines. It deletes from the requirements those chapters of the animal welfare laws under which municipal officers or agents are not required to perform functions.

LD 1719 **An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board** PUBLIC 532

<u>Sponsor(s)</u> CASSIDY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-426
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LD 1719 proposed to accurately reflect the legislative intent of Senate Amendment "F" to Committee Amendment "A" to LD 1589, which was enacted into law as Public Law 1995, chapter 502. The statement of fact to that amendment indicated that the intention of the amendment was to incorporate 2 other Senate amendments that were in conflict. This bill proposed to include sections that Senate Amendment "F" to Committee Amendment "A" inadvertently omitted. These sections proposed to repeal the State Soil and Water Conservation Commission, which assists soil and water conservation districts throughout the state. The sections propose to transfer the duties of the commission to the Department of Agriculture, Food and Rural Resources and create the State Conservation District Advisory Council to advise the Commissioner of Agriculture, Food and Rural Resources.

Committee Amendment "A" (S426) proposed to repeal a section of law pertaining to the legal services, executive director and delegation of power of the State Soil and Water Conservation Commission. It also proposed to reorganize language in the bill concerning the State Conservation District Advisory Council and the duties of the Department of Agriculture, Food and Rural Resources relative to soil and water conservation districts.

Enacted law summary

Public Law 1995, chapter 532 repeals the State Soil and Water Conservation Commission, which assisted soil and water conservation districts throughout the state. The law transfers the duties of the commission to the Department of Agriculture, Food and Rural Resources and it creates the State Conservation District Advisory Council to advise the Commissioner of Agriculture, Food and Rural Resources.

LD 1725 **An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger** PUBLIC 586

<u>Sponsor(s)</u> CASSIDY KILKELLY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-504
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LD 1725 proposed to clarify the Governor's authority to restrict those activities that are likely to result in forest fires while allowing other lower risk activities that involve fire to continue. The statutory language in effect at the time the bill was presented specifically listed only 2 exemptions from a ban on open fires. The changes proposed in the bill would have allowed the Governor to exempt other activities from a ban provided they were not likely to pose a threat to lives or property.

This bill also proposed that a person who sets an arson forest fire commits a Class A crime.

Committee Amendment "A" (S504) proposed to establish a process and conditions under which out-of-door fires and the use of charcoal or gas grills at private licensed camping facilities and certain public camping facilities may be exempt from a fire ban proclamation issued by the Governor. The public camping facilities are those under the jurisdiction of the Department of Conservation and the Baxter State Park Authority. The amendment proposed to establish penalties for people who violate the conditions at exempt facilities. It also proposed to strike the Class A crime for arson forest fire. In addition, the amendment proposed to provide the Governor the authority to exempt from a fire ban human activities and out-door fires that do not create a significant forest fire threat.

Enacted law summary

Public Law 1995, chapter 586 establishes a process and conditions under which out-door fires and the use of charcoal or gas grills at private licensed camping facilities and certain public camping facilities may be exempt from a fire ban proclamation issued by the Governor. The public camping facilities are those under the jurisdiction of the Department of Conservation and the Baxter State Park Authority. The amendment establishes penalties for people who violate the conditions at exempt facilities. It also strikes the Class A crime for arson forest fire. In addition, the amendment provides the Governor the authority to exempt from a fire ban human activities and out-of-door fires that do not create a significant forest fire threat.

LD 1776 Resolve, to Require Additional Promotion of the Maine Quality Seal

RESOLVE 68
EMERGENCY

Sponsor(s)
SPEAR

Committee Report
OTP-AM

Amendments Adopted
H-826

LD 1776 was one of 6 bills submitted by the Commission to Study Options for Preserving the Dairy Industry in the State.

The resolve proposed to require the Maine Dairy Promotion Board to increase promotion of the Maine Quality Seal for dairy products. It also proposed the board set specific goals for the promotion and to evaluate the promotion effort. It proposed that \$50,000 be transferred from the Maine Dairy Farm Stabilization Fund to be used toward the expenses for this promotion.

House Amendment "A" (H826) proposed to correct a spelling error and add a fiscal note.

Enacted law summary

Resolve 1995, chapter 68 requires the Maine Dairy Promotion Board to increase promotion of the Maine Quality Seal for dairy products. It requires the board to set specific goals for the promotion and to evaluate the promotion effort. It provides that \$50,000 be transferred from the Maine Dairy Farm Stabilization Fund to be used toward the expenses for this promotion.

Chapter 68 was enacted as an emergency measure effective April 2, 1996.

LD 1778 Resolve, to Require the Department of Agriculture, Food and Rural Resources to Take Various Actions in Support of the Dairy Industry

RESOLVE 69
EMERGENCY

Sponsor(s)
SPEAR

Committee Report
OTP-AM

Amendments Adopted
H-801

LD 1778 was one of 6 bills submitted by the Commission to Study Options for Preserving the Dairy Industry in the State. It proposed to require the Commissioner of Agriculture, Food and Rural Resources to accomplish the following tasks:

1. Assist the joint standing committee of the Legislature having jurisdiction over agricultural matters in developing a plan with other northeastern states to apportion agricultural research among the various land grant universities;
2. Work on dairy farm energy issues;
3. Improve communication regarding value-added dairy products;
4. Ensure that the Maine Milk Commission is not being overly restrictive in approving dairy promotions;
5. Establish a clearinghouse for those desiring to sell and those desiring to buy farms;
6. Develop a program for on-site management advice for dairy farms;
7. Ensure that dairy interests are aware of proposed environmental rules that might affect the dairy industry; and
8. Request Maine's Congressional delegation to attempt to have dairy products placed under the North American Free Trade Agreement with Canada. The action or trade with Canada must be initiated within 30 days of the effective date of this resolve and the plan for on-site management advice must be completed by January 1, 1997. The remaining activities require a yearly status report until accomplished. No date for final accomplishment is given.

Committee Amendment "A" (H801) proposed to change language in the first two tasks outlined in the resolve. Regarding the first task, the amendment proposed to require the Commissioner of Agriculture, Food and Rural Resources to investigate the potential to work with other northeastern states on the development and implementation of a program to apportion agricultural research among the land grant colleges in different states with the goals of encouraging specialization and avoiding duplication. The resolve had proposed requiring the commissioner to assist the joint standing committee of the Legislature having jurisdiction over agricultural matters in the land grant task. Regarding the second task in the resolve, the amendment proposed that the commissioner continue the discussions of the Commission to Study Options for Preserving the Dairy Industry in the State with Central Maine Power Company regarding stray voltage in dairy barns, diesel deferral rates and the differences in rates offered to residential and commercial customers.

Enacted law summary

Resolve 1995, chapter 69 requires the Commissioner of Agriculture, Food and Rural Resources to accomplish the following tasks:

1. Investigate the potential to work with other northeastern states to apportion agricultural research among the various land grant universities;
2. Work on dairy farm energy issues;
3. Improve communication regarding value-added dairy products;
4. Ensure that the Maine Milk Commission is not being overly restrictive in approving dairy promotions;
5. Establish a clearinghouse for those desiring to sell and those desiring to buy farms;
6. Develop a program for on-site management advice for dairy farms;
7. Ensure that dairy interests are aware of proposed environmental rules that might affect the dairy industry; and
8. Request Maine's Congressional delegation to attempt to have dairy products placed under the North American Free Trade Agreement with Canada. The action or trade with Canada must be initiated within 30 days of the effective date of this resolve and the plan for on-site management advice must be completed by January 1, 1997. The remaining activities require a yearly status report until accomplished. No date for final accomplishment is given.

Chapter 69 was enacted as an emergency measure effective April 2, 1996.

LD 1808 An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs

INDEF PP

Sponsor(s)
CARR
TUTTLE

Committee Report
OTP-AM

Amendments Adopted
H-862

Under current law, municipalities are entitled to reimbursement for incurred forest fire suppression costs that exceed .25% of their state valuation. Anything above this threshold is reimbursed by the State.

LD 1808 proposed changing the law by repealing the threshold amount and requiring the State to reimburse municipalities for 50% of the costs incurred by the municipalities, regardless of the amount of the costs of fire suppression. The State would have been required to pay for or reimburse the municipality for forest fire suppression costs above .25% of the state valuation of the municipality.

The effect of the changes proposed by this bill would have been felt only by those municipalities that currently incur fire suppression costs that do not reach the .25% valuation threshold. The bill would have returned the law to the language that existed prior to changes that were made in 1991.

Committee Amendment "A" (H862) proposed to strike the bill. It proposed that a municipality pay up to .50% of its state valuation for the costs of fighting forest fires in the municipality and the State reimburse the municipality for 1/2 of those costs. The amendment also

proposed to require the State to pay for all forest fire costs greater than .50% of a municipality's state valuation. Under current state law, a municipality must pay all the costs of forest fire control up to .25% of the municipality's state valuation with no reimbursement by the State. The State, under current law, must pay all forest fire costs in a municipality that exceed .25% of the municipality's state valuation.

The amendment also proposed to require a municipality to pay the first \$10,000 in fire suppression costs for each forest fire, except that the total amount a municipality pays annual for forest fire suppression costs could not exceed .50% of the municipality's state valuation.

The amendment also proposed to provide that the unorganized territory reimburse the State for 1/2 of the costs of fighting forest fires up to a total fire-fighting cost equal to .50% of the unorganized territory's state valuation. The State would pay forest fire costs in the unorganized territory that are greater than .50% of the unorganized territory's state valuation. Under current state law, the unorganized territory must reimburse the State for all the costs of forest fire control up to .25% of the unorganized territory's state valuation with no reimbursement by the State. The State, under current law, must pay all forest fire costs in the unorganized territory that exceed .25% of the unorganized territory's state valuation.

The amendment also proposed to require the unorganized territory to pay, for each forest fire, the first \$10,000 in fire suppression costs, except that the total amount the unorganized territory pays annually for forest fire suppression costs could not exceed .50% of the unorganized territory's state valuation.

**LD 1809 An Act Strengthening the Laws That Prohibit the
Drugging of Animals Competing in Pulling Events and
Livestock Exhibitions**

PUBLIC 602

Sponsor(s)
WHITCOMB
SPEAR

Committee Report
OTP-AM

Amendments Adopted
H-802

LD 1809 proposed to strengthen the current laws that prohibit the drugging of animals entered in pulling contests and expand the prohibition to include animals entered in livestock exhibitions.

As with the law in effect when the bill was presented, the bill proposed to allow the use of therapeutic drugs, but require a written statement to be filed within one hour of the administration of medication indicating, among other pertinent information, the type of medication and the reason for the treatment. A minimum forfeiture for violations was proposed. In addition, the bill proposed all prize money and trophies won by the animal be returned.

Committee Amendment "A" (H802) proposed to add to the definition of "prohibited substance" any substance that the Commissioner of Agriculture, Food and Rural Resources by rule determines could affect the conduct, actions, endurance, strength, speed performance, appearance or disposition of an animal entering into a pulling event or livestock exhibition. It also proposed to clarify that an animal's owner or trainer may not refuse to secure or restrain an animal for examination and may not interfere with the securing or restraining of an animal.

The amendment also proposed to require notice to be provided to the manager of an event when an animal has been administered a therapeutic drug. It also proposed to describe the conditions under which a trainer may administer therapeutic drugs.

Enacted law summary

Public Law 1995, chapter 602 repeals existing law relating to the drugging of animals entered in pulling events and enacts new law to include prohibitions related to the drugging of animals entered into livestock exhibitions as well as prohibitions related to the drugging of animals entered into pulling contests. The bill defines “prohibited substance” and provides the Commissioner of Agriculture, Food and Rural Resources the authority to add to that definition any substance the commissioner determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal. In addition, the law makes the owner or trainer of an animal entered into an event responsible for the condition of an animal, including the presence of a prohibited substance. The law also establishes procedures related to violations and the administration of therapeutic drugs.

LD 1819 An Act to Promote Forest Rehabilitation and Eliminate Clearcutting ONTP

<u>Sponsor(s)</u> INITIATED BILL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1819, a voter initiated bill, proposed to set standards for timber harvesting activities within the jurisdiction of the Maine Land Use Regulation Commission. These standards would have included the elimination of clearcutting, limits on the amount of timber that may be harvested in a specified period of time, and minimum tree stand volume following harvesting operations.

LD 1843 An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend the Maine Seed Capital Tax Credit Program PUBLIC 658 EMERGENCY

<u>Sponsor(s)</u> CASSIDY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-542
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LD 1843 proposed to create the Agricultural Marketing Loan Fund, which would be administered by the Department of Agriculture, Food and Rural Resources. The fund would be used to provide loans for enterprises engaged in agriculture and aquaculture. All loans under the program would be made in conjunction with private lenders or other sources of capital.

Committee Amendment "A" (S542) proposed to establish the Agricultural Marketing Loan Fund within the Finance Authority of Maine, but place the administration of the fund under the jurisdiction of the Commissioner of Agriculture, Food and Rural Resources.

The amendment also proposed to amend the Maine Seed Capital Tax Credit Program to allow a principal owner's parents, brothers, sisters or children to receive tax credits for investments in the principal owner's business and for investments in a venture capital fund that invests in the principal owner's business. The amendment also proposed that no tax credit certificate may be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

Enacted law summary

Public Law 1995, chapter 658 establishes the Agricultural Marketing Loan Fund within the Finance Authority of Maine, but places the administration of the fund under the jurisdiction of the Commissioner of Agriculture, Food and Rural Resources. It also amends the Maine Seed Capital Tax Credit Program to allow a principal owner's parents, brothers, sisters or children to receive tax credits for investments in the principal owner's business and for investments in a venture capital fund that invests in the principal owner's business. The law also requires that no tax credit certificate may be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

Chapter 658 was enacted as an emergency measure effective April 10, 1996.

LD 1888 An Act Regarding the Maine Potato Board

PUBLIC 702
EMERGENCY

Sponsor(s)
SPEAR

Committee Report
OTP

Amendments Adopted

LD 1888 proposed that employees of the Maine Potato Board be considered state employees for the purposes of the Maine State Retirement System and the state employee health insurance program. Public Law 1995, chapter 502 established the Maine Potato Board as an incorporated public instrumentality of the State effective March 1, 1996. It authorized the board to become a participating local district of the Maine State Retirement System. However, admission to the system is permitted annually on July 1st, leaving in question the retirement benefits of board employees between March 1, 1996 and the date of admission of a participating local district into the retirement system. This bill proposed to clarify the retirement and health insurance status of the board's employees by making them state employees for the purposes of retirement and health insurance.

The bill also proposed to clarify that any funds received by the State Treasurer from the potato tax must be allocated to the Maine Potato Board by the Legislature.

Enacted law summary

Public Law 1995, chapter 702 provides that employees of the Maine Potato Board are considered state employees for the purposes of the Maine State Retirement System and the state employee health insurance program. The law also clarifies that any funds received by the State Treasurer from the potato tax must be allocated to the Maine Potato Board by the Legislature.

Chapter 702 was enacted as an emergency measure effective April 11, 1996.

Joint Standing Committee on Agriculture, Conservation and Forestry

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Animal Welfare/Dogs and Cats</i>			
<u>Enacted</u>			
LD 1712	An Act to Increase the Municipal Share of Dog Licensing Fees	PUBLIC 557.....	11
LD 1809	An Act Strengthening the Laws That Prohibit the Drugging of Animals Competing in Pulling Events and Livestock Exhibitions	PUBLIC 602.....	16
<u>Not Enacted</u>			
	None		
<i>Fire</i>			
<u>Enacted</u>			
LD 1725	An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger	PUBLIC 586.....	12
<u>Not Enacted</u>			
LD 1808	An Act to Increase the Reimbursement Levels for Forest Fire Suppression Costs	INDEF PP.....	15
<i>Forest Management/Maine Forest Service</i>			
<u>Enacted</u>			
	None		
<u>Not Enacted</u>			
LD 1686	An Act to Remove the 50foot Buffer Requirement When Cutting Trees	ONTP.....	10
LD 1819	An Act to Promote Forest Rehabilitation and Eliminate Clearcutting	ONTP.....	17

Ginseng

Enacted

LD 1691	An Act to Amend the Law Allowing the Growth and Sale of Cultivated Ginseng in Maine	PUBLIC 556 EMERGENCY..... 10
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Not Enacted

None

Land Use Regulation Commission

Enacted

None

Not Enacted

LD 1819	An Act to Promote Forest Rehabilitation and Eliminate Clearcutting	ONTP..... 17
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Meat Inspection

Enacted

LD 1469	Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources to Research the Reinstatement of a Stateoperated Meat Inspection Program	RESOLVE 78..... 8
----------------	--	--------------------------

Not Enacted

None

Milk

Enacted

LD 1593	An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council	PUBLIC 693 EMERGENCY..... 9
----------------	---	---------------------------------------

LD 1776	Resolve, to Require Additional Promotion of the Maine Quality Seal	RESOLVE 68 EMERGENCY..... 13
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		<u>Final Disposition</u>	<u>Page #</u>
LD 1778	Resolve, to Require the Department of Agriculture, Food and Rural Resources to Take Various Actions in Support of the Dairy Industry	RESOLVE 69 EMERGENCY.....	14

Not Enacted

None

Miscellaneous

Enacted

LD 1843	An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend the Maine Seed Capital Tax Credit Program	PUBLIC 658 EMERGENCY.....	17
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Not Enacted

None

Outdoor Recreation

Enacted

None

Not Enacted

LD 1267	An Act to Establish the Maine Outdoor Recreation Council	ONTP.....	7
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Potatoes

Enacted

LD 1888	An Act Regarding the Maine Potato Board	PUBLIC 702 EMERGENCY	18
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Not Enacted

None

Soil and Water Conservation

Enacted

LD 1719	An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board	PUBLIC 532.....	12
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Not Enacted

None

Submerged Lands

Enacted

LD 1404	An Act to Amend the Law Regarding the Lease of Submerged Lands	PUBLIC 666.....	7
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Not Enacted

None

Summary of Committee Action by Joint Standing Committee on Banking and Insurance

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	22	68.8%	5.6%
B. Bills carried over from 1st Regular Session	10	31.3%	2.5%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	32	100.0%	8.1%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	0	0.0%	0.0%
<i>OTP-AM</i>	12	37.5%	3.2%
<i>ONTP</i>	<u>10</u>	<u>31.3%</u>	<u>2.7%</u>
Total Unanimous Reports	22	68.8%	5.9%
B. Divided Reports			
<i>2-Way</i>	10	31.3%	2.7%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	10	31.3%	2.7%
Total Bills Reported Out	32	100.0%	8.6%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	19	59.4%	4.8%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	19	59.4%	4.8%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	0	N/A	N/A

Joint Standing Committee on Banking and Insurance

LD 68 **An Act to Make Available Coverage for Mental Health Services Provided by Counseling Professionals Who Are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems** PUBLIC 561

Sponsor(s)
BUSTIN

Committee Report
OTP-AM

Amendments Adopted
S-441

LD 68, originally titled “An Act to Increase Access to and Affordability of Mental Health and Substance Abuse Treatment Services by Providing Mandatory Reimbursement to Counseling Professionals Who Are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems” was originally considered by the Joint Standing Committee on Banking and Insurance in the First Regular Session, recommitted and carried over by the Joint Standing Committee on Appropriations and Financial Affairs and rereferred to the Banking and Insurance Committee in the Second Regular Session. The bill proposed to provide mandatory reimbursement of counseling professionals who are licensed to assess and treat intrapersonal and interpersonal problems. Other counselors whose licensed scope of practice did not include assessment and treatment would not have been subject to mandatory insurance reimbursement under this bill.

Committee Amendment "A" (S211) proposed to extend the mandatory reimbursement for mental health services provided by counseling professionals licensed in the State to assess and treat intrapersonal and interpersonal problems to individual health insurance policies. The bill's provisions applied only to group contracts issued by insurers and all contracts of nonprofit hospital and medical service organizations.

The amendment specifies that the reimbursement is mandatory for mental health services provided until December 31, 1998, and that the bill, as amended, applies to policies executed on or after January 1, 1996.

The amendment also proposed to add a fiscal note.

Committee Amendment "B" (S441) replaced the bill and Committee Amendment A. After rereferral from the Joint Standing Committee on Appropriations and Financial Affairs, the committee reconsidered the bill in the Second Regular Session and proposed a mandated offer of coverage for mental health services performed by licensed counseling professionals. This amendment proposed to require that nonprofit hospital and medical service organizations and insurers make available coverage for mental health services provided by counselors in individual and group contracts at the option of the policyholder. It applies to all contracts executed or renewed on or after January 1, 1997.

Enacted law summary

Public Law 1995, chapter 56 establishes a mandated offer of insurance coverage for mental health services performed by licensed counseling professionals in individual and group contracts provided by nonprofit hospital and medical service organizations and insurers. It applies to all contracts executed or renewed on or after January 1, 1997.

the agency, the health planning responsibilities pursuant to the Maine Revised Statutes, Title 22, chapter 103, data collection and the hospital financing system pursuant to Title 22, chapter 107.

It contains a directive to the State Controller to advance \$400,000 to the Maine Health Care Trust Fund on the effective date of that Part. This amount must be repaid from the fund by June 30, 1997.

It contains the effective date of the Part, January 1, 1996.

2. Part B of the bill proposed to establish the Maine Health Care Plan Transition Advisory Committee. Composed of 20 members, appointed and subject to confirmation, the committee is charged with holding public hearings, soliciting public comments and advising the Maine Health Care Agency on the transition from the current health care system to the Maine Health Care Plan. Members of the committee serve without compensation but may be reimbursed for their expenses. The committee is directed to report to the Governor and to the Legislature on July 1, 1996, January 1, 1997, July 1, 1997 and December 31, 1997. The committee completes its work on December 31, 1997.

3. Part C of the bill proposed to transfer the certificate of need and related health planning programs from the Department of Human Services to the Maine Health Care Agency as of July 1, 1996. Authority to make certificate of need decisions is transferred from the department to the agency. The Office of Health Planning and Development is abolished and its staff, resources and responsibilities are transferred to the agency. This Part changes the Hospital Development Account into the Certificate of Need Development Account.

4. Part D of the bill proposed to consolidate the staff, powers and responsibilities of the Maine Health Care Finance Commission into the newly created Maine Health Care Agency as of January 1, 1997. On that date, the commission is abolished and the Maine Health Care Agency and Maine Health Care Council assume all of the former commission's powers and duties. The hospital assessment formerly collected to fund the commission is abolished.

5. Part E of the bill proposed to establish the salaries of the members of the Maine Health Care Council and the executive director of the Maine Health Care Agency.

6. Part F of the bill proposed to prohibit the sale on the commercial market of health insurance policies and contracts that duplicate the coverage provided by the Maine Health Care Plan. It allows the sale of health care policies and contracts that do not duplicate and are supplemental to the coverage of the Maine Health Care Plan.

7. Part G of the bill proposed to impose a 5¢ per package increase in the cigarette tax beginning December 1, 1995. Proceeds from the cigarette tax increase are paid to the Maine Health Care Trust Fund.

8. Part H of the bill proposed to direct the Maine Health Care Agency to ensure employment retraining for administrative workers employed by insurers and providers who are displaced by the transition to the Maine Health Care Plan. It directs the Maine Health Care Agency to study the delivery and financing of long-term care services to plan members. Consultation is required with the Maine Health Care Plan Transition Advisory Committee, representatives of consumers and potential consumers of long-term care services and representatives of providers of long-term care services, employers, employees and the public. A report to the Legislature is due January 1, 1998.

The Maine Health Care Agency is directed to study the provision of health care services under the Medicaid and Medicare programs, waivers, coordination of benefit delivery and compensation,

LD 887 Resolve, Establishing the Study Commission on Workers' Compensation Laws Relating to Small Business

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE	OTP-AM MAJ ONTP MIN	

LD 887, originally titled 'An Act to Encourage Job Creation by Exempting Small Employers from the Current Workers' Compensation System' was carried over from the First Regular Session after referral from the House during consideration of the committee report of the Joint Standing Committee on Labor. The bill proposed to exempt employers with 5 or fewer employees from the requirement to obtain workers' compensation insurance. In order to be exempt and to obtain a defense against claims by insured employees, the employer would have to provide disability and health insurance coverage to all employees.

Committee Amendment "A" (H295) was the minority report of the Joint Standing Committee on Labor in the First Regular Session and proposed to add a fiscal note to the bill. Committee Amendment "A" was not adopted.

House Amendment "A" (H363) was offered in the First Regular Session and proposed to allow employers of 5 or fewer employees to choose not to utilize the workers' compensation system and requires those employers to maintain liability insurance, health care coverage and disability income coverage. It provides that employers who maintain coverage in this manner are still responsible for assessment under the Maine Revised Statutes, Title 24 section 2386A, the fresh start provisions of workers' compensation insurance. This amendment is deleted on the existing provision that applies to employees of small agricultural employees. House Amendment "A" was not adopted.

Committee Amendment "B" (H689) is the majority report of the Joint Standing Committee on Banking and Insurance upon its consideration of the bill and its proposed amendments in the Second Regular Session. This amendment replaced the bill and its proposed amendments with a resolve. The amendment proposed to establish the Study Commission on the Workers' Compensation Laws Relating to Small Business. The commission consists of 17 members representing the Joint Standing Committee on Banking and Insurance, the Joint Standing Committee on Labor, the Bureau of Insurance, the Department of Labor, the Workers' Compensation Board, the insurance industry, the small business community and labor interests. The amendment also proposed to add an appropriation section and a fiscal note to the resolve. The resolve is an emergency and takes effect when enacted. Committee Amendment "B" died on the Special Appropriations Table.

House Amendment "A" To Committee Amendment "B" (H698) proposed to remove the language that entitles members of the commission that are Legislators to remove the language that entitles members of the commission that are Legislators to legislative per diem. House Amendment "A" was not adopted.

House Amendment "B" To Committee Amendment "B" (H721) proposed to change the membership of the Study Commission on Workers' Compensation Laws Relating to Small Business by giving the Joint Standing Committee on Banking and Insurance and the Joint Standing Committee on Labor equal representation. House Amendment "B" was not adopted.

LD 1079 An Act to Improve Coverage for Women's Health Services

ONTP

Sponsor(s)
MITCHELL JE
MCCORMICK

Committee Report
ONTP

Amendments Adopted

LD 1079 was carried over from the First Regular Session and proposed to make identical changes in the requirements for individual health insurance, group health insurance and health care coverage provided by nonprofit hospital and medical service organizations and health maintenance organizations. All requirements proposed to take effect on January 1, 1996. The requirements included the following.

1. Copayments and coinsurance may not be imposed for routine, low-dose screening mammograms. A deductible of no more than \$5 may be charged.
2. Coverage may not be denied or in any way affected by a person having had a prior diagnosis for a fibrocystic breast condition or a breast implantation.
3. Coverage must be provided for breast cancer treatment, subject to the same deductibles, copayments and coinsurance as for other services.
4. Plans that designate physicians as primary care providers must designate physicians providing gynecological and obstetrical services as primary care providers.

See related bills LD 752 and LD 1385.

LD 1385 An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies

PUBLIC 617

Sponsor(s)
DONNELLY

Committee Report
OTP-AM MAJ
OTP-AM MIN

Amendments Adopted
H-707
H-822

LD 1385 was carried over from the First Regular Session and proposed to provide that health insurance policies must include coverage for prenatal care, annual Pap tests, mammograms, rectal and colon exams for women age 40 and older, human immunodeficiency virus and sexually transmitted disease. The bill also proposed to require that physicians whose specialty is obstetrics and gynecology be eligible to be primary care physicians under a managed care program.

Committee Amendment "A" (H707) is the majority report of the committee and replaced the bill. It proposed to make the following changes in the requirements for group contracts provided by nonprofit hospital and medical service organizations, insurers and health maintenance organizations.

1. Coverage must be provided in all contracts for screening Pap tests recommended by a physician.
2. Managed care plans that require the selection of a primary care physician must permit physicians who specialize in obstetrics and gynecology to serve as primary care physicians if they meet certain credentialing criteria.

3. Managed care plans that require the selection of a primary care physician must provide coverage for an annual gynecological examination performed by a physician participating in the plan without requiring the prior approval of a primary care physician.

The amendment provides an effective date of January 1, 1997.

This amendment also proposed to add a fiscal note.

Committee Amendment "B" (H708) is the minority report of the committee and replaced the bill. It proposed to make the following changes in the requirements for group contracts provided by nonprofit hospital and medical service organizations, insurers and health maintenance organizations.

1. Coverage must be provided in all contracts for screening Pap tests recommended by a physician.
2. Managed care plans that require the selection of a primary care physician must permit physicians who specialize in obstetrics and gynecology to serve as primary care physicians if they meet certain credentialing criteria.

The amendment provides an effective date of January 1, 1997.

This amendment also proposed to add a fiscal note. Committee Amendment "B" was not adopted.

House Amendment "D" To Committee Amendment "A" (H22) incorporated the substantive provisions of House Amendments "A", "B" and "C" and Senate Amendment "A" and proposed to require the patient or the examining physician, certified nurse practitioner or certified nurse midwife to obtain a referral from the patient's primary care physician if further treatment is needed and the carrier requires that referral. This amendment proposed to allow a carrier to require a physician, certified nurse practitioner or certified nurse midwife to inform a woman's primary care physician prior to rendering gynecological services. This amendment also proposed to specify that all group plans must provide coverage for annual gynecological examinations performed by a certified nurse practitioner or certified nurse midwife, as well as those examinations performed by a physician.

House Amendment "A" To Committee Amendment "A" (H22) proposed to clarify that all group plan contracts must provide coverage for annual gynecological examinations performed by a provider participating in the plan. House Amendment "A" was not adopted.

House Amendment "B" To Committee Amendment "A" (H10) proposed to require the patient or the examining physician, certified nurse practitioner or certified nurse midwife to obtain a referral from the patient's primary care physician if further treatment is needed. This amendment also proposed to allow a carrier to require a physician, certified nurse practitioner or certified nurse midwife to inform the carrier prior to rendering gynecological services. House Amendment "B" was not adopted.

House Amendment "C" To Committee Amendment "A" (H19) proposed to require the patient or the examining physician, certified nurse practitioner or certified nurse midwife to obtain a referral from the patient's primary care physician if further treatment is needed and the carrier requires that referral. This amendment also proposed allows a carrier to require a physician, certified nurse practitioner or certified nurse midwife to inform a woman's primary care physician prior to rendering gynecological services. House Amendment "C" was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S169) proposed to specify that all group plans must provide coverage for annual gynecological examinations performed by a certified nurse practitioner or certified nurse midwife. Senate Amendment "A" was not adopted.

Enacted law summary

Public Law chapter 1995, chapter 617 requires that group health insurance policies provided by nonprofit hospital and medical service organizations, insurers and health maintenance organizations meet the following requirements beginning January 1, 1997

1. Coverage must be provided in all contracts for screening Pap tests recommended by a physician.
2. Managed care plans that require the selection of a primary care physician must permit physicians who specialize in obstetrics and gynecology to serve as primary care physicians if they meet certain credentialing criteria.
3. Managed care plans that require the selection of a primary care physician must provide coverage for an annual gynecological examination performed by a physician, certified nurse practitioner or certified nurse midwife participating in the plan without requiring the prior approval of a primary care physician. Carriers may require a physician, certified nurse midwife or certified nurse practitioner to inform a woman's primary care physician prior to rendering gynecological services. If the carrier requires, the patient or examining physician, certified nurse practitioner or certified nurse midwife must obtain a referral from the primary care physician if any further treatment is needed.

LD 1512 An Act to Ensure Fairness and Choice to Patients and Providers under Managed Health Care ONTP

<u>Sponsor(s)</u> MCCORMICK AMERO LIBBY JD	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1512 was carried over from the First Regular Session and proposed to provide fundamental protection to patients and providers in managed care health plans. The bill proposed to enact provisions to ensure that:

1. Patients understand the coverages and incentives in such plans;
2. Providers receive due process relative to plan selection and denial of participation;
3. Patients have access to the services for which they are covered and are provided with due process;
4. Patients and purchasers are given the opportunity to compare one plan with another, financially and otherwise;
5. Patients are given as many options as possible, consistent with cost containment strategies; and
6. Providers, patients and the managed care plans work together to contain costs.

See related bills LD 1753 and LD 1882.

LD 1513 An Act to Promote Additional Health Insurance Reform ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GWADOSKY	ONTP MAJ OTP-AM MIN	

LD 1513 was carried over from the First Regular Session and proposed to eliminate the requirement of prior approval of rates for individual health insurers and nonprofit hospital and medical service organizations. It also proposed to prohibit employers and the Medicaid program from purchasing individual health insurance or transferring to individual health insurance any individual, employee or dependent who is enrolled in or eligible for group health insurance coverage or the Medicaid program. In the calculation of participation requirements in the group health market, it excludes persons enrolled in group health insurance. It requires that guaranteed issuance of individual health insurance applies to all persons except those who are enrolled in or eligible for group health insurance.

An amendment to the bill presented to the committee by the sponsor proposed to amend the existing statutory procedure allowing a nonprofit hospital and medical service organization upon the approval of a conversion plan by the Superintendent and phase in payment of the premium tax and Bureau of Insurance assessments for the converting organization. This amended draft also proposed to amend the rate review procedure for individual and Medicare supplement policies and provide an exemption from rate review for these policies if the average rate increases were under 14% and 8% respectively. And it proposed to create an exception from the guaranteed issuance requirement for individual health plans in order to prevent "dumping" by allowing carriers to deny issuance in this situation provided notice is given to the Superintendent within 10 days of the denial. This proposed amendment was not adopted by the committee.

Committee Amendment "A" (H820) is the minority report and replaced the bill with a resolve titled "Resolve, to Place a Moratorium on the Conversion of a Nonprofit Hospital or Medical Service Organization". The amendment proposed to put a moratorium on the conversion of a nonprofit hospital or medical service organization until October 1, 1997. Committee Amendment "A" was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S526) proposed to change the date of the moratorium on the conversion of a nonprofit hospital or medical service organization from October 1, 1997 to June 30, 1997. Senate Amendment "A" was not adopted.

LD 1622 An Act to Promote Parity Between State and Federally Chartered Credit Unions PUBLIC 512

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VIGUE	OTP-AM	H-683

LD 1622 changes the Maine Banking Code as it applies to credit unions. It proposed to establish parity between state and federally chartered credit unions by:

1. Enabling state-chartered credit union members to determine when minors may vote on credit union management, operations, policy and other matters;
2. Allowing state-chartered credit union members to obtain lines of credit for terms longer than one year, subject to periodic review by the credit committee or a loan officer; and
3. Authorizing liens on a member's shares, since a member's share account represents that member's ownership of the credit union, rather than a debt of the credit union to the member as is represented by a bank customer's deposit account. Federal regulators have determined that no common-law right of setoff arises from a share account relationship.

Committee Amendment "A" (H683) proposed to authorize a state-chartered credit union to become a member of the National Credit Union Administration Central Liquidity Facility. Under federal law, federally chartered credit unions have this authority. The change provides parity between state-chartered and federally chartered credit unions.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 512 amends the Maine Banking Code to establish parity between state and federally chartered credit unions by:

1. Enabling state-chartered credit union members to determine when minors may vote on credit union management, operations, policy and other matters;
2. Allowing state-chartered credit union members to obtain lines of credit for terms longer than one year, subject to periodic review by the credit committee or a loan officer; and
3. Authorizing liens on a member's shares, since a member's share account represents that member's ownership of the credit union, rather than a debt of the credit union to the member as is represented by a bank customer's deposit account. Federal regulators have determined that no common-law right of setoff arises from a share account relationship.
4. Authorizing a state-chartered credit union to become a member of the National Credit Union Administration Central Liquidity Facility. Under federal law, federally chartered credit unions have this authority.

LD 1630 An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists

PUBLIC 637

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ABROMSON	OTP-AM MAJ	H-879
POVICH	OTP-AM MIN	S-473

LD 1630 proposed to expand the diagnostic language of the statutory provisions governing insurance coverage for biologically-based mental illnesses to include the diagnoses of licensed psychologists. The bill is an emergency and takes effect when approved.

Committee Amendment "A" (S472) proposed to require that licensed physicians, licensed psychologists, accredited public or psychiatric hospitals or community agencies licensed at the comprehensive service level be reimbursed for the treatment and diagnosis of biologically based

mental illnesses under the same terms and conditions provided for medical treatment of physical illnesses.

This amendment also proposed to add a fiscal note to the bill and removes the emergency preamble and the emergency clause from the bill. Committee Amendment "A" was not adopted.

Committee Amendment "B" (S473) is the minority report and proposed to amend the diagnostic language of the statutory provisions governing insurance coverage for biologically based mental illnesses to allow the diagnosis and treatment of these illnesses by a licensed provider acting within the scope of the provider's licensure. This amendment also proposed to remove the emergency preamble and the emergency clause and add a fiscal note to the bill.

House Amendment "A" To Committee Amendment "B" (H79) proposed to retain the language of the original bill by removing the substantive provisions made by Committee Amendment "B" but retaining the language striking the emergency preamble and emergency clause.

Senate Amendment "A" To Committee Amendment "A" (S30) proposed to clarify that the diagnosis and treatment of biologically based mental illness may be performed by licensed providers, including licensed clinical social workers and clinical nurse specialists, if the provider is acting within the scope of the provider's licensure and also clarifies that payment and reimbursement for these services continues at its current level. Senate Amendment "A" was not adopted.

Enacted law summary

Public Law 1995, chapter 637 expands the diagnostic language of the statutory provisions governing insurance coverage for biologically-based mental illness to include the diagnoses made by licensed psychologists as well as licensed allopathic and osteopathic physicians.

LD 1643 An Act to Clarify Certain Provisions Relating to Workers' Compensation Selfinsurance

PUBLIC 619
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ABROMSON	OTP-AM MAJ ONTP MIN	S-493

LD 1643 proposed to clarify the definition of "successor selfinsured employer" for the purposes of determining the applicable surcharge for the fresh start period. The surcharge of successor entities to selfinsured employers is calculated by using a formula based on whether the predecessor selfinsured company has any fresh start liability and the payroll of the predecessor self-insured company and the other entity that combine to form the successor entity. The bill also proposed to give self-insured employers the ability to appeal a surcharge billing to the Superintendent of Insurance for a determination whether the billing is consistent with the definition of "successor selfinsured employer" or whether there was a factual inaccuracy in the information underlying a surcharge issued by the governing board of the Maine Workers' Compensation Residual Market Pool.

The bill would have applied retroactively to June 23, 1995.

Committee Amendment "A" (S493) replaced the bill and proposed to clarify the definition of "successor selfinsured employer" for the purpose of determining the applicable surcharge for the

fresh start period. The surcharge of successor self-insured employers is calculated by using a formula based on whether the employer or employers combining to form the successor entity had any fresh start liability and the surchargeable premium of each employer. The amendment also proposed to give self-insured employers the ability to appeal a surcharge billing to the governing board of the Workers' Compensation Residual Market Pool for a determination as to whether the billing is consistent with the Maine Revised Statutes, Title 24, section 2393 or whether there was a factual inaccuracy in the information underlying a surcharge issued by the board.

The amendment would have added a retroactivity provision for the purposes of determining the surcharge liability for the fresh start period of successor self-insured employers after July 1, 1995.

The amendment proposed to allow all group self-insurers to declare surplus funds above the required confidence level without prior approval of the Superintendent of Insurance, to distribute surplus funds and file information with the superintendent and clarify what assets held outside the trust fund may be considered when determining surplus.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 619 clarifies the definition of "successor self-insured employer" for the purpose of determining the applicable surcharge for the fresh start period. The surcharge of successor self-insured employers is calculated by using a formula based on whether the employer or employers combining to form the successor entity had any fresh start liability and the surchargeable premium of each employer. The law is retroactive for the purposes of determining the surcharge liability for the fresh start period of successor self-insured employers after July 1, 1995. It also gives self-insured employers the ability to appeal a surcharge billing to the governing board of the Workers' Compensation Residual Market Pool for a determination as to whether the billing is consistent with the Maine Revised Statutes, Title 24, section 2393 or whether there was a factual inaccuracy in the information underlying a surcharge issued by the board.

Public Law 1995, chapter 619 allows all group self-insurers to declare surplus funds above the required confidence level without prior approval of the Superintendent of Insurance and to distribute surplus funds and file information with the superintendent. It also clarifies what assets held outside the trust fund may be considered when determining surplus.

LD 1650 An Act Enabling the Maine Employers' Mutual Insurance Company to Better Serve the Needs of Small Business

PUBLIC 551

Sponsor(s)
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted
H-719

LD 1650 proposed to make 2 changes in Maine Employers' Mutual Insurance Company's enabling legislation. Under the current statutory framework, the company has no authority to provide premium payment plans and to extend coverage to Maine-based employers with out-of-state operations. This bill proposed to enable the company to provide alternative premium payment plans with the Superintendent of Insurance's prior approval and to apply for authority to write workers' compensation insurance covering employees of Maine-based employers operating out of this State.

Committee Amendment "A" (H719) replaced the bill and proposed to make changes in Maine Employers' Mutual Insurance Company's enabling legislation to give the company the authority to provide alternative premium payment plans and to apply for authority to write workers' compensation insurance covering employees of Maine-based employers with out-of-state operations with the Superintendent of Insurance's prior approval. The amendment also proposed to repeal the requirement that workers' compensation insurers offer a mandatory deductible of \$500 for medical expenses. And the amendment proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 55 gives the Maine Employers' Mutual Insurance Company the authority to provide alternative premium payment plans and to apply for authority to write workers' compensation insurance covering employees of Maine-based employers with out-of-state operations with the Superintendent of Insurance's prior approval. It also repeals the requirement that workers' compensation insurers offer a mandatory deductible of \$500 for medical expenses.

LD 1656 An Act to Provide for Confidential Treatment of State and Federal Regulatory Information in the Application Process for Financial Institutions

PUBLIC 521

Sponsor(s)
GATES

Committee Report
OTP-AM

Amendments Adopted
H-694

Current law requires that the Superintendent of Banking approve applications filed by a financial institution or financial institution holding company. During the course of the investigation of any application filed with the Bureau of Banking, staff may obtain information from other state and federal regulatory or law enforcement agencies that would be confidential under federal law or regulation. LD 1656 proposed to require confidential treatment of information provided to the bureau from other regulatory or law enforcement agencies and ensures that the bureau will have access to such information.

Committee Amendment "A" (H694) replaced the bill. Current law requires that the Superintendent of Banking approve applications filed by a financial institution or financial institution holding company. During the course of the investigation of any application filed with the Bureau of Banking, staff may obtain information from other state and federal regulatory or law enforcement agencies that would be confidential under federal law or regulation. This amendment proposed to require confidential treatment of information provided to the bureau from other regulatory or law enforcement agencies if the information would be confidential under federal law or regulation and ensures that the bureau will have access to such information. The superintendent may not rely on this confidential information as a basis for a decision unless the information is disclosed to the applicant and any interested party to the proceeding.

Enacted law summary

Public Law 1995, chapter 52 requires confidential treatment of information provided to the bureau from other regulatory or law enforcement agencies if the information would be confidential under federal law or regulation and ensures that the bureau will have access to such information. The superintendent may not rely on this confidential information as a basis for a decision unless the information is disclosed to the applicant and any interested party to the proceeding.

LD 1657 An Act to Repeal an Insurance Law Relating to Motor Vehicle Damage Appraisal PUBLIC 522

<u>Sponsor(s)</u> VIGUE	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-693
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LD 1657 proposed to repeal the Maine Revised Statutes, Title 24A, section 2164B. Title 24-A, section 2164B prohibits a person or company that appraises damage to a motor vehicle for an insurer from also repairing the damage to the motor vehicle for compensation.

Committee Amendment "A" (H693) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 522 repeals the prohibition on a person or company that appraises damage to a motor vehicle for an insurer from also repairing the damage to the motor vehicle for compensation.

LD 1663 An Act to Clarify the Laws Regarding the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund PUBLIC 516 EMERGENCY

<u>Sponsor(s)</u> VIGUE	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-688
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LD 1663 proposed to amend the laws regarding the issuance of a credit card to benefit the Land for Maine's Future Fund to include all credit card issuers in the bidding process for the credit card program.

Committee Amendment "A" (H688) is the majority report of the committee and proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 516 expands the bidding process for the credit card program to benefit the Land for Maine's Future Fund to include all credit card issuers

LD 1665 An Act to Amend the Maine Insurance Code with Respect to Domestic Violence PUBLIC 553

<u>Sponsor(s)</u> GREEN LONGLEY SAXL M	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-720
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LD 1665 proposed to prohibit hospital medical organizations, issuers of individual or group health insurance and health maintenance organizations from canceling coverage for health care or refusing to issue, renew or continue coverage to a person solely because the person had been a victim of domestic violence.

Committee Amendment "A" (H720) replaced the bill and proposed to prohibit insurers, nonprofit hospital and medical service organizations and health maintenance organizations from discriminating against victims of domestic violence in life, health and disability insurance coverage. The amendment does not prohibit an insurer from denying coverage to an applicant known to be, or to have been, an abuser of the proposed insured.

Enacted law summary

Public Law 1995, chapter 553 prohibits insurers, nonprofit hospital and medical service organizations and health maintenance organizations from discriminating against victims of domestic violence in life, health and disability insurance coverage. It does not prohibit an insurer from denying coverage to an applicant known to be, or to have been, an abuser of the proposed insured.

LD 1684 An Act to Consolidate Insurer Billing Procedures and to Streamline the Licensing Process for Reinsurance Intermediaries

PUBLIC 544
EMERGENCY

Sponsor(s)
LUMBRA

Committee Report
OTP-AM

Amendments Adopted
H-718

LD 1684 proposed to amend applicable provisions in the Maine Insurance Code to combine the billing process for insurers for assessments, the annual statement filing fee and the annual continuation fee. One bill will be sent by the Bureau of Insurance to each insurer and one check will be forwarded to the Treasurer of State instead of 3. This bill also proposed to amend the Maine Insurance Code to allow licensed agents and brokers to act as reinsurance intermediaries without further licensing and to allow persons to become licensed as reinsurance intermediaries without first becoming licensed as an agent or broker.

Committee Amendment "A" (H718) proposed to modify the Maine Automobile Insurance Cancellation Control Act and the Maine Property Insurance Cancellation Control Act to allow an insurer to discontinue business in these lines of insurance and to authorize nonrenewal of policies in those lines if the insurer provides a plan to the superintendent that demonstrates equivalent replacement coverage is available.

The amendment also proposed to add an emergency preamble, emergency clause and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 544 amends applicable provisions in the Maine Insurance Code to combine the billing process for insurers for assessments, the annual statement filing fee and the annual continuation fee. One bill will be sent by the Bureau of Insurance to each insurer and one check will be forwarded to the Treasurer of State instead of 3. This law also amends the Maine Insurance Code to allow licensed agents and brokers to act as reinsurance intermediaries without further licensing and to allow persons to become licensed as reinsurance intermediaries without first becoming licensed as an agent or broker.

Public Law chapter 544 also modifies the Maine Automobile Insurance Cancellation Control Act and the Maine Property Insurance Cancellation Control Act to allow an insurer to discontinue business in these lines of insurance and to authorize nonrenewal of policies in those lines if the

insurer provides a plan to the superintendent that demonstrates equivalent replacement coverage is available.

LD 1699 An Act to Amend and Further Deregulate the Maine Consumer Credit Code PUBLIC 614

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VIGUE	OTP-AM MAJ	H-805
	ONTP MIN	

LD 1699 proposed to make the following changes in the Maine Consumer Credit Code

1. It completes the deregulation of retail credit cards addressed in Public Law 1995, chapter 84.
2. Lenders with single offices are currently subsidizing large, out-of-state mortgage companies that submit multiple applications for branch offices. This bill requires that the costs of processing applications for multiple branch offices be borne by the applicants.
3. Current law limits a lender's ability to offer closed-end consumer loans for terms exceeding 3 years. All other types of personal credit, especially credit cards, have been deregulated. This bill deregulates closed-end consumer loans.
4. It extends to nonbank credit card issuers the same deregulated credit card rates allowed banks and credit unions under Public Law 1995, chapter 137.
5. It makes technical corrections by adding a word that was omitted from the existing statute and by correcting a statutory reference.

Committee Amendment "A" (H805) is the majority report and proposed to incorporate changes made to the Federal Truth in Lending Act that became effective September 30, 1995. Enacting such changes into state law protects Maine's exemption from federal enforcement. In Parts A and B of the amendment, the changes ease the strict tolerances on minor creditor disclosure errors, which have led to expensive class-action lawsuits in other states.

In Part C, the amendment proposed to correct an error in existing provisions of the Maine Consumer Credit Code.

The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 1995, chapter 614 makes the following changes in the Maine Consumer Credit Code.

1. It completes the deregulation of retail credit cards addressed in Public Law 1995, chapter 84.
2. Lenders with single offices are currently subsidizing large, out-of-state mortgage companies that submit multiple applications for branch offices. This bill requires that the costs of processing applications for multiple branch offices be borne by the applicants.

3. Current law limits a lender's ability to offer closedend consumer loans for terms exceeding 3 years. All other types of personal credit, especially credit cards, have been deregulated. This bill deregulates closedend consumer loans.
4. It extends to nonbank credit card issuers the same deregulated credit card rates allowed banks and credit unions under Public Law 1995, chapter 137.
5. It makes technical corrections by adding a word that was omitted from the existing statute and by correcting a statutory reference.
6. It incorporates changes made to the Federal Truth in Lending Act that became effective September 30, 1995. Enacting such changes into state law protects Maine's exemption from federal enforcement. The changes ease the strict tolerances on minor creditor disclosure errors, which have led to expensive classaction lawsuits in other states.

LD 1702 An Act to Require That Diabetes Supplies and Self-management Training be Covered by Health Insurance Policies

PUBLIC 592

<u>Sponsor(s)</u> JONES S	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-827
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LD 1702 proposed to require that individual and group health insurers provide coverage for all medically appropriate and necessary equipment, supplies and outpatient selfmanagement training and educational services used to treat diabetes.

Committee Amendment "A" (H827) replaced the bill and proposed to require that nonprofit hospital and medical service organizations, insurers and health maintenance organizations provide coverage in individual and group contracts for insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets used to treat diabetes and outpatient selfmanagement training and educational services offered through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

The amendment also proposed to add a fiscal note

Enacted law summary

Public Law 1995, chapter 592 requires that nonprofit hospital and medical service organizations, insurers and health maintenance organizations provide coverage in individual and group contracts for insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets used to treat diabetes and outpatient selfmanagement training and educational services offered through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

LD 1703 An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage

PUBLIC 540

Sponsor(s)
BUTLAND

Committee Report
OTP-AM

Amendments Adopted
S-425

LD 1703 proposed to clarify that purchasing groups may pool deductible or retention amounts applicable to the group as a whole and its individual members, without the pooling arrangement being considered "insurance" for the purposes of the Maine Revised Statutes, Title ~~24~~

Committee Amendment "A" (S425) proposed to clarify that liability insurance purchasing groups formed under the Maine Liability Risk Retention Act may not assume risk. The amendment brings Maine law into accord with the National Association of Insurance Commissioner's model language and is necessary for state accreditation.

Enacted law summary

Public Law 1995, chapter 540 clarifies that liability insurance purchasing groups formed under the Maine Liability Risk Retention Act may not assume risk to bring Maine law into accord with the National Association of Insurance Commissioner's model language and to maintain state accreditation

LD 1732 An Act to Promote the Health of Newborns and Their Mothers

PUBLIC 615
EMERGENCY

Sponsor(s)
GOLDTHWAIT

Committee Report
OTP-AM

Amendments Adopted
S-511
S-521

LD 1732 proposed to require all individual and group contracts of nonprofit hospital or medical service organizations, insurers and health maintenance organizations providing benefits for maternity and newborn care to provide coverage for a minimum of 48 hours of inpatient hospital care following a vaginal delivery and a minimum of 96 hours of inpatient hospital care following a cesarean section. Shorter stays may be authorized by the attending physician or certified nurse midwife if the newborn meets the criteria for medical stability contained in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology and an initial postpartum home visit for both mother and newborn is provided.

Committee Amendment "A" (S511) replaced the bill and proposed to require all individual and group contracts of nonprofit hospital or medical service organizations, insurers and health maintenance organizations providing benefits for maternity and newborn care to provide coverage for maternity benefits, including coverage for hospital stay, in accordance with the attending physician's determination in conjunction with the mother that the mother and newborn meet the criteria contained in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology. The amendment also proposed to add a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S521) proposed to clarify that insurance benefits for maternity and newborn care must be provided in accordance with a determination made by an attending certified nurse midwife or an attending physician that the mother and newborn meet the criteria contained in the guidelines.

Enacted law summary

Public Law 1995, chapter 615 requires all individual and group contracts of nonprofit hospital or medical service organizations, insurers and health maintenance organizations providing benefits for maternity and newborn care to provide coverage for maternity benefits, including coverage for hospital stay, in accordance with the attending physician's or certified nurse midwife's determination in conjunction with the mother that the mother and newborn meet the criteria contained in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology.

LD 1750 An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching PUBLIC 628

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VIGUE	OTP-AM	H-812 S-580

The report of the Maine Task Force on Interstate Banking and Branching, dated November 30, 1995, recommends action the State should take in response to the federal Riegle-Neal Interstate Banking and Branching Act of 1994 to permit interstate branching in this State. The report contains numerous recommendations for legislation to enact the necessary statutory authority and safeguards. LD 1750 proposed to make the following changes to the Banking Code in accordance with the recommendations of the task force.

1. The bill makes the necessary changes to definitions in the Maine Banking Code to conform to Riegle-Neal and other changes being proposed in this bill.

2. The bill makes the necessary changes to examination and enforcement provisions of the Maine Banking Code to provide for the regulation of the financial industry in an interstate branching environment. Changes include authorizing the Bureau of Banking to engage in joint examinations, exchange of information and contracting with other state or federal regulatory agencies in order to alleviate regulatory burden; expanding cease and desist and officer removal authority to ensure that interstate branch operations comply with state laws; prohibiting the interstate operation of a deposit production office and reporting requirements to monitor compliance; and establishing a 30% limit on deposits that may be acquired through merger or acquisition by a financial institution doing business in the State.

3. The bill authorizes interstate branching through establishment, acquisition or interstate merger, effective January 1, 1997. This permits an interstate merger, with the operation of interstate branches. It also permits the acquisition of a branch only, and de novo establishment of an interstate branch, but only on a reciprocal basis.

4. The bill permits state chartered banks to act as agent for other financial institutions, which establishes parity with the new powers provided to federally chartered banks by Riegle-Neal.

5. The bill also makes technical changes to Maine banking and bank holding company laws to conform to Riegle-Neal and other changes being proposed in this bill.

6. The bill also makes technical changes to the Maine franchise tax laws to ensure that interstate branches are subject to the franchise tax.

Committee Amendment "A" (H812) proposed to make the following changes to the bill.

1. It sets a cap on the fee that may be assessed to out-of-state financial institutions operating branches in this State.
2. It clarifies use of the words "bank," "savings" and other derivatives of ~~the~~ terms and clarifies that state deposit concentration limits apply only to deposits gathered in the State.
3. It clarifies the provision governing the operation of interstate branches and satellite facilities.
4. It clarifies that loans originating in the State with customer billing addresses outside the State are excluded from the franchise tax if the entity operates a branch in the state of the customer's billing address.
5. It repeals an outdated rulemaking requirement in the Maine Banking Code.
6. It adds a nonseverability clause with respect to the reciprocity provision regarding de novo establishment of branches in the State by out-of-state financial institutions.
7. It adds an application clause that pertains to the sections of the bill amending the Maine Revised Statutes, Title 36, section 520~~B~~, subsections 2 and 4.

The amendment also proposed to add a fiscal note.

Senate Amendment "A" To Committee Amendment "A" (§80) proposed to strike the fiscal note on Committee Amendment "A" and replace it with a new one.

Enacted law summary

Public Law 1995, chapter 628 implements the recommendations of Maine Task Force on Interstate Banking and Branching for State action in response to the federal Riegle-Neal Interstate Banking and Branching Act of 1994. The law provides the necessary statutory authority and safeguards to permit interstate branching in this State and make the following changes to the Banking Code:

1. Changes definitions and other provisions of the banking and bank holding company laws to conform to Riegle-Neal and other changes in federal and state law.
2. Changes the examination and enforcement provisions of the Maine Banking Code to provide for the regulation of the financial industry in an interstate branching environment. Changes include authorizing the Bureau of Banking to engage in joint examinations, exchange of information and contracting with other state or federal regulatory agencies in order to alleviate regulatory burden; setting a cap on the fee assessed to out-of-state financial institutions operating branches in the State; expanding cease and desist and officer removal authority to ensure that interstate branch operations comply with state laws; prohibiting the interstate operation of a deposit production office and reporting requirements to monitor compliance; and establishing a 30% limit on deposits that may be acquired through merger or acquisition by a financial institution doing business in the State.
3. Authorizes interstate branching through establishment, acquisition or interstate merger, effective January 1, 1997. This permits an interstate merger, with the operation of interstate branches. It also permits the acquisition of a branch only, and de novo establishment of an interstate branch, but only on a reciprocal basis. In addition, there is a nonseverability clause with respect to the reciprocity provision regarding de novo establishment of branches in the State by out-of-state financial institutions.

- 4. Permits state-chartered banks to act as agent for other financial institutions, which establishes parity with the new powers provided to federally chartered banks by Riegle Act.
- 5. Amends the Maine franchise tax laws to ensure that interstate branches are subject to the franchise tax.

LD 1753 An Act to Control Health Care Costs and Improve Access to Health Care DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP MAJ	
	OTP-AM MIN	

LD 1753 was introduced by the Maine Health Care Reform Commission as part of its legislative package, along with LD 1798 and LD 1803. The Maine Health Care Reform Commission was established by the Legislature in 1994 and charged with designing at least three proposals for reforming Maine's present health care system. This bill represented the commission's recommendations for incremental reform of the existing system.

This bill proposed to make the following changes to the health care laws.

1. It establishes the Maine Community Purchasing Alliance, a purchasing alliance through which employers and individuals may unite their bargaining power for purchasing health care coverage. The alliance is a nonstate agency governed by a board of consumers and employers. The alliance may establish no more than 10 health benefit plans that may be offered within the alliance and may negotiate with carriers wishing to sell one or more of those plans to alliance members. The alliance performs other consumer services including collecting and paying premiums, publishing report cards on the quality of services provided by the participating carriers and helping to resolve disputes between enrollees and their carriers. The alliance receives an initial General Fund appropriation and then will be funded by assessments on premiums sold through the alliance.
2. It amends the laws governing the manner in which the State purchases health care coverage on behalf of its employees and Medicaid recipients to allow a state employee to choose between approved carriers in purchasing a health plan and require the State Employee Health Commission to negotiate jointly for the purchase of health care coverage with the Maine Community Purchasing Alliance and explicitly exempts the State Employee Health Commission from the requirement to negotiate publicly. The Department of Human Services is required to consider whether or not to purchase Medicaid services through the cooperative committee.
3. It amends the laws governing community rating, guaranteed issue and continuity of coverage in order to protect the Maine Community Purchasing Alliance from adverse selection. It extends continuity coverage for persons receiving unemployment compensation by making continuity coextensive with eligibility for unemployment compensation. It also requires the Bureau of Insurance to set standards for distinguishing excess insurance from basic insurance, imposes mandatory disclosure requirements on agents and brokers and requires a business to offer health care coverage.
4. It requires health plans operating in the State to comply with certain disclosure requirements, provider credentialing restrictions, utilization review protections and other patient or provider protections.

5. It extends Medicaid coverage to children under the age of 19 whose family income is below 250% of the nonfarm income poverty line. This Medicaid expansion is funded through the Healthy Children's Trust Fund, an account funded by eliminating the ~~tax~~ exempt status of nonprofit hospital and medical service organizations and health maintenance organizations.
6. It eliminates the tax exemption for nonprofit hospital and medical service organizations licensed to do business pursuant to the Maine Revised Statutes, Title 24, chapter 19. The taxes collected from nonprofit hospital and medical service organizations are used to fund an expansion of Medicaid and to provide startup funds for the Maine Community Purchasing Alliance.
7. It amends the law governing preparation of the state health plan by the Department of Human Services.
8. It requires the Department of Human Services to convene a forum on health work force resources.
9. It allows state agencies to reimburse independent contractors for health benefits purchased for the independent contractor's employees only if the health benefits are purchased through the Maine Community Purchasing Alliance. The State Purchasing Agent must adopt rules pursuant to which the Director of the Bureau of General Services may waive this requirement if the independent contractor does only an insubstantial amount of state business or the independent contractor's place of business is not in this State and the independent contractor does not purchase health benefits in this State.

Committee Amendment "A" (H859) is the minority report and ~~replaces~~ the bill. The amendment proposed to extend Medicaid coverage to children under the age of 19 whose family income is below 185% of the nonfarm income poverty line. This Medicaid expansion is funded through the General Fund. The original bill contained a proposal to extend Medicaid coverage to children under 19 whose family income is below 250% of the nonfarm income poverty line.

The amendment also proposed to add an appropriation section, an allocation section, and a fiscal note. Committee Amendment "A" was not adopted.

House Amendment "A" (H896) proposed to replace the bill and Committee Amendment "A" by extending Medicaid coverage to children under the age of 7 whose family income is below 185% of the nonfarm income poverty line and children age 7 but under the age of 19 whose family income is below 133% of the nonfarm income poverty line. It provides that all Medicaid to children is through managed care. This Medicaid expansion is funded through the General Fund.

The amendment also proposed to add an appropriation section, an allocation section, and a fiscal note. House Amendment "A" was adopted in the House, but was not adopted in the Senate.

See related bills LD 1512 and LD 1882.

LD 1755	An Act Pertaining to Employee Benefit Plans of Employee Leasing Companies	ONTP
	<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP
		<u>Amendments Adopted</u>

Current law allows employee leasing companies to provide health and other employee welfare plan benefits to employees leased on a totally unregulated, self-funded basis. LD 1755 proposed to allow employee leasing companies to purchase group life, health and legal service insurance with respect to leased employees. The bill would have subjected self-funded arrangements to the licensing, fiduciary, funding, disclosure and other requirements of state law relating to multiple-employer welfare arrangements.

See related bill LD 1761 referred to the Joint Standing Committee on Labor.

LD 1757 An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance

PUBLIC 594

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-468

LD 1757 proposed to amend the law relative to workers' compensation self-insurers by establishing a procedure to allow authorized self-insurers that experience a change in ownership or business form to file an application for continuing self-insurance authority without filing a new application and without filing a termination plan. The fee for this application is \$500. The fee for a new application is \$1,000. This bill also proposed to allow the Superintendent of Insurance to waive the requirement for a triennial actuarial review and corrects errors and inconsistencies.

This bill further proposed to clarify provisions relative to membership in the Maine Self-insurance Guarantee Association and payment of assessments. It amends the law to make it clear that a self-insured employer remains liable for Maine Self-insurance Guarantee Fund assessments even if the entity experiences a change in business ownership or form. It also provides clarity to the law regarding the authority of the Maine Self-insurance Guarantee Association to levy annual assessments in the event it is necessary to carry out the purpose of the association.

Committee Amendment "A" (S468) proposed to do the following:

1. Clarify that the reportable events provision applies to individual self-insurers only; makes the sale of a portion of a business a reportable event if 20% or more of the business is sold;
2. Clarify that the Superintendent of Insurance will prescribe through rulemaking any other events affecting the ownership of the business that must be reported;
3. Clarify some confusing language in the original bill regarding the time for filings;
4. Add a provision that allows the superintendent to request additional information from an applicant for continuing self-insurance authority during the pendency of an application;
5. Limit the superintendent's authority to waive a triennial actuarial review to those instances when the number of outstanding claims is not of sufficient volume to permit a credible actuarial analysis;
6. Explain the provisions related to the option for continuing self-insurance authority and assumption of liabilities.

The amendment also proposed to provide a mechanism for successor employers to apply for a refund or a partial refund of a new member assessment paid to the Maine Self-insurance

Guarantee Association. If such refunds would cause the guarantee fund to be reduced below its required level of \$2,000,000, the guarantee association must establish an equitable schedule for payment of the refund to ensure that the fund never goes below \$2,000,000.

The amendment proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 594 establishes a regulatory procedure to allow authorized self-insurers that experience a change in ownership or business form to file an application for continuing self-insurance authority without filing an application as a new self-insuring entity and without filing a termination plan.

The law also clarifies the statutory provisions relating to membership in the Maine Self-Insurance Guarantee Association and payment of assessments for self-insured members that experience a change in business ownership or form. It makes it clear that a self-insured employer remains liable for Maine Self-Insurance Guarantee Fund assessments even if the entity experiences a change in business ownership or form. It also provides clarity to the law regarding the authority of the Maine Self-Insurance Guarantee Association to levy annual assessments in the event it is necessary to carry out the purpose of the association.

Public Law chapter 594 also provides a mechanism for successor self-insured employers that continued to self-insure after a change in business ownership or form to apply for a refund or a partial refund of a new member assessment paid to the Maine Self-Insurance Guarantee Association. If such refunds would cause the guarantee fund to be reduced below its required level of \$2,000,000, the guarantee association must establish an equitable schedule for payment of the refund to ensure that the fund never goes below \$2,000,000.

LD 1762 An Act to Further Streamline Licensing Procedures at the Bureau of Insurance

PUBLIC 570
EMERGENCY

Sponsor(s)
KIEFFER

Committee Report
OTP-AM

Amendments Adopted
S-459

LD 1762 proposed to establish a mechanism to allow an agent's license to remain in an inactive status for a period of 2 years and provides for reinstatement of an inactive license without requiring the agent to take an examination. It increases the time for filing of annual statements from 24 months to 36 months. This bill also proposed to remove the time limit for suspension of an insurer's certificate of authority and establishes a statutory mechanism for reinstatement of the authorization. In addition, this bill proposed to revise the law to extend the time for the Superintendent of Insurance to file a report of the savings in professional liability insurance claims and claims settlement costs to insurers.

Public Law 1995, chapter 332, Part J made certain association group health insurance policies subject to the same standards as individual health insurance. In so doing, the law inadvertently restricted the ability to write such groups to carriers in the individual health market. In many cases, association groups are insured by group carriers. The law also failed to provide for these groups to be rated separately from other individual plans. Group plans are generally sold at lower rates. The bill proposed to provide an exemption allowing carriers to write association groups without offering individual coverage outside the association. Those who do offer individual coverage outside the association will be permitted to rate the association business separately as long as they meet a 75% loss ratio, a standard used elsewhere for group policies.

Committee Amendment "A" (S459) proposed to add the prohibition on an association from marketing association membership through insurance agents or brokers to the list of criteria under which insurance contracts issued to association groups may be exempted by the Superintendent of Insurance from the requirements of the Maine Revised Statutes, Title ~~24~~, section 2736C. The amendment also proposed to make changes to Title 24A, chapter 67 relating to Medicare supplement policies to bring the State's laws into compliance with recent amendments to the Federal Social Security Act.

The amendment also proposed to add an emergency preamble, an emergency clause and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 570 establishes a mechanism to allow an agent's license to remain in an inactive status for a period of 2 years and provides for reinstatement of an inactive license without requiring the agent to take an examination. It increases the time for filing of annual statements from 24 months to 36 months. It also removes the time limit for suspension of an insurer's certificate of authority and establishes a statutory mechanism for reinstatement of the authorization. In addition, the law extends the time for the Superintendent of Insurance to file a report of the savings in professional liability insurance claims and claims settlement costs to insurers.

Public Law 1995, chapter 332, Part J made certain association group health insurance policies subject to the same standards as individual health insurance. In so doing, the law inadvertently restricted the ability to write such groups to carriers in the individual health market. In many cases, association groups are insured by group carriers. The law also failed to provide for these groups to be rated separately from other individual plans. Group plans are generally sold at lower rates. Public Law chapter 570 provides an exemption allowing carriers to write association groups without offering individual coverage outside the association as long as certain criteria are met. Those who do offer individual coverage outside the association will be permitted to rate the association business separately as long as they meet a 75% loss ratio, a standard used elsewhere for group policies. An association is prohibited from marketing association membership through insurance agents or brokers

Public Law 1995, chapter 570 also makes changes to Title 24A, chapter 67 relating to Medicare supplement policies to bring the State's laws into compliance with recent amendments to the Federal Social Security Act.

LD 1789 An Act to Clarify the Guaranteed Issuance Requirements for Small Group Health Plans ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

LD 1789 was introduced by the Joint Standing Committee on Banking and Insurance pursuant to Public Law 1995, chapter 332, Part Q, section In order to clarify the guaranteed issuance requirements for small group health plans. The bill proposed to extend the employer's right to guaranteed issuance of the small group plan to one indemnity plan and one health maintenance organization plan. It also provides that any participation requirement must be based on the total number of eligible employees and their dependents covered under both plans.

LD 1798 An Act to Create a Multipayor System for Universal Health Care

ONTP

Sponsor(s)

Committee Report
ONTP

Amendments Adopted

LD 1798 was presented by the Maine Health Care Reform Commission as part of its legislative package, along with LD 1753 and LD 1803. This bill proposed to establish universal coverage through a multiple-payor system and contained the following provisions.

Part A establishes the Maine Health Care Authority. The authority is required to administer the Maine Health Care Plan, a universal health care plan for all residents meeting a one-month residency requirement. The plan requires all persons that have resided in Maine for one month to pay a premium for health care coverage under the plan. The premium is equal to the cost of the coverage less an employer's contribution, if applicable. The employer is required to pay 50% of the premium if the employee is full time, reduced on a pro rata basis for persons working less than full time. Premium payments and employer contributions are enforced by the authority and the authority may impose a lien on real and personal property owned by any person or entity failing to pay the amount owed. Subsidies are available for individuals and employers meeting certain eligibility criteria.

Part A also establishes a purchasing Alliance, a division within the Maine Health Care Authority. The alliance is a purchasing sponsor, through which Maine residents can choose a carrier to provide coverage under the Maine Health Care Plan. The alliance shall negotiate with carriers based on both the price and quality offered by the carrier. The alliance shall collect premiums and pay carriers as appropriate.

Part A also assigns to the Maine Health Care Authority the task of creating a comprehensive state health resource plan, establishing a global budget, integrating the certificate of need program into the global budget and state health resource plan, and ensuring the quality and affordability of health care in the State.

Part A allows the members of the alliance board under the Maine Health Care Authority to be paid for expenses.

Part B requires the Maine Health Care Authority and the Department of Human Services to coordinate the Maine Health Care Plan with the health benefits provided under the Medicaid and Medicare programs. The department is required to apply for all waivers necessary to integrate the Medicaid program with the Maine Health Care Plan to the maximum extent possible.

Part C eliminates the requirement for the Department of Human Services to create a comprehensive health plan. This Part also amends the certificate of need program to extend to all providers.

Part D requires the Bureau of Insurance and the Maine Health Care Authority to study the laws and rules currently enforced by the bureau and report to the Legislature regarding any statutory changes needed to coordinate the role of the bureau with the function of the authority and its division, the alliance.

Part E repeals the statutes creating the State Employee Health Commission and the State Employees Health Insurance Plan. The State will purchase health care coverage under the Maine Health Care Plan through the alliance.

Part F requires health plans operating in the State to comply with certain disclosure requirements, provider credentialing restrictions, utilization review protections and other patient or provider protections.

Part G increases the taxes necessary for raising the revenue.

Part H establishes the Maine Health Data Organization, an independent state agency that will oversee and coordinate health collection activities and collect, edit and store statewide health data resources.

Part I requires the Commissioner of Professional and Financial Regulation to cooperate with the Maine Health Data Organization's data collection activities and to require the cooperation of the health care practitioner licensing boards within and affiliated with the Department of Professional and Financial Regulation. Part B also requires the Commissioner of Human Services to cooperate with the Maine Health Data Organization's data collection activities.

Part J allows the board members for the Maine Health Data Organization to be reimbursed for their expenses.

Part K amends the licensing statutes for all health care practitioners to provide that repeated and intentional failure to comply with the data collection requirements imposed under the Maine Revised Statutes, Title 22, chapter 1683 is grounds for terminating a health care practitioner's license.

Part L requires the Department of Human Services to submit legislation to the Legislature to amend the statutes to correct crossreferences and make any other necessary changes by July 1, 1996.

LD 1803 An Act to Create a Singlepayor System for Universal Health ONTP
Care

Sponsor(s)

Committee Report
ONTP

Amendments Adopted

LD 1803 was presented by the Maine Health Care Reform Commission as part of its legislative package, along with LD 1753 and LD 798. This bill proposed to establish universal coverage through a single-payor system and contained the following provisions.

Part A of the bill creates the Maine Health Care Authority. The Authority is required to administer the Maine Health Care Plan, a universal health care plan for all Maine residents. Part A requires the authority to contract with an administrator for the administration of the Maine Health Care Plan. It also assigns to the Maine Health Care Authority the tasks of creating a comprehensive state health resource plan, establishing a global budget and ensuring the quality and affordability of health care in the State.

Part B requires the Maine Health Care Authority and the Department of Human Services to coordinate the Maine Health Care Plan with the health benefits provided under the Medicaid and Medicare programs. The department is required to apply for all waivers necessary to integrate the Medicaid program with the Maine Health Care Plan.

Part C eliminates the requirement for the Department of Human Services to create a health resource plan. This Part also repeals the certificate of need program.

Part D allows the members of the board of the Maine Health Care Authority to be paid for expenses incurred by them.

Part E repeals the statutes creating the State Employee Health Commission and the Health Insurance Plan for State Employees. State employees will be insured under the Maine Health Care Plan.

Part F requires the Bureau of Insurance and the Maine Health Care Authority to study the statutes and regulations enforced by the bureau and report to the Legislature regarding any statutory changes needed to coordinate the role of the bureau with the implementation of the Maine Health Care Plan.

Part G imposes the taxes necessary to pay for the Maine Health Care Plan.

Part H establishes the Maine Health Data Organization, an independent state agency that will oversee and coordinate health collection activities and collect, edit and store statewide health data resources.

Part I requires the Commissioner of Professional and Financial Regulation to cooperate with the Maine Health Data Organization's data collection activities and to require the cooperation of the health care practitioner licensing boards within and affiliated with the Department of Professional and Financial Regulation. Part B also requires the Commissioner of Human Services to cooperate with the Maine Health Data Organization's data collection activities.

Part J allows the board members for the Maine Health Data Organization to be reimbursed for their expenses.

Part K amends the licensing statutes for all health care practitioners to provide that repeated and intentional failure to comply with the data collection requirements imposed under the Maine Revised Statutes, Title 22, chapter 1683 is grounds for terminating a health care practitioner's license.

Part L requires the Department of Human Services to submit legislation to make technical corrections to the statutes necessitated by this Act.

**LD 1882 An Act to Create the Maine Health Care Reform Act of
1996**

PUBLIC 673

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP MAJ	H-917
	OTP-AM MIN	S-553
		S-561

LD 1882 was reported out by the Joint Standing Committee on Banking and Insurance and is the result of the committee's deliberations on the legislation proposed in Legislative Document 1512, "An Act to Ensure Fairness and Choice to Patients and Providers under Managed Health Care," and Legislative Document 1753, "An Act to Control Health Care Costs and Improve Access to Health Care." This bill is the majority report of the committee.

In Part A, the bill proposed to create a licensing and regulatory process to allow the establishment of private purchasing alliances. Private purchasing alliances are nonprofit corporations licensed by the Bureau of Insurance to provide health insurance to members through multiple unaffiliated participating carriers. When established, an alliance must offer a range of health plans from at least 3 different carriers within the alliance's service area. One of the health plans that must be offered through the alliance is a catastrophic plan providing coverage for inpatient hospital benefits only.

In Part B, the bill proposed to extend the continuity of coverage protection for persons eligible for unemployment compensation from 90 days to 180 days and requires the Bureau of Insurance to set standards distinguishing excess insurance from basic insurance.

In Part C, the bill proposed to require health plans operating in this State to meet certain requirements regarding reporting and disclosure, utilization review, grievance procedures and quality of care criteria. The bill requires managed care plans to demonstrate adequate access to providers and health care services within the plan in accordance with standards developed by the Bureau of Insurance. Managed care plans must also use objective standards for the credentialing of providers, provide written statements of all decisions regarding credentialing and maintain an appeals process for providers. Managed care plans are prohibited from terminating, refusing to contract with or otherwise disciplining providers participating in the plan when the provider advocates for medically appropriate care for plan enrollees. Part C has an effective date of January 1, 1997.

In Part D, the bill proposed to repeal sections of current law applying to health maintenance organizations that are redundant with the statutory provisions in Part C and makes appropriate cross references in the Maine Revised Statutes, Title 2A, chapter 56 to the relevant statutory provisions in Part C.

This bill also proposed to add an allocation section and a fiscal note.

Committee Amendment "A" (S543) is the minority report. It proposed to remove the requirement that a private purchasing alliance offer a catastrophic health plan covering only inpatient hospital benefits. It proposed to remove the language in the quality of care provision that prohibits carriers from making coverage decisions based on an enrollee's age, nature of disability or degree of medical dependency. It proposed to add a provision requiring managed care plans to establish a mechanism for the use of specialists outside the plan when an enrollee has a chronic disease or other medical condition requiring specialty care. Committee Amendment "A" was not adopted.

House Amendment "B" (H917) proposed to add a requirement that a private purchasing alliance offer a health plan providing coverage for outpatient benefits only, in addition to a catastrophic health plan covering only inpatient hospital benefits. The outpatient health plan must offer a range of deductibles including a \$500 deductible plan.

Senate Amendment "A" (S553) proposed to clarify that carriers must report statistics on plan complaints, adverse decisions and prior authorizations made by the health plan and that the utilization review requirements apply to health plans that require prior authorization of health care services. The amendment also recognizes that carriers may contract with provider networks, as well as with providers on an individual basis.

Senate Amendment "C" (S561) proposed to require the catastrophic plan to offer a range of deductibles, including a \$1,000 deductible.

House Amendment "A" (H914) proposed to require a private purchasing alliance, as established in the bill, to offer a health plan providing catastrophic coverage. House Amendment "A" was not adopted.

Senate Amendment "B" (S559) proposed to require a private purchasing alliance, as established in the bill, to offer a health plan providing catastrophic coverage. Senate Amendment "B" was not adopted.

Enacted law summary

Public Law 1995, chapter 673 is the result of the 117th Legislature's deliberations on the legislation proposed in Legislative Document 1512, "An Act to Ensure Fairness and Choice to Patients and Providers under Managed Health Care," and Legislative Document 1753, "An Act to Control Health Care Costs and Improve Access to Health Care."

Part A creates a licensing and regulatory process to allow the establishment of private purchasing alliances. Private purchasing alliances are nonprofit corporations licensed by the Bureau of Insurance to provide health insurance to members through multiple unaffiliated participating carriers. When established, an alliance must offer a range of health plans from at least 3 different carriers within the alliance's service area. One of the health plans that must be offered through the alliance is a catastrophic plan providing coverage for inpatient hospital benefits only. It also requires the catastrophic plan to offer a range of deductibles, including a \$1,000 deductible. In addition, the alliance must offer a health plan providing coverage for outpatient benefits only. The outpatient health plan must offer a range of deductibles including a \$500 deductible plan.

Part B extends the continuity of coverage protection for persons eligible for unemployment compensation from 90 days to 180 days and requires the Bureau of Insurance to set standards distinguishing excess insurance from basic insurance.

Part C requires health plans operating in this State to meet certain requirements regarding reporting and disclosure, utilization review, grievance procedures and quality of care criteria. It requires managed care plans to demonstrate adequate access to providers and health care services within the plan in accordance with standards developed by the Bureau of Insurance. Managed care plans must also use objective standards for the credentialing of providers, provide written statements of all decisions regarding credentialing and maintain an appeals process for providers. Managed care plans are prohibited from terminating, refusing to contract with or otherwise disciplining providers participating in the plan when the provider advocates for medically appropriate care for plan enrollees. Part C has an effective date of January 1, 1997.

Part D repeals sections of current law applying to health maintenance organizations that are redundant with the statutory provisions in Part C and makes appropriate cross references in the Maine Revised Statutes, Title 24A, chapter 56 to the relevant statutory provisions in Part C.

Joint Standing Committee on Banking and Insurance

SUBJECT INDEX

Final
Disposition **Page #**

Banking

Enacted

Joint Standing Committee on Banking and Insurance

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Banking</i>			
<u>Enacted</u>			
LD 1622	An Act to Promote Parity Between State and Federally Chartered Credit Unions	PUBLIC 512.....	32
LD 1656	An Act to Provide for Confidential Treatment of State and Federal Regulatory Information in the Application Process for Financial Institutions	PUBLIC 521.....	36
LD 1750	An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching	PUBLIC 628.....	42
<i>Consumer Credit</i>			
<u>Enacted</u>			
LD 1663	An Act to Clarify the Laws Regarding the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund	PUBLIC 516 EMERGENCY.....	37
LD 1699	An Act to Amend and Further Deregulate the Maine Consumer Credit Code	PUBLIC 614.....	39
<i>Insurance, Health</i>			
<u>Enacted</u>			
LD 68	An Act to Make Available Coverage for Mental Health Services Provided by Counseling Professionals Who Are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems	PUBLIC 561.....	24
LD 1385	An Act to Ensure That Basic Health Care Needs of Women Are Covered in Insurance Policies	PUBLIC 617.....	29
LD 1630	An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists	PUBLIC 637.....	33
LD 1702	An Act to Require That Diabetes Supplies and Self-management Training be Covered by Health Insurance Policies	PUBLIC 592.....	40

		<u>Final Disposition</u>	<u>Page #</u>
LD 1732	An Act to Promote the Health of Newborns and Their Mothers	PUBLIC 615 EMERGENCY.....	41
LD 1882	An Act to Create the Maine Health Care Reform Act of 1996	PUBLIC 673.....	52
 <u>Not Enacted</u>			
LD 690	An Act to Provide Family Security through Quality, Affordable Health Care	ONTP.....	25
LD 752	An Act to Include Obstetricians and Gynecologists as Primary Care Providers	ONTP.....	27
LD 841	An Act to Amend the Approval Requirements for Medicare Supplement Insurance Policies	ONTP.....	27
LD 1079	An Act to Improve Coverage for Women's Health Services	ONTP.....	29
LD 1512	An Act to Ensure Fairness and Choice to Patients and Providers under Managed Health Care	ONTP.....	31
LD 1513	An Act to Promote Additional Health Insurance Reform	ONTP.....	32
LD 1753	An Act to Control Health Care Costs and Improve Access to Health Care	DIED BETWEEN BODIES.....	44
LD 1789	An Act to Clarify the Guaranteed Issuance Requirements for Small Group Health Plans	ONTP.....	48
LD 1798	An Act to Create a Multipayor System for Universal Health Care	ONTP.....	49
LD 1803	An Act to Create a Singlepayor System for Universal Health Care	ONTP.....	50

Insurance, Motor Vehicle

Enacted

LD 1657	An Act to Repeal an Insurance Law Relating to Motor Vehicle Damage Appraisal	PUBLIC 522.....	37
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Insurance, Regulation and Practices

Enacted

LD 1665	An Act to Amend the Maine Insurance Code with Respect to Domestic Violence	PUBLIC 553.....	37
LD 1684	An Act to Consolidate Insurer Billing Procedures and to Streamline the Licensing Process for Reinsurance Intermediaries	PUBLIC 544 EMERGENCY.....	38
LD 1703	An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage	PUBLIC 540.....	41
LD 1762	An Act to Further Streamline Licensing Procedures at the Bureau of Insurance	PUBLIC 570 EMERGENCY.....	47

Not Enacted

LD 1755	An Act Pertaining to Employee Benefit Plans of Employee Leasing Companies	ONTP.....	46
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Insurance, Workers' Compensation

Enacted

LD 1643	An Act to Clarify Certain Provisions Relating to Workers' Compensation Selfinsurance	PUBLIC 619 EMERGENCY.....	34
LD 1650	An Act Enabling the Maine Employers' Mutual Insurance Company to Better Serve the Needs of Small Business	PUBLIC 551.....	35
LD 1757	An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self-insurance	PUBLIC 594.....	46

Not Enacted

LD 183	An Act to Clarify Fresh Start Charges under the Workers' Compensation Laws	ONTP.....	25
LD 887	Resolve, Establishing the Study Commission on Workers' Compensation Laws Relating to Small Business	INDEF PP.....	28

Summary of Committee Action by Joint Standing Committee on Business and Economic Development

	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
I. <u>BILLS CONSIDERED</u>			
A. Bills referred to committee	13	76.5%	3.3%
B. Bills carried over from 1st Regular Session	4	23.5%	1.0%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	17	100.0%	4.3%
		<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	3	17.6%	0.8%
<i>OTP-AM</i>	7	41.2%	1.9%
<i>ONTP</i>	<u>4</u>	<u>23.5%</u>	<u>1.1%</u>
Total Unanimous Reports	14	82.4%	3.8%
B. Divided Reports			
<i>2-Way</i>	3	17.6%	0.8%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	3	17.6%	0.8%
Total Bills Reported Out	17	100.0%	4.6%
		<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	9	52.9%	2.3%
<i>Private and Special Laws</i>	1	5.9%	0.3%
<i>Resolves</i>	2	11.8%	0.5%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	12	70.6%	3.0%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	11	N/A	N/A

Joint Standing Committee on Business and Economic Development

LD 47 **An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That Have Health Problems** PUBLIC 589

Sponsor(s)
VIGUE

Committee Report
OTP-AM

Amendments Adopted
H-779

LD 47, a carry over bill from the First Regular Session, proposed to give purchasers of dogs and cats a recourse when the animal they purchase from a pet dealer is either ill at the time of the purchase or dies within a year of the purchase due to a disease, an illness or a congenital or hereditary condition. The bill also proposed purchasers' rights and the dealers' rights and made any violation of this law a Class E crime.

Committee Amendment "A" (H779) was the result of a summer study which the Business & Economic Development Committee requested of the Animal Welfare Advisory Committee, augmented by one Business & Economic Development Committee member to serve as a public representative. The original bill and this amendment both primarily addressed the subject of dogs and cats that may have no immediately observable health problems. This amendment proposed to replace the original bill.

The amendment proposed that a dog or cat be considered to have been unfit for sale if within 10 days a veterinarian states that the animal has a health problem that existed at the time of sale or if within one year a veterinarian states that an animal had a hereditary or congenital defect from which it died or has such a defect that will shorten its life or require constant treatment. The amendment proposed remedies for the purchaser if an animal dies due to conditions that rendered it unfit for sale of if the animal has a health problem that renders it unfit for sale.

Pet dealers, including breeders, would have been able to exempt themselves from these remedies if the dealer provided the purchaser with a list of the animal's known health problems, a list of health problems that are known to affect the breed or health problems the dealer does not warranty.

Enacted law summary

Public Law 1995, chapter 589 states that a dog or cat is considered to have been unfit for sale, if within 10 days a veterinarian states that the animal has a health problem that existed at the time of sale or if within one year a veterinarian states that an animal had a hereditary or congenital defect from which it died or has such a defect that will shorten its life or require constant treatment.

If an animal dies due to conditions that rendered it unfit for sale, the purchaser may receive an animal of equal value or return of the purchase price. If the animal has a health problem that renders it unfit for sale, the purchaser may receive a refund, exchange or 1/2 of the veterinarian fees not to exceed 1/2 of the purchase price.

Pet dealers, including breeders, may exempt themselves from these remedies if the dealer provides the purchaser with a list of the animal's known health problems, a list of health problems that are known to affect the breed or health problems the dealer does not warranty.

LD 947 **An Act to Amend the Laws Pertaining to the Regulation of** PUBLIC 590

Denturists

Sponsor(s)
MICHAUD

Committee Report
OTP-AM

Amendments Adopted
H-774
S-460

LD 947 proposed to establish a Board of Denturists to replace the Board of Dental Examiners as the regulatory board that has jurisdiction over the licensing of denturists. The bill also proposed to eliminate the provision that requires that denturists practice under the supervision of a licensed dentist on the same premises and eliminates language establishing the liability of the supervising dentist for a denturist's actions.

Committee Amendment "A" (S460) proposed to completely remove the requirement that denturists practice under the supervision of dentists. It proposed to allow denturists to become licensed through experiential-based qualifications and examination until January 2001 or through the current education-based qualifications and examination. All denturists would be prohibited from practicing denturism on a patient without having first received a statement of oral health regarding that patient from a dentist.

The amendment proposed to require continuing education as a condition of relicensing.

House Amendment "A" To Committee Amendment "A" (H774) proposed to remove the language in the Committee Amendment that allows a holder of a temporary denturist permit to practice outside of a dentist's office.

Enacted law summary

Public Law 1995, chapter 590 replaces the Board of Dental Examiners with the Board of Denturists as the regulatory board that has jurisdiction over denturists. It also eliminates the provision requiring that denturists practice under the supervision of a licensed dentist and eliminates language establishing the liability of the supervising dentist for a denturist's actions.

The law requires continuing education as a condition of relicensing. It allows denturists to become licensed through experiential-based qualifications and examination until January 2001 or through current education-based qualifications and examination.

All denturists are prohibited from practicing denturism on a patient without having first received a statement of oral health regarding that patient from a dentist.

LD 1148 An Act to Amend the Social Work Practice Licensing Laws ONTP

Sponsor(s)
AMERO

Committee Report
ONTP

Amendments Adopted

The Statement of Fact for LD 1148 indicates that it proposed to make the following changes to the laws governing social workers:

1. It would have clarified the qualifications and requirements of initial licensure and renewal of licensure at the various levels specified by law;

2. It would have changed references to "certificate of registration" to "license" and "institution" to "program"; and
3. It would have updated the definitions of "social work," "psychosocial assessment," "evaluation," "intervention" and "treatment" as they pertain to social work practice.

The sponsor was not satisfied with the bill and never formally presented it. It was carried over in the First Session and then voted ONTP in the Second with no public hearing.

LD 1270 An Act to Redefine the Oil and Solid Fuel Board ONTP

<u>Sponsor(s)</u> HARRIMAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1270 proposed to remove the Oil and Solid Fuel Board from the Department of Professional & Financial Regulation. Enforcement activities still would have been conducted by an agency of State Government and the board's operations were still subject to the Maine Administrative Procedure Act.

The bill was held over at the Department's request in order to provide time to work out the budgetary issue that prompted the bill. The Department submitted a proposed amendment as a result of their study that would have attempted to meet the board's financial problems by repealing the manufacturer's biennial registration fee of \$300, which has proven difficult to collect and creating a "major equipment installation identification" requirement, which would have required oil and solid fuel technicians to tag their installations of major equipment. Tags would be sold by the board for a fee of \$10. Tagging would also have allowed the board to identify who installed or replaced such equipment, thus aiding in the enforcement of the laws.

**LD 1607 Resolve, to Extend Deadlines Relating to the Task Force to Review the Beverage Container Deposit Laws RESOLVE 59
EMERGENCY**

<u>Sponsor(s)</u> LIBBY JL	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1607 proposed to amend the resolve creating the Task Force to Review the Beverage Container Deposit Laws by extending the date for hearings by the task force to November 30, 1995 and the date for the final report to December 20, 1995.

Enacted law summary

Resolve 1995, chapter 59 amends the resolve creating the Task Force to Review the Beverage Container Deposit Laws by extending the date for hearings by the task force to November 30, 1995 and the date for the final report to December 20, 1995.

LD 1654 An Act to Correct the Law Relating to Small Auctioneers ONTP

<u>Sponsor(s)</u> DEXTER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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Large auctioneers must pay a \$100 biennial license fee. Small auctioneers were exempted from paying the license fee by legislation enacted during the 117th First Regular Session of the Legislature. However, the small salaried auctioneers are not held to qualify for fee exemptions as the law is currently written because their gross income is shown to come from a company and not from auction sales. The Department of Professional & Financial Regulation submitted LD 1654 in an attempt to clarify the category of small auctioneer to include those who are salaried with an auction company.

LD 1654 proposed to amend the definition of small auctioneer by clarifying that the maximum gross income of \$10,000 may come from annual income or salaries for auction sales collected from auction companies.

LD 1675 An Act to Amend the Membership of Certain Boards and Commissions

PUBLIC 688

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN	OTP-AM MAJ	H-898
ROWE	OTP-AM MIN	S-451

LD 1675 proposed to allow the Commissioner of Economic and Community Development, the Commissioner of Labor, the Commissioner of Professional and Financial Regulation and the Commissioner of Defense and Veterans' Services to appoint a designee to serve on the Task Force on Defense Realignment and the Economy. It also proposed to allow the Commissioner of Economic and Community Development to appoint a designee to serve on each of the following: the Land and Water Resources Council; the Economic Development and Business Assistance Coordinating Council; the Maine Small Business Commission; the Maine State Film Commission; the Maine Economic Growth Council; the Board of Directors of the Maine World Trade Association; the Finance Authority of Maine; and the Board of Trustees of the Maine Technical College System.

Committee Amendment "A" (S451), which was the Majority Report, proposed to delete the Maine Technical College System and the Finance Authority of Maine from the list of boards and commissions that require the Commissioner of DECD to serve on as a member. The amendment also proposed to require that the designee be from within the Department of Economic and Community Development, be formally appointed and be the commissioner's only representative until a successor is similarly appointed.

Committee Amendment "B" (S452) was the Minority Report of the Joint Standing Committee on Business and Economic Development

The original bill proposed to allow the Commissioner of Economic and Community Development to appoint a designee to a number of boards and commissions that require the commissioner as a member. This amendment would have required that the designee be from within the Department of Economic and Community Development, be formally appointed and be the commissioner's only representative until a successor is similarly appointed. This amendment also would have deleted the Maine Technical College System and the Finance Authority of Maine from that list, which currently are the only 2 bodies to which the commissioner is appointed that require appointee confirmation, and would have prohibited the empowerment of the commissioner to appoint a designee to any such body in the future. (Not Adopted)

House Amendment "A" To Committee Amendment "A" (H57) proposed to make the following changes to the Board of Trustees of the Maine Technical College System.

1. It would have removed the Commissioner of Education, the Commissioner of Economic and Community Development and the Commissioner of Labor as ex officio, voting members of the board.
2. It would have changed from 5 to 6 the number of technical college students on a list solicited by the president of the system of students eligible to fill the student seat on the board.
3. It would have permitted the Governor to appoint, as one of 12 appointees to the board, one member who, at the time of nomination, serves as the Commissioner of Education, Commissioner of Economic and Community Development or Commissioner of Labor.
4. It would have changed the requirement for action of the board from 6 members present and voting to the majority of the members present and voting.

(Not Adopted)

House Amendment "B" To Committee Amendment "A" (H98) proposed to change the membership of the Board of Trustees of the Maine Technical College System by making the Commissioner of Labor and the Commissioner of Economic and Community Development ex officio nonvoting members of the board. The Commissioner of Education would continue to serve as an ex officio voting member. The amendment also proposed to change a quorum to a majority of the voting members and required a majority of voting members for approval of any action taken by the board.

Enacted law summary

Public Law 1995, chapter 688 allows the Commissioner of the Department of Economic & Community Development to appoint a designee to 6 of 8 of the boards and commissions on which the Commissioner is required to serve. The Commissioner may not appoint a designee to the Technical College System and FAME boards because they are boards that require legislative approval of appointees. Chapter 688 also removes the Commissioners of Labor and Economic & Community Development from membership on the board of the Technical College System.

LD 1746 An Act to Encourage High-quality Maine Jobs through a 21st-century Maine Program

ONTP

Sponsor(s)
FAIRCLOTH
ROWE

Committee Report
ONTP

Amendments Adopted

LD 1746 would have accomplished the following.

1. It would have established the Emerging Industry and Technology Loan Program Commission to help high potential businesses succeed in the State. It would have directed the commission to assess the availability of federal, state and private loan programs to businesses in emerging industries and technologies in Maine and to recommend methods to increase access to and awareness of loan programs.

2. It would have directed the Finance Authority of Maine to solicit funding from private industry to promote a Create Your Own Business Program, using as a model the similarly named program in Wisconsin.

**LD 1767 An Act to Revise the Sunrise Review Process
for Occupational and Professional Regulation**

PUBLIC 686

Sponsor(s)
ROWE

Committee Report
OTP-AM

Amendments Adopted
H-877

LD 1767 proposed to require that a person desiring that a profession or occupation be regulated submit an application containing the answers to questions similar to those in Title 5, section 12015, subsection 3 to the Commissioner of Professional and Financial Regulation, who is required to assemble a technical committee to make a recommendation on the application. The commissioner was to attach the department's recommendation and forward this material to the appropriate legislative committee.

Committee Amendment "A" (H877) proposed to follow the current law except that applicant groups would be required to answer the questions and except that it would have allowed the committee of reference to request the commissioner or a technical committee to initially evaluate whether or not the applicant's answers are sufficient to justify regulation. The commissioner would then prepare a report including any necessary implementing legislation. The commissioner would be able to recommend that no legislative action be taken on a proposal.

Enacted law summary

Public Law 1995, chapter 686 follows the current law except that professions wishing to be regulated are required to answer the justification questions and except that it allows the committee of reference to request the commissioner of the Department of Professional & Financial Regulation or a technical committee to initially evaluate whether or not the applicant's answers are sufficient to justify regulation. The commissioner is then to prepare a report including any necessary implementing legislation. The commissioner may recommend that no legislative action be taken on a proposal.

**LD 1801 An Act to Provide for the 1996 and 1997 Allocations of the
State Ceiling on Private Activity Bonds**

P & S 61
EMERGENCY

Sponsor(s)
GWADOSKY

Committee Report
OTP

Amendments Adopted

LD 1801 proposed to establish the allocations of the state ceiling on issuance of ~~tax~~exempt bonds for calendar years 1996 and 1997. Under federal law, a maximum of \$150,000,000 in ~~tax~~exempt bonds benefiting private individuals or entities may be issued in this State each year. Chapter 61 proposed to allocate the state ceiling among the state issuers of ~~tax~~exempt bonds.

Enacted law summary

Private and Special Law, chapter 61 establishes the allocations of the state ceiling on issuance of tax-exempt bonds for calendar years 1996 and 1997. Under federal law, a maximum of \$150,000,000 in taxexempt bonds benefiting private individuals or entities may be issued in this

State each year. Chapter 61 allocates the state ceiling among the state issuers of taxexempt bonds.

LD 1802 An Act to Consolidate and Improve Delivery of International Trade Services in Maine PUBLIC 648 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GWADOSKY BUTLAND	OTP-AM	H-789

The purpose of LD 1802 was to merge the functions of the Maine World Trade Association, the Maine Education and Training Export Partnership and the International Commerce Division of the Department of Economic and Community Development into one entity called the Maine International Trade Center, or the Center.

Committee Amendment "A" (H789) proposed to make the bill emergency legislation except for the provisions that repeal the existing international trade agencies. It proposed to require that the International Trade Director be confirmed by the Legislature on initial appointment. It proposed to add a revenue-neutral appropriations section, which merely transfers existing funds to the new organization.

Enacted law summary

Public Law 1995, chapter 648 merges the functions of the Maine World Trade Association, the Maine Education and Training Export Partnership and the International Commerce Division of the Department of Economic and Community Development into one entity called the Maine International Trade Center, or the Center.

The Center's responsibility is to provide services to citizens and industry to assist international trade. The purpose of the Center, through its public and private board, is to refine, revise and implement the international strategic plan for the State.

The board of directors of the Center is to be a public and private partnership, with the majority of the board being representative of the private sector. Funding for the Center is to come from a combination of private and public funds. Subject to legislative confirmation, the Governor is to appoint a Maine International Trade Director who reports to the Commissioner of Economic and Community Development and is responsible for developing international trade. This individual, if confirmed by the board of the newly formed Maine International Trade Center, also becomes president and board member of that Center and must be reconfirmed by the board as president every 2 years.

LD 1813 An Act to Make Changes in the Beverage Container Deposit Laws ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP MAJ	
	OTP MIN	

LD 1813, recommended by the Task Force to Review the Beverage Container Laws, which was established by the Business & Economic Development Committee in response to the many bills it

was receiving concerned the functions of the extended bottle bill, proposed to make the following changes in the law relating to the beverage container deposit laws.

1. It would have required registration with and payment of a fee to the Department of Agriculture, Food and Rural Resources of all manufacturers, distributors and 3rd party pick-up agents who perform functions under the law.
2. It would have allowed the Administrative Court to suspend or revoke licenses for failure to comply with requirements of the law, such as initiation of deposits and pick obligations. The law provides a civil penalty for failure to register.
3. It would have required licensing of redemption centers, which are defined to include all persons who redeem beverage containers and receive a handling fee for doing so. It proposed that to qualify for a license, a redemption center must demonstrate that the location and hours are convenient for consumers, that it complies with local ordinances and that it can be operated in a manner that complies with the deposit laws and rules.
4. It proposed that a redemption center license could be revoked or suspended by the Administrative Court for violation of the law. Also, the bill would have required the department to establish a demerit point system, similar to that used in the driver license law, under which redemption centers will receive points for each violation found by department personnel
5. It proposed to rewrite provisions of the law relating to the determination of refund values and initiation of deposits to clarify those provisions.
6. It proposed to require that a redemption center that accepts more than \$50 worth of containers from any person on a single day must obtain a signed statement from that person identifying the person tendering the containers and signifying that, to the best of that person's knowledge, the containers were originally purchased in the State.
7. It proposed to require a redemption center to accept any container sold in the area in which the redemption center is located, provided there is a pickup service available for the container.
8. It proposed to require distributors who initiate the deposit for exclusive distributorship items and for wine and spirits to pick up containers from dealers and redemption centers located in the area in which they distribute products. Manufacturers whose products are distributed through nonexclusive distributorships or their 3rd party pick-up agents would be required to pick up containers statewide.
9. The bill proposed to add farm-produced cider to the list of beverages exempt from the bottle bill. This exemption is currently in department rules.
10. The bill proposed to require deposit initiators to pay dealers and redemption centers for picked-up containers within 10 business days of the pickup and provided that the invoice signed at the time of the pickup determines the amount due.
11. The bill proposed to allow the department to call for information from retailers when needed to aid the department in enforcement.
12. The bill proposed to impose reporting requirements on manufacturers, distributors and 3rd-party pick-up agents and redemption centers. The bill also proposed to provide that the information is confidential but may be used by law enforcement and may be released in aggregate form.

13. Violation of this law would have been prima facie evidence of a violation of the Unfair Trade Practices Act.

14. Enforcement of the bottle bill would have been expanded to require the Attorney General, the Commissioner of Agriculture, Food and Rural Resources and all other appropriate officials to enforce the laws. Employees of the department would be authorized to prosecute complaints for civil violations in District Court, if the employees are certified as proficient in court procedures.

15. The bill proposed to exempt licensed redemption centers and registered distributors, manufacturers and 3rdparty pick-up agents from the prohibition against possession of unmarked containers if the containers are empty.

16. Finally, the bill proposed to require the Department of Agriculture, Food and Rural Resources to evaluate the information available on the beverage container deposit laws and to determine whether additional information would be needed to evaluate the laws. The proposal also proposed to require the department to find ways to require additional information and to return to the Legislature with a proposal if significant cost would be involved in obtaining the information.

**LD 1814 An Act Concerning the Treatment of Ocular Diseases by
Optometrists**

PUBLIC 606

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-790

With special education, current law allows the use of ocular topical pharmaceutical agents for the treatment of eye conditions or diseases other than glaucoma, except for the use of controlled substances, injections and agents for the treatment of diseases that affect the entire system.

Public Law 1995, chapter 439, enacted by the First Regular Session of the 117th Legislature, established an optometry panel to study (1) the issue of extending the types of drugs that optometrists can use, and (2) the issue of the qualifications required for an optometrist to be able to treat glaucoma. The Business and Economic Development Committee was authorized to submit legislation based on the results of this study and LD 1814 is the result of that legislation.

This bill proposed to create a new license category known as the "advanced therapeutic license" and set forth the educational and consultative requirements of that license. Advanced therapeutic licensees would be authorized to treat glaucoma and prescribe oral medications to treat ocular diseases other than glaucoma as specifically set forth. Current therapeutic licensees would have to upgrade their licenses to advanced therapeutic licenses within 3 years.

The bill proposed to create a glaucoma consultation subcommittee comprised of 2 optometrists and 2 physicians to review the glaucoma-related consultation requirements. The bill also proposed to reduce the State Board of Optometry membership from 6 persons to 5 and to require optometrist members to hold advanced therapeutic licenses within 3 years.

Committee Amendment "A" (H790) proposed to remove those portions of the bill that reduce the State Board of Optometry membership from 6 to 5 members and provide 3 years for board members to achieve advanced therapeutic licensure. This amendment proposed to clarify that therapeutic licensees may not use topical therapeutic agents to treat glaucoma and that the board may not issue new therapeutic licenses after October 1, 1996.

Enacted law summary

Public Law 1995, chapter 606 creates a new license category of optometrists known as the "advanced therapeutic license" and sets forth the educational and consultative requirements of that license. Advanced therapeutic licensees may treat glaucoma and prescribe oral medications to treat ocular diseases other than glaucoma as specifically set forth. Current therapeutic licensees must upgrade their licenses to advanced therapeutic licenses within 3 years.

Chapter 606 creates a glaucoma consultation subcommittee comprised of 2 optometrists and 2 physicians to review the glaucoma-related consultation requirements

LD 1831 An Act to Create the Small Enterprise Growth Program

PUBLIC 699

Sponsor(s)

KONTOS
HARRIMAN
ROWE

Committee Report

OTP-AM

Amendments Adopted

H-844

LD 1831 proposed to create the Small Enterprise Growth Program, which would provide financing for small businesses that show a strong potential for providing additional quality employment for people of this State, but need assistance in accessing necessary capital.

The bill proposed to create an 11-member board consisting of persons with expertise in matters relating to the financing of growth-stage companies, plus the Commissioner of Economic and Community Development.

Funding would have been provided in the amount of \$5 million from general obligation bonding under Private & Special Law 1995, chapter 81. It would have been used to capitalize a revolving loan fund. Private investments could also have been accepted.

Committee Amendment "A" (H844) proposed to do the following:

1. Make clear that the Commissioner of Economic and Community Development or the commissioner's designee is a voting member of the Small Enterprise Growth Board;
2. Make clear that the fund may accept investments;
3. Restrict those instances in which the board may hold an ownership interest in a private enterprise;
4. Make clear that retail sales, tourism and agricultural production are among those businesses that may qualify for a loan;
5. Add inability to obtain private financing as a criterion for qualifying for a loan; and
6. Take away from subcommittees the authority to approve loans;

Enacted law summary

Public Law 1995, chapter 699 creates the Small Enterprise Growth Program, which would provide financing for small businesses that show a strong potential for providing additional quality employment for people of this State, but have been unable to obtain private capital.

The bill creates an 14-member board consisting of persons with expertise in matters relating to the financing of growthstage companies and the Commissioner of Economic and Community Development. The board will administer the Small Enterprise Growth Program. The board may provide loans up to \$150,000 to qualifying small businesses engaged in marine science, biotechnology, manufacturing, activities that result in a significant amount of capital being imported into the State, software development, provision or development of environmental services or technologies, provision or development of financial or insurance products or services, retail sales, tourism, agricultural production, production of value-added goods from natural resources, or other businesses that offer the potential of significant growth and public benefits. Businesses must match the loans under the program in cash on a dollar-for-dollar basis.

The board may provide flexible repayment terms for all disbursements from the fund. Repayment terms may include an interest in one or more products of the enterprise assisted, a percentage of sales or rights in ownership interest. The purpose of this form of repayment is to help ensure that the return from successful businesses will offset losses from those that are not successful. Funding is to be provided through a \$5,000,000 General Obligation Bond Fund which will capitalize a revolving loan fund under Private & Special Law 1995, chapter 81. Private investments may also be accepted.

LD 1852 An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine PUBLIC 671

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-860
	ONTP MIN	S-554

LD 1852 proposed to establish a consolidated professional regulatory board called the Board of Complementary Health Care Providers to regulate acupuncturists and naturopathic doctors. The current laws regulating acupuncturists would be transferred to the newly established board. Only those licensed by the Board would have been able to use a term derived from “naturopathic” and the initials ND. (The term “naturopath” was not included in the list; initials, such as NMD, were also not included in the list.) The use of the term physician would have been prohibited. To qualify for licensure an applicant would have to be a graduate of an approved medical board college accredited by the Federal Government. The licensee would be prohibited from prescribing controlled drugs

Committee Amendment "A" (H860) proposed to accomplish the following:

1. Make it clear that it is the practice of naturopathy, not just the title that is being licensed;
2. Strengthen the regulatory board's control over the use of drugs by naturopaths;
3. Eliminate childbirth from the scope of practice of naturopaths; and

4. Make it clear that this bill does not prohibit a person from providing, selling or recommending items in the naturopath's scope of practice unless this use is specifically prohibited by other laws.

Senate Amendment "B" To Committee Amendment "A" (§54) proposed to provide that a naturopathic doctor may only prescribe noncontrolled legend drugs from the following categories: homeopathic remedies, vitamins and minerals, hormones, local anesthesia and immunizations that are designated by rule by a subcommittee of the board consisting of the naturopathic members, the pharmacist member and the allopathic or osteopathic physician member, as consistent with a naturopathic doctor's education and training. A naturopathic doctor may not prescribe psychotropic medications.

House Amendment "A" To Committee Amendment "A" (H80) proposed to accomplish the following:

1. Limit to nonprescription drugs the types of drugs that a naturopathic doctor may recommend.
2. Prohibit a naturopathic doctor from prescribing, dispensing or administering "any legend substances," rather than "any controlled substances" as proposed in the bill;
3. Add language that clarifies that a conditional licensee may not receive specialty certification; and
4. Remove the requirement that continuing education for renewing a license must include at least 7 hours of pharmacology.

(Not Adopted)

Senate Amendment "A" To Committee Amendment "A" (§48) is the same as House Amendment "A". (Not Adopted)

House Amendment "A" (H878) proposed to delete counseling, hypnotherapy and biofeedback from the permissible therapies that may be practiced by a naturopathic doctor. (Not Adopted)

House Amendment "B" (H893) proposed to prohibit naturopathic doctors from prescribing, dispensing or administering any psychotropic medications. (Not Adopted)

House Amendment "C" (H910) proposed to require that before a person may be eligible for a license to practice naturopathic medicine that person must have an undergraduate degree. Currently, one of the three accredited naturopathic medical schools does not require an undergraduate degree. (Not Adopted)

Senate Amendment "A" (§567) proposed to allow the Board of Complementary Health Care Providers to approve graduates from any naturopathic schools, including those not accredited. It also proposed to require that before a person may be eligible for a license to practice naturopathic medicine that person must have an undergraduate degree. (Not Adopted)

Enacted law summary

Public Law 1995, chapter 671 establishes a consolidated professional regulatory board called the Board of Complementary Health Care Providers to regulate acupuncturists and naturopathic doctors. The current laws regulating acupuncturists are transferred to the newly established board. It requires a license to practice naturopathic medicine and to use many derivatives of the word naturopathic, but not naturopath, nor initials such as NMD. The use of the term physician is prohibited. A person may recommend and dispense remedies within the naturopathic scope of

practice unless they are prohibited by other sections of law but may only prescribe from a restricted list of non-controlled legend drugs.

To be eligible for a license an applicant must be a graduate of a board-approved naturopathic medical college that is accepted by an agency of the federal government. It is not a requirement of the law and one of the schools that these medical college graduates have undergraduate degrees.

LD 1860 An Act to Amend the Petroleum Market Share Act

PUBLIC 627

Sponsor(s)
ROWE

Committee Report
OTP-AM

Amendments Adopted
H-839

The following reports are currently required by law to be made to the Attorney General until September, 1996:

- A. Wholesaler reports on the total gallons of home heating oil and motor fuel oil sold by the wholesaler to each retail outlet or retailer;
- B. Wholesaler reports on the total gallons of home heating oil and motor fuel oil supplied by the wholesaler to each retail outlet controlled by the wholesaler during any portion of the reporting period;
- C. Wholesaler reports on the total gallons of home heating oil and motor fuel oil sold by the wholesaler from a bulk storage facility or depot directly to any end user for consumption in the State; and
- D. Refiner reports setting forth the total gallons of home heating oil and motor fuel supplied by the refiner to each retail outlet controlled by the refiner and the total gallons of home heating oil and motor fuel oil sold by the refiner from a bulk storage facility or depot directly to any end user for consumption in the State.

The purpose of these reports is to assist in enforcing the law against anti-competitive and unfair trade practices. The Attorney General is to report to the Legislature yearly concerning the concentration of retail outlets. An advisory committee is established to consult with the Attorney General on these matters.

LD 1860 proposed to extend reporting provisions of the Petroleum Market Share Act for a 4-year period. The yearly cost of this program was estimated at \$48,000, which sum was to be obtained from the petroleum industry.

Committee Amendment "A" (H839) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 627 extends the wholesaler and refiner reporting requirements of the Petroleum Market Share Act for a 4-year period.

LD 1865 Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group

RESOLVE 70
EMERGENCY

Sponsor(s)
LONGLEY

Committee Report
OTP

Amendments Adopted

LD 1865 proposed to extend the reporting deadline for the Maine World Trade Association to study export financing services from January 1, 1996 to November 1, 1996 as required by Resolve 1995, chapter 17.

Enacted law summary

Resolve 1995, chapter 70 extends the reporting deadline for the Maine World Trade Association to study export financing services from January 1, 1996 to November 1, 1996 as required by Resolve 1995, chapter 17.

Joint Standing Committee on Business and Economic Development

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Business Regulation</i>			
<u>Enacted</u>			
LD 47	An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That Have Health Problems	PUBLIC 589.....	58
LD 1607	Resolve, to Extend Deadlines Relating to the Task Force to Review the Beverage Container Deposit Laws	RESOLVE 59 EMERGENCY.....	60
LD 1860	An Act to Amend the Petroleum Market Share Act	PUBLIC 627.....	70
<u>Not Enacted</u>			
LD 1813	An Act to Make Changes in the Beverage Container Deposit Laws	ONTP.....	64
<i>Economic Development -- International Trade</i>			
<u>Enacted</u>			
LD 1802	An Act to Consolidate and Improve Delivery of International Trade Services in Maine	PUBLIC 648 EMERGENCY.....	64
LD 1865	Resolve, to Extend the Reporting Deadline of the Export Financing Services Study Group	RESOLVE 70 EMERGENCY.....	70
<i>Economic Development -- Job Creation</i>			
<u>Enacted</u>			
LD 1831	An Act to Create the Small Enterprise Growth Program	PUBLIC 699.....	67
<u>Not Enacted</u>			
LD 1746	An Act to Encourage Highquality Maine Jobs through a 21st-century Maine Program	ONTP.....	62

Economic Development -- Other

Enacted

LD 1675	An Act to Amend the Membership of Certain Boards and Commissions	PUBLIC 688..... 61
LD 1801	An Act to Provide for the 1996 and 1997 Allocations of the State Ceiling on Private Activity Bonds	P & S 61 EMERGENCY..... 63

Health Care

Enacted

LD 947	An Act to Amend the Laws Pertaining to the Regulation of Denturists	PUBLIC 590..... 58
LD 1767	An Act to Revise the Sunrise Review Process for Occupational and Professional Regulation	PUBLIC 686..... 63
LD 1814	An Act Concerning the Treatment of Ocular Diseases by Optometrists	PUBLIC 606..... 66
LD 1852	An Act to Establish the Board of Complementary Health Care Providers and to Regulate the Practice of Naturopathic Medicine	PUBLIC 671..... 68

Not Enacted

LD 1148	An Act to Amend the Social Work Practice Licensing Laws	ONTP..... 59
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Occupational Regulation

Enacted

LD 1767	An Act to Revise the Sunrise Review Process for Occupational and Professional Regulation	PUBLIC 686..... 63
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Not Enacted

LD 1270	An Act to Redefine the Oil and Solid Fuel Board	ONTP..... 60
LD 1654	An Act to Correct the Law Relating to Small Auctioneers	ONTP..... 60

Summary of Committee Action by Joint Standing Committee on Criminal Justice

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	11	64.7%	2.8%
B. Bills carried over from 1st Regular Session	6	35.3%	1.5%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	17	100.0%	4.3%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	2	11.8%	0.5%
<i>OTP-AM</i>	8	47.1%	2.1%
<i>ONTP</i>	<u>2</u>	<u>11.8%</u>	<u>0.5%</u>
Total Unanimous Reports	12	70.6%	3.2%
B. Divided Reports			
<i>2-Way</i>	5	29.4%	1.3%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	5	29.4%	1.3%
Total Bills Reported Out	17	100.0%	4.6%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	13	76.5%	3.3%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	13	76.5%	3.3%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	0	N/A	N/A

Joint Standing Committee on Criminal Justice

LD 659 **An Act to Allow Charitable Solicitation by Law Enforcement Officers, Agencies and Associations** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY	OTP-AM MAJ	
	ONTP MIN	

LD 659 was carried over from the First Regular Session of the 117th Legislature. LD 659 proposed to remove the existing ban prohibiting law enforcement officers, agencies or associations from soliciting property from the general public if that property in any way tangibly benefits or is intended to tangibly benefit any law enforcement officer, law enforcement agency or law enforcement association.

Committee Amendment "A" (H732) was the Majority Report of the Joint Standing Committee on Criminal Justice. The amendment proposed to reenact the law regulating solicitation by law enforcement officers on March 1, 1998. The amendment also proposed to add a fiscal note to the bill.

(Not adopted)

LD 1030 **An Act to Provide Services to Adjudicated Young Women** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOHNSON	ONTP	

LD 1030 was carried over from the First Regular Session of the 117th Legislature. LD 1030 proposed to appropriate General Fund dollars for the Gate House Program to provide transitional and diversion services for adjudicated young women involved with the Maine Youth Center.

LD 1235 **An Act to Transfer Juvenile Correctional Functions to the Department of Human Services** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN	ONTP	

LD 1235 was carried over from the First Regular Session of the 117th Legislature. Parts A, B and C of LD 1235 proposed to transfer all juvenile corrections functions from the Department of Corrections to the Department of Human Services.

Parts A, B and C of LD 1235 also proposed to:

1. Retain the Office of Advocacy in the Department of Corrections to investigate adult abuse or neglect in correctional facilities;
2. Establish a similar office for juvenile corrections in the Department of Human Services;

3. Limit provisions concerning juvenile delinquency prevention to youths who are ~~not~~ **not** judged to have committed crimes and are placed in the chapter dealing with child and family services in the Maine Revised Statutes, Title 22;
4. Place the remainder of the juvenile corrections functions in the Bureau of Juvenile Corrections, which would be moved from the Department of Corrections to the Department of Human Services;
5. Create divisions for planning, probation, aftercare and facilities;
6. Give the Juvenile Justice Advisory Group the total planning function for juvenile corrections and clarify that the group's implementation authority and the bureau's supervisory authority over planning would be limited to the 3-year comprehensive state plan required by federal law and that the bureau's expenditure authority relative to outside funds would be subject to the group's approval; and
7. Require funding to the Maine Youth Center from the Department of Human Services be reduced by 25% in the first fiscal year and 25% in the second fiscal year from the level of funding in fiscal year 1995/1996 and that the department expend the resulting funds on community services for youths to increase efforts in delinquency prevention, probation and aftercare.

Part D of LD 1235 proposed to:

1. Transfer from the Department of Corrections to the Department of Human Services all expenditures, assets, liabilities, appropriations and allocations, rules, contracts and agreements, records, property and employees to the extent attributable to functions transferred in the bill;
2. Direct the Department of Human Services to review juvenile corrections and report its findings to the Joint Standing Committee on Human Resources by December 1, 1995;
3. Direct transitional activities concerning the budget and the functions of the departments involved; and
4. Direct the Joint Standing Committee on Human Resources to submit legislation needed to correct errors and inconsistencies.

LD 1294 An Act to Prohibit Home Repair Fraud

PUBLIC 681

Sponsor(s)
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted
H-731

LD 1294 was carried over from the First Regular Session of the 117th Legislature. LD 1294 proposed to define different practices that typically occur when home repair contractors defraud their customers. The bill proposed to create Maine Revised Statutes, Title 10, chapter ~~208~~ a violation of which is considered criminal conduct that may result in criminal penalties. The bill also proposed to increase the penalties if the victim of a home repair contractor is more than 60 years of age.

LD 1294 was originally titled "An Act to Prohibit Home Repair Fraud and Establish Aggravated Penalties When the Victim is an Older Person."

Committee Amendment "A" (H731) proposed to replace the bill and to do the following:

1. Create in the Maine Criminal Code the Class D crime of home repair fraud, which is enhanced to a Class C crime if the actor has 2 or more prior convictions;
2. Make a violation of consumer sales solicitation laws a Class ~~E~~ crime, unless the State pleads and proves that the act or omission by the seller was intentional, in which case the violation is a Class D crime;
3. Make a violation of certain transient sales laws a Class E crime, unless the State pleads and proves that the act or omission by the seller was intentional, in which case the violation is a Class D crime; and
4. Add a fiscal note.

Enacted law summary

Public Law 1995, chapter 681 creates in the Maine Criminal Code the Class D crime of home repair fraud, which may be enhanced to a Class C crime if the offender has 2 or more prior convictions for home repair fraud. It also provides enhanced civil penalties in the consumer solicitation laws, the transient sales laws and the door-to-door home repair transient seller laws. If the State pleads and proves that an act or omission by a seller operating under a provision of these consumer laws was intentional, a violation of the consumer sales law provision involved is enhanced from a Class E to a Class D crime.

LD 1457 An Act to Discourage the Spread of "Crack" Cocaine

PUBLIC 635

Sponsor(s)
BUNKER

Committee Report
OTP-AM MAJ
OTP-AM MIN

Amendments Adopted
H-696

LD 1457 was carried over from the First Regular Session of the 117th Legislature. LD 1457 proposed to discourage the spread of cocaine base in the State.

Under existing law, possession of cocaine, whether it is cocaine hydrochloride (powder cocaine) or cocaine base (crack cocaine), is a Class D crime. LD 1457 proposed to increase that class of crime for possession of cocaine base by one level to a Class C crime. The disparity between the sentences proposed under this bill for cocaine base and for cocaine hydrochloride is supported by the addictive nature of cocaine base and the level of violence associated with its use and distribution.

Committee Amendment "A" (H696) was the Majority Report of the Joint Standing Committee on Criminal Justice. The amendment proposed to strike sections 2 and 3 of the bill, but retain section 1, which defines and distinguishes cocaine in the form of cocaine base (crack cocaine) from cocaine hydrochloride (powder cocaine).

The amendment proposed to create presumptive quantities for furnishing and trafficking in cocaine base.

The amendment also proposed to provide that a person is guilty of aggravated trafficking or furnishing scheduled drugs if the person trafficks in or furnishes cocaine in the form of cocaine base in a quantity of 32 grams or more.

The amendment proposed to provide that possession of cocaine in the form of cocaine base constitutes a Class C crime when the State proves that the offender has a prior scheduled drug conviction.

The amendment proposed to provide that possession of 4 grams or more of cocaine in the form of cocaine base is a Class B crime.

The amendment also proposed to add a fiscal note to the bill.

Committee Amendment "B" (H697) was the Minority Report of the Joint Standing Committee on Criminal Justice. The amendment proposed to retain provisions of the original bill that made possession of cocaine base a Class C crime and proposed to add provisions that define and distinguish cocaine in the form of cocaine base (crack cocaine) from cocaine hydrochloride (powder cocaine). The amendment also proposed to create presumptive quantities for furnishing and trafficking in cocaine base as in Committee Amendment "A" (H-696).

This amendment also proposed to add a fiscal note to the bill.

(Not adopted)

Enacted law summary

Public Law 1995, chapter 635 makes possession of cocaine base a Class D crime and defines and distinguishes cocaine in the form of cocaine base (crack cocaine) from cocaine hydrochloride (powder cocaine).

Public Law 1995, chapter 635 creates presumptive quantities for furnishing and trafficking in cocaine base.

Public Law 1995, chapter 635 provides that a person is guilty of aggravated trafficking or furnishing scheduled drugs if the person trafficks in or furnishes cocaine in the form of cocaine base in a quantity of 32 grams or more.

Public Law 1995, chapter 635 provides that possession of cocaine in the form of cocaine base constitutes a Class C crime when the State proves that the offender has a prior scheduled drug conviction. Possession of cocaine in the form of cocaine base would continue to be a Class D crime when the State does not prove that the offender has a prior scheduled drug conviction.

Public Law 1995, chapter 635 also provides that possession of 4 grams or more of cocaine in the form of cocaine base is a Class B crime.

LD 1510 An Act to Make Comprehensive Changes to the Sex Offender PUBLIC 680
Laws

Sponsor(s)
PINGREE

Committee Report
OTP-AM

Amendments Adopted
S-516

LD 1510 was carried over from the First Regular Session of the 117th Legislature. LD 1510 proposed to make comprehensive changes to the laws involving sex offenders. The bill proposed to:

1. Require all judges and justices to attend a conference on sexual abuse;

2. Change the statute of limitations for civil actions involving sexual acts toward minors to allow actions to be brought up to 5 years after the victim reaches the age of majority;
3. Require all trials in which the defendant is accused of a sex offense against a minor be conducted in a speedy fashion;
4. Require the court to sentence a person convicted of a 2nd sex offense to the maximum term allowed under the law. Prior to early release, the sex offender would be required to participate in and successfully complete a treatment program for sex offenders administered by the Department of Corrections. The court would also have authority to order the garnishment of up to 50% of an offender's wages to pay for the counseling of the victim;
5. Require the court, in an action involving sexual abuse by a person against a minor who is a resident of the same household, to order the defendant to vacate the household. The court would not be authorized to remove the child from the household unless it finds that the child is in danger;
6. Repeal the Sex Offender Registration Act and reenact it making the following changes:
 - A. Expand the application of the Act to apply to persons convicted of a broader range of sex offenses;
 - B. Require a sex offender to report any change of address and to register with the sheriff of the county in which the sex offender plans to reside;
 - C. Require the sheriff to report all information received from a sex offender to a central registry maintained by the Department of Public Safety;
 - D. Establish a schedule for duration of registration based upon the class of the crime; and
 - E. Establish penalties for failure to register;
7. Direct the Department of Education and the Department of Public Safety to develop and implement a program of education and prevention of sex abuse for use in elementary and middle schools; and
8. Require the Department of Corrections to develop and administer a program for the treatment and counseling of inmates convicted of sex offenses. The department would also have been directed to study alternative sentencing options for persons convicted of sex offenses and to report its findings and recommendations back to the Legislature.

Committee Amendment "A" (S516) proposed to replace the bill and to do the following:

1. Clarify the rights of victims to participate in the criminal justice process and create a victims' rights chapter in the Maine Criminal Code;
2. State that neither the failure of law enforcement to perform the requirements of the victims' rights chapter nor compliance with the victims' rights chapter gives rise to civil liability;
3. Specify that a law enforcement officer may arrest without a warrant a person who the officer has probable cause to believe has violated or is in violation of the sex offender registration requirements as established in the Maine Revised Statutes, Title ~~34~~, chapters 11 or 13;

4. Direct the court at sentencing to order every convicted sex offender, as defined under Title 34-A, section 11103, to satisfy all requirements set forth in the Sex Offender Registration and Notification Act;
5. Clarify that, upon request, the Department of Corrections shall notify victims of the conditional release or discharge of defendants convicted of murder or of a Class A, Class B or Class C crime who are committed to the department's custody. The amendment proposed to require county jails to give the same notice to victims when a defendant convicted of murder or a Class A, Class B or Class C crime who is committed to a county jail is conditionally released or discharged. The amendment also proposed to require state mental health institutes to give notice of a defendant's release to victims when a defendant, who is committed to an institute's custody, has been found not criminally responsible by reason of mental disease or defect for gross sexual assault and the victim had not in fact attained 16 years of age at the time of the crime;
6. Direct the court to attach as a condition of probation that a convicted sex offender, as defined under Title 34A, section 11103, satisfy all requirements set forth in the Sex Offender Registration and Notification Act;
7. Add an application section to the existing Sex Offender Registration Act, Title ~~34~~ chapter 11, that specifies that chapter 11 applies to sex offenders sentenced on or after June 30, 1992 and before September 1, 1996;
8. Enact Title 34A, chapter 13, the SexOffender Registration and Notification Act to apply to sex offenders sentenced or placed in institutional confinement on or after September 1, 1996. The purpose of this Act is to protect the public safety by enhancing access to information concerning sex offenders by requiring registration by the offender and notification to victims and law enforcement agencies;
9. Allocate \$200,000 to the Department of Corrections from the Federal Expenditure Fund for the fiscal year ending June 30, 1997. The federal funds will be used to train probation officers and to otherwise carry out the purposes of this Act;
10. Direct the Department of Corrections to report back to the joint standing committee having jurisdiction over criminal justice matters regarding the implementation and application of the risk assessment and relapse prevention program for sex offenders, including the department's work assisting law enforcement agencies with risk assessment for the purpose of public notification, no later than January 1, 1998; and
11. Add a mandate preamble, 2 application sections, an allocation section, an effective date and a fiscal note.

Enacted law summary

Public Law 1995, chapter 680 does the following:

1. Clarifies the rights of victims to participate in the criminal justice process and creates a victims' rights chapter in the Maine Criminal Code;
2. States that neither the failure of law enforcement to perform the requirements of the victims' rights chapter nor compliance with the victims' rights chapter gives rise to civil liability;
3. Specifies that a law enforcement officer may arrest without a warrant a person who the officer has probable cause to believe has violated or is in violation of the sex offender registration requirements in the Maine Revised Statutes, Title 3A, chapters 11 or 13;

4. Directs the court at sentencing to order every convicted sex offender, as defined under Title 34-A, section 11103, to satisfy all requirements set forth in the Sex Offender Registration and Notification Act;
5. Clarifies that, upon request, the Department of Corrections shall notify victims of the conditional release or discharge of defendants convicted of murder or of a Class A, Class B or Class C crime who are committed to the department's custody. The amendment requires county jails to give the same notice to victims when a defendant convicted of murder or a Class A, Class B or Class C crime who is committed to a county jail is conditionally released or discharged. The amendment also requires state mental health institutes to give notice of a defendant's release to victims when a defendant, who is committed to an institute's custody, has been found not criminally responsible by reason of mental disease or defect for gross sexual assault and the victim had not in fact attained 16 years of age at the time of the crime;
6. Directs the court to attach as a condition of probation that a convicted sex offender, as defined under Title 34A, section 11103, satisfy all requirements set forth in the Sex Offender Registration and Notification Act;
7. Adds an application section to the existing Sex Offender Registration Act, Title 34 chapter 11 that specifies that chapter 11 applies to sex offenders sentenced on or after June 30, 1992 and before September 1, 1996;
8. Enacts Title 34A, chapter 13, the Sex Offender Registration and Notification Act. The Act applies to sex offenders sentenced or placed in institutional confinement under Title 15, section 103, on or after September 1, 1996. The purpose of this Act is to protect the public safety by enhancing access to information concerning sex offenders. The Act does the following:
 - A. Defines "risk assessment instrument," which the Department of Corrections shall use for the ongoing purpose of identifying risk factors predisposing a person to become a sex offender or a repeat sex offender. This information will be used to provide notification of a sex offender's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public;
 - B. Defines "sex offender" as a person who is convicted of gross sexual assault if the victim had not in fact attained 16 years of age at the time of the crime or an individual found not criminally responsible for committing gross sexual assault by reason of mental disease or defect if the victim had not in fact attained 16 years of age at the time of the crime;
 - C. States that neither the failure of law enforcement to perform the requirements of this chapter nor compliance with this chapter gives rise to civil liability;
 - D. Explains the process for registering as a sex offender and increases the penalty for failure to register or update information as required; and
 - E. Explains the process for notification when a sex offender is conditionally released or discharged from institutional confinement as follows:
 - (1) The Department of Corrections shall give the Department of Public Safety, State Bureau of Identification notice of the address where the sex offender will reside; the address where the sex offender will work, if applicable; the geographic area to which a sex offender's conditional release is limited, if any; and the status of the sex offender when released as determined by the risk assessment instrument;

(2) The Department of Public Safety, State Bureau of Identification shall forward the information in subparagraph (1) to all law enforcement agencies that have jurisdiction in those areas where the sex offender may reside or work;

(3) The Department of Corrections shall notify members of the public who the department determines appropriate to ensure public safety; and

(4) The law enforcement agencies that receive information concerning the registration of a sex offender shall notify members of that municipality who the law enforcement agency determines appropriate to ensure public safety.

Upon request, the Department of Corrections shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of public notification of a sex offender's release.

This notification process is not intended to affect or limit the current ability of a member of the public to call the Department of Public Safety, State Bureau of Identification to inquire whether a person is a registered sex offender. The notification process is instead a method of enhancing public notification for the purpose of public safety;

9. Allocates \$200,000 to the Department of Corrections from the Federal Expenditure Fund for the fiscal year ending June 30, 1997. The federal funds will be used to train probation officers and to otherwise carry out the purposes of this Act; and

10. Directs the Department of Corrections to report back to the joint standing committee having jurisdiction over criminal justice matters regarding the implementation and application of the risk assessment and relapse prevention program for sex offenders, including the department's work assisting law enforcement agencies with risk assessment for the purpose of public notification, no later than January 1, 1998.

LD 1661 An Act to Increase the Penalty for Criminal Restraint of a Young Child

PUBLIC 689

Sponsor(s)
PEAVEY
SMALL

Committee Report
OTP-AM

Amendments Adopted
H-700

LD 1661 proposed to change the penalty for criminal restraint of a child under age 6 or a dependent person from a Class D crime to a Class C crime. The increase in penalty would allow law enforcement officers to arrest the offender rather than issue a summons.

LD 1661 was originally titled "An Act to Increase the Penalty for Criminal Restraint of a Young Child or a Dependent Person."

Committee Amendment "A" (H700) proposed to change from a Class D to a Class C crime criminal restraint of a child under 8 years of age. The amendment proposed to modify the title of the bill to reflect the intent of the amendment. The amendment also proposed to add a fiscal note.

Enacted law summary

Public Law 1995, chapter 689 changes from a Class D to a Class C crime criminal restraint of a child under 8 years of age.

LD 1666 An Act to Include Sexual Contact in the Definition of Prostitution PUBLIC 638

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH	OTP-AM MAJ	H-712
FAIRCLOTH	ONTP MIN	

LD 1666 proposed to include sexual contact in the definition of prostitution to prohibit sexual contact for a pecuniary benefit. This bill also proposed to expand the crime of indecent conduct to prohibit sexual contact in a public place.

Committee Amendment "A" (H712) proposed to strike from the bill the provision that expanded the crime of indecent conduct to prohibit sexual contact in a public place. The amendment also proposed to make a technical correction and add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 638 includes sexual contact in the definition of prostitution to prohibit sexual contact for pecuniary benefit.

LD 1685 An Act to Provide Protection from Motor Vehicle Damage to Forest Lands PUBLIC 539

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-701

LD 1685, a majority recommendation of the Commission to Study Trespass Laws, proposed to make it a Class E crime to damage forest products, personal property or roads as a result of operating a motor vehicle on forest land. The bill proposed to define forest products as any woody stemmed plant as well as any products that have been harvested but not yet transported from the harvesting site.

LD 1685 was originally titled “An Act to Provide Recovery for Motor Vehicle Damage to Forest Lands.”

Committee Amendment "A" (H701) proposed to change the title of LD 1685 to represent the intent of the bill, which is to create a crime, not a process for civil recovery. The amendment also proposed to clarify that the crime is one of strict liability and to make a technical correction and add a fiscal note.

Enacted law summary

Public Law 1995, chapter 539 makes it a Class E strict liability crime to damage forest products, personal property or roads as a result of operating a motor vehicle on forest land.

LD 1693 An Act to Enhance Fireworks Safety

PUBLIC 528

Sponsor(s)
CLUKEY

Committee Report
OTP-AM

Amendments Adopted
H-702

LD 1693 proposed to clarify that only persons with proper permits issued by the Department of Public Safety may possess fireworks. The bill proposed to make possession without a proper permit of fireworks that exceed \$100 in value a Class D crime. The bill also proposed to make obtaining a permit but failing to display the fireworks according to the rules adopted by the Commissioner of Public Safety a Class E crime.

Committee Amendment "A" (H702) proposed to clarify that a violation of the conditions of a permit for display of fireworks is a Class E crime.

The amendment also proposed to make technical corrections and add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 528 allows only persons with proper permits issued by the Department of Public Safety to possess fireworks. A person without a permit who possesses fireworks that exceed more than \$100 in value is guilty of a Class D crime. A person with a permit who fails to follow the permit conditions for displaying fireworks is guilty of a Class E crime.

LD 1694 An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault

PUBLIC 690

Sponsor(s)
KERR

Committee Report
OTP-AM

Amendments Adopted
H-752

LD 1694 proposed to require mandatory indeterminate institutional commitment and mandatory restitution to each victim of a juvenile adjudicated to have committed gross sexual assault on 2 or more victims under 14 years of age.

Committee Amendment "A" (H752) proposed to replace the bill and to do the following:

1. Require a juvenile adjudicated of an offense that if committed by an adult would be gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253, subsection 1 to undergo a diagnostic evaluation at the Maine Youth Center before the court enters its disposition. This provision would be effective January 1, 1997;
2. Require a court in a disposition of a juvenile adjudicated of an offense that if committed by an adult would be murder or a Class A, Class B or Class C crime to state on the record and in the presence of the public, including victims and the family of victims who are present at the hearing, the court's reasons for ordering or not ordering the juvenile's commitment to a secure institution;
3. Clarify that the restitution that a court may order a juvenile offender to pay includes costs for counseling or rehabilitative care that victims must undergo as a result of the offense for which the juvenile is adjudicated;

4. Require the Department of Corrections to give notice of the commitment to its jurisdiction of a juvenile who is adjudicated of committing gross sexual assault to the Department of Human Services, to local law enforcement agencies and to the superintendent of the school system in which the juvenile attends school; and
5. Add an effective date and a fiscal note.

Enacted law summary

Public Law 1995, chapter 690 does the following:

1. Requires a juvenile adjudicated of an offense that if committed by an adult would be gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253, subsection 1 to undergo a diagnostic evaluation at the Maine Youth Center before the court enters its disposition. This provision takes effect January 1, 1997;
2. Requires a court in a disposition of a juvenile adjudicated of an offense that if committed by an adult would be murder or a Class A, Class B or Class C crime to state on the record and in the presence of the public, including victims and the family of victims who are present at the hearing, the court's reasons for ordering or not ordering the juvenile's commitment to a secure institution;
3. Clarifies that the restitution that a court may order a juvenile offender to pay includes costs for counseling or rehabilitative care that victims must undergo as a result of the offense for which the juvenile is adjudicated; and
4. Requires the Department of Corrections to give notice of the commitment to its jurisdiction of a juvenile who is adjudicated of committing gross sexual assault to the Department of Human Services, to local law enforcement agencies and to the superintendent of the school system in which the juvenile attends school.

LD 1709 An Act to Describe Property Posting under the Criminal Trespass and Trespass by Motor Vehicle Laws PUBLIC 529

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 1709, a majority recommendation of the Commission to Study Trespass Laws, proposed to add to the criminal trespass law one specific method of posting land for the purpose of criminal trespass, allowing the use of signs or paint markings to notify persons that entry upon the property constitutes criminal trespass.

The method of posting described in this bill is intended to give property owners and property users a clear method of posting, but it is not intended to be the only method of posting that would give rise to a criminal trespass violation. Any other posting that is made "in a manner reasonably likely to come to the attention of intruders" would also meet the terms of the statute.

The bill proposed to make clear that a landowner is only required to mark the portion of property where access is prohibited or limited. The bill also proposed to specify that destroying signs or markings on the property of another or posting land without the owner's permission is a criminal violation.

LD 1709 proposed to extend the crime of trespass by motor vehicle to include permitting a vehicle to enter or remain on the posted nonresidential property of another for any period of time.

Enacted law summary

Public Law 1995, chapter 529 adds to the criminal trespass law one specific method of posting, allowing the use of signs or paint markings to notify persons that entry upon the property constitutes criminal trespass.

The method of posting is intended to give property owners and property users a clear method of posting, but it is not intended to be the only method of posting that would give rise to a criminal trespass violation. Any other posting that is made "in a manner reasonably likely to come to the attention of intruders" would also meet the terms of the statute.

Public Law 1995, chapter 529 also clarifies that a landowner is only required to mark the portion of property where access is prohibited or limited. Chapter 529 specifies that destroying signs or markings on the property of another or posting land without the owner's permission is a criminal mischief.

Public Law 1995, chapter 529 further extends the crime of trespass by motor vehicle to include permitting a vehicle to enter or remain on the posted nonresidential property of another for any period of time.

LD 1728 An Act to Enhance Amusement Ride Safety

PUI

Sponsor(s)
CLARK

Committee Report
OTP-AM

Amendments Adopted
H-713

LD 1728 proposed to increase the annual fee for safety inspections and licensing of certain amusements and motor vehicle raceways from \$250 to \$300 and to increase the amusement device license fee from \$37.50 to \$50. The bill proposed to dedicate the revenue to offset the cost of the licensing and inspections.

LD 1728 also proposed to amend the definition of "amusement device."

Committee Amendment "A" (H713) proposed to add an allocation and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 533 increases the annual fee for safety inspections and licensing of certain amusements and motor vehicle raceways from \$250 to \$300 and increases the amusement device license fee from \$37.50 to \$50. The fees are dedicated to offset the costs of licensing and inspections. Public Law 1995, chapter 533 also amends the definition of "amusement device."

**LD 1738 An Act to Require Prisoners to Pay Their Fair Share of
Victim Restitution**

PUBLIC 534

Sponsor(s)
WHEELER

Committee Report
OTP

Amendments Adopted

BENOIT

LD 1738 proposed to change the language in the law that concerns the payment of restitution by a prisoner to a victim from 25% of all income of a prisoner to 25% of all money generated by the prisoner, which may include nonincome sources of money.

Enacted law summary

Public Law 1995, chapter 534 requires a prisoner to pay to a victim 25% of all money the prisoner may generate from whatever source if the court has ordered that restitution be paid.

LD 1766 An Act to Prohibit Stalking

PUBLIC 668

Sponsor(s)

SAXL M
KILKELLY

Committee Report

OTP-AM MAJ
OTP-AM MIN

Amendments Adopted

H-829

LD 1766 proposed to create the crime of stalking using the United States Department of Justice, National Institute of Justice's Model Anti-Stalking Code for States.

The crime consists of intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer emotional distress or to fear bodily injury or death to that person or to a member of that person's immediate family. The actor also must know or should know that the specific person will suffer emotional distress or will be placed in reasonable fear of bodily injury or death to that person or to a member of that person's immediate family, and the actor's acts must in fact induce substantial emotional distress or fear of bodily injury or death to the other person or to a member of that person's immediate family. "Course of conduct" includes a person's gaining unauthorized access to another person's personal, medical or financial information. Access to personal, medical or financial information includes access by computer network, mail, telephone or written communication. Constitutionally protected activity is not included within the meaning of "course of conduct." By including "emotional distress" in the provision, conduct prohibited by the bill would include such things as stalkers' ~~sal~~tilation or numerous unwanted telephone calls made by a stalker.

LD 1766 proposed to make stalking a Class D crime with a minimum sentence of imprisonment of 60 days, of which 48 hours may not be suspended. The bill further proposed to make stalking a Class C crime if the actor has prior stalking violations or prior protective order violations. In these cases the court shall impose a minimum sentence of imprisonment of at least 6 months, of which 14 days may not be suspended.

LD 1766 also proposed to direct the Supreme Judicial Court, with the cooperation of the Maine Department of Public Safety, to establish a statewide computer criminal record system for use by law enforcement officers including prosecutors in their respective offices, to provide instant access to all available existing criminal records, including stalking or harassment convictions, and protection orders in the State. This system must be funded in part through an additional 2% surcharge on fines, forfeitures and penalties collected by the Government Operations Surcharge Fund pursuant to the Maine Revised Statutes, Title 4, section 1057. The 2% surcharge is repealed on January 1, 2001.

To assist in the enforcement of protective orders issued outside Maine, the bill proposed that the person who obtained the order may provide a copy to any Superior Court or District Court clerk

who, in cooperation with the Department of Public Safety, shall file the order in the statewide computer criminal record system.

Committee Amendment "A" (H828) was the Majority Report of the Joint Standing Committee on Criminal Justice. This amendment proposed to replace the bill and to do the following:

1. Remove the additional 2% surcharge on all fines, forfeitures and penalties collected by the Government Operations Surcharge Fund;
2. Clarify the definition of the crime of stalking;
3. Specify that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
4. Specify that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or any state or federal statute;
5. Make the enhanced penalty provision consistent with current law by classifying stalking a Class C crime after 2 or more prior convictions; and
6. Add a fiscal note.

(Not adopted)

Committee Amendment "B" (H829) was the Minority Report of the Joint Standing Committee on Criminal Justice. This amendment proposed to replace the bill and to do the following:

1. Clarify the definition of the crime of stalking;
2. Specify that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties must be paid to the Department of Public Safety to be distributed pursuant to the Maine Criminal Justice Information System;
3. Clarify that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties must be paid to the State Court Administrator for the purpose of funding the costs of operating the Judicial Department's computer system;
4. Specify that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
5. Specify that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by any state or federal statute;
6. Make the enhanced penalty provision consistent with current law by classifying stalking as a Class C crime after 2 or more prior convictions; and
7. Add an allocation section and a fiscal note.

Enacted law summary

Public Law 1995, chapter 668 does the following:

1. Creates and defines the crime of stalking;
2. Directs that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties be paid to the Department of Public Safety to be distributed pursuant to the Maine Criminal Justice Information System for the purpose of helping to fund a statewide computer criminal record system that will allow access to all available criminal records, including stalking or harassment convictions;
3. Clarifies that 1/2 of the additional 2% surcharge on fines, forfeitures and penalties be paid to the State Court Administrator for the purpose of funding the costs of operating the Judicial Department's computer system;
4. Specifies that a law enforcement officer who has probable cause to believe a person has committed or is committing the crime of stalking may make a warrantless arrest of that person;
5. Specifies that, for the purpose of stalking, the definition "course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by any state or federal statute. It is also the Legislature's intent that "course of conduct" does not include an otherwise lawful activity; and
6. Classifies stalking as a Class D crime with a minimum sentence of imprisonment of 60 days, of which 48 hours may not be suspended. Stalking is classified as a Class C crime if the actor has a prior stalking conviction or prior protective order violation, with a minimum sentence of imprisonment of at least 6 months, of which 14 days may not be suspended. The court may also order a stalker to attend an abuser education program approved by the court.

LD 1796 An Act to Facilitate the Lawful Detention of Juveniles

PUBLIC 647
EMERGENCY

Sponsor(s)
CLUKEY

Committee Report
OTP-AM

Amendments Adopted
H-776

LD 1796 proposed to eliminate the 7~~2~~hour limit on the use of a temporary holding resource, thus permitting this less restrictive form of detention to be used without a time limit. This increases the flexibility of the counties and is consistent with federal law. The bill also proposed to insert into the "rural exception" for detention in a county jail an inclement weather exception that currently exists in federal law.

LD 1796 also proposed to allow the Department of Corrections to provide temporary housing for a county that has no jail or that has a jail that is not fully certified.

Committee Amendment "A" (H776) proposed to do the following:

1. Remove section 1 of the bill, which would have eliminated the-~~72~~hour limit on the use of a temporary holding resource;
2. Direct the court to review the decision to detain a juvenile who is detained pending a hearing for revocation of probation within 5 days from the time the motion is filed;
3. Remove from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. The federal requirements continue to exist and apply to the State pursuant to federal regulation;

4. Correct an error that was created when Public Law 1995, chapter 368, Part R, section 6 repealed the Maine Revised Statutes, Title ~~30A~~, section 1557 and replaced the section with new language that did not fit substantively within the former structure. The correction is accomplished by repealing section 1557 and enacting a new section 1557A;
5. Correct a cross-reference to reflect the creation of Title 30A, section 1557A; and
6. Add a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S501) proposed to delete the provision in the committee amendment (H-776) that removed from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. The amendment also proposed to authorize the Department of Corrections to develop recommended standards to fulfill federal requirements governing the detention of juveniles in county jails.

(Not adopted)

Senate Amendment "B" To Committee Amendment "A" (S39) proposed that until the Northern Maine Regional Juvenile Detention Facility begins operating, a juvenile may be detained in a county jail, as long as the juvenile is detained in a separate juvenile section that meets federal standards for co-located facilities.

(Not adopted)

Enacted law summary

Public Law 1995, chapter 647 does the following:

1. Inserts into the “rural exception” for juvenile detention in a county jail an inclement weather exception consistent with federal law;
2. Allows the Department of Corrections to provide temporary housing for a county that has no jail or that has a jail that is not fully certified;
3. Directs the court to review the decision to detain a juvenile who is detained pending a hearing for revocation of probation within 5 days from the time the motion is filed; and
4. Removes from law the requirement that the federal Office of Juvenile Justice and Delinquency Prevention approve a separate juvenile detention section in a county jail. This requirement continues to exist pursuant to federal regulation.

**LD 1861 An Act to Make All Cases of Vehicular Manslaughter
Class A Crimes**

ONTP

Sponsor(s)
POVICH

Committee Report
ONTP MAJ
OTP-AM MIN

Amendments Adopted

LD 1861 proposed to repeal language in the Maine Criminal Code that provides a defense to a prosecution of a manslaughter based upon the reckless or criminally negligent operation of a motor vehicle. This provision reduces manslaughter based upon the criminally negligent operation of a motor vehicle to a Class B crime. The defense is available under current law when the death of the victim resulted from conduct that would otherwise be defined as only a civil violation or civil infraction.

Because of the existence of Title 17-A, section 203, subsection 3, paragraph A, the court in State v. Berube, 669 A.2d 170 (Me. 1995) vacated a Class A manslaughter conviction and the ~~year~~ sentence that had been imposed. LD 1861 proposed to overrule State v. Berube to make all vehicular homicides a Class A crime.

Committee Amendment "A" (H830) was the Minority Report of the Joint Standing Committee on Criminal Justice. The amendment proposed to add a fiscal note to the bill.

(Not adopted)

Joint Standing Committee on Criminal Justice

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>County Jails</i>			
<u>Enacted</u>			
LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC 680.....	78
LD 1738	An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution	PUBLIC 534.....	86
LD 1796	An Act to Facilitate the Lawful Detention of Juveniles	PUBLIC 647.....	89
<i>Criminal Law</i>			
<u>Enacted</u>			
LD 1294	An Act to Prohibit Home Repair Fraud	PUBLIC 681.....	76
LD 1457	An Act to Discourage the Spread of "Crack" Cocaine	PUBLIC 635.....	77
LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC 680.....	78
LD 1661	An Act to Increase the Penalty for Criminal Restraint of a Young Child	PUBLIC 689.....	82
LD 1666	An Act to Include Sexual Contact in the Definition of Prostitution	PUBLIC 638.....	83
LD 1685	An Act to Provide Protection from Motor Vehicle Damage to Forest Lands	PUBLIC 539.....	83
LD 1709	An Act to Describe Property Posting under the Criminal	PUBLIC 529.....	85
LD 1766	An Act to Prohibit Stalking	PUBLIC 668 EMERGENCY.....	87
<u>Not Enacted</u>			
LD 1861	An Act to Make All Cases of Vehicular Manslaughter Class A Crimes	ONTP.....	90

Criminal Procedure

Enacted

LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC 680.....	78
LD 1694	An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault	PUBLIC 690.....	84

Department of Corrections

Enacted

LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC 680.....	78
LD 1738	An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution	PUBLIC 534.....	86
LD 1796	An Act to Facilitate the Lawful Detention of Juveniles	PUBLIC 647.....	89

Juvenile Code/Juvenile Corrections

Enacted

LD 1694	An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault	PUBLIC 690.....	84
LD 1796	An Act to Facilitate the Lawful Detention of Juveniles	PUBLIC 647.....	89

Not Enacted

LD 1030	An Act to Provide Services to Adjudicated Young Women	ONTP.....	75
LD 1235	An Act to Transfer Juvenile Correctional Functions to the Department of Human Services	ONTP.....	75

Law Enforcement/Public Safety

Enacted

LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC 680.....	78
LD 1693	An Act to Enhance Fireworks Safety	PUBLIC 528.....	84

		<u>Final Disposition</u>	<u>Page #</u>
LD 1728	An Act to Enhance Amusement Ride Safety	.....	PUBLIC533

Not Enacted

LD 659	An Act to Allow Charitable Solicitation by Law Enforcement Officers, Agencies and Associations	ONTP.....	75
---------------	---	-----------	-----------

Operating Under the Influence/Motor Vehicle Violations

Not Enacted

LD 1861	An Act to Make All Cases of Vehicular Manslaughter Class A Crimes	ONTP.....	90
----------------	--	-----------	-----------

Sentencing/Sentencing Alternatives

Not Enacted

LD 1766	An Act to Prohibit Stalking	PUBLIC668 EMERGENCY.....	87
----------------	------------------------------------	-----------------------------	-----------

Victims' Rights

Not Enacted

LD 1510	An Act to Make Comprehensive Changes to the Sex Offender Laws	PUBLIC680.....	78
LD 1694	An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault	PUBLIC690.....	84
LD 1738	An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution	PUBLIC534.....	86

Summary of Committee Action by Joint Standing Committee on Education and Cultural Affairs

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	17	70.8%	4.3%
B. Bills carried over from 1st Regular Session	7	29.2%	1.8%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	24	100.0%	6.1%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	5	20.8%	1.3%
<i>OTP-AM</i>	11	45.8%	2.9%
<i>ONTP</i>	<u>2</u>	<u>8.3%</u>	<u>0.5%</u>
Total Unanimous Reports	18	75.0%	4.8%
B. Divided Reports			
<i>2-Way</i>	5	20.8%	1.3%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>1</u>	<u>4.2%</u>	<u>0.3%</u>
Total Divided Reports	6	25.0%	1.6%
Total Bills Reported Out	24	100.0%	6.4%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	10	41.7%	2.5%
<i>Private and Special Laws</i>	5	20.8%	1.3%
<i>Resolves</i>	3	12.5%	0.8%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	18	75.0%	4.5%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	3	N/A	N/A

Joint Standing Committee on Education and Cultural Affairs

LD 66

**An Act to Establish Choices for Parents and Guardians
in their Children's Education**

DIED BETWEEN
HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AMERO	OTP-AM A	
	ONTP B	
	OTP-AM C	
	OTP-AM D	

LD 66 proposed to broaden public education options for parents and students and provide that residence no longer be a prerequisite for enrollment in a school administrative unit. A student could attend the public school of the student's choosing subject to some minor limitations. Amendments were made to the School Finance Act of 1985 to reflect the potential increase in enrollment. These changes would have allowed funding to "follow" the student and provided an incentive for each school to maintain or increase enrollment levels.

Committee Amendment "A" (S545) was the majority report of the committee. The amendment proposed to permit a school unit to limit the percentage of students who may choose to attend school in another unit if the loss of students creates a hardship, subject to rules established by the Commissioner of Education. The amendment replaced a requirement that a student identify the reason for enrolling in the enrollment options program with a provision making identification of the reason voluntary. The amendment deleted a provision that would have prevented a school board from considering previous disciplinary proceedings against a student as a basis for acceptance or rejection of a student's application to participate in the choice program.

The amendment clarified that a school administrative unit that does not maintain one or more grades from kindergarten to grade 12 and has not contracted with another school administrative unit for school services may not participate in the enrollment options program. The amendment also made clear that nothing in the enrollment options program restricts the right of a school administrative unit to contract with another school administrative unit to provide school services or restricts the right of a school administrative unit to receive tuition payment for educating a student from another school administrative unit.

The amendment restricted the special education costs that must be borne by a school administrative unit that accepts a nonresident student with special education needs through the enrollment options program. The cost would have been limited to the state average tuition cost. Costs in excess of the state average tuition cost would have been paid by the sending school administrative unit. The amendment required a representative of the sending school administrative unit to participate in all meetings concerning provision of special education services to the student.

The amendment established a review of the enrollment options program after 5 years of operation. The program would have continued for a maximum of 6 years. The Legislature would have been required to approve continuation of the program past the 6th year. The amendment also changed a definition to clarify funding for students who participate in the enrollment options program. (Adopted in Senate, failed in the House)

Committee Amendment "B" (S546) was one of the minority reports. The amendment required the Commissioner of Education to designate 2 pilot sites to implement public school

choice programs. The 2 pilot sites were to be chosen from among partnerships of school administrative units established to demonstrate efficiencies of consolidating certain school functions. The demonstration would have been eligible to apply for grant funds made available by the Department of Education. (Not adopted)

Committee Amendment "C" (S547) was another minority report. This amendment deleted a provision that requires a student applying to participate in the school choice program to identify the reason for choosing to participate. (Not adopted)

LD 505 An Act to Implement the Recommendations of the Committee to PUBLIC 676
Study the Operations of the Governor Baxter School for the
Deaf

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-787

LD 505 was submitted by the Committee to Study the Operations of the Governor Baxter School for the Deaf, created pursuant to Public Law 1993, chapter 508. It proposed the following.

1. Repeal Private and Special Law 1897, chapter 446 that established the governing body of the Governor Baxter School for the Deaf.
2. Eliminate the Policy Review Board of the Governor Baxter School for the Deaf.
3. Establish an independent schoolboard appointed by the Governor responsible for hiring a superintendent, developing a budget and overseeing Governor Baxter School for the Deaf operations.
4. A new definition of the superintendent's role, which includes hiring staff, helping develop the budget and administering the school.
5. Clarified that upon enactment, the Commissioner of Education's collection of fees for rental use of the school's facilities be credited to a special account to support facilities and activities of the current Governor Baxter School.
6. Defined the process by which the school board must submit its budget proposal to the Department of Education for inclusion in the department's budget.
7. Provided transitional language that allows the school board, staff and new Governor Baxter School operations to begin July 1, 1996.

Committee Amendment "A" (H787) proposed the following.

1. Add an appropriation section and a fiscal note to the bill.
2. Permit payment of per diem and expenses for members of the School Board of the Governor Baxter School for the Deaf.
3. Clarify that funding for the Governor Baxter School for the Deaf must be used to support maintenance of the school and Mackworth Island, security, outreach services, adult education, use of the education network of Maine and operations of the school, including

the residential program, parent/infant program, preschool program and the communication garden program.

4. Increase the membership of the School Board of the Governor Baxter School for the Deaf from 11 to 13 voting members.
5. Require that the Governor give proper consideration to statewide geographical representation, cultural equity and gender equity in appointing members to the school board.
6. Require 8 affirmative votes by the school board to approve the annual budget of the Governor Baxter School for the Deaf.
7. Require the Department of Education to provide administrative assistance to the Governor Baxter School for the Deaf until July 1, 1999.
8. Clarify that the School Board of the Governor Baxter School for the Deaf must annually submit the school budget to the Commissioner of Education for review and inclusion in the department's budget. The budget is subject to the normal budget review process conducted by the Governor and the State Budget Officer.
9. Relieve the Department of Education of liability for operation of the school by the School Board of the Governor Baxter School for the Deaf.
10. Clarify that the employees of the Governor Baxter School for the Deaf remain employees of the State.
11. Require that the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters establish a committee to review the new governance structure of the school.
12. Clarify that the new governance structure for the Governor Baxter School for the Deaf must be implemented on January 1, 1997, except that the Governor must appoint members to the School Board of the Governor Baxter School for the Deaf by September 1, 1996

Enacted law summary

Public Law 1995, chapter 676 reduces the role of the Department of Education to providing technical support to the Baxter School for the Deaf and establishes a school board, selected by the Governor, to oversee operations of the school.

LD 827 An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants

PUBLIC 547

Sponsor(s)
O'NEAL

Committee Report
OTP-AM

Amendments Adopted
H-724

LD 827, carried over from the 1st session, authorized the Commissioner of Education and state school superintendents to conduct record checks of criminal and investigative information on applicants for employment, certification or recertification in positions that are directly or indirectly in contact with children.

This amendment would have required the SADs that adopt the referendum method to place an article on the annual budget warrant asking if subsequent votes on the budget that year must be done by the referendum method. If a majority of the voters in the school administrative district vote yes, all votes on the budget that year, up to a total of 3, must be done by referendum. The referendum process could not occur more than 3 times or continue past August 1st.

If the voters reject the article, the SAD school board would have been required to decide in a public meeting whether the next vote must be conducted by the referendum method or at a district budget meeting held in one location within the district. Whichever method the board adopted, the vote must be held prior to August 1st.

If the budget is not adopted by August 1st, spending in the district would have been limited to spending for current contracts and essential school needs, as defined by the school board. A 9-member mediation team would have been formed to negotiate the district budget, subject to rules adopted by the Commissioner of Education. A vote of 5 of the voting members of the mediation team would have been needed to approve the budget. The budget must be adopted by the beginning of the district school year. (Not adopted)

LD 1124 An Act Regarding School Facilities and Debt Service Limits

PUBLIC 632

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL EH	OTP-AM	H-882 H-888 S-574

LD 1124 was carried over from the first session and proposed to implement the school construction and school governance recommendations of the Committee to Study Organizational and Tax Issues in Public Schools.

Committee Amendment "A" (H882) replaced the original bill. The amendment established ceilings for debt service to the year 2000 and accomplished the following:

1. Required all schools applying for state funds for a school construction project to establish a facility maintenance plan;
2. Required the Department of Education to conduct a survey for the purpose of establishing an inventory of all school facilities in the State;
3. Required the State Board of Education to establish a study group for the purpose of reviewing and making recommendations on a number of school construction issues;
4. Repealed the time limit from Private and Special Law 1995, chapter 32 that required the Maine School Administrative District No. 49 to enter into a design-build contract or other alternative construction arrangement within 2 years of approval at referendum or lose the authority to do so.

House Amendment "A" to Committee Amendment "A" (H888) was presented on behalf of the Committee on Bills in the Second Reading to make corrections in the title of the bill.

Senate Amendment "A" to Committee Amendment "A" (S74) eliminated provisions that relate to a school construction project in School Administrative District No. 49 because those

provisions were included in the 1994~~1997~~ supplemental budget, L.D. 1759. The amendment also transferred appointing authority for 2 members of the study group to review and make recommendations on school construction issues from the cochairs of the Joint Standing Committee on Education and Cultural Affairs to President of the Senate and the Speaker of the House of Representatives.

Enacted law summary

Public Law 1995, chapter 63~~2~~ establishes the statewide debt service limit for approved school construction projects for 1999 at \$69 million and for 2000 at \$70 million. It also requires school units who receive state funds for construction projects to establish a facility maintenance plan and requires the Department of Education to conduct a school facilities inventory.

LD 1560 **Resolve, to Reduce Reliance on the Property Tax for School Funding INDEF PP**

<u>Sponsor(s)</u> MITCHELL EH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u>
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LD 1560 required the State Board of Education and the Department of Education to work together to establish a plan to promote regionalization and cost sharing among Maine schools.

Committee Amendment "A" (H861) created a 17-member study commission to investigate alternative methods of financing public education and different methods of reducing reliance on property taxes to fund education. The commission would have submitted its report and any accompanying legislation to the First Regular Session of the 118th Legislature. The amendment also added an appropriation section and a fiscal note to the resolve. (Adopted in House and Senate but died on the Appropriations Table)

LD 1614 **An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility PUBLIC 563**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-744 S-435
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LD 1614 allowed municipalities to charge limited rental fees for a vending facility operated by a person licensed by the Department of Education, Division for the Blind and Visually Impaired if the facility is in a public airport or other public location where certain commercial competitive criteria are met.

Committee Amendment "A" (S435) made technical changes to the bill and clarified that current operators of vending facilities who are blind or visually impaired and licensed by the Department of Education, Division for the Blind and Visually Impaired are exempt from any requirement to pay a rental fee until their current rental agreement expires.

House Amendment "A" to Committee Amendment "A" (H744) was offered on behalf of the Committee on Engrossed Bills to clarify the application of the committee amendment.

Enacted law summary

Public Law 1995, chapter 563 permits municipalities to charge rental fees to the operator of a vending facility licensed by the Department of Education, Division of the Blind if the facility is in a public location where commercial competitive criteria are normally met.

LD 1627 An Act to Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage PUBLIC 515

<u>Sponsor(s)</u> GWADOSKY	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1627 proposed to change the name of the Maine Youth Apprenticeship Program to the Maine Career Advantage and make necessary reference changes in the Maine Revised Statutes.

Enacted law summary

Public Law 1995, chapter 515 changes the name of the Maine Youth Apprenticeship Program to Maine Career Advantage.

LD 1640 An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns P & S 54

<u>Sponsor(s)</u> GOLDTHWAIT	<u>Committee Report</u> OTP	<u>Amendments Adopted</u> S-422
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LD 1640 proposed to provide that 67% of the costs of the Mount Desert Island Regional School District must be apportioned among member towns on the basis of fiscal capacity calculated as a 3-year average of each town's state valuation.

Senate Amendment "A" (S422) added a mandate preamble and a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 54 requires that 67% of the costs of the Mount Desert Island Regional School District must be apportioned among member towns on the basis of fiscal capacity calculated as a 3 year average of each town's state valuation.

LD 1642 An Act to Extend Waivers of Certain Provisions of the Education Laws PUBLIC 527

<u>Sponsor(s)</u> SMALL MARTIN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-433
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Due to State and local budgetary hardships, school administrative units have been exempt for several years from meeting State requirements in the areas of student-teacher ratios, school approval, school accreditation, implementation of gifted and talented and guidance and counseling programs. The waiver of these State requirements expires at the beginning of the school year in the fall of 1996. LD 1642 proposed to extend the waiver of these requirements to the 1997 school year.

Committee Amendment "A" (S433) proposed limiting the extension of waivers now in effect for student-teacher ratios, school approval, school accreditation, implementation of gifted and talented and guidance and counseling programs to the 1997 school year.

Enacted law summary

Public Law 1995, chapter 527 limits the extension of waivers now in effect for student-teacher ratios, school approval, school accreditation, implementation of gifted and talented and guidance and counseling programs to the 1997 school year.

LD 1660 **Resolve, to Review the Role of the Department of Administrative and Financial Services in Approving School Construction Projects for School Administrative Units**

RES

Sponsor(s)
NASS

Committee Report
OTP-AM

Amendments Adopted
H-786

LD 1660 proposed increasing the threshold amount of school administrative projects to \$300,000 before approval is required from the Department of Administrative and Financial Services through the Bureau of General Services.

Committee Amendment "A" (H786) replaced the bill with a requirement that the Commissioner of Education convene a study group, at no cost to the State, to review and make recommendations for improving the current role of the Department of Administrative and Financial Services, Bureau of General Services in approving school construction projects. The group must present its report and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 15, 1996. The amendment replaces the title to reflect the changes made in the amendment.

Enacted law summary

Resolve 1995, chapter 75 requires the Commissioner of Education to convene a study group to review and make recommendations for improving the current role of the Department of Administrative and Financial Services, Bureau of General Services in approving school construction projects.

LD 1678 **Resolve, to Authorize the Maine Technical College System to Transfer Interests in Real Property**

RESOLVE 60

Sponsor(s)
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted
H-710

LD 1678 proposed permitting the Southern Maine Technical College to sell a parcel of land. The resolve also permitted the Central Maine Technical college to give a conservation easement along Lake Auburn to the Lake Auburn Watershed Association in exchange for the Central Maine Technical college receiving property adjacent to the Central Maine Technical College.

Committee Amendment "A" (H710) changed the headnote of section 1 to more accurately reflect the contents of that section.

Enacted law summary

Resolve 1995, chapter 60 permits Southern Maine Technical College to sell a parcel of land and permits Central Maine Technical college to give a conservation easement along Lake Auburn to the Lake Auburn Watershed Association in exchange for the Central Maine Technical college receiving property adjacent to the Central Maine Technical College.

LD 1705 An Act to Establish Educational Services for Grades 7 to 12 in the Towns of Mechanic Falls, Minot and Poland P & S 53 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-686

LD 1705 represented the findings of the committee established by Resolve 1995, chapter 55 to develop a plan for providing education services to the students of the towns of Poland, Mechanic Falls and Minot.

Committee Amendment "A" (H686) replaced a provision in the bill that required the Department of Education to provide an interest-free loan to the Towns of Mechanic Falls, Minot and Poland for the purchase of books, software and other items for a new high school to serve the 3 towns. The amendment permitted the 3 towns to issue bonds to cover the cost of those items.

Enacted law summary

Private and Special Law 1995, chapter 5 permits the town of Poland to build a new high school to serve the students of Poland, Minot and Mechanic Falls. The school construction project is guaranteed State subsidy for funding a portion of the project.

LD 1718 An Act to Repeal and Replace the Charter of Bowdoin College P & S 67 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN DAVIDSON	OTP-AM	S-480

LD 1718 proposed repealing and replacing the Charter of Bowdoin College and replacing its bicameral governance structure, consisting of a Board of Trustees and a Board of Overseers, with a unicameral governance structure, consisting of a Board of Trustees. The bill also proposed modernizing the Charter, granted in 1794, by deleting a number of now anomalous references, including lists by name of original board members.

Committee Amendment "A" (S480) removed language from one part of the charter that is duplicated in another part of the charter.

Enacted Law summary

Private and Special Law 1995, chapter 67 repeals and replaces the Charter of Bowdoin College.

LD 1747 An Act to Authorize the Maine Photographic Workshops to Grant Degrees P & S 68

Sponsor(s)
PINGREE

Committee Report
OTP

Amendments Adopted

LD 1747 authorized the Maine Photographic Workshops to grant Associate of Arts and Master of Fine Arts degrees.

Enacted Law summary

Private and Special Law 1995, chapter 68 authorizes the Maine Photographic Workshops to grant Associate of Arts and Master of Fine Arts degrees.

LD 1756 An Act to Establish a High School for the Visual and Performing Arts DIED BETWEEN HOUSES

Sponsor(s)
AMERO

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted

LD 1756 proposed establishing the Maine Center for Arts Education. The bill represents the recommendations of the Task Force on the Maine School of Visual and Performing Arts established in Public Law 1993, chapter 706, Part B.

Committee Amendment "A" (S490) corrected language relating to a quorum of the Board of Trustees of the Maine Center for Arts Education, clarified a section relating to public members of the board of trustees and specified that the school may provide innovative programs to assist in the professional development of classroom generalists and special education teachers as well as teachers of visual and performing arts. (Adopted in the House)

LD 1760 An Act to Amend the Definition of "State Agency Client" PUBLIC 569

Sponsor(s)
MARTIN

Committee Report
OTP

Amendments Adopted

LD 1760 made the state agency client provisions of the School Finance Act of 1995 consistent with state and federal laws ensuring special education and early intervention services for children with disabilities.

Enacted law summary

Public Law 1995, chapter 569 makes the state agency client provisions of the School Finance Act of 1995 consistent with state and federal laws ensuring special education and early intervention services for children with disabilities.

LD 1780 **Resolve, to Establish a Tuition Rate for the Town of Dennysville and to Review the Provision of Education Services in the Unorganized Territory** RESOLVE 61

Sponsor(s) Committee Report Amendments Adopted
H-716

LD 1780, which was introduced without reference to committee, proposed to establish the tuition charge for students from Dennysville attending Edmunds School for the 1997 school year. The bill also directed the Commissioner of Education, with the assistance of a study committee, to review and make recommendations concerning the provision of education services in the unorganized territory.

House Amendment "A" (H716) adds a fiscal note to the resolve.

Enacted law summary

Resolve 1995, chapter 61 establishes the tuition charge for students from Dennysville attending Edmunds School for the 1997 school year. The bill also directs the Commissioner of Education, with the assistance of a study committee, to review and make recommendations concerning the provision of education services in the unorganized territory.

LD 1786 **An Act to Transfer the Agricultural Education Consultant to the Department of Agriculture, Food and Rural Resources** ONTP

Sponsor(s) Committee Report Amendments Adopted
ONTP

LD 1786 one of 6 bills submitted by the Commission to Study Options for Preserving the Dairy Industry in the State. The bill proposed to transfer the position of agricultural education consultant, established under the Department of Education by the Maine Revised Statutes, Title 20-A, section 253, subsection 6, to the Department of Agriculture, Food and Rural Resources to facilitate and administer the department's educational programs.

LD 1791 **An Act to Initiate Education Reform in Maine** PUBLIC 649

Sponsor(s) Committee Report Amendments Adopted
AMERO OTP-AM MAJ S-549
MITCHELL EH OTP-AM MIN S-600

LD 1791 required the Department of Education, in consultation with the State Board of Education, to establish a comprehensive statewide system of learning results no later than the 2002-03 school year. This requirement is consistent with the recommendations in the 1996 report of the Task Force on Learning Results. The bill established guiding principles and content standards for this system of learning results. The system must include a plan to assist school administrative units in helping all students achieve the learning results and a plan for professional development. The bill required the establishment of a student assessment system, encompassing changes to the current assessment tests and a redesigned test for secondary students. Receipt of a high school diploma must be based on the satisfactory completion of the secondary level state and local assessment tests.

Committee Amendment "A" (S549) was the majority report and proposed to replace the bill. The amendment established 6 guiding principles to aid in the development of learning standards for all public school students. Recommendations for the standards, referred to as "learning results" and consisted of content standards and performance indicators, will be developed jointly by the Joint Standing Committee on Education and Cultural Affairs, the Department of Education and the State Board of Education in the areas of career preparation, English language arts, foreign languages, health and physical education, mathematics, science and technology, social studies and visual and performing arts.

Following development of the recommendations, the department and the board would have jointly established content standards and performance indicators through the rulemaking process. As required by that process, public hearings were to be held on the proposed standards and indicators prior to consideration by the Legislature. Review and final acceptance or rejection by the Legislature would have occurred during the First Regular Session of the 118th Legislature.

The amendment required school administrative units to adopt the learning results within current resource levels. Adoption in the areas of English language arts, health and physical education, mathematics, science and technology and social studies could have been achieved within existing budgeted resources. School administrative units could delay implementation of the learning standards in the areas of career preparation, foreign languages and visual and performing arts if implementation cannot be achieved within existing resources.

The amendment provided a \$2,000,000 appropriation for professional development for the 1996-97 school year and requires future annual appropriations of at least \$2,000,000 for professional development. Failure of the Legislature to appropriate funds for professional development in any year would result in suspension of the system of learning results.

The amendment required the department to use the Maine Education Assessment, the "MEA," to measure student and school performance in achieving the learning standards. Students were not required to pass the MEA or achieve a minimum score to complete any grade or graduate from high school. The amendment required the state board and the department to review and make recommendations to the Legislature by January 1, 1997 on linking achievement of the learning results to completion of high school. The amendment also encouraged school administrative units to develop additional local assessments to measure student achievement, including student portfolios, performances, demonstrations and other records of achievements.

The amendment required the department, in consultation with the state board, to develop a plan to assist school administrative units in helping all students achieve the learning results. The amendment also required the department to develop a plan for providing intensive assistance to school administrative units experiencing difficulty meeting the learning results.

The amendment made clear that only public school students and students attending private schools approved for educating public school students are required to meet the learning results. Home-schooled students and students attending religious schools were exempt from the provisions of the bill. The amendment also required the commissioner to develop accommodations for students requiring special education services and for students when course content conflicts with religious beliefs.

The amendment added a fiscal note and an appropriation section to the bill.

Committee Amendment "B" (S550) was the minority report and would have replaced the bill. This amendment changed the bill to a resolve that directed each school administrative unit to review the learning standards set forth in the report of the Task Force on Learning Results and the learning standards adopted in at least one other state in accordance with criteria established by a national teachers' group. The amendment required each school administrative unit to provide to the Commissioner of Education a report on the projected program changes and the costs associated with implementation of those changes. The Commissioner of Education was directed to compile the reports and prepare a review and analysis in accordance with the same criteria used by school administrative units, accompanied by any necessary implementing legislation, for submission to the Legislature by December 30, 1997. This amendment also added a fiscal note to the bill. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H84) would have replaced the bill. The amendment changed the bill to a resolve that directed each school administrative unit to review the principles of education reform set forth in the report of the Task Force on Learning Results and to provide the Commissioner of Education a report on the projected program changes and the costs associated with implementation of those changes. The Commissioner of Education was directed to compile the reports and prepare a review and analysis, accompanied by any necessary implementing legislation, for submission to the Legislature by December 30, 1997. The amendment added an appropriation section and a fiscal note to the bill. (Not adopted)

House Amendment "B" to Committee Amendment "A" (H12) proposed to combine the majority and minority reports of the Joint Standing Committee on Education and Cultural Affairs by specifying the learning standards that each school administrative district must review. This amendment established a 15member study group to develop and recommend standards only in the areas of English language arts, mathematics, science and technology and social studies. (Not adopted)

House Amendment "C" to Committee Amendment "A" (H21) proposed to delay the State's commitment to annually appropriate at least \$2,000,000 for professional development until fiscal year 1997-98. It replaced the \$2,100,000 General Fund appropriation in fiscal year 1996-97 with a provision that funds the Professional Renewal program in the Department of Education in fiscal year 1997 up to \$2,000,000 from the unappropriated surplus of the General Fund after all other required deductions. (Not adopted)

Senate Amendment "A" to Committee Amendment "A" (S64) proposed to establish minimum homework requirements for students in grades 5 through 12. The amendment also required the preparation of transcripts and specifies the information to be recorded in the transcripts. (Not adopted)

Senate Amendment "B" to Committee Amendment "A" (S65) proposed to establish criteria by which the content standards must be developed and required the Department of Education to adapt the Maine Education Assessment to focus on student achievement and proficiency in academic subjects. (Not adopted)

Senate Amendment "C" to Committee Amendment "A" (§89) proposed to delay the implementation of the professional development plan by one year to July 1, 1997. It also eliminated the General Fund appropriation. (Not adopted)

Senate Amendment "D" to Committee Amendment "A" (§94) proposed to delay the State's commitment to annually appropriate at least \$2,000,000 for professional development until fiscal year 1997-98. It replaced the \$2,100,000 General Fund appropriation in fiscal year 1996-97 with a provision that funds the Professional Renewal program in the Department of Education in fiscal year 1996-97 up to \$2,000,000 from the unappropriated surplus of the General Fund after all other required deductions. (Not adopted)

Senate Amendment "E" to Committee Amendment "A" (§97) proposed to replace the committee majority report. The amendment established a part process for the development of learning standards for all public school students. Recommendations for the standards, referred to as "learning results" and consisting of content standards and performance indicators, were to be developed jointly by the Joint Standing Committee on Education and Cultural Affairs, the Department of Education and the State Board of Education in the areas of career preparation, English language arts, foreign languages, health and physical education, mathematics, science and technology, social studies and visual and performing arts. Following development of the recommendations, the department and the board would have jointly established content standards and performance indicators through the rulemaking process. As required by that process public hearings were to be held on the proposed standards and indicators prior to consideration by the Legislature. Review and final acceptance or rejection by the Legislature would have occurred during the First Regular Session of the 118th Legislature. (Not adopted)

Senate Amendment "F" to Committee Amendment "A" (§99) delays the implementation of the professional development plan by one year to July 7, 1997. It also eliminates the General Fund appropriation. (Not adopted)

Senate Amendment "G" to Committee Amendment "A" (§00) proposed to delay the implementation of the professional development plan by one year to July 3, 1997. It also eliminates the General Fund appropriation.

Enacted law summary

Public Law 1995, chapter 649 establishes, effective July 1997, 6 guiding principles to aid in the development of learning standards for all public school students. Recommendations for the standards, referred to as "learning results" and consisting of content standards and performance indicators, will be developed jointly by the Joint Standing Committee on Education and Cultural Affairs, the Department of Education and the State Board of Education in the areas of career preparation, English language arts, foreign languages, health and physical education, mathematics, science and technology, social studies and visual and performing arts.

Following development of the recommendations, the department and the board will jointly establish content standards and performance indicators through the rulemaking process. As required by that process, public hearings will be held on the proposed standards and indicators prior to consideration by the Legislature. Review and final acceptance or rejection by the Legislature will occur during the First Regular Session of the 118th Legislature.

Chapter 649 requires school administrative units to adopt the learning results within current resource levels. Adoption in the areas of English language arts, health and physical education, mathematics, science and technology and social studies can be achieved within existing budgeted resources. School administrative units may delay implementation of the learning standards in the areas of career preparation, foreign languages and visual and performing arts if implementation cannot be achieved within existing resources.

A \$2,000,000 appropriation is provided for professional development for the 1997 school year and requires future annual appropriations of at least \$2,000,000 for professional development. Failure of the Legislature to appropriate funds for professional development in any year will result in suspension of the system of learning results.

The department must use the Maine Education Assessment (MEA) to measure student and school performance in achieving the learning standards. Students do not have to pass the MEA or achieve a minimum score to complete any grade or graduate from high school. The state board and the department must review and make recommendations to the Legislature by January 1, 1997 on linking achievement of the learning results to completion of high school. School administrative units are encouraged to develop additional local assessments to measure student achievement, including student portfolios, performances, demonstrations and other records of achievements.

The department, in consultation with the state board, must develop a plan to assist school administrative units in helping all students achieve the learning results. The department is also required to develop a plan for providing intensive assistance to school administrative units experiencing difficulty meeting the learning results.

Only public school students and students attending private schools approved for educating public school students are required to meet the learning results. Home schooled students and students attending religious schools are exempt from the provisions of the bill. The commissioner must develop accommodations for students requiring special education services and for students when course content conflicts with religious beliefs.

**LD 1800 Resolve, to Recognize the Maine School for the Arts and the
Maine High School for the Arts**

RESOLVE 79

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LUMBRA	OTP-AM MAJ	H-794
PARADIS	ONTP MIN	

LD 1800 recognized the existence of the Maine School for the Arts, also known as the Maine High School for the Arts

Committee Amendment "A" (H794) removed the emergency preamble and emergency clause, made technical changes to the resolve, corrected the name of the Maine School for the Arts/Maine High School for the Arts and placed standard restrictions on protection of the school's name as required by state law.

Enacted law summary

Resolve 1995, chapter 79 recognizes the existence of the Maine School for the Arts / Maine High School for the Arts.

LD 1818 An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs

PUBLIC 610

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-871

LD 1818 established uniform standards for participation by students receiving home instruction in curricular, cocurricular and extracurricular activities and special education services and for the use of the books, equipment and facilities of the public schools those students may otherwise attend. The bill also established standards for readmission to and graduation from the high school a student receiving home instruction may attend.

Committee Amendment "A" (H871) made a number of technical changes to the bill and clarified responsibilities of students, parents and school administrative units concerning access to public schools by home-schooled students. The amendment also added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 610 establishes statewide standards for schools to follow in permitting access to public schools by home-schooled students.

LD 1866 An Act to Improve the Child Development Services System

PUBLIC 662

Sponsor(s)

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
S-534

LD 1866 proposed the following changes to the Child Development Services System or "CDS."

1. Required the Commissioner of Education to establish a committee to review and report back to the next Legislature on the provision of mandated services within the Child Development Services System. If services exceed minimum federal requirements, the commissioner must recommend changes to limit services to the minimum required by federal law.
2. Required the Commissioner of Education, with assistance from the Child Development Services System advisory board, to establish a method to determine the cost of employing professional therapists as CDS site staff and report those recommendations to the next Legislature.
3. Under current law, the Interdepartmental Coordinating Council for Early Intervention is established as an advisory body to the Commissioner of Education. This bill also required the council to advise the Legislature on the status of the Child Development Services System.

4. Required the Interdepartmental Coordinating Council for Early Intervention to review and make recommendations to the next Legislature to improve quality and consistency in the Child Development Services System.
5. Permitted the board of directors of a CDS regional site to hire one or more professional therapists as site employees if the therapists are needed to perform child evaluations, if the therapists can perform services at a substantial savings to the Child Development Services System or if contract therapists are unable to provide required services within federal timelines.
6. Limited membership on regional boards governing the Child Development Services System to members who derive no revenue from work performed for the system.
7. Established service provider advisory boards to each regional site board of directors.

Committee Amendment "A" (S534) makes a technical change and adds a fiscal note to the bill.

House Amendment "A" to Committee Amendment "A" (H86) removes language added by the bill that grants authority to the board of directors of a Child Development Services System regional site to hire one or more professional therapists as site employees if certain conditions are met. The amendment retains the current provision of law that permits a local board of directors to employ qualified professional and other staff at the local site. (Not adopted)

Enacted law summary

Public Law 1995, chapter 662 requires the Commissioner of Education to review the provision of services within in the CDS system to ensure services do not exceed minimal federal standards. It also limits membership on regional boards governing the CDS system to members that derive no revenue from work performed for CDS.

LD 1870 An Act to Authorize Casco Bay College to Grant Degrees

P & S 72

Sponsor(s)

Committee Report
OTP

Amendments Adopted

Casco Bay College is currently limited to offering Associate of Science degrees in several specific subject areas. LD 1870 proposed expanding Casco Bay College's authority to grant degrees by permitting the college to grant Associate of Science degrees in whatever subject area its directors may prescribe. The bill also acknowledged the change in the name of the school, which occurred in 1974, from Plus Gray's School of Business to Casco Bay College.

Enacted law summary

Private and Special Law 1995, chapter 72 expands Casco Bay College's authority to grant degrees by permitting the college to grant Associate of Science degrees in whatever subject area it wishes.

Joint Standing Committee on Education and Cultural Affairs

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Administration, DECS, State Board and School Governance</i>			
<u>Enacted</u>			
LD 505	An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf	PUBLIC 676.....	97
LD 827	An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants	PUBLIC 547.....	98
LD 1614	An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility	PUBLIC 563.....	101
LD 1627	An Act to Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage	PUBLIC 515.....	102
LD 1705	An Act to Establish Educational Services for Grades 7 to 12 in the Towns of Mechanic Falls, Minot and Poland	P & S 53 EMERGENCY.....	104
LD 1780	Resolve, to Establish a Tuition Rate for the Town of Dennysville and to Review the Provision of Education Services in the Unorganized Territory	RESOLVE 61.....	106
LD 1800	Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts	RESOLVE 79.....	110
<u>Not Enacted</u>			
LD 830	An Act to Establish Charter Schools	ONTP.....	99
LD 1786	An Act to Transfer the Agricultural Education Consultant to the Department of Agriculture, Food and Rural Resources	ONTP.....	106

Alternative Education and Choice

Enacted

LD 1818	An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs	PUBLIC 610..... 111
----------------	--	----------------------------

Not Enacted

LD 66	An Act to Establish Choices for Parents and Guardians in their Children's Education	DIED BETWEEN HOUSES..... 96
LD 1756	An Act to Establish a High School for the Visual and Performing Arts	DIED BETWEEN HOUSES..... 105

Curriculum, Instruction, Textbooks and Testing

Enacted

LD 1642	An Act to Extend Waivers of Certain Provisions of the Education Laws	PUBLIC 527..... 102
LD 1818	An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs	PUBLIC 610..... 111
LD 1791	An Act to Initiate Education Reform in Maine	PUBLIC 649..... 106

Not Enacted

LD 1756	An Act to Establish a High School for the Visual and Performing Arts	DIED BETWEEN HOUSES..... 105
----------------	---	--

Post Secondary Education

Enacted

LD 1678	Resolve, to Authorize the Maine Technical College System to Transfer Interests in Real Property	RESOLVE 60..... 103
LD 1718	An Act to Repeal and Replace the Charter of Bowdoin College	P & S 67 EMERGENCY..... 104

		<u>Final Disposition</u>	<u>Page #</u>
LD 1747	An Act to Authorize the Maine Photographic Workshops to Grant Degrees	P & S 68.....	105
LD 1870	An Act to Authorize Casco Bay College to Grant Degrees	P & S 72.....	112
<u>Not Enacted</u>			
	None		

School Budgets

Enacted

LD 1640	An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns	P & S 54.....	102
LD 1780	Resolve, to Establish a Tuition Rate for the Town of Dennysville and to Review the Provision of Education Services in the Unorganized Territory	RESOLVE 61.....	106

Not Enacted

LD 880	An Act Concerning Referendum Reform for School Budgets	INDEF PP.....	99
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School Finance, Constructions and Buses

Enacted

LD 1124	An Act Regarding School Facilities and Debt Service Limits	PUBLIC 632.....	100
LD 1640	An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns	P & S 54.....	102
LD 1660	Resolve, to Review the Role of the Department of Administrative and Financial Services in Approving School Construction Projects for School Administrative Units	.....RESOLVE 75	
LD 1705	An Act to Establish Educational Services for Grades 7 to 12 in the Towns of Mechanic Falls, Minot and Poland	P & S 53 EMERGENCY.....	104

Not Enacted

LD 1560	Resolve, to Reduce Reliance on the Property Tax for School Funding	INDEF PP.....	101
----------------	---	---------------	------------

Special Education and Gifted and Talented

Enacted

LD 505	An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf	PUBLIC 676..... 97
LD 1760	An Act to Amend the Definition of "State Agency Client"	PUBLIC 569..... 105
LD 1866	An Act to Improve the Child Development Service System	PUBLIC 662..... 111

Not Enacted

None

Teachers and Administrators

Enacted

LD 827	An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants	PUBLIC 547..... 98
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Not Enacted

None

Education - Other

Enacted

LD 1614	An Act to Amend the Law as It Pertains to Payment of Rent by a Blind or Visually Impaired Individual Who Operates a Vending Facility	PUBLIC 563..... 101
LD 1627	An Act to Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage	PUBLIC 515..... 102

Not Enacted

None

Summary of Committee Action by Joint Standing Committee on Human Resources

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	20	87.0%	5.1%
B. Bills carried over from 1st Regular Session	3	13.0%	0.8%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	23	100.0%	5.8%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	1	4.3%	0.3%
<i>OTP-AM</i>	17	73.9%	4.6%
<i>ONTP</i>	<u>4</u>	<u>17.4%</u>	<u>1.1%</u>
Total Unanimous Reports	22	95.7%	5.9%
B. Divided Reports			
<i>2-Way</i>	1	4.3%	0.3%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	1	4.3%	0.3%
Total Bills Reported Out	23	100.0%	6.2%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	17	73.9%	4.3%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	1	4.3%	0.3%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	18	78.3%	4.5%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	0	N/A	N/A

Joint Standing Committee on Human Resources

**LD 134 An Act to Amend the Laws Regarding the Maine Public
Drinking Water Commission**

PUBLIC 581

Sponsor(s)
WHITCOMB

Committee Report
OTP-AM

Amendments Adopted
H-746

LD 134, a bill carried over from the First Regular Session, proposed to exempt small businesses with fewer than 5 employees or with a net income of less than \$15,000 from the fees collected by the Department of Human Services for deposit into the Public Drinking Water Fund. The original title of the bill was "An Act to Exempt Certain Small Businesses from Paying the Annual Fee to the Public Drinking Water Fund."

Committee Amendment "A" (H746) is the Majority Report. It replaced the bill and substituted a new title. It proposed to replace the requirement that the Maine Public Drinking Water Commission members be employed by certain drinking water systems with a requirement that they be associated with those same systems. In the provision on duties of the commission, it would have changed the duty of determining program effort to a duty to evaluate program effort and would have changed the standard of performing the duty of determining funding share for each type of public water system from a reflection of program effort to one that recognizes the level of program effort. It would have deleted provisions on the collection of fees by drinking water systems that require the Drinking Water Fund fees to be separately identified on the customer's bill. It proposed to change the base fee to no more than \$50 and retain the base plus per capita maximum fee at \$30,000 per year.

Enacted law summary

Public law 1995, chapter 581 comprises the provisions from Committee Amendment A. It changes the title of the bill. It replaces the requirement that Maine Public Drinking Water Commission members be employed by certain drinking water systems with a requirement that they be associated with those same systems. In the provision on duties of the commission, it changes the duty of determining program effort to a duty to evaluate program effort and changes the standard of performing the duty of determining funding share for each type of public water system from a reflection of program effort to one that recognizes the level of program effort. It deletes provisions on the collection of fees by drinking water systems that require the Drinking Water Fund fees to be separately identified on the customer's bill. It changes the base fee to no more than \$50 and retains the base plus per capita maximum fee at \$30,000 per year.

**LD 271 An Act to Establish an Electronic Benefit Transfer System
for Programs Administered by State Government**

PUBLIC 675

Sponsor(s)
MORRISON

Committee Report
OTP-AM

Amendments Adopted
H-842

LD 271, a bill carried over from the First Regular Session, proposed to establish an electronic benefit delivery program for the delivery of benefits by automated means to recipients of the Aid to Families with Dependent Children, food stamps, Medicaid and the Women, Infants and Children Special Supplemental Food programs. An electronic benefit delivery program would enable program recipients to use encoded cards to withdraw benefits from automated teller and

LD 1601 proposed to exempt intravenous ("IV") drugs dispensed at physicians' offices from the laws prohibiting price discrimination among wholesalers and purchasers by a prescription drug manufacturer.

Committee Amendment "A" (H725) is the Majority Report. It replaced the bill. It would have created an exception to the nondiscrimination in pharmaceutical pricing laws for parenterally administered oncologic drug products administered at medical office sites. It would have added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 548 comprises the provisions from the Committee Amendment. It creates an exception to the nondiscrimination in pharmaceutical pricing laws for parenterally administered oncologic drug products administered at medical office sites.

LD 1604 An Act Requiring the Department of Human Services to Reimburse Nursing Home Facilities from Initial Medicaid Eligibility ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BIRNEY HANLEY	ONTP	

LD 1604 proposed to require the Department of Human Services to reimburse a nursing facility for services it provides to an individual during all periods of time that the individual has been determined to be both medically and financially eligible for Medicaid coverage. See also LDs 1730 and 1806.

LD 1644 An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers PUBLIC 583
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AMERO	OTP-AM	S-533

LD 1644 proposed to provide for state supervision of certain hospital mergers by allowing hospitals proposing to merge to file an application for a certificate of public advantage under the Hospital Cooperation Act of 1992. The bill would have authorized the Department of Human Services, in conjunction with the Department of Attorney General, to attach conditions pertaining to quality, access and cost to a certificate granted in the case of a merger. The bill would have established procedures to ensure compliance by providing for enforcement of conditions attached to a certificate pertaining to a merger.

Committee Amendment "A" (S533) is the Majority Report. It proposed to replace the bill. It would have authorized and provided for state review and supervision of certain hospital mergers by allowing hospitals proposing to merge to file an application for a certificate of public advantage under the Hospital Cooperation Act of 1992. It would have authorized the Department of Human Services, in conjunction with the Department of the Attorney General under certain circumstances to attach conditions pertaining to quality, access and cost to any

certificate granted under the Hospital Cooperation Act of 1992 to ensure compliance with the conditions attached to a certificate. It would have added to the list of potential benefits and disadvantages that the department must consider in determining whether to grant or deny a certificate of public advantage.

The amendment would have added an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 583 comprises the provisions of Committee Amendment A. It replaces the bill. It authorizes and provides for state review and supervision of certain hospital mergers by allowing hospitals proposing to merge to file an application for a certificate of public advantage under the Hospital Cooperation Act of 1992. It authorizes the Department of Human Services, in conjunction with the Department of the Attorney General under certain circumstances to attach conditions pertaining to quality, access and cost to any certificate granted under the Hospital Cooperation Act of 1992 to ensure compliance with the conditions attached to a certificate. It adds to the list of potential benefits and disadvantages that the department must consider in determining whether to grant or deny a certificate of public advantage.

Through a system of state-prescribed and state-enforced review and supervision, the Hospital Cooperation Act of 1992 is intended to displace the State's antitrust laws for transactions for which a certificate has been issued and also allows hospitals that receive a certificate to qualify for the "state action" exception to federal antitrust laws.

Public Law 1995, chapter 583 takes effect April 1, 1996.

LD 1646 An Act to Establish the Freeport Towne Square Mental Retardation Facility

PUBLIC 550

Sponsor(s)
HARTNETT
HARRIMAN

Committee Report
OTP-AM

Amendments Adopted
H-709

LD 1646 would have established Freeport Towne Square, a facility for persons with mental retardation, as a separate and distinct entity. Historically, this facility was incorporated as part of the Pineland Center.

Committee Amendment "A" (H709) is the Majority Report. It proposed to replace the term "director" in the bill with the term "manager," to delete the appointment provision and thereby to eliminate the need for a fiscal note.

Enacted law summary

Public Law 1995, chapter 550 comprises the provisions of the Committee Amendment. It establishes the Freeport Towne Square as a state facility, managed by a manager.

LD 1673 An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines

PUBLIC 596

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-482

LD 1673 proposed to provide that an affiliate of a hospital is required to follow the same charity care guidelines that a hospital must follow. The bill would have required the Department of Human Services to include provisions for public notice and a fair hearing for questions relating to eligibility for charity care. It would have required that health care services provided at a hospital or affiliated interest to a person who meets the charity care guidelines may not be billed to the patient or to a municipality.

Committee Amendment "A" (S482) is the Majority Report. It replaced the bill. It proposed to remove from the bill all provisions relating to the extension of the charity care guidelines to hospital affiliates and the provision on balance billing. It would have retained the provision requiring the Department of Human Services to adopt a fair hearing process. It would have added a fiscal note.

Enacted law summary

Public Law 1995, chapter 596 comprises the provisions of the Committee Amendment. It requires the Department of Human Services to adopt a fair hearing process for questions of application of the charity care guidelines. See also LD 1788, enacted as Public Law 1995, chapter 653, which repeals and reenacts the guidelines effective December 31, 1996.

LD 1689 Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities

RESOLVE 71
EMERGENCY

Sponsor(s)
HARRIMAN
HARTNETT

Committee Report
OTP-AM

Amendments Adopted
S-514

LD 1689 had an original title of Resolve, Directing the Department of Human Services to Take Steps to Reduce the Regulation of Nurses Providing Care to Nursing Home Residents. It proposed to accomplish the following:

1. Provide that the Department of Human Services may require only one type of form from resident nursing facility services for patient assessment, and require the department to adapt the Minimum Data Set Plus, or "MDS+," form to incorporate the information currently provided through the MED-94 form;
2. Prohibit the Department of Human Services from requiring providers of resident nursing facility services to complete MDS+ forms more frequently than such documentation is required by federal regulations;
3. Prohibit the Department of Human Services from requiring providers of resident nursing facility services to generate entirely new MDS+ forms to correct errors or omissions; and

4. Require the Department of Human Services to conform case mix reviewers' definitions for the MDS+ forms with standard medical definitions.

Committee Amendment "A" (S 514) is the Majority Report. It replaced the bill. It would have changed the title to "Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities" with a stated purpose of studying the problem of paperwork required for patient assessment, care and reimbursement in nursing facilities, the needs of the patient and family, the nursing and professional staff of the nursing facility, the Department of Human Services and any other interested party and searching for methods of meeting the legitimate needs of all parties in the most efficient and efficacious manner possible. By April 1, 1996, the Commissioner of Human Services would have been required to name the members of the task force, which would have been required to meet by April 15, 1996 and as necessary to accomplish its duties. The task force would have been required to submit to the Joint Standing Committee on Human Resources an interim report by July 15, 1996 and a final report by November 15, 1996. The amendment would have added a fiscal note.

Enacted law summary

Resolve 1995, chapter 71 comprises the provisions of the Committee Amendment. It establishes the Task Force on Paperwork Reduction in Nursing Facilities with a stated purpose of studying the problem of paperwork required for patient assessment, care and reimbursement in nursing facilities, the needs of the patient and family, the nursing and professional staff of the nursing facility, the Department of Human Services and any other interested party and searching for methods of meeting the legitimate needs of all parties in the most efficient and efficacious manner possible. By April 1, 1996, the Commissioner of Human Services is required to name the members of the task force, which is required to meet by April 15, 1996 and as necessary to accomplish its duties. The task force must submit to the Joint Standing Committee on Human Resources an interim report by July 15, 1996 and a final report by November 15, 1996. The final report must contain suggestions for changes in rules and the necessary legislation to accomplish the recommendations of the task force.

Resolve 1995, chapter 71 takes effect April 3, 1996.

LD 1704 An Act Redefining the Community Services Structure of the PUBLIC 691
Mental Health System

<u>Sponsor(s)</u> PENDEXTER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-562
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LD 1704 would have repealed language from Public Law 1995, chapter 395 that authorized the transfer of positions and funding from the Augusta Mental Health Institute budget as needed for reassignment to establish local mental health authority districts.

Committee Amendment "A" (S562) is the Majority Report. It proposed to retain section 1 of the bill and add to it. It would have created local quality improvement councils consisting of consumers of publicly funded mental health services, families, parents of minor consumers, service providers and community members. The quality improvement councils would have operated in 7 regions of the State and for the Augusta Mental Health Institute and the Bangor Mental Health Institute. Each council would have included a local service network made up of providers of publicly funded mental health services in the area. Each council would have sent a representative to a statewide quality improvement council. It would have required that the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services report to the Joint Standing

Committee on Health and Human Services by January 1, 1997 and by January 1, 1998 on the operation of the councils and networks and include recommendations for improving the operations and any legislation necessary to accomplish those purposes.

The amendment would have abolished the Southern Maine Regional Mental Health Board on June 30, 1996. It would have given members of that board first option in serving on the quality improvement councils.

The amendment would have authorized the Department of Mental Health, Mental Retardation and the Substance Abuse Services to use revenue received from Maximus initiatives for children's services and to meet the purposes of the consent decree.

The amendment would have changed the request for proposal procedures in the Maine Revised Statutes, Titles 5, 22 and 34B to shorten the time necessary to notify potential bidders and current providers that a service may be put through a request-for-proposal process, and to shorten the time between the deadline for notification of intent and the request-for-proposal due date to a length that allows sufficient time for potential bidders to respond. The original intent of request-for-proposal laws would have remained unchanged.

The amendment would have added an emergency preamble, emergency clause, an allocation and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 691 comprises the provisions of the Committee Amendment. It repeals language from Public Law 1995, chapter 395 that authorized the transfer of positions and funding from the Augusta Mental Health Institute budget as needed for reassignment to establish local mental health authority districts. It creates local quality improvement councils consisting of consumers of publicly funded mental health services, families, parents of minor consumers, service providers and community members. The quality improvement councils will operate in 7 regions of the State and for the Augusta Mental Health Institute and the Bangor Mental Health Institute. Each council will include a local service network made up of providers of publicly funded mental health services in the area. Each council will send a representative to a statewide quality improvement council. It requires that the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 1997 and by January 1, 1998 on the operation of the councils and networks and include recommendations for improving the operations and any legislation necessary to accomplish those purposes.

The law abolishes the Southern Maine Regional Mental Health Board on June 30, 1996. It gives members of that board first option in serving on the quality improvement councils.

The law authorizes the Department of Mental Health, Mental Retardation and the Substance Abuse Services to use revenue received from Maximus initiatives for children's services and to meet the purposes of the consent decree.

The law changes the request for proposal procedures in the Maine Revised Statutes, Titles 5, 22 and 34B to shorten the time necessary to notify potential bidders and current providers that a service may be put through a request-for-proposal process, and to shorten the time between the deadline for notification of intent and the request-for-proposal due date to a length that allows sufficient time for potential bidders to respond.

Public Law 1995, chapter 691 takes effect April 11, 1996.

LD 1716 An Act to Allow the Department of Human Services to Release the Names of Individuals Who Receive Welfare Benefits as a Result of Serious, False Misrepresentation ONTP

<u>Sponsor(s)</u> BUSTIN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1716 proposed to allow the Department of Human Services, in response to a request, to release the name of an obligor and the amount of any overpayment to that obligor if the obligor has been determined to have received an overpayment under the food stamp program or the Aid to Families with Dependent Children program, the overpayment is the result of serious, false misrepresentation by the obligor and a court action with regard to the overpayment has been filed.

This bill would have allowed municipalities, in response to a request, to release the name of a recipient of general assistance and the amount of any overpayment to that recipient if it had been determined that the recipient obtained assistance by serious, false misrepresentation and if a determination had been made that a recipient is required to reimburse the municipality.

LD 1730 An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition PUBLIC 687 EMERGENCY

<u>Sponsor(s)</u> PINGREE TREAT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-557 S-578
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LD 1730 proposed to require the Department of Human Services to adopt rules amending the Medical Eligibility Determination form and Chapter 67 of the Maine Medical Assistance Manual so that applicants for Medicaid reimbursement for nursing facility care would have been evaluated based on their entire medical and social condition for 30 days prior to the assessment and so that nursing needs would have been recognized if they had been required on 3 or more days during any 14-day period in the 30 days prior to the assessment. See also LDs 1604 and 1806.

Committee Amendment "A" (S557) is the Majority Report. It replaced the bill. It would have required the Department of Human Services to adopt rules to begin using a 2nd assessment standard for persons with Alzheimer's disease and other dementias. The department would have begun using these new assessment standards in addition to the MED'94 by May 1, 1996. Nursing facilities accepting persons found eligible using this assessment tool would have been required to train personnel in Alzheimer's disease and other dementias immediately in order to qualify for reimbursement from the State. By July 1, 1997, the department would have been required to adopt standards for treatments, services and settings to meet the needs of individuals who have Alzheimer's disease and other dementias.

This amendment proposed to require the Department of Human Services to report to the joint Standing Committee on Health and Human Services by January 15, 1997, on the extent to which the supplemental assessment tool has expanded medical eligibility for nursing facility care to include persons with Alzheimer's disease or similar dementias. The amendment would have added a fiscal note and appropriation and allocation sections.

Senate Amendment "A" To Committee Amendment "A" (§78) proposed to remove the appropriation and allocation sections in Committee Amendment "A" since funding was provided in L.D. 1759 (the supplemental budget), enacted as Public Law 1995, chapter 665.

Enacted law summary

Public Law 1995, chapter 687 comprises the provisions of Committee Amendment A and Senate Amendment A. It requires the Department of Human Services to adopt rules to begin using a 2nd assessment standard for persons with Alzheimer's disease and other dementias. The department will begin using these new assessment standards in addition to the MED'94 by May 1, 1996. Nursing facilities accepting persons found eligible using this assessment tool will be required to train personnel in Alzheimer's disease and other dementias immediately in order to qualify for reimbursement from the State. By July 1, 1997, the department will adopt standards for treatments, services and settings to meet the needs of individuals who have Alzheimer's disease and other dementias.

The Department of Human Services is required to report to the Joint Standing Committee on Health and Human Services by January 15, 1997, on the extent to which the supplemental assessment tool has expanded medical eligibility for nursing facility care to include persons with Alzheimer's disease or similar dementias.

Public Law 1995, chapter 687 takes effect April 11, 1996.

LD 1731 An Act to Amend the Mass Gathering Laws

ON'

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PARADIS	ONTP MAJ	
KNEELAND	OTP-AM MIN	

LD 1731 proposed to make the following changes to the laws regulating mass outdoor gatherings:

1. Provide that for the purpose of determining whether a gathering is a mass outdoor gathering, a person staying, camping or otherwise temporarily residing on property next to the property of the gathering is considered to be attending the gathering;
2. Establish a process for the issuance of a mass outdoor gathering permit, including the requirement that an application for a permit be submitted no later than 120 days before the gathering; and
3. Provide that the requirement for a bond does not preclude a person from obtaining personal liability insurance for the gathering.

Committee Amendment "A" (§479) is the Minority Report. It proposed to shorten from 120 days in the bill to 60 days the time period for submitting a mass gathering permit application and shorten in proportion the time periods for response, resubmission and decision. (Not adopted.)

LD 1743 An Act to Establish Consistency between Federal and State Drinking Water Laws

PUBLIC 622

Sponsor(s)
ETNIER

Committee Report
OTP-AM

Amendments Adopted
H-785

LD 1743 proposed to make the state drinking water laws consistent with the federal Safe Drinking Water Act as required to maintain primacy. It would have made changes to the public notification section of the Maine Revised Statutes, Title 22, section 2615 to ensure the drinking water program's ability to enforce the current federal public notification rule, as adopted into the program's rules by reference. It would have changed the emergency powers of the drinking water program to initiate action under the Maine Revised Statutes, Title 22, section 2613. The drinking water program currently has adopted by rule procedures for the issuance of ~~boi~~water orders under section 2614. The bill would have established procedures for the issuance of ~~boi~~water orders.

Committee Amendment "A" (H785) is the Majority Report. It proposed to replace sections 4 to 6 of the bill. It would have made the ~~boi~~water requirements of state law consistent with federal requirements. It would have clarified the requirements for form and timing of notification of a ~~boi~~water order.

Enacted law summary

Public Law 1995, chapter 622 comprises the provisions of the bill and the Committee Amendment. It makes grammatical corrections in the Safe Drinking Water Act. It removes the provision that exemptions for public drinking water systems may not extend past 7 years while retaining the requirement that an expeditious compliance schedule be established. It allows multi-year renewable exemptions. It defines "boil-water order" and provides for boil-water orders in a manner that is consistent with federal law. It specifies the requirements for notification to the public and requires the Commissioner of Human Services to adopt rules regarding public notification of boil-water orders.

**LD 1764 An Act to Ensure the Proper and Humane Care of Persons
Requiring Mental Health Services**

PUBLIC 697
EMERGENCY

Sponsor(s)
MITCHELL JE

Committee Report
OTP-AM

Amendments Adopted
H-769
S-582

LD 1764 proposed to require that any money identified as savings due to the closure of a state mental health facility or a diminution of services at any such facility be used to provide the services in other appropriate settings and programs.

Committee Amendment "A" (H769) is the Majority Report. It proposed to extend the bill to cover administrative savings within the Department of Mental Health and Mental Retardation, so that those savings would have been directed to pay for mental health services. The amendment would have added a fiscal note.

Senate Amendment "A" (S582) proposed to specify that the savings identified in the Maine Revised Statutes, Title 34B, section 3009 (the provision of law ~~that~~ would have been enacted in the bill) means net General Fund savings generated through legislative or departmental actions less any cost or liability from implementing those actions.

Enacted law summary

Public Law 1995, chapter 697 comprises the provisions of the bill, Committee Amendment “A” and Senate Amendment “A”. The law is intended to ensure that persons in need of mental health services continue to have access to those services by requiring that any money identified as savings due to the closure of a state mental health facility or a diminution of services at any such facility and any money from administrative savings at the Department of Mental Health, Mental Retardation and Substance Abuse Services be used to provide the services in other appropriate settings and programs. The law defines these savings as net General Fund savings generated through legislative or departmental actions less any cost or liability from implementing those actions.

Public Law 1995, chapter 697 takes effect April 11, 1996.

LD 1772 An Act to Create a Uniform Health Information System ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

LD 1772 is one of the bills reported to the Legislature by the Health Care Reform Commission. It contains some provisions that are also contained in LD 1788. See also LD 1788. The bill proposed to do the following:

1. Part A would have established the Maine Health Data Organization, an independent state agency to oversee and coordinate health collection activities and collect, edit and store statewide health data resources. Part A would have granted the Maine Health Data Organization authority to collect health data from all health care facilities and practitioners providing health services, including pharmacists and health product vendors. The Maine Health Data Organization would be required to collect utilization data, coordinate population surveys with the needs of both public and private sectors and oversee the collection of workforce data through surveys conducted by licensing boards. Part A also proposed to assess carriers and insurance administrators as a mechanism for funding the Maine Health Data Organization.

2. Part B would have required the Commissioner of Professional and Financial Regulation to cooperate with the Maine Health Data Organization's data collection activities and to require the cooperation of the health care practitioner licensing boards within and affiliated with the Department of Professional and Financial Regulation. Part B also would have required the Commissioner of Human Services to cooperate with the Maine Health Data Organization's data collection activities.

3. Part C would have allowed the board members for the Maine Health Data Organization to be reimbursed for their expenses.

4. Part D would have amended the licensing statutes for all health care practitioners to provide that repeated and intentional failure to comply with the data collection requirements is grounds for terminating a health care practitioner's license.

See LD 1788, a related bill, which was enacted as Public Law 1995, chapter 653 and which establishes the Maine Health Data Organization as of December 31, 1996 or at such earlier date as the entity becomes operational.

LD 1773 An Act to Ensure the Continued Stability of Services for PUBLIC 685

Persons with Mental Retardation

EMERGENCY

Sponsor(s)
FITZPATRICK

Committee Report
OTP-AM

Amendments Adopted
H-906
S-566

LD 1773 proposed to provide a 2part mechanism for the payment of premiums for workers' compensation insurance carried by private agencies providing services to individuals with mental retardation beginning July 1, 1996. It would have required the Superintendent of Insurance to review the establishment of a special classification for workers at these facilities and to report by September 1, 1996 to the banking and insurance and human resources committees.

Committee Amendment "A" (H906) is the Majority Report. It replaced the bill. It proposed to remove from the bill the provisions requiring the Department of Mental Health, Mental Retardation and Substance Abuse Services to ensure that private agencies providing mental retardation services under contract have loss prevention programs in place. It would have removed the portion of the bill requiring a report on special classifications for workers' compensation insurance. It would have added reimbursement criteria that depend on an agency's workers' compensation experience modification rating and that provide incentives to provide a safe workplace.

The amendment would have added an appropriation and a fiscal note.

Senate Amendment "A" To Committee Amendment "A" (S66) would have added an emergency clause at the end of the committee amendment.

Enacted law summary

Public Law 1995, chapter 566 comprises the provisions of Committee Amendment "A" and Senate Amendment "A". The law provides a means for the Department of Mental Health, Mental Retardation and Substance Abuse Services to encourage private agencies providing mental retardation services under contract to have loss prevention programs in place. It provides reimbursement criteria that depend on an agency's workers' compensation experience modification rating and that provide incentives to provide a safe workplace. Agencies with ratings below 1.0 must be paid 1/2 of any cost decrease. Agencies that have ratings of 1.0 to 1.39 must be paid the full amount of any cost decrease if they have loss prevention plans. Agencies that have ratings of 1.4 or greater must be paid 1/2 of the cost increase if they have loss prevention plans.

Public Law 1995, chapter 685 takes effect April 11, 1996.

LD 1784 An Act to Amend the Home Health Laws

PUBLIC 620

Sponsor(s)
WINGLASS

Committee Report
OTP

Amendments Adopted

LD 1784 proposed to allow the Department of Human Services to establish a receivership situation for a home health care provider similar to that which is already used for other providers, such as nursing homes. The receivership would have allowed the department to take action against a provider who had committed a serious violation, while still allowing the service to continue to be provided to the clients of the home health care provider. This bill would have

required certified nursing assistants working for a home health care provider to be listed on the certified nursing assistant's registry in order to protect the public.

Enacted law summary

Public Law 1995, chapter 620 was enacted as printed in the original bill. The law allows the Department of Human Services to establish a receivership situation for a home health care provider similar to that which is already used for other providers, such as nursing homes. A receivership allows the department to take action against a provider who has committed a serious violation, while still allowing the service to continue to be provided to the clients of the home health care provider. The law also requires certified nursing assistants working for a home health care provider to be listed on the certified nursing assistant's registry in order to protect the public.

LD 1788 An Act to Establish the Maine Health Data Organization

PUBLIC 653
EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-909

LD 1788 was the report to the Legislature of the Task Force to Monitor Deregulation of Hospitals. It's original title was "An Act to Implement the Recommendations of the Task Force to Monitor Deregulation of Hospitals." A bill containing somewhat similar provisions also considered by the committee was LD 1722, from the Maine Health Care Reform Commission. LD 1788 proposed to enact the following provisions.

1. Part A of the bill proposed to establish the Maine Health Data Organization, an independent executive organization to oversee and coordinate the collection and analysis of health care data. The bill would have enacted provisions to ensure that the Maine Health Data Organization has the authority to collect health data from all health care facilities, ~~third~~ party payor, managed care organizations and practitioners providing health services, including pharmacists and health product manufacturers. The bill would have required the Maine Health Data Organization to collect and analyze clinical, financial and restructuring data. The bill also proposed a mechanism of funding, including assessments and user fees, for the Maine Health Data Organization. The bill proposed the transition provision necessary to ensure continuation of the data collection and analysis functions of the Maine Health Care Finance Commission until such time as the new organization becomes operational, as determined by the board or December 31, 1996, whichever is earlier.

Part A of the bill would have required the Department of Human Services to adopt rules to create a fair hearing mechanism for resolution of disputes over eligibility determinations for charity care. This provision was also contained in LD 1673, which was enacted as Public Law 1996, chapter 596, but which takes effect before the effective date of this law. See enacted law summaries of this bill and LD 1673.

2. Part B of the bill proposed changes recommended by the Maine Health Care Reform Commission to repeal the commission's cost containment functions, as was also recommended by the Task Force to Monitor Deregulation of Hospitals.

3. Part C of the bill would have corrected crossreferences that need to be changed due to the recommendations of the Maine Health Care Reform Commission.

Committee Amendment "A" (H909) is the Majority Report. It replaced the bill. It proposed to change the title. It proposed to make technical changes to the bill and to

1. Repeal and reenact charity care guidelines provisions and corrects 2 cross-references. With regard to the charity care guidelines, note that this repeal and reenactment takes effect December 31, 1996;
2. Clarify the provisions on enforcement by the Maine Health Data Organization;
3. Provide a maximum assessment of \$775,000 for the operation of the Maine Health Data Organization until June 30, 1997;
4. Add 3rd-party payors to the potential payors of the assessments to permanently fund the Maine Health Data Organization;
5. Abolish the Maine Health Care Finance Commission on December 31, 1996 and provide that it terminate operations at such earlier date as the data organization begins operation;
6. Enact provisions requiring the Department of Human Services to draft a comprehensive health plan and to convene an annual health workforce forum;
7. Provide appropriations and allocations necessary to support the Maine Health Care Finance Commission until December 31, 1996, at the latest, and the Maine Health Data Organization from its beginning until June 30, 1997; and
8. Add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 653 comprises the provisions of the Committee Amendment. It changes the title of the bill. It establishes the Maine Health Data Organization. The law makes technical changes in existing law and does the following.

1. It repeals and reenacts provisions regarding application of the charity care guidelines and corrects 2 cross-references. (See also LD 1673, which was enacted as Public Law 1995, chapter 596, and which takes effect prior to this law. By that law it will be amended, and then on December 31, 1996, this law will repeal and reenact the charity care guidelines.)
2. It clarifies the provisions on enforcement by the Maine Health Data Organization.
3. It provides a maximum assessment of \$775,000 for the operation of the Maine Health Data Organization until June 30, 1997.
4. It provides that providers of health care, including hospitals, and 3rd-party payors are potential payors of the assessments to permanently fund the Maine Health Data Organization. It requires that fees and assessments to support the Health Data Organization receive prior legislative approval. It allows reasonable user fees on a sliding scale for the right to access and use health data and information, with a waiver for the Department of Human Services and the Bureau of Insurance.
5. It abolishes the Maine Health Care Finance Commission on December 31, 1996 or at such earlier date as the Health Data Organization begins operation.

6. It enacts provisions requiring the Department of Human Services to draft a comprehensive health plan and to convene an annual health workforce forum.

7. It provides appropriations and allocations necessary to support the Maine Health Care Finance Commission until December 31, 1996, at the latest, and the Maine Health Data Organization from its beginning until June 30, 1997.

Enacted as an emergency, Public Law 1995, chapter 653 contains a number of effective dates (the earliest of which is April 10, 1996), depending on the specific provisions involved. See also LD 1722 and 1673.

**LD 1795 An Act to Clarify the Laws Pertaining to the Regulation of
Narcotic Dependency Treatment Programs**

PUBLIC 621

Sponsor(s)
AULT

Committee Report
OTP-AM

Amendments Adopted
H-841

LD 1795 proposed to clarify the laws regulating narcotic dependency treatment programs. The bill would have made minor technical changes to provisions dealing with the distribution of and accounting for controlled substances. The bill would have clarified that the Director of the Office of Substance Abuse may not authorize employment of persons who have been convicted of felonies and drug offenses within treatment programs unless the potential employee had obtained the necessary federal waivers. The bill would have repealed a section of law that restricts physicians from using certain drugs for legitimate medical purposes and an unnecessary provision from the pharmacy laws.

Committee Amendment "A" (H841) is the Majority Report. It proposed to amend section 2 of the bill and add a fiscal note. It would have added conditions to the authorization of the Director of the Office of Substance Abuse to grant an exception to the prohibition on treatment programs employing persons who have been convicted of felonies and drug offenses.

Enacted law summary

Public Law 1995, chapter 621 comprises the provisions of the bill and the Committee Amendment. It clarifies language on the distribution and accounting for scheduled drugs. It adds conditions to the authorization of the Director of the Office of Substance Abuse to grant an exception to the prohibition on treatment programs employing persons who have been convicted of felonies and drug offenses. It repeals provisions of law restricting the possession, receipt and dispensing of scheduled or prescription drugs and controlled substances that are duplicative of restrictions contained elsewhere in Maine law. It repeals provisions contained in the Pharmacy Act regarding the investigation of complaints that are duplicative of provisions contained elsewhere in Maine law.

LD 1806 An Act to Promote Choice and Quality in Longterm Care

PUBLIC 696
EMERGENCY

Sponsor(s)
PENDEXTER
TOWNSEND

Committee Report
OTP-AM

Amendments Adopted
S-563

LD 1806 contains the long-term care initiative of Governor King. For related bills, see also LD 1604, 1730 and 1835. See also LD 1759, the supplemental budget enacted in 1996, which was enacted as Public Law 1995, chapter 665, Parts A and KK. The bill proposed the following:

1. To increase the penalties for assault against and misuse of entrusted property of victims 60 years of age or older and provide a broader definition of a "fiduciary" against whom a charge of misuse of entrusted property may be brought;
2. To streamline the regulatory process under the Maine Certificate of Need Act and eliminate outdated or unnecessary requirements. The bill also would have removed home health agencies from review in order to eliminate regulatory barriers to the establishment of additional home care resources.
3. To streamline the reporting of abuse, neglect and exploitation occurring within licensed facilities by eliminating duplication in reports from these facilities. The bill also would have expanded the Department of Human Services' access to records of licensed facilities when investigating reports of abuse, respect or exploitation. A technical amendment would have been made to the long-term care ombudsman program to reflect statutory changes from a previous legislative session having to do with the licensing of residential care facilities and ensuring that ombudsman staff and volunteers have access to adult family care homes licensed by the department. The bill also would have expanded the definition of the practice of professional nursing to include the coordination and oversight of patient care services provided by other unlicensed assistive personnel. The nursing provision is identical to a provision of LD 1835, enacted as Public Law 1995, chapter 670.

Committee Amendment "A" (S 563) is the Majority Report. It replaced the bill and made it emergency legislation. It would have deleted those sections of the bill that raised the criminal penalties for certain assaults and misuse of entrusted property. In their place, the amendment would have required the Commissioner of Human Services to convene a study group to review reported crimes against the elderly and to identify barriers to successful prosecution. It would have deleted from the bill the statutory provisions on the long-term care ombudsman program because those sections are contained in the legislation from the Assisted Living Task Force in LD 1835, enacted as Public Law 1995, chapter 670.

The amendment would have required the Department of Human Services to seek authorization from the Legislature prior to implementing changes to the Medicaid program that would cause changes in enrollment of greater than 10% among categorically eligible groups or elimination of services covered on August 1, 1996.

The amendment would have created the Long-term Care Steering Committee to provide input to the Commissioner of Human Services on all policy initiatives, laws and rules concerning long-term care and assisted living. It would have required a report from the Commissioner of Human Services by January 1, 1997 to the Joint Standing Committee on Health and Human Services on the experience and progress of the department in developing adult family care homes.

The amendment would have provided an expedited review process for nursing facilities that have voluntarily reduced their licensed bed capacity. It also would have allowed the reopening (within 4 years, with a 4-year extension possible, of the date of the license reduction) of up to 100 voluntarily reduced beds per year through an expedited certificate of need process without the requirement of obtaining express approval from the Legislature.

The amendment would have added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 696 comprises the provisions of the Committee Amendment. It requires the Commissioner of Human Services to convene a study group to review reported crimes against the elderly and to identify barriers to successful prosecution. It streamlines the certificate of need provisions effective April 11, 1996.

Beginning August 1, 1996, the law requires the Department of Human Services to seek authorization from the Legislature prior to implementing changes to the Medicaid program that would cause changes in enrollment of greater than 10% among categorically eligible groups or elimination of services covered on August 1, 1996.

The law creates the Longterm Care Steering Committee to provide input to the Commissioner of Human Services on all policy initiatives, laws and rules concerning long term care and assisted living. It requires a report from the Commissioner of Human Services by January 1, 1997 to the Joint Standing Committee on Health and Human Services on the experience and progress of the department in developing adult family care homes.

The law provides an expedited review process for nursing facilities that have voluntarily reduced their licensed bed capacity. It also allows the reopening (within 4 years, with one 4-year renewal possible, of the date of the license reduction) of up to 100 voluntarily reduced beds per year through an expedited certificate of need process without the requirement of obtaining the express approval from the Legislature.

The law does not enact provisions of the bill on the long term care ombudsman program and the definition of professional nursing because those sections are contained in the legislation from the Assisted Living Task Force in LD 1835, enacted as Public Law 1995, chapter 670.

Public Law 1995, chapter 696 takes effect April 11, 1996.

LD 1812 An Act to Extend Health Care Coverage for Parents Leaving PUBLIC 692
the Aid to Families with Dependent Children Program

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	OTP-AM	S-556

LD 1812 proposed to remove the one year time limit for transitional medical benefits for families leaving the Aid to Families with Dependent Children program and extend benefits for 2 extra years. It would have directed the Department of Human Services to determine whether a waiver is necessary and, if so, to apply for the waiver or amend a pending or existing waiver. It would have directed the department to require the reporting of income or circumstances and the payment of premiums in the same manner as for transitional medical assistance.

Committee Amendment "A" (S556) is the Majority Report. It replaced the extended benefits provision of the bill. It would have established a 2 year extension of the transitional medical assistance program under Medicaid beginning February 1, 1997. It would have required the payment of premiums equal to 3% of a family's income, minus child care costs, beginning in the 7th month of transitional assistance for those entering the transitional medical assistance program on or after February 1, 1997 whose average gross monthly earnings less average monthly child care costs are more than 100% of the federal poverty guidelines. The amendment would have clarified current law establishing eligibility for the program at 185% of the federal poverty

guidelines. It would have given the department rulemaking authority with respect to premiums paid by those entering the transitional medical assistance program prior to February 1, 1997 and given the department rulemaking authority to change the reporting requirements of the program. It would have required the department to seek a waiver from the federal Department of Health and Human Services if necessary to achieve the purposes of the amendment.

The amendment would have added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 692 comprises the provisions of the Committee Amendment and the bill. The law establishes a 3-year extension of the transitional medical assistance program under Medicaid beginning February 1, 1997. It requires the payment of premiums equal to 3% of a family's income, minus child care costs, beginning in the 7th month of transitional assistance for those entering the transitional medical assistance program on or after February 1, 1997 whose average gross monthly earnings less average monthly child care costs are more than 100% of the federal poverty guidelines. It clarifies current law establishing eligibility for the program at 185% of the federal poverty guidelines. It gives the department rulemaking authority with respect to premiums paid by those entering the transitional medical assistance program prior to February 1, 1997 and gives the department rulemaking authority to change the reporting requirements of the program. It requires the department to seek a waiver from the federal Department of Health and Human Services if necessary to achieve the purposes of the law. Some provisions take effect February 1, 1997.

LD 1835 An Act to Provide for Assisted Living Services

PUBLIC 670

Sponsor(S)	Committee Report OTP-AM	Amendments Adopted S-544 S-552
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LD 1835 is the report of the Assisted Living Task Force, a task force created by the First Regular Session of the 117th Legislature, in Public Law 1995, chapter 362. The bill proposed to enact a number of provisions, as follows.

1. Part A proposed to change to the statutes on residential care facilities and repeal and replace Maine Revised Statutes, Title 22, chapter 145A with chapter 1665, "Assisted Living Programs." The various types of assisted living programs are defined, including residential care facilities and congregate housing facilities, as are the types of services they may provide. This Part proposed to authorize the Commissioner of Human Services to adopt rules for assisted living programs in consultation with providers, advocates and consumer representatives. It would have made changes to the congregate housing services laws, extending the Act to cover younger adults with disabilities as well as the elderly. It proposed to eliminate the process of certification of congregate housing services programs, replacing it with a process of optional licensing for assisted living providers that offer personal care assistance and mandatory licensing for assisted living providers that offer personal care assistance including administration of medication and nursing services. It proposed to make changes to the licensing laws, set fees and set fire safety requirements.
2. Part B proposed to add assisted living facilities to the facilities that come under the jurisdiction of the long-term care ombudsman. It proposed to set forth requirements for shared staffing in assisted living programs, residential care facilities and long-term care facilities. It would have extended residents' rights laws to assisted living programs. It would have allowed year licenses

for congregate housing services programs. It proposed to require the State Board of Nursing to adopt rules allowing certified nursing assistants to work under the supervision of a registered professional nurse in a facility providing assisted living services.

3. Part C proposed to amend the provisions of law regarding the Maine Health and Higher Educational Facilities Authority Act to reflect the definition of assisted living adopted in the other provisions of the bill. It would have made changes that allow professional nurses to coordinate and oversee patient care services provided by unlicensed personnel.

4. Part D proposed to require the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the State Board of Nursing to develop recommendations for standardization of educational courses and utilization of unlicensed assistive personnel who administer medications in long-term care facilities. It would have required the Commissioner of Human Services to review laws and rules on residential care facilities and assisted living programs and to make recommendations for legislative changes. It also would have established a general effective date of January 1, 1997. The fire safety requirements would have taken effect on October 1, 1996. The provisions requiring reports to the Joint Standing Committee on Human Resources would have taken effect July 15, 1996.

Committee Amendment "A" (§544) is the Majority Report. It replaced the bill. It would have retained most of the provisions of the bill, with the following exceptions.

1. It would have deleted section A3, which was substantially similar to section ~~B~~, a technical change only.
2. It would have added definitions for mobile nonambulatory residents of residential care facilities and residential care.
3. It would have reorganized provisions on rulemaking, licensure, fees and fire safety for congregate housing services programs and residential care facilities.
4. It would have clarified that fire safety inspections apply to licensed congregate housing facilities.
5. It would have prohibited the Department of Human Services from instituting case mix reimbursement in residential care facilities until July 1, 1997, and would have required a report on the issue to the Joint Standing Committee on Human Resources by January 1, 1997.
6. It would have added an appropriation and a fiscal note.

Senate Amendment "A" to Committee Amendment "A" (§52) proposed to delete a set of quotation marks.

Enacted law summary

Public Law 1995, chapter 670 comprises the provisions of Committee Amendment "A" and Senate Amendment "A". It makes 3 grammatical changes in the provisions for voting by absentee ballot. It repeals the statutory provisions on congregate housing for the elderly. It enacts a new chapter on assisted living programs, which may be offered in congregate housing or residential care settings and which may require a license depending on the type of assisted living services provided. The law requires the Commissioner of Human Services to adopt rules for

assisted living services programs in consultation with the long-term care ombudsman program, consumer representatives and providers of assisted living services programs.

The law reorganizes provisions on rulemaking, licensure, fees and fire safety for congregate housing services programs and residential care facilities.

The law adds assisted living facilities to the facilities that come under the jurisdiction of the long-term care ombudsman. A substantially similar provision was deleted from LD 1806, which was enacted as Public Law 1995, chapter 696, because this provision was included in this law.

The law clarifies that fire safety inspections apply to licensed congregate housing facilities.

The law requires the Commissioner of Human Services to review the laws and rules on residential care, long-term care and assisted living, including asset and income treatment and spousal support. It requires a report to the Joint Standing Committee on Human Resources by January 1, 1997.

By October 1, 1996 it requires the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the State Board of Nursing to report to the Joint Standing Committee on Human Resources on recommendations for standardization of educational courses and utilization of unlicensed assistive personnel who administer medications in long-term care facilities.

It prohibits the Department of Human Services from instituting case mix reimbursement in residential care facilities until July 1, 1997, and requires a report on the issue to the Joint Standing Committee on Human Resources by January 1, 1997.

It amends the definition of professional nursing to include coordination and oversight of patient care services by unlicensed assistive personnel. It requires the State Board of Nursing to adopt rules for the application of that provision to nursing practice. A substantially similar provision was deleted from LD 1806, which was enacted as Public Law 1995, chapter 696, because this provision was enacted in this law.

**LD 1863 An Act to Improve the Provisions of Mental Health
Services to Patients Residing in the Community**

INDEF PP

Sponsor(s)
LEMKE
TUTTLE

Committee Report
ONTP - unofficial vote. See text.

Amendments Adopted

LD 1863 proposed to ensure the proper treatment of patients in the community with serious mental illness or disorder by requiring that, prior to recommending discharge of a patient from a state institution, the Department of Mental Health and Mental Retardation prepare an individual plan that specifies that patient's needs, arrange for delivery of needed services and ensure that funds are available for the services. The plan would have been required to be signed by all agencies that would provide the services to the patient. This bill was never actually referred to committee. The Human Resources Committee heard the bill, having advertised it by LR number (LR3078) and worked it on March 13. The committee voted unanimously Ought Not to Pass. On March 29 the bill was indefinitely postponed, pending referral, in the House. On March 30 it received a similar vote in the Senate.

LD 1875

An Act Regarding the Food Stamp and Low Income Home Energy Assistance Program

**PUBLIC 629
EMERGENCY**

Sponsor(S)

Committee Report

Amendments Adopted

(Bill was drafted in committee and reported directly to the floor of the House.)

LD 1875 is the result of the work of the Human Resources Committee in response to Private and Special Law 1995, chapter 51, which directed the committee to hold a hearing and report legislation by March 1, 1996. This bill proposed to direct the Department of Human Services to take steps to continue the use of the food stamp standard utility allowance for households receiving assistance under the food stamp program and the Low Income Home Energy Assistance Program. It would have directed the department to coordinate efforts with public entities and entities operating publicly subsidized assistance programs to examine options for continuing benefits and to apply for federal waivers to do so. It would have directed the department to report promptly to the Joint Standing Committee on Human Resources if it were to find itself unable to preserve the use of the food stamp standard utility allowance.

Enacted law summary

Public Law 1995, chapter 629, enacts the original bill. The bill was developed in committee and was therefore not heard after printing. The law directs the Department of Human Services to take steps to continue the use of the food stamp standard utility allowance for households receiving assistance under the food stamp program and the Low Income Home Energy Assistance Program. It directs the department to coordinate efforts with public entities and entities operating publicly subsidized assistance programs to examine options for continuing benefits and to apply for federal waivers to do so. It directs the department to report promptly to the Joint Standing Committee on Human Resources if it finds that it is unable to preserve the use of the food stamp standard utility allowance.

Public Law 1995, chapter 629 takes effect April 8, 1996.

Joint Standing Committee on Human Resources

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Aging and Long-term Care</i>			
<u>Enacted</u>			
LD 1689	Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities	RESOLVE 71 EMERGENCY.....	122
LD 1730	An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition	PUBLIC 687 EMERGENCY.....	125
LD 1806	An Act to Promote Choice and Quality in Longterm Care	PUBLIC 696 EMERGENCY.....	133
LD 1835	An Act to Provide for Assisted Living Services	PUBLIC 670.....	135
<u>Not Enacted</u>			
LD 1604	An Act Requiring the Department of Human Services to Reimburse Nursing Home Facilities from Initial Medicaid Eligibility	ONTP.....	120
<i>Children's Services</i>			
<u>Enacted</u>			
LD 271	An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government	PUBLIC 675.....	118
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134
<u>Not Enacted</u>			
LD 974	An Act to Create an Advisory Board and State and Local Interagency Teams to Assist in the Provision of Care for Children and Adolescents with Severe Emotional Disturbance	ONTP.....	119

Departmental Organization and Administration

Enacted

LD 271	An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government	PUBLIC 675.....	118
LD 1644	An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers	PUBLIC 583 EMERGENCY.....	120
LD 1646	An Act to Establish the Freeport Towne Square Mental Retardation Facility	PUBLIC 550.....	121
LD 1673	An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines	PUBLIC 596.....	122
LD 1689	Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities	RESOLVE 71 EMERGENCY.....	122
LD 1704	An Act Redefining the Community Services Structure of the Mental Health System	PUBLIC 691.....	123
LD 1743	An Act to Establish Consistency between Federal and State Drinking Water Laws	PUBLIC 622.....	127
LD 1764	An Act to Ensure the Proper and Humane Care of Persons Requiring Mental Health Services	PUBLIC 697 EMERGENCY.....	127
LD 1773	An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation	PUBLIC 685 EMERGENCY.....	129
LD 1784	An Act to Amend the Home Health Laws	PUBLIC 620.....	129
LD 1806	An Act to Promote Choice and Quality in Longterm Care	PUBLIC 696 EMERGENCY.....	133
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134
LD 1835	An Act to Provide for Assisted Living Services	PUBLIC 670.....	135
LD 1875	An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program	PUBLIC 629 EMERGENCY.....	138

		<u>Final Disposition</u>	<u>Page #</u>
<u>Not Enacted</u>			
LD 974	An Act to Create an Advisory Board and State and Local Interagency Teams to Assist in the Provision of Care for Children and Adolescents with Severe Emotional Disturbance	ONTP.....	119
LD 1716	An Act to Allow the Department of Human Services to Release the Names of Individuals Who Receive Welfare Benefits as a Result of Serious, False Misrepresentation	ONTP.....	125
LD 1731	An Act to Amend the Mass Gathering Laws	.....ONTP	
LD 1772	An Act to Create a Uniform Health Information System	ONTP.....	128

Health Care

Enacted

LD 1601	An Act to Allow Physicians' Offices to Receive Discounts from Pharmaceutical Manufacturers	PUBLIC 548.....	119
LD 1644	An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers	PUBLIC 583 EMERGENCY.....	120
LD 1646	An Act to Establish the Freeport Towne Square Mental Retardation Facility	PUBLIC 550.....	121
LD 1673	An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines	PUBLIC 596.....	122
LD 1730	An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition	PUBLIC 687 EMERGENCY.....	125
LD 1784	An Act to Amend the Home Health Laws	PUBLIC 620.....	129
LD 1788	An Act to Establish the Maine Health Data Organization	PUBLIC 653 EMERGENCY.....	130
LD 1806	An Act to Promote Choice and Quality in Longterm Care	PUBLIC 696 EMERGENCY.....	133
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134
LD 1835	An Act to Provide for Assisted Living Services	PUBLIC 670.....	135

		<u>Final Disposition</u>	<u>Page #</u>
<u>Not Enacted</u>			
LD 1604	An Act Requiring the Department of Human Services to Reimburse Nursing Home Facilities from Initial Medicaid Eligibility	ONTP.....	120
LD 1772	An Act to Create a Uniform Health Information System	ONTP.....	128

Income Maintenance

Enacted

LD 271	An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government	PUBLIC 675.....	118
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134
LD 1875	An Act Regarding the Food Stamp and Low Income Home Energy Assistance Program	PUBLIC 629 EMERGENCY.....	138

Not Enacted

LD 1716	An Act to Allow the Department of Human Services to Release the Names of Individuals Who Receive Welfare Benefits as a Result of Serious, False Misrepresentation	ONTP.....	125
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Medicaid

Enacted

LD 271	An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government	PUBLIC 675.....	118
LD 1689	Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities	RESOLVE 71 EMERGENCY.....	122
LD 1730	An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition	PUBLIC 687 EMERGENCY.....	125
LD 1806	An Act to Promote Choice and Quality in Longterm Care	PUBLIC 696 EMERGENCY.....	133
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134

Not Enacted

LD 1604	An Act Requiring the Department of Human Services to Reimburse Nursing Home Facilities from Initial Medicaid Eligibility	ONTTP.....	120
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Mental Health

Enacted

LD 1704	An Act Redefining the Community Services Structure of the Mental Health System	PUBLIC 691.....	123
LD 1764	An Act to Ensure the Proper and Humane Care of Persons Requiring Mental Health Services	PUBLIC 697 EMERGENCY.....	127

Not Enacted

LD 1863	An Act to Improve the Provisions of Mental Health Services to Patients Residing in the Community	INDEF PP.....	137
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Mental Retardation and Other Developmental Disabilities

Enacted

LD 1646	An Act to Establish the Freeport Towne Square Mental Retardation Facility	PUBLIC 550.....	121
LD 1704	An Act Redefining the Community Services Structure of the Mental Health System	PUBLIC 691.....	123
LD 1773	An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation	PUBLIC 685 EMERGENCY.....	129

Miscellaneous

Enacted

LD 271	An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government	PUBLIC 675.....	118
LD 1601	An Act to Allow Physicians' Offices to Receive Discounts from Pharmaceutical Manufacturers	PUBLIC 548.....	119

		<u>Final Disposition</u>	<u>Page #</u>
LD 1644	An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by Authorizing and Supervising Certain Hospital Mergers	PUBLIC 583 EMERGENCY.....	120
LD 1646	An Act to Establish the Freeport Towne Square Mental Retardation Facility	PUBLIC 550.....	121
LD 1788	An Act to Establish the Maine Health Data Organization	PUBLIC 653 EMERGENCY.....	130

Not Enacted

LD 1604	An Act Requiring the Department of Human Services to Reimburse Nursing Home Facilities from Initial Medicaid Eligibility	ONTP.....	120
LD 1772	An Act to Create a Uniform Health Information System	ONTP.....	128

Public Health

Enacted

LD 134	An Act to Amend the Laws Regarding the Maine Public Drinking Water Commission	PUBLIC 581.....	118
LD 1644	An Act to Amend the Hospital Cooperation Act of 1992 to Facilitate Integrated Health Care Delivery Systems by	PUBLIC 583 EMERGENCY.....	120
LD 1673	An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines	PUBLIC 596.....	122
LD 1704	An Act Redefining the Community Services Structure of the Mental Health System	PUBLIC 691.....	123
LD 1743	An Act to Establish Consistency between Federal and State Drinking Water Laws	PUBLIC 622.....	127
LD 1784	An Act to Amend the Home Health Laws	PUBLIC 620.....	129
LD 1806	An Act to Promote Choice and Quality in Longterm Care	PUBLIC 696 EMERGENCY.....	133
LD 1812	An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program	PUBLIC 692.....	134
LD 1835	An Act to Provide for Assisted Living Services	PUBLIC 670.....	135

		<u>Final Disposition</u>	<u>Page #</u>
LD 1875	An Act Regarding the Food Stamp and LowIncome Home Energy Assistance Program	PUBLIC 629 EMERGENCY.....	138
<u>Not Enacted</u>			
LD 1731	An Act to Amend the Mass Gathering Laws	.....	ONTP
LD 1772	An Act to Create a Uniform Health Information System	ONTP.....	128
LD 1863	An Act to Improve the Provisions of Mental Health Services to Patients Residing in the Community	INDEF PP.....	137

Substance Abuse

Enacted

LD 1795	An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs	PUBLIC 621.....	132
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Summary of Committee Action by Joint Standing Committee on Inland Fisheries and Wildlife

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	5	55.6%	1.3%
B. Bills carried over from 1st Regular Session	4	44.4%	1.0%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	9	100.0%	2.3%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	0	0.0%	0.0%
<i>OTP-AM</i>	4	44.4%	1.1%
<i>ONTP</i>	<u>4</u>	<u>44.4%</u>	<u>1.1%</u>
Total Unanimous Reports	8	88.9%	2.1%
B. Divided Reports			
<i>2-Way</i>	1	11.1%	0.3%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	1	11.1%	0.3%
Total Bills Reported Out	9	100.0%	2.4%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	4	44.4%	1.0%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	4	44.4%	1.0%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	3	N/A	N/A

Joint Standing Committee on Inland Fisheries and Wildlife

LD 384 **Resolve, to Install Fish Screens in the West Grand Lake Dam** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY	ONTP	

LD 384 proposed to require that the Department of Inland Fisheries and Wildlife install a fish screen in the West Grand Lake Dam.

LD 572 **An Act to Transfer Regulatory Control of Whitewater Rafting to the Department of Conservation's Bureau of Parks and Recreation** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROTONDI	ONTP	

LD 572 proposed to transfer from the Department of Inland Fisheries and Wildlife to the Department of Conservation all regulation of commercial whitewater rafting, except for the licensing of whitewater guides.

LD 904 **An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs** PUBLIC 679
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'DEA	OTP-AM MAJ OTP-AM MIN	S-477

LD 904 was originally referred to the Joint Standing Committee on Criminal Justice during the First Regular Session of the 117th, but was re-referred to the Joint Standing Committee on Inland Fisheries and Wildlife and carried over by that Committee for further consideration in the Second Regular Session.

LD 904 proposed to change the classification of crimes committed while hunting under the influence of alcohol or drugs and operating watercrafts, snowmobiles and ATV's under the influence of alcohol and drugs from Class E to Class D crimes and increase the types of drug and alcohol testing that may be used.

Committee Amendment "A" (S477) is the majority report of the Joint Standing Committee on Inland Fisheries and Wildlife. The amendment proposed to replace the bill and make the bill an emergency.

The amendment proposed to increase from Class E to Class D the crimes of hunting while under the influence of intoxicating liquor or drugs and operating a snowmobile or ~~at~~ terrain vehicle while under the influence of intoxicating liquor or drugs. Operating a watercraft while under the influence of intoxicating liquor or drugs has been a Class D crime since 1989. The amendment also proposed to set the minimum penalties for those crimes equal to those that apply in current law to the crime of operating a watercraft while under the influence of intoxicating liquor or drugs.

The amendment proposed to keep the existing 0.08% blood alcohol content prohibition on hunting and operating a snowmobile, ATV or watercraft by persons 21 years of age or older, but prohibits a person younger than 21 from engaging in those activities while having any alcohol in the blood. The amendment also proposed to provide immunity from certain criminal and civil liability for certain health care professionals who voluntarily report on alcohol-related or drug-related hunting, snowmobile, ATV or watercraft accidents and retain those provisions of the bill that allow additional types of drug and alcohol testing.

The amendment proposed to add a fiscal note to the bill.

Committee Amendment "B" (S478) is the minority report of the Joint Standing Committee on Inland Fisheries and Wildlife. The amendment proposed to replace the bill and changes the title of the bill.

The amendment proposed to prohibit a person convicted of hunting while under the influence of alcohol or other drugs from obtaining a license to hunt for 5 years after the date of conviction. The amendment also proposed to decriminalize the operation of a snowmobile or ~~an~~ terrain vehicle on the operator's own land while under the influence of intoxicating alcohol or other drugs and make the operation of a snowmobile or an ~~at~~ terrain vehicle on another person's land while under the influence of intoxicating alcohol or other drugs a Class E crime. The amendment also proposed making the operation of a snowmobile or an ~~at~~ terrain vehicle on public land, or trails maintained using public funds, while under the influence of intoxicating alcohol or other drugs a Class D crime. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 679, increases from Class E to Class D the crimes of hunting while under the influence of intoxicating liquor or drugs and operating a snowmobile or ~~at~~ terrain vehicle while under the influence of intoxicating liquor or drugs. Operating a watercraft while under the influence of intoxicating liquor or drugs has been a Class D crime since 1989. The law sets the minimum penalties for those crimes equal to those that apply to the crime of operating a watercraft while under the influence of intoxicating liquor or drugs.

This law keeps the existing 0.08% blood alcohol content prohibition on hunting and operating a snowmobile, ATV or watercraft by persons 21 years of age or older, but prohibits a person younger than 21 from engaging in those activities while having any alcohol in the blood. The law provides immunity from certain criminal and civil liability for certain health care professionals who voluntarily report on alcohol-related or drug-related hunting, snowmobile, ATV or watercraft accidents and allow additional types of drug and alcohol testing.

Chapter 679 was enacted as an emergency measure effective April 11, 1996.

Fishing Rules

Sponsor(s)
UNDERWOOD

Committee Report
ONTP

Amendments Adopted

LD 1383 proposed to direct the Commissioner of Inland Fisheries and Wildlife to standardize certain rules for both ice fishing and open water fishing.

LD 1645 An Act to Revise Certain Fish and Wildlife Laws

PUBLIC 667
EMERGENCY

Sponsor(s)
HALL

Committee Report
OTP-AM

Amendments Adopted
H-813
S-485
S-576

LD 1645 proposed was the Department of Inland Fisheries and Wildlife's "Omnibus" bill and proposed a series of changes to the fish and wildlife laws of the State.

Committee Amendment "A" (\$485) proposed to change many of the provisions in the original bill and add several others..

House Amendment "A" to Committee Amendment "A" (H04), which was not adopted, proposed to remove that section of the committee amendment that proposed to increase the examination fee for a guide license from \$10 to \$100.

House Amendment "B" to Committee Amendment "A" (H13) proposed to require that the Commissioner of Inland Fisheries and Wildlife appoints the warden or retired warden member of the Advisory Board for the Licensing of Whitewater Guides and that the public members of the Advisory Board for the Licensing of Whitewater Guides hold year terms.

Senate Amendment "A" to Committee Amendment "A" (S76) proposed to eliminate the authorization for retroactive payments to members of the Inland Fisheries and Wildlife Advisory Council and establishes a July 1, 1996 effective date for a per diem increase for council members.

Enacted law summary

Public Law 1995, chapter 667, does the following:

Authorizes the Commissioner of Inland Fisheries and Wildlife to sell or lease video tapes and sell merchandise and use those proceeds for any purpose within the Department of Inland Fisheries and Wildlife, except the department's magazine;

Allows any member of the United States Armed Forces to buy a trapping, fishing, hunting or combination license at any agency;

Encourages landowners who prohibit access to their land without permission to post their land with signs that include the name and address of the person to contact to obtain permission;

It increases from \$10 to \$100 the examination fee for obtaining a guide license;

It clarifies that the nonresident 3-day small game hunting license is valid for 3 consecutive days;

It requires 16-year-old hunters to complete a hunter safety course;

It allows the Commissioner of Inland Fisheries and Wildlife to adopt rules, which are classified as major substantive rules, governing the selection and reporting requirements for licensing agents of the Department of Inland Fisheries and Wildlife;

It repeals the provision that allows the guide examination fee to be credited toward the license fee;

It allows the oral testing of whitewater guides to be conducted by 2 members;

It repeals the requirement that oral exams for whitewater guides be given by 3 members of the Advisory Board for the Licensing of Whitewater Guides;

It requires that a tree stand and ladder, except a portable unit that is attended by the owner and located on land within the jurisdiction of the Maine Land Use Regulation Commission, be labeled with the name and address of the persons authorized by the landowner to use the tree stand and ladder;

It clarifies the requirement for identifying bear baits;

It clarifies that only those species listed in statute may be regulated by the Department of Inland Fisheries and Wildlife as state endangered or state threatened species;

It repeals the sunset on the option for a 2-week muzzleloading season;

It increases, prospectively, the per diem for members of the Inland Fisheries and Wildlife Advisory Council from \$25 to \$50;

It changes the qualification requirement of the Deputy Commissioner of Inland Fisheries and Wildlife;

It exempts from the definition of "litter" any waste parts or remains that result from the normal field dressing of lawfully harvested wild game and waste parts or remains of wild game used as bait;

A cross-reference to the Maine Litter Control Act is also added to inland fisheries and wildlife law to notify hunters that leaving a carcass, waste parts or remains of an animal in the woods, other than as bait or as a result of field dressing lawfully harvested game, is illegal and is a violation of the Maine Litter Control Act;

It establishes the Advisory Board for the Licensing of Whitewater Guides;

It changes the whitewater guide license from a one-year to a 3-year license;

It increases from 800 to 1,000 the Sunday allocation ceiling for commercial passengers on the Kennebec River and eliminates allocations for the Kennebec River during June;

It requires the use of certain types of personal flotation devices on stretches of the Penobscot River and the Kennebec River;

It creates the Hunters for the Hungry Program within the Department of Inland Fisheries and Wildlife. The program utilizes the existing temporary emergency food assistance programs

administered by the Department of Agriculture, Food and Rural Resources to distribute lawfully harvested wild game meat to soup kitchens, shelters, food pantries, churches and other organizations throughout the State. The Hunters for the Hungry Program allows any person to donate any lawfully obtained game either to the Temporary Emergency Food Assistance Program or directly to one of the eligible kitchens, shelters or churches. The Department of Inland Fisheries and Wildlife may adopt rules to implement the program, working in cooperation with the Department of Agriculture, Food and Rural Resources. Part C also extends immunity from civil liability to persons who lawfully donate wild game meat and to the organizations that handle and distribute that meat.

It requires the Commissioner of Inland Fisheries and Wildlife to appoint a warden or retired warden as a member of the Advisory Board for the Licensing of Whitewater Guides and establishes a 3-year term for public members of the Advisory Board for the Licensing of Whitewater Guides;

Chapter 667 was enacted as an emergency measure effective April 11, 1996.

LD 1726 **An Act to Implement the Recommendations of the Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife** PUBLIC 695
EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-465

LD 1726 proposed provisions to implement the recommendations of the Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife. That Task Force was established by Public Law 1995, chapter 455, section 44.

LD 1726 proposed to change the period of boat registration from one year to 3 years for registrations issued on or after July 1, 1996, and to increase the registration fee from \$4 to \$12 to reflect the increased term of the registration.

The bill also proposed to require the task force to meet on any day between June 1, 1996 and June 30, 1996 to review the progress of the department in implementing the recommendations of the task force, to create a position within the department for a fulltime coordinator of volunteers and to provide an allocation for the use of federal funds to conduct surveys of hunters, anglers and nonconsumptive users of the State's fish and wildlife resources.

Committee Amendment "A" (S465) proposed to replace the bill. The amendment proposed to require that watercraft registrations and certificates of number issued after July 1, 1996 be valid for specific calendar years, rather than for the 12-month period following the date the certificates of number are issued.

The amendment also proposed to retain the requirement in the bill that the Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife meet in June to evaluate the department's progress, but makes a technical correction and removes the provision that would have allowed the members to receive per diem and expenses for that meeting.

Enacted law summary

Public Law 1995, chapter 695, requires watercraft registrations and certificates of number issued after July 1, 1996 be valid for specific calendar years, rather than for the 12-month period following the date the certificates of number are issued. The law also the Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife to meet in June to evaluate the department's progress without per diem or expenses.

Chapter 695 was enacted as an emergency measure effective April 11, 1996.

LD 1737 An Act to Improve the Ability of Potential Users of Private Land to Seek Permission from Landowners ONTP

<u>Sponsor(s)</u> STUDY BILL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1737 proposed to permit the Support Landowners Program within the Department of Inland Fisheries and Wildlife, also known as the Landowner Relations Program, to encourage landowners who allow access to their property only with permission to conspicuously post signs on the property containing the name and address of the owner or another person with authority to grant permission. The substance of this bill was incorporated into LD 1645.

**LD 1820 An Act to Amend the Laws Concerning Commercial Whitewater Rafting CONF CMTE
UNABLE TO AGREE**

<u>Sponsor(s)</u> MICHAUD	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u>
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LD 1820 proposed to allow 2 members of an affiliated group to conduct whitewater trips on an allocated river if each member of the affiliated group had been awarded an allocation for that river. The bill also proposed to clarify existing law concerning requests to run whitewater trips on an allocated river by a former member of an affiliated group.

Committee Amendment "A" (§486) proposed to replace the bill and make the bill an emergency.

The amendment proposed to allow 2 outfitters, but not more than 2, to form an affiliated group and conduct whitewater rafting trips on an allocated river if both outfitters have been awarded allocations for that river and the Department of Inland Fisheries and Wildlife determines that the affiliation would not result in more than 60% of the total allocations for that river being held by affiliated outfitters.

Senate Amendment "A" to Committee Amendment "A" (§08) proposed to strike the emergency preamble and the emergency clause.

Senate Amendment "B" to Committee Amendment "A" (§09) proposed to allow 2 outfitters to form an affiliated group and conduct whitewater rafting trips on an allocated river under the conditions stated in the committee amendment if the combined total allocations for that river for those 2 outfitters did not exceed 120.

Senate Amendment "C" to Committee Amendment "A" (§10) proposed to allow 2 outfitters to form an affiliated group and conduct whitewater rafting trips on an allocated river

under the conditions stated in the committee amendment if the combined total allocations for that river for those 2 outfitters does not exceed 120 per day.

Conference Committee Report. LD 1820 was referred to a Conference Committee. The Conference Committee's "Unable to Agree" report was accepted by both bodies on April 2, 1996.

**LD 1832 An Act to Amend the Atlantic Salmon Authority PUBLIC 535
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY KIEFFER		S-466

LD 1832 proposed several changes to the appointment criteria and the appointment process pertaining to members of the Atlantic Salmon Board. This bill was enacted on the floor, without reference to Committee.

Senate Amendment "A" (S466) proposed to add an emergency preamble, an emergency clause and a fiscal note to the bill.

Enacted Law summary

Public Law chapter 535, which was enacted as an emergency, added one member at large to the Atlantic Salmon Board to represent the public and clarified that the Commissioner of Inland Fisheries and Wildlife and the Commissioner of Marine Resources are exempt from the confirmation process. The law restricts the Atlantic Salmon Authority's role to inland waters other than commercial hatcheries, with the exception of the Ducktrap, Sheepscot, Narraguagus, Pleasant, Machias, East Machias and Dennys rivers. The delay in the effective date of authority over those rivers is to allow the executive branch adequate opportunity to respond to a proposed federal listing of Atlantic salmon. The board will report back to the Joint Standing Committee on Inland Fisheries and Wildlife by December 1, 1996 concerning management of Atlantic salmon and recommendations on staffing and budget.

Chapter 535 was enacted as an emergency measure effective March 13, 1996.

**LD 1833 An Act to Clarify the Definition of Commercial Whitewater PUBLIC 626
Outfitter EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HANLEY	OTP-AM	S-513

LD 1833 proposed to provide an exception to the definition of "commercial whitewater outfitter" in the laws regulating commercial whitewater rafting for a nonprofit whitewater rafting club that collects dues or fees to finance the expenses of the club.

Committee Amendment "A" (S513) proposed to authorize the Commissioner of Inland Fisheries and Wildlife to allow certain noncommercial organizations that collect dues or fees to conduct whitewater rafting trips without a commercial whitewater outfitters license.

Enacted law summary

Public Law 1995, chapter 626, allows the Commissioner of Inland Fisheries and Wildlife to authorize the following 2 types of dues or fee collecting organizations to conduct whitewater rafting trips without a commercial license:

1. A tax-exempt, nonprofit corporation incorporated in this State before March 1, 1996 whose purpose is incidental to whitewater rafting, including the local councils, troops or organized local groups affiliated with that corporation. Organizations in this category include the local boy scout and girl scout councils or troops and church groups. Those organizations must request authorization from the commissioner at least 15 days before conducting a rafting trip and the commissioner may not allow a council, troop or other organized local group affiliated with the corporation to conduct more than 2 rafting trips a year without a commercial license; and
2. A noncommercial whitewater rafting club organized solely to provide whitewater rafting trips to its members. The law authorizes the commissioner to allow a noncommercial club that collects dues or fees to conduct whitewater rafting trips for its members without a commercial license if the commissioner determines that the sole purpose of the club is to provide noncommercial whitewater rafting opportunities to its members, that members of the club, including officers or board members, if any, will not receive any form of compensation from the club at any time, that the club will use its own equipment, that all fees or dues collected from club members are used only to purchase and maintain rafting equipment for the sole use of the club, that the club will not employ or otherwise compensate any person for service relating to rafting and that the club will not accept gifts of products or services from any commercial whitewater outfitter or licensed whitewater guide. Noncommercial whitewater rafting clubs must file certain information with the commissioner by January 1st of each year, including a list of the name, address and telephone number of each member of the club.

The law requires the commissioner to place limits on the rafting activities of these organizations, when necessary, including limits on the time, location, safety equipment and number of people that may participate in a rafting trip or to deny a request if granting that request would conflict with the river management goals set forth in the Maine Revised Statutes, Title 12, section 7364.

Chapter 626 was enacted as an emergency measure effective April 8, 1996.

Joint Standing Committee on Inland Fisheries and Wildlife

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Boating And Watercraft</i>			
<u>Enacted</u>			
LD 1645	An Act to Revise Certain Fish and Wildlife Laws	PUBLIC 667 EMERGENCY.....	149
LD 1726	An Act to Implement the Recommendations of the Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife	PUBLIC 695 EMERGENCY.....	151
<u>Not Enacted</u>			
	None		
<i>Hunting And Fishing</i>			
<u>Enacted</u>			
LD 1645	An Act to Revise Certain Fish and Wildlife Laws	PUBLIC 667 EMERGENCY.....	149
<u>Not Enacted</u>			
LD 384	Resolve, to Install Fish Screens in the West Grand Lake Dam	ONTP.....	147
LD 1393	Resolve, to Standardize Certain Ice Fishing and Open Water Fishing Rules	ONTP.....	149
<i>Landowner Relations</i>			
<u>Enacted</u>			
	None		
<u>Not Enacted</u>			
LD 1737	An Act to Improve the Ability of Potential Users of Private	ONTP.....	152

License Permits

Enacted

LD 1645	An Act to Revise Certain Fish and Wildlife Laws	PUBLIC 667 EMERGENCY..... 149
----------------	--	---

Not Enacted

None

Penalties

Enacted

LD 904	An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs	PUBLIC 679 EMERGENCY..... 147
---------------	--	---

Not Enacted

None

Regulation

Enacted

LD 1645	An Act to Revise Certain Fish and Wildlife Laws	PUBLIC 667 EMERGENCY..... 149
----------------	--	---

Not Enacted

LD 572	An Act to Transfer Regulatory Control of Whitewater Rafting to the Department of Conservation's Bureau of Parks and Recreation	ONTP..... 147
---------------	---	----------------------

Salmon

Enacted

LD 1832	An Act to Amend the Atlantic Salmon Authority	PUBLIC 535 EMERGENCY..... 153
----------------	--	---

Not Enacted

None

Final
Disposition **Page #**

Whitewater Rafting

Enacted

LD 1833 **An Act to Clarify the Definition of Commercial Whitewater
Outfitter** PUBLIC 626
EMERGENCY..... **153**

Not Enacted

LD 1820 **An Act to Amend the Laws Concerning Commercial
Whitewater Rafting** CONF CMTE
UNABLE TO AGREE..... **152**

Summary of Committee Action by Joint Standing Committee on Judiciary

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	20	60.6%	5.1%
B. Bills carried over from 1st Regular Session	13	39.4%	3.3%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	33	100.0%	8.3%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	4	12.1%	1.1%
<i>OTP-AM</i>	18	54.5%	4.8%
<i>ONTP</i>	<u>7</u>	<u>21.2%</u>	<u>1.9%</u>
Total Unanimous Reports	29	87.9%	7.8%
B. Divided Reports			
<i>2-Way</i>	4	12.1%	1.1%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	4	12.1%	1.1%
Total Bills Reported Out	33	100.0%	8.8%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	21	63.6%	5.3%
<i>Private and Special Laws</i>	1	3.0%	0.3%
<i>Resolves</i>	2	6.1%	0.5%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	24	72.7%	6.1%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	9	N/A	N/A

Joint Standing Committee on Judiciary

LD 346 **An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence** PUBLIC 576

<u>Sponsor(s)</u> RICHARDSON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-754
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LD 346, a bill carried over from the First Regular Session, proposed to reverse current practice in the State and make the Maine rule compatible with the federal rule by prohibiting the introduction of evidence in court when the evidence is related to steps taken after an accident to correct a condition that may have contributed to the accident.

Committee Amendment "A" (H754) proposed to replace the bill with the language contained in the Federal Rules of Evidence, Rule 407. The amendment proposed that the change in the admissibility of evidence of subsequent remedial measures apply to causes of action in which the harm or injury occurred on or after the effective date of this Act.

Enacted law summary

Public Law 1995, chapter 576 inserts into statute the language contained in the Federal Rules of Evidence, Rule 407. It prohibits the introduction of evidence of subsequent remedial measures for the purpose of proving negligence or culpable conduct. Consistent with the federal rule, however, that evidence may be admitted for other purposes. The change in the admissibility of evidence of subsequent remedial measures applies to causes of action in which the harm or injury occurred on or after the effective date of this Act.

LD 423 **An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions** ONTP

<u>Sponsor(s)</u> KIEFFER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 423, a bill carried over from the First Regular Session, proposed to set a limit of \$250,000 on noneconomic damages in medical liability actions. The bill would not have changed a plaintiff's entitlement to recover for economic losses, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and other verifiable monetary losses.

LD 526 **An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule** ONTP

<u>Sponsor(s)</u> TREAT RAND	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 742, a bill carried over from the First Regular Session, proposed to amend the law regarding wrongful death actions by removing the existing cap of \$75,000 on the amount of damages that may be awarded to the family of the deceased to compensate for the loss of comfort, society and companionship of the deceased. The bill also proposed to extend the time limit for filing an action from 2 years to 6 years after the decedent's death.

Committee Amendment "A" (H755) proposed to replace the original bill with a cap of \$150,000 on nonpecuniary damages for the family members to compensate for their loss. The amendment would not have changed the 2-year limitation period for filing an action that is in current law.

Enacted law summary

Public Law 1995, chapter 577 amends the law regarding wrongful death actions by increasing the cap to \$150,000 on the nonpecuniary damages that may be awarded to the family to compensate for the loss of comfort, society and companionship of the deceased.

LD 916 An Act to Improve the Function of the Maine Health Security Act

PUBLIC 571

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-462

LD 916, a bill carried over from the First Regular Session, proposed to change the law governing mandatory prelitigation screening and mediation panels. It would have provided that if a panel motion hearing has not concluded within 9 months of service of the notice of claim, the claimant may bypass panel proceedings and commence a lawsuit. It would have revised the specific findings required to be made by the panel at the conclusion of its deliberations and would have added the requirement that if the panel finds that there was negligence and causation, the panel would also have to decide whether the evidence was clear and convincing. The bill also proposed to amend the conditions under which the findings of the panel would be admissible in subsequent court actions.

Committee Amendment "A" (S462) would have replaced the original bill. Under the current law requiring prelitigation screening and mediation panels for claims of professional negligence, a hearing on such a claim must be held no later than 120 days from the service of the notice of claim. This bill proposed to change the deadline to 6 months from the service of the notice of claim and proposed to clarify that this time period may be extended by the panel chair.

Enacted law summary

Public Law 1995, chapter 571 extends the time period in which a hearing must be held before a prelitigation screening and mediation panel for claims of medical malpractice. The time period is extended from 120 days to 6 months from the service of the notice of claim. This time period may be extended by the panel chair.

LD 1331 An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON	ONTP MAJ OTP-AM MIN	

LD 1331, a bill carried over from the First Regular Session, proposed to provide law enforcement officials access to certain records about teachers that are in the possession of a school administrative unit if those records would assist the officials in investigating potentially criminal activity. The bill also would have permitted the Department of Human Services to release information in child protective records to certain school administrators and to the directors of organizations or state agencies that provide direct services to children, employ persons to provide direct services to children or contract with the Department of Human Services or the Department of Mental Health and Mental Retardation to provide direct services to children.

Committee Amendment "A" (H869) is the Minority Report. It would have replaced the bill, although it retained the central purpose of protecting children in school situations in which the Department of Human Services has substantiated information about a person working with those children.

The amendment would have created a new provision in the Child and Family Services and Child Protection Act. The new provision would have given the department discretionary authority to disclose certain information in the very specific circumstances. The child would have to be at risk of being abused based on substantiated information in the possession of the department; the department reasonably believed that the child could not be protected without disclosing the information to the superintendent of the school district or the chief administrator of a private school; and the department would have to notify the person before the information could be released unless the notification would increase the risk to the child. (Not adopted)

LD 1358 An Act to Establish Limited Liability Partnerships

PUBLIC 633

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN DORE	OTP-AM	S-450 S-575

LD 1358, a bill carried over from the First Regular Session, proposed to allow the formation of limited liability partnerships under the Uniform Partnership Act. The bill also proposed conforming amendments to other chapters of the statutes and proposed to clarify that the transfer of real property within a limited liability partnership would not be not a taxable event.

Committee Amendment "A" (S450) was the result of the collaborative effort of many people. The Joint Standing Committee on Judiciary requested in 1995 that the Secretary of State convene a study group of interested persons to identify and try to resolve issues raised by the proposal to allow the formation or election of limited liability partnerships in Maine. The amendment is the study group's draft, with modifications made by the Judiciary Committee.

The amendment proposed to allow a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business by electing

LLP status. The amendment proposed provisions governing filing liability of professional LLPs and authorized use of names and initials.

The amendment would have added an appropriation and a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (§75) proposed to delete references to a deleted requirement that a limited liability partnership submit a list of all the partners upon the request of the Secretary of State.

Enacted law summary

Public Law 1995, chapter 633 allows general partnerships to elect limited liability status. The LLP election allows a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business.

If a partnership fails to comply with certain filing requirements, it is the status of the partnership as an LLP, with all the associated protections from liability, that is revoked and not the partnership's ability to conduct business in this State. The partnership is also free to rescind its status as an LLP at any time.

The internal governance of the LLP is subject to the State's general partnership law and any partnership agreement between the parties.

Chapter 633 allows general partnerships formed for any legal purpose, whether by professionals or nonprofessionals, to make the LLP election. Under Maine law, professionals forming corporations are subject to the Maine Professional Service Corporation Act (PSCA). This chapter incorporates the liability provisions of PSCA that apply to professionals.

This chapter provides that a general partnership electing LLP status must indicate that status by using in its name either "Limited Liability Partnership," "L.L.P." or "LLP." This chapter revises the limited partnership law to allow the use of the abbreviation "L.P." or the designation of "LP" and revises the limited liability company law to allow the use of the abbreviation "L.L.C." or the designation "LLC."

This chapter establishes how certain filings of the LLP are to be executed. When an LLP fails to deliver its annual report or maintain a registered agent and office or otherwise fails to comply with the law, the Secretary of State may revoke its status as a limited liability partnership. Because LLP status is an election of a general partnership, revocation of that status causes only the loss of the protection from liability, not a suspension from conducting business as a partnership.

This chapter requires that the contact partner be disclosed in the initial certificate of limited liability partnership and that it be kept current. In addition, the names and addresses of all the partners must be included in the annual report.

**LD 1371 An Act Relating to Civil Actions, Providing for the
Defense of Assumption of Risk, Providing for Standards of
Liability in Product Liability Actions and Providing for
Standards and Procedures in Awarding Punitive Damages**

ONTP

Sponsor(s)
CIANCHETTE

Committee Report
ONTP

Amendments Adopted

LD 1371, a bill carried over from the First Regular Session, proposed several changes to the laws relating to civil actions seeking damages. The bill would have established assumption of risk as an independent defense. Under current law, assumption of risk is relevant only as a factor to be considered in the comparative negligence determination.

The bill also proposed that a product manufacturer or seller could not be held liable for damage caused by an aspect of the product that was an inherent characteristic of that type of product and that was known to the ordinary consumer. LD 1371 also proposed that a plaintiff claiming that a product was defectively designed would have to establish that a safer alternative design existed that would have avoided the harm, a modification of Maine's existing "dangerousness" test for product defects, under which the existence of a feasible alternative design is one of three relevant factors.

LD 1371 also would have established a number of procedural and substantive rules relating to the award of punitive damages in civil cases. The bill would have barred plaintiffs from demanding a specific amount of punitive damages in the complaint, permitted bifurcation of civil trials into liability and punitive damages phases, established factors for consideration in determining the appropriate level of punitive damages, applied existing comparative negligence principles to punitive damages awards, codified the requirement that the plaintiff prove by clear and convincing evidence that the defendant acted with malice in order to sustain a punitive damages award, limited the amount of punitive damages to 2 times the amount of compensatory damages or \$350,000, restricted the availability of multiple punitive damages awards for the same conduct and limited the availability of punitive damages for conduct regulated by the government.

LD 1445 An Act to Limit the Liability of Property Owners in Cases of PUBLIC 572
Nonnegligent Lead Poisoning EMERGENCY

Sponsor(s)
BERUBE

Committee Report
OTP-AM

Amendments Adopted
S-463

LD 1445, a bill carried over from the First Regular Session, proposed to limit the liability of landlords for lead poisoning to \$250,000 unless the landlord had actual notice of conditions likely to cause lead poisoning and refused to take corrective action.

Committee Amendment "A" (S463) proposed to replace the original bill. The amendment would have added an emergency preamble, lowered the current cap on lead poisoning liability from \$750,000 to \$600,000 and changed the repeal date for the cap from April 15, 1996 to October 1, 1999. The amendment also proposed to create a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead poisoned children and mechanisms to financially assist property owners in lead abatement. The proposed task force would have to report to the legislative committees having jurisdiction over judiciary and human resources matters by November 1, 1998. The amendment also included a fiscal note.

Enacted law summary

Public Law 1995, chapter 572, enacted as an emergency, lowers the cap on lead poisoning liability from \$750,000 to \$600,000 and changes the repeal date for the cap from April 15, 1996 to October 1, 1999. It also creates a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead poisoned children and mechanisms to financially assist property owners in

lead abatement. The task force is required to report to the joint standing committees of the Legislature having jurisdiction over judiciary and human resources matters by November 1, 1998. Public Law 1995, chapter 572 is effective March 29, 1996.

LD 1448 An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters ONTP

Sponsor(s)
BERUBE

Committee Report
ONTP

Amendments Adopted

LD 1448 proposed to reconcile the respective rights and responsibilities of individuals, business and organizations with respect to issues of sexual orientation and related matters.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment and housing against a person who has been the victim of a crime involving violence or the threat of violence and who reports that crime to law enforcement, provided that person was not involved in criminal conduct or misconduct relating to employment.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment, housing, access to public accommodations and credit based on sexual orientation. The bill proposed to define the term "sexual orientation" as the status or tendency toward homosexual or heterosexual attraction but the bill would not have expressly protected any form of sexual behavior, conduct or lifestyle that may be related to a sexual orientation. LD 1448 would have exempted religious organizations and certain nonprofit organizations from the provisions of the Act relating to sexual orientation.

LD 1448 would have provided that an employer or insurer is not required to provide insurance or other employee benefits to persons involved in homosexual relationships with an employee because the employer provides those benefits to employees' spouses and children and that employers are not required to engage in affirmative action or to keep employment records relating to sexual orientation.

LD 1448 would have prohibited lawsuits under the Maine Human Rights Act that force participation of groups in privately sponsored events such as parades or conventions for the purpose of advocating a certain lifestyle based on sexual orientation.

LD 1448 would have prohibited lawsuits based on sexual orientation discrimination against employers with less than 15 employees who are exempt from a lawsuit under the federal Americans with Disabilities Act and against landlords who own less than 5 rental units or who reside in the building in question.

LD 1448 would have prohibited lawsuits to force any school to incorporate a particular view of homosexual orientation or behavior in its curriculum and would have expressly left these other decisions under the jurisdiction of local school boards and governing bodies of educational institutions.

LD 1448 would not have required the placement of any child for adoption or foster care when one or more of the prospective parents is homosexual and any person or agency responsible for the placement of a child would have been lawfully able to consider the sexual orientation of the prospective parents. The bill proposed to expressly affirm public policy in support of marriage and makes clear that marriage is limited to one female and one male and that other forms of

relationships or arrangements, whether or not sanctioned by another state, are not recognized in Maine as a marriage or marriage equivalent.

LD 1448 would have made it a crime of sexual abuse of a minor for a person to engage in a sexual act or sexual contact with a minor of the same gender who is more than 3 years younger than the actor. Current law applies only when the actor is at least 5 years older, if the minor is between 14 and 16 years of age and an adult of any age can lawfully engage in sexual activity with a minor who is 16 or 17 years of age.

The Committee voted ONTP without a public hearing at the request of the sponsor.

LD 1517 An Act to Create the Sunshine in Litigation Act ONTP

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1517, a bill carried over from the First Regular Session, proposed to prohibit courts from entering orders or approving agreements that would have the effect of concealing public hazards by suppressing information that would be helpful to the public in protecting themselves from public hazards.

LD 1618 An Act to Reform the Standard of Fiduciary Prudence PUBLIC 525

<u>Sponsor(s)</u> AMERO	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-432
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LD 1618 proposed to remove constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same efficient way that private investors, investment advisors and custodians manage other assets. It would have created the Maine Uniform Prudent Investor Act.

The bill would have been effective January 1, 1997.

Committee Amendment "A" (S432) proposed to correct 2 typographical errors.

Enacted law summary

Public Law 1995, chapter 525 removes constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same way that private investors, investment advisors and custodians manage other assets. The chapter creates the Maine Uniform Prudent Investor Act, as approved by the National Conference of Commissioners on Uniform State Laws in its 1994 Annual Conference.

The most significant change made by Chapter 525 is an alteration in the standard for judging whether fiduciaries have invested in accordance with the "prudent person rule." This chapter changes the focus of the prudence inquiry from each asset individually to the portfolio as a whole. This chapter also states a preference for diversification of investment portfolios in order to reduce risk. This chapter applies the new rules on prudent investing to conservators as well as to trustees.

Chapter 525 recognizes that personal representatives operate under different circumstances than trustees and conservators. To encourage cooperation by personal representatives with devisees, this chapter exculpates personal representatives who invest estate assets in accordance with the instructions of the devisees who are the beneficial owners of the assets.

Chapter 525 adopts the commissioners' proposed transitional rule, which is consistent with the transitional rules employed when the uniform Probate Code became effective in Maine.

Public Law 1995, chapter 525 is effective January 1, 1997.

LD 1624 An Act to Update and Clarify the Corporate Laws PUBLIC 514

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-417
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LD 1624 proposed to establish a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The bill would have made technical corrections and change a cross-reference.

Committee Amendment "A" (S417) would have allowed limited liability companies to state the minimum and maximum number of managers permitted in their articles of organization.

Enacted law summary

Public Law 1995, chapter 514 establishes a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The chapter also makes technical corrections and changes a cross-reference.

Chapter 514 allows limited liability companies to state a minimum and maximum number of managers in their articles of organization.

**LD 1625 An Act to Restore the Safety Defense to the Maine Human Rights Act PUBLIC 511
EMERGENCY**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1625 proposed to add language to the Maine Human Rights Act referring to the "direct threat" defense of the federal Americans with Disabilities Act. It also would have restored a reference to the Maine Human Rights Act's longstanding "safety defense."

Enacted law summary

Public Law 1995, chapter 511 adds to the Maine Human Rights Act necessary references to the "direct threat" defense found in the federal Americans with Disabilities Act. The chapter also restores reference to the Maine Human Rights Act's longstanding "safety defense" which has been interpreted by the Maine Law Court in numerous cases in a way beneficial to both employers and employees.

LD 1626 **An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public** ONTP

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1626 would have established the funding mechanism required by the Maine Revised Statutes, Title 16, section 623, which was enacted by Public Law 1993, chapter 719, section 9, to cover the costs associated with providing access to and copying intelligence and investigative information available to the public pursuant to the Maine Revised Statutes, Title 1, chapter 13 and Title 16, chapter 3, subchapter VIII. All funds collected would have to be deposited to the General Fund.

LD 1629 **An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and Providing for Further Review of Rules** PUBLIC 537

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u> H-711
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LD 1629 was the unanimous report of the Study Commission on Property Rights and the Public Health, Safety and Welfare, created by Resolve 1995, Chapter 45. The bill proposed to establish a mediation program for landowners aggrieved by government regulation.

The bill proposed to require that the Attorney General disapprove any proposed agency rule that is reasonably expected to result in an unconstitutional taking of private property unless the taking is expressly authorized by the Legislature or unless there are sufficient variance provisions to avoid a taking.

Under current law, before adoption of any "major substantive" rule, the issuing department must submit the rule for review by the appropriate legislative committee of jurisdiction that oversees that department. The committee ensures that the rule is consistent with statutory authority, that it conforms with legislative intent, that it does not conflict with other laws and that it is necessary, reasonable and not overly complex. LD 1629 would have added the following 2 review criteria for agency rules identified as possibly causing significant reductions in property values.

1. Are there variances available to avoid an unconstitutional taking of private property?
2. Regardless of whether a taking might result, is the expected reduction in property values necessary or appropriate for the public protection advanced by the rule?

Committee Amendment "A" (H711) is the Majority Report. It proposed several minor changes to the mediation program proposed by the original bill governing immunity for mediators, fees, filing periods, stay of appeal periods, mediator authority and reports.

Enacted law summary

Public Law 1995, chapter 537 accomplishes three main objectives. First, it establishes a mediation program to provide landowners with a prompt, independent, inexpensive and local forum in which to resolve land use disputes without going to court. Second, it specifically requires the Attorney General, when reviewing proposed agency rules under the Administrative Procedure Act, to disapprove any rule that is reasonably expected to result in an unconstitutional taking of private property unless the taking is expressly authorized by the Legislature or unless there are sufficient variance provisions to avoid a taking. Third, the Administrative Procedure Act is amended with regard to Legislative Committee review of "major substantive" rules. In addition to the existing criteria for rules, Committees will also take into consideration the following 2 criteria for those rules that may cause significant reductions in property values.

1. Are there variances available to avoid an unconstitutional taking of private property?
2. Regardless of whether a taking might result, is the expected reduction in property values necessary or appropriate for the public protection advanced by the rule? This second criterion is based on public policy judgments and is not limited to any constitutional standard. It is not necessary for the landowner to claim a "taking."

Mediation is available under the Land Use Mediation Program for governmental land use actions, including failure and refusal to act, that occur after the effective date of the law. Once an application is filed with the Court Mediation Service, the time for further appeal is stayed for a period of no more than 120 days while the attempt is made to achieve a mediated settlement.

The program is self-funded through fees, paid by the requesting party. The mediator is responsible for scheduling the mediation sessions and providing all the information necessary for the Superior Court clerk to mail notice of the schedule to participants. One of the responsibilities of the mediator is to balance the need for public access to proceedings involving a governmental entity with the appropriate alternative dispute resolution techniques necessary for effective mediation of the conflict. The mediator has the power to determine who is necessary for effective mediation and include them in the process. Although state agencies are required to participate when determined by the mediator to be necessary to the mediation, municipal participation is voluntary.

The mediator must file a report with the Superior Court clerk within 90 days after the landowner applies for mediation. The report must be filed as soon as possible if the mediator determines a mediated agreement is not possible. The report must contain the names of the participants, the nature of any agreements and what further action is anticipated, the nature of unresolved issues and a copy of the signed mediation agreement.

The existing Land and Water Resources Council is required to report on the functioning of the program in December 1998 and in December 2000. The program is repealed October 1, 2001.

LD 1634 An Act to Clarify Professional Liability

PUBLIC 526

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1634 proposed to amend the laws governing the liability of a shareholder of a professional corporation for negligence in rendering a professional service. Current law provides that a shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder either personally and directly participated in providing the service that was performed negligently or supervised and controlled that portion of a professional service rendered by another that was performed negligently. LD 1634 proposed

to add the requirement that the shareholder must have directly supervised and controlled that portion of a professional service rendered by another that was performed negligently in order for that shareholder to be held liable.

Enacted law summary

Public Law 1995, chapter 526 amends the laws governing the liability of a shareholder of a professional corporation to provide that a shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder directly supervised and controlled that portion of a professional service rendered by another that was performed negligently. Current law does not specify that the shareholder must directly supervise or control the service rendered by another.

LD 1667 **Resolve, to Improve Tribal and State Relations**

RESOLVE 84

Sponsor(s)
JACQUES

Committee Report
OTP-AM

Amendments Adopted
H-856
S-537

LD 1667 proposed to improve tribal and state relations by strengthening the Maine Indian Tribal-State Commission by adding to the commission's membership and by providing a modest increase in the budget. The bill was originally titled "An Act to Improve Tribal and State Relations by Strengthening the Maine Indian Tribal-State Commission."

Committee Amendment "A" (H856) proposed to replace the original bill and make it a resolve with a new title. The amendment would have required the Maine Indian Tribal-State Commission to establish a Task Force on Tribal-State Relations to report back to the Legislature and all the federally recognized Indian tribes within the State by December 15, 1996 with recommendations to improve tribal-state relations. The amendment proposed to retain the increase of funding of the Maine Indian Tribal-State Commission contained in the original bill.

Senate Amendment "A" To Committee Amendment "A" (S37) proposed to correct language in an appropriation section to remove an incorrect reference to the Maine Indian Claims Settlement Act.

Enacted law summary

Resolve 1995, chapter 84 requires the Maine Indian Tribal-State Commission to establish a Task Force on Tribal-State Relations to report back to the Legislature and all the federally recognized Indian tribes within the State by December 15, 1996 with recommendations to improve tribal-state relations. The task force shall examine possible roles in the Maine Indian Tribal-State Commission for the Houlton Band of Maliseets and the Aroostook Band of Micmacs and evaluate the effectiveness of the commission. The commission must establish the membership of the task force based on its determination of what composition will be the most effective.

Resolve 1995, chapter 84 increases the ongoing funding obligation of the Maine Indian Tribal-State Commission. Funding for the task force will be paid from the State's and the tribes' matching contributions to the funding of the commission.

LD 1707 **An Act to Clarify the Landowner Liability Laws**

PUBLIC 566

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-730

LD 1707 was submitted by the Commission to Study the Trespass Laws, created by ~~Resolve~~ 1995, chapter 53. It proposed a number of changes to the landowner liability laws, which limit the duty of care owed by landowners to persons who use their property for recreational or harvesting activities. The bill would have added dog sledding and equine activities to the list of activities that are specifically included in the definition of "recreational or harvesting activities." The bill also would have clarified that the limitation on the duty of care applies to landowners regardless of whether they have granted permission to use their property to another person.

Committee Amendment "A" (H730) proposed to add the to the list of activities specifically included in the definition "recreational and harvesting activities" environmental education and research, volunteer maintenance and improvement of premises and the harvesting of marine and field products, such as herbs, berries and wild edibles. The amendment also proposed a clarification that "recreational and harvesting activities" does not include commercial agricultural or timber harvesting and proposed adding "easement holders" to the list of persons protected by the law.

Enacted law summary

Public Law 1995, chapter 566 made a number of changes to the landowner liability laws, which limit the duty of care owed by landowners to persons who use their property for recreational or harvesting activities. It adds the following to the list of activities that are specifically included in the definition of "recreational or harvesting activities:" Dog sledding, equine activities, environmental education and research, volunteer maintenance and improvement of premises and the harvesting of marine and field products, such as herbs, berries and wild edibles. It clarifies that "recreational and harvesting activities" does not include commercial agricultural or timber harvesting. Chapter 566 also clarifies that the limitation on the duty of care applies to landowners, regardless of whether they have granted permission to use their property to another person and that the law includes all landowners, lessees, managers, easement holders and occupants.

LD 1708 **An Act to Amend the Laws Relating to Recovery for Property Damage**

PUBLIC 585

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-753

LD 1708 was submitted by the Commission to Study the Trespass Laws, created by Resolve 1995, chapter 53. LD 1708 would have allowed landowners to recover treble damages for property damaged by a trespasser on posted or unposted land and would have also provided for recovery of costs and reasonable attorney's fees.

LD 1708 also proposed to amend the law allowing for recovery of enhanced damages from a person who destroys or damages trees, agricultural products or survey markers. In addition to recovering double damages for negligent damage and treble damages for intentional damage as allowed under current law, the owner would have been entitled to recover the reasonable costs of professional services, including attorney's fees. This bill would have extended the law to permit enhanced recovery by the owner for damage to any road, drainage ditch, culvert or bridge or for disposal of litter, and outlines how such damage would be measured. The bill also proposed a

minimum damage award of \$250 for negligent damage and \$500 for intentional damage. LD 1708 also would have permitted an owner to recover any costs the owner incurs if the damage results in a violation of any other ordinance or law and, as a result, the owner becomes involved in an enforcement proceeding. These costs would have included legal fees and the value of the owner's time spent on involvement in the enforcement proceeding.

Committee Amendment "A" (H753) proposed to replace the original bill and restructure the proposal and current law so that damage to forest products, agricultural products and survey markers would be addressed in a different section than other types of damage to property.

In cases in which agricultural products, forest products or survey markers are damaged, the amendment proposed the same provisions as in the original bill: a minimum damage award of \$250 for negligent damage and \$500 for intentional damage and the recovery of costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. The amendment also proposed to clarify that the landowner may recover the cost of a new boundary survey if a boundary marker is destroyed or removed.

The amendment proposed to add a separate section containing the current provisions on other forms of damage to property and certain new proposals. The amendment would have added damage to roads and culverts, and added littering and dumping as types of damage for which a trespasser would be liable and would have specified the mechanism for determining the amount of damages incurred. If the damage was caused intentionally, the amendment proposed that the trespasser be liable for 2 times the actual damages plus attorney's fees. The owner could also recover the costs associated with an enforcement proceeding if the damage resulted in a violation of any federal, state or local law or ordinance. The amendment also would have prohibited recovery under both provisions for the same specific damage and added a fiscal note.

Enacted law summary

Public Law 1995, chapter 585 restructures and expands upon current law relating to recovery for property damage. Damage to agricultural products, forest products and survey markers is separated from other types of damage to property. In cases in which agricultural products, forest products or survey markers are damaged, chapter 585 retains double damages for negligent acts and treble damages for intentional acts and provides a minimum damage award of \$250 for negligent damage and \$500 for intentional damage. Chapter 585 permits the recovery of costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. It also clarifies that the landowner may recover the cost of a new boundary survey if a boundary marker is destroyed or removed.

In cases involving other types of damages, chapter 585 expands on current law to provide that a person who trespasses onto another's land is liable to the owner for damages caused and attorney's fees. It adds damage to a road, drainage ditch, culvert, bridge or sign as well as littering and dumping as types of damage for which a trespasser is liable, and specifies the mechanism for determining the amount of damages incurred. If the damage is caused intentionally, the trespasser is liable for 2 times the actual damages plus attorney's fees. The owner may also recover the costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. Chapter 585 prohibits recovery of damages for the same specific damage under both of the sections of Title 14 permitting recovery for property damage.

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-821

LD 1729, a recommendation of the Health Care Reform Commission created by Public Law 1993, chapter 707, proposed to require the Bureau of Insurance to convene a committee of experts in research methods to design an analysis of the effectiveness of the mandatory prelitigation screening and mediation panels required by the Health Security Act. The Bureau would have been required to collect the data needed for the study and then commission a study to be conducted by experts in medical liability.

Committee Amendment "A" (H821) proposed to replace the resolve entirely but would have retained the objective of conducting a study of the effectiveness of the prelitigation screening panels. The amendment proposed that the Bureau of Insurance provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The amendment also proposed that the bureau retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation would be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The amendment would have required the bureau to convene an advisory panel to provide advice on the subject of the study. The amendment also would have added an emergency preamble, an emergency clause, an allocation section and a fiscal note to the resolve.

Enacted law summary

Resolve 1995, chapter 76, enacted as an emergency, requires the Bureau of Insurance to provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The bureau is also required to retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation must be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The bureau must convene an advisory panel to provide advice on the subject of the study. An allocation section is included to cover the cost of retaining a research consultant.

Resolve 1995, chapter 76 is effective April 8, 1996.

**LD 1739 An Act Authorizing Officers of Closely Held Corporations
to Represent those Corporations before Any Court**

PUBLIC 599

Sponsor(s)
CARR

Committee Report
ONTP MAJ
OTP-AM MIN

Amendments Adopted
H-770

LD 1739 proposed to allow officers of closely held corporations to represent those corporations before any court.

Committee Amendment "A" (H770) is the Minority Report. It proposed to limit a nonattorney's activity in court on behalf of a corporation. If the corporation has one or two shareholders, an officer of the corporation would have been permitted to represent the

corporation in any court, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

Enacted law summary

Public Law 1995, chapter 599 allows an officer of a corporation to represent the corporation in court if the corporation has one or 2 shareholders, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

LD 1758 An Act to Amend the Protection from Abuse and Protection from Harassment Statutes

PUBLIC 650

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

H-751

S-581

LD 1758 was submitted on behalf of the Judicial Department, whose Protection from Abuse and Protection from Harassment Team proposed the changes. The bill proposed a number of language and allocation changes necessary to clarify and harmonize the statutes that govern protection from abuse and protection from harassment actions.

The bill proposed to repeal and replace the definition of "harassment." Jurisdiction over a juvenile, either a plaintiff or defendant, would have been clarified in the jurisdiction sections of both types of actions. LD 1758 proposed to amend the relief sections for both types of actions to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The bill proposed to amend the definition of household members in protection from abuse actions to provide coverage for sexual partners, whether or not the partners have actually lived together in a household. LD 1758 proposed to remove landlords and their property and tenants from the protection from harassment law. Equivalent protection would have been provided by creating a new section in the landlord and tenant laws giving landlords the right to commence an action for the protection of rental property or tenants.

Committee Amendment "A" (H751) proposed to retain the provisions of current law allowing a business to be a plaintiff in seeking and receiving protection from harassment.

The amendment proposed to update the definition of "member of the actor's family or household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household.

The amendment proposed to allow a person to seek protection under a domestic abuse order if the person and the accused abuser are currently living together or formerly lived together, whether or not they are or were sexual partners.

Senate Amendment "A" (S581) proposed to specify that the definition of "harassment" does not include any act protected by law.

Enacted law summary

Public Law 1995, chapter 650 clarifies and harmonizes the statutes that govern protection from abuse and protection from harassment actions.

The definition of "harassment" is repealed and replaced to clarify that harassment means 3 or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing, and do in fact cause, fear, intimidation or damage to property. "Harassment" also means 3 or more events that are intended to interfere with a person's constitutional rights, consistent with the current interpretation of existing law. The new definition further provides that a single serious act, defined by reference to certain criminal acts and to civil provisions governing "hate crimes," may also serve as the basis for protection from harassment actions. Chapter 650 provides that the definition of "harassment" does not include any act protected by law.

Chapter 650 updates the definition of "member of the actor's family of household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household to be consistent with the definition in the protective orders statutes as amended in 1995.

Jurisdiction over a juvenile, either a plaintiff or defendant, is clarified in the jurisdiction sections of both protection from harassment and protection from abuse actions. In order to ensure both legal notice and functional notice, both the juvenile and the juvenile's representative must be noticed or served with process.

The relief sections for both types of actions are amended to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The definition of household members in protection from abuse actions is amended to provide coverage to sexual partners, whether or not the partners have actually lived together in a household, and to persons living together, whether or not they are sexual partners.

Landlords and their property and tenants are removed from the protection from harassment law. Equivalent protection is provided by creating a new section in the landlord and tenant laws giving landlords the right to commence an action for the protection of rental property or tenants.

LD 1765 An Act to Amend the Standards for Appointing the Guardian of a Minor PUBLIC 623

Sponsor(s)
MITCHELL JE

Committee Report
OTP-AM

Amendments Adopted
H-792

LD 1765 proposed to provide for the appointment of a guardian even though all parental rights of custody have not been terminated. The bill also proposed to clarify that once a guardian has been appointed, termination of the guardianship can not occur until a review of the best interests of the child has occurred.

Committee Amendment "A" (H792) proposed to clarify language to require each parent who still retains parental rights and responsibilities to consent to a "guardianship by consent," but would have eliminated the need for consent from a parent whose parental rights and responsibilities have been terminated.

The amendment would have required that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian would have to specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

The amendment proposed to assign the burden of proof when a parent wants to terminate a guardianship.

Enacted law summary

Public Law 1995, chapter 623 provides for the appointment of a guardian even when all parental rights of custody have not been terminated. Each parent who still retains parental rights and responsibilities must consent to a guardianship by consent; the need for consent from a parent whose parental rights and responsibilities have been terminated is eliminated. The term "natural parent" is replaced to encompass situations in which adoptive parents consent to the appointment of a guardian.

Chapter 623 requires that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian must specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

Chapter 623 clarifies that once a guardian has been appointed, termination of the guardianship can not occur until a review of the best interests of the child has occurred. The guardian has the burden of proving by a preponderance of the evidence that the termination of the guardianship is not in the best interest of the minor if a petition for termination is filed. If the court determines that the guardianship should not terminate, the court may dismiss subsequent petitions for termination unless there is a substantial change of circumstances.

LD 1787 An Act to Place Penobscot Land in Trust PUBLIC 601

<u>Sponsor(s)</u> BISULCA	<u>Committee Report</u> OTP	<u>Amendments Adopted</u> S-524
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LD 1787 proposed to place in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S.

Senate Amendment "A" (S524) proposed to clarify the description of the property to be transferred.

Enacted law summary

Public Law 1995, chapter 601 places in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S. This land is approximately 5,464 acres. Under the terms of the Act to Implement the Maine Indian Claims Settlement, the Maine Revised Statutes, Title 30, section 6205, subsection 5, this conversion needs the express consent of the Maine Legislature, the legislative body of the town and the Maine Indian Tribal State Commission.

LD 1799 An Act Concerning Notice in Foreclosure Proceedings PUBLIC 654

<u>Sponsor(s)</u> TUTTLE GWADOSKY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-793 S-571
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LD 1799 proposed to require a mortgagee to notify a cosigner designated on a mortgage obligation prior to accelerating maturity of the unpaid balance of the obligation or otherwise enforcing the mortgage.

Committee Amendment "A" (H793) proposed to delete the current provision that exempts supervised lenders and supervised financial organizations from the requirements of the law governing foreclosure of mortgages upon mortgage-occupied residential property.

Senate Amendment "A" (S571) proposed to prohibit a mortgagee from accelerating maturity of an unpaid balance of a mortgage that secures a loan for personal, family or household use unless the specified requirements are met.

Enacted law summary

Public Law 1995, chapter 654 deletes the current provision that exempts supervised lenders and supervised financial organizations from the requirements of the law governing foreclosure of mortgages upon mortgage-occupied residential property. It prohibits a mortgagee from accelerating maturity of an unpaid balance of a mortgage that secures a loan for personal, family or household use unless the specified requirements are met. It ensures that all mortgagors and cosigners will receive reinstatement notice, notice of the right to cure or equivalent notice. The chapter does not require additional notice if the mortgage deed contains language requiring notice to mortgagors and cosigners. Similar notice is currently required in a mortgage sold on the secondary market.

LD 1805 **An Act to Amend the Charter of the Somerset Woods Trustees
in Order to Qualify the Charter as a Charitable Corporation
under Internal Revenue Service Rules** P & S 66

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1805 proposed to amend the charter of the Somerset Woods Trustees so that the corporation would qualify as a charitable corporation under guidelines established by the Internal Revenue Service.

Enacted law summary

Private and Special Law 1995, chapter 66 amends the charter of the Somerset Woods Trustees, specifying the corporation's permissible activities to ensure that the corporation qualifies as a charitable corporation under guidelines established by the Internal Revenue Service.

LD 1811 **An Act to Correct Errors and Inconsistencies in the Laws of
Maine** PUBLIC 625
EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-541
S-555

LD 1811 proposed to correct technical errors and inconsistencies in the Laws of Maine.

Committee Amendment "A" (S541) proposed to correct technical errors and inconsistencies in the Laws of Maine. It also proposed to correct errors and inconsistencies that may be considered substantive, contained in Part C.

Senate Amendment "A" To Committee Amendment "A" (S55) proposed to remove provisions correcting a conflict in the laws regarding vacancies in the office of sheriff. That section of the Maine Revised Statutes was contained in LD 1700 in the State and Local Government Committee.

Enacted law summary

Public Law 1995, chapter 625 corrects errors and inconsistencies in the Laws of Maine. Any corrections which may be considered substantive are included in Part C.

Public Law 1995, chapter 625 is effective April 8, 1996.

LD 1842 An Act to Recodify and Revise the Maine Revised Statutes, PUBLIC 694
Title 19

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-897

LD 1842 proposed to recodify and revise Title 19 of the Maine Revised Statutes.

Part A of the bill proposed to amend the law in response to the recent law court case White v. Allen, 667 A.2d 112 (Me. 1995) governing the calculation of past child support awards

Parts B, C and D proposed to recodify and revise the Maine Revised Statutes, Title 19 pursuant to Public Law 1995, chapter 484. The Joint Standing Committee on Judiciary combined the draft recodifying the Title with substantive changes.

Committee Amendment "A" (H897) proposed changes to the bill and current law. Significant changes include the following.

1. The amendment proposed to establish the Family Law Advisory Commission beginning in 1996.
2. It proposed updated language and removal of inconsistencies in the marriage license statutes.
3. It proposed to amend the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
4. It proposed to revise the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities.
5. It proposed to reinstate program review and establish biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.
6. It proposed to clarify language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves that employment.
7. It proposed an unallocated section of law concerning rule-making authority and legislative review of the rules.

8. It proposed to amend the waiver of notice provision in the adoption laws to specifically state the effect of a waiver of notice, and to include an option that allows the person to neither admit nor deny that he is the father of the child named in the waiver of notice.
9. It proposed to revise the language concerning consents or surrender and releases executed in other states.
10. It proposed a study to be undertaken by the Family Law Advisory Commission on parental rights and responsibilities and the treatment of fathers and mothers in law and practice.
11. It proposed an effective date of October 1, 1997 for all Parts other than Part A.

Enacted law summary

Public Law chapter 694 recodifies and revises Title 19 of the Maine Revised Statutes.

Part A of the Chapter 694 amends the law in response to the recent law court case White v. Allen 667 A.2d 112 (Me. 1995), governing the calculation of past child support awards. The child support tables must be used in all cases to calculate past support. Part A also amends the adoption laws, including a revision of the waiver of notice requirements for putative fathers and legal fathers who are not the biological fathers. The provisions governing reciprocity with other states are also revised. Part A also establishes the Family Law Advisory Commission and requires the Commission to study and report back on parental rights and responsibilities and how fathers and mothers are treated under the law and in practice. Part A is effective July 4, 1996.

Part B of Chapter 694 repeals and replaces Title 19 of the Maine Revised Statutes in order to update language, make provisions consistent and reorganize the Title to be easier to use. Chapter 694 also does the following.

1. It makes corrections in the terms relating to recording intentions to be married and the resulting marriage license.
2. It repeals the exemption from the 3day marriage license waiting period for newly arrived immigrants.
3. It deletes the revision of the judicial separation statutes proposed in the bill and replaces it with the current judicial separation process. The filing fee for judicial separation is deleted, leaving it to court rules that establish filing fees for other actions.
4. It amends the language referring to incarceration for nonsupport to be gender neutral by applying to all spouses, not just husbands.
5. It changes the term "alimony" to "spousal support."
6. It amends the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
7. It revises the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities. Instead, the term "departure from the family residence" is used to eliminate negative connotations associated with the term "abandonment." "Departure" is used as a broader term. In addition, new language is inserted in recognition of the fact that one of the spouses may depart from the family residence by mutual agreement of the spouses.
8. It reinstates program review and establishes biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.
9. It clarifies language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves. Current law requires an employer to report the termination to the Department of Human Services within 15 days if the pay was withheld pursuant to an income-withholding order, but within 30 days if the pay was withheld pursuant to an order to withhold and deliver or an assignment of earnings. This amendment maintains that dichotomy. It also makes consistent the information reported.
10. It gives the State Registrar of Vital Statistics the authority to file an action in District Court to have a marriage performed in violation of the statute declared void.

11. It amends the grounds and procedures for divorce by deleting "collusion" and specifies that the court may not grant a divorce to parties who seek a divorce for fraudulent purposes. It also combines provisions concerning the payment of attorneys fees.
12. It makes the provisions concerning protection from abuse, located in Title-~~19~~ chapter 101, consistent with the changes in LD 1758.
13. It states that rules adopted under Title 19 continue in effect until amended or repealed. It also states that the rulemaking authority contained in the new Title ~~19~~ is a continuation of existing rulemaking authority in Title 19, and not new rule-making authority delegated after January 1, 1996 for the purposes of the Maine Administrative Procedure Act concerning legislative review of rules.
14. It amends language to be gender neutral to clarify that either a husband or a wife may bring an action for loss of consortium.
15. It revises certain notice provisions in the adoption laws.
16. It creates a Part E listing the major policy changes in the bill as amended.

Parts B, C, D and E are effective October 1, 1997.

**LD 1847 An Act to Amend the Freedom of Access Laws to Include
Advisory Boards and Commissions in the Definition of
Public Proceedings**

PUBLIC 608

Sponsor(s)

BUTLAND
MITCHELL EH

Committee Report

OTP-AM

Amendments Adopted

S-529

LD 1847 proposed to add policyinfluencing and faefinding advisory boards and commissions to the definition of "public proceedings" in the freedom of access laws.

Committee Amendment "A" (S529) proposed to replace the bill. It would have expanded the entities to which the freedom of access laws apply to include advisory organizations, including authorities, boards, commissions, committees, councils, task forces and similar organizations that are advisory in nature and that are created by law or resolve or by an Executive Order of the Governor. Under the amendment, the law, resolve or Executive Order may exempt the organization from the freedom of access laws by including a specific statement that the organization is exempt from the freedom of access laws. The meetings of all these organizations would have been subject to the public meeting and public notice requirements.

The amendment proposed an exemption from the definition of "public records" for the working papers and internal documents of an advisory organization.

Enacted law summary

Public Law 1995, chapter 608 expands the list of entities to which the freedom of access laws apply to include advisory organizations, including authorities, boards, commissions, committees, councils, task forces and similar organizations that are advisory in nature and that are created by law or resolve or by an Executive Order of the Governor. Any boards or commissions already subject to the freedom of access laws are not also covered by the new provisions. The law, resolve or Executive Order may exempt the organization from the freedom of access laws by

including a specific statement that the organization is exempt. The meetings of all these organizations are subject to the public meeting and public notice requirements.

Chapter 608 creates a new exemption from the definition of "public records" for the working papers and internal documents of an advisory organization until the organization goes out of existence, at which time they become public records. Working papers become public records before the organization terminates if they are distributed by a member or in a public meeting of the advisory organization.

LD 1868 An Act to Prohibit the Photographing or Videotaping of Jury Deliberations DIED BETWEEN HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LIBBY JD	OTP-AM MAJ ONTP MIN	

LD 1868 proposed to prohibit the recording or viewing of jury deliberations by electronic means. A violation of the prohibition would have been a Class E crime.

Committee Amendment "A" (H887) is the Majority Report. It proposed two changes to the bill. First, it would have eliminated the prohibition on viewing jury meetings and deliberations that are recorded or transmitted by electronic means. Second, it would have deleted the criminal penalty. (Not adopted)

The House of Representatives accepted the OTP-AM Majority Report, while the Senate accepted the Minority Report of ONTP. The bill died between houses when an agreement was not reached.

Joint Standing Committee on Judiciary

SUBJECT INDEX

Final
Disposition **Page #**

Adoption

Enacted

LD 1842 **An Act to Recodify and Revise the Maine Revised Statutes, Title 19** PUBLIC 694..... **178**

Attorney General/District Attorneys

Not Enacted

LD 1626 **An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public** ONTP..... **168**

Business Entities

Enacted

LD 1358 **An Act to Establish Limited Liability Partnerships** PUBLIC 633..... **162**
LD 1624 **An Act to Update and Clarify the Corporate Laws** PUBLIC 514..... **167**
LD 1634 **An Act to Clarify Professional Liability** PUBLIC 526..... **169**
LD 1739 **An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court** PUBLIC 599..... **173**

Child Protection/Adult Protection

Not Enacted

LD 1331 **An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse** ONTP..... **162**

Child Support

Enacted

LD 1842	An Act to Recodify and Revise the Maine Revised Statutes, Title 19	PUBLIC 694..... 178
----------------	---	----------------------------

Civil Procedure

Enacted

LD 346	An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence	PUBLIC 576..... 159
---------------	--	----------------------------

LD 1739	An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court	PUBLIC 599..... 173
----------------	--	----------------------------

Not Enacted

LD 1517	An Act to Create the Sunshine in Litigation Act	ONTP..... 166
----------------	--	----------------------

Confidentiality/Public Information

Enacted

LD 1847	An Act to Amend the Freedom of Access Laws to Include Advisory Boards and Commissions in the Definition of Public Proceedings	PUBLIC 608..... 180
----------------	--	----------------------------

Not Enacted

LD 1331	An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse	ONTP..... 162
----------------	---	----------------------

LD 1626	An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public	ONTP..... 168
----------------	--	----------------------

LD 1868	An Act to Prohibit the Photographing or Videotaping of Jury Deliberations	DIED BETWEENHOUSES 181
----------------	--	-------------------------------------

Courts/Judges/Judicial Administration

Not Enacted

LD 1517	An Act to Create the Sunshine in Litigation Act	ONTP.....	166
LD 1868	An Act to Prohibit the Photographing or Videotaping of Jury Deliberations	DIED BETWEENHOUSES	181

Errors and Statutory Corrections

Enacted

LD 1811	An Act to Correct Errors and Inconsistencies in the Laws of Maine	PUBLIC 625 EMERGENCY.....	178
----------------	--	------------------------------	------------

Family Law

Enacted

LD 1842	An Act to Recodify and Revise the Maine Revised Statutes, Title 19	PUBLIC 694.....	178
----------------	---	-----------------	------------

Human Rights/Civil Rights

Enacted

LD 1625	An Act to Restore the Safety Defense to the Maine Human Rights Act	PUBLIC 511 EMERGENCY.....	167
----------------	---	------------------------------	------------

Not Enacted

LD 1448	An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters	ONTP.....	165
----------------	---	-----------	------------

Indian Affairs

Enacted

LD 1667	Resolve, to Improve Tribal and State Relations	RESOLVE84.....	170
LD 1787	An Act to Place Penobscot Land in Trust	PUBLIC 601.....	176

Probate Code

Enacted

LD 1618	An Act to Reform the Standard of Fiduciary Prudence	PUBLIC 525.....	166
LD 1765	An Act to Amend the Standards for Appointing the Guardian of a Minor	PUBLIC 623.....	175
LD 1842	An Act to Recodify and Revise the Maine Revised Statutes, Title 19	PUBLIC 694.....	178

Property

Enacted

LD 658	An Act Concerning Real Estate Trusts	PUBLIC 523.....	160
LD 1445	An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning	PUBLIC 572 EMERGENCY.....	164
LD 1618	An Act to Reform the Standard of Fiduciary Prudence	PUBLIC 525.....	166
LD 1629	An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and Providing for Further Review of Rules	PUBLIC 537.....	168
LD 1707	An Act to Clarify the Landowner Liability Laws	PUBLIC 566.....	171
LD 1708	An Act to Amend the Laws Relating to Recovery for Property Damage	PUBLIC 585.....	171
LD 1799	An Act Concerning Notice in Foreclosure Proceedings	PUBLIC 654.....	177

Protection From Abuse/Harassment

Enacted

LD 1758	An Act to Amend the Protection from Abuse and Protection from Harassment Statutes	PUBLIC 650.....	174
----------------	--	-----------------	------------

Tort Liability/Immunity -- General

Enacted

LD 742	An Act Regarding Wrongful Death Actions	PUBLIC577.....	160
LD 1445	An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning	PUBLIC572 EMERGENCY.....	164
LD 1634	An Act to Clarify Professional Liability	PUBLIC526.....	169
LD 1707	An Act to Clarify the Landowner Liability Laws	PUBLIC566.....	171
LD 1708	An Act to Amend the Laws Relating to Recovery for Property Damage	PUBLIC585.....	171

Not Enacted

LD 1371	An Act Relating to Civil Actions, Providing for the Defense of Assumption of Risk, Providing for Standards of Liability in Product Liability Actions and Providing for Standards and Procedures in Awarding Punitive Damages	ONTP.....	163
----------------	---	-----------	------------

Tort Liability/Immunity -- Medical Malpractice

Enacted

LD 916	An Act to Improve the Function of the Maine Health Security Act	PUBLIC571.....	161
LD 1729	Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels	RESOLVE76 EMERGENCY.....	173

Not Enacted

LD 423	An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions	ONTP.....	159
LD 526	An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule	ONTP.....	159
LD 636	An Act to Modify Joint and Several Liability in Medical Malpractice Actions	ONTP.....	160

Final
Disposition **Page #**

Other

Enacted

LD 1805	An Act to Amend the Charter of the Somerset Woods Trustees in Order to Qualify the Charter as a Charitable Corporation under Internal Revenue Service Rules	P & S 66..... 177
----------------	--	--------------------------

Summary of Committee Action by Joint Standing Committee on Labor

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	14	77.8%	3.5%
B. Bills carried over from 1st Regular Session	4	22.2%	1.0%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	18 *	100.0%	4.5%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	2	11.1%	0.5%
<i>OTP-AM</i>	9	50.0%	2.4%
<i>ONTP</i>	<u>1</u>	<u>5.6%</u>	<u>0.3%</u>
Total Unanimous Reports	12	66.7%	3.2%
B. Divided Reports			
<i>2-Way</i>	6	33.3%	1.6%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	6	33.3%	1.6%
Total Bills Reported Out	18 *	100.0%	4.8%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	10	55.6%	2.5%
<i>Private and Special Laws</i>	2	11.1%	0.5%
<i>Resolves</i>	1	5.6%	0.3%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	13	72.2%	3.3%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	6	N/A	N/A

*Includes some bills reported out pursuant to Law or Joint Order.

Joint Standing Committee on Labor

LD 483 **An Act to Abolish the Legislative Retirement System**

DIED BETWEEN
HOUSES

Sponsor(s)

UNDERWOOD

Committee Report

ONTP MAJ
OTP-AM MIN

Amendments Adopted

LD 483, which was carried over from the First Regular Session, proposed to limit continued membership in the Maine Legislative Retirement System after September 30, 1995 to legislators who had 10 years of creditable service as of that date. The benefits of former legislators currently receiving a retirement allowance or a disability retirement allowance were not affected by this bill. Former and current legislators who, as of September 30, 1995, were eligible to receive a retirement benefit at some point in the future would not have had their accrued benefits affected. The Board of Trustees of the Maine Legislative Retirement System would have continued to oversee the administration of the system until all of the remaining beneficiaries of the system died. At that time, the system was directed to submit legislation to repeal the Legislative Retirement System.

Committee Amendment "B" (H881), which is the minority report of the committee in the Second Session, proposed to limit continued membership in the Maine Legislative Retirement System after December 3, 1996 to legislators who are vested as of that date. Former legislators or their beneficiaries who are currently receiving a retirement allowance or legislators who are receiving a disability retirement allowance would not have had their benefits affected by this amendment. Former and current legislators who are vested and, therefore, are eligible to receive a retirement benefit at some point in the future would not have had their accrued benefits affected and could continue to accrue service credit for future legislative service.

The Board of Trustees of the Maine Legislative Retirement System would have continued to oversee the administration of the Maine Legislative Retirement System. Once all of the liabilities of the system had been discharged, the system was directed to submit legislation to repeal the Legislative Retirement System.

After December 3, 1996, current legislators not remaining members of the Maine Legislative Retirement System and future legislators would have been required to join either a 401(a) deferred compensation plan or a 457 defined contribution plan or both. The amendment proposed that legislators must contribute at least 7.5% of their compensation to one of the plans. Additional contributions above that level would have been subject to federal law. The State would not have contributed to the plans on behalf of legislators. The plans would have been administered by the Maine State Retirement System and any gains realized by the Maine State Retirement System as a result of this amendment used to reduce the unfunded liability of the Maine State Retirement System attributable to state employees and teachers.

The amendment also proposed to add an appropriation and a fiscal note. (The amendment was adopted in the Senate, but failed in the House.)

LD 926 An Act to Prevent Impasse in Collective Bargaining by Allowing Parties of Either Side to Request Mediation

ONTP

Sponsor(s)
SAMSON

Committee Report
ONTP

Amendments Adopted

LD 926 proposed to clarify the duty of a public employer and public employees to bargain in good faith after an arbitrator has made advisory recommendations and would have provided that the most recent collective bargaining agreement remain in force until a new agreement is ratified.

LD 946 An Act Concerning Notification to Maine Workers and Contractors

PUBLIC 524

Sponsor(s)
LONGLEY
JACQUES

Committee Report
OTP-AM MAJ
OTP-AM MIN

Amendments Adopted
S-418

LD 946, which was carried over from the First Regular Session, proposed to give preference in the award of construction and public works contracts by the State and its political subdivisions to in-state bidders, provided their bids are no more than 5% over bids submitted by out-of-state bidders. The bill defined "in-state bidder" as a bidder whose principal place of business or a branch of the bidder's principal place of business has been located in the State for a period of at least 2 years and who will employ at least 90% Maine residents to perform the contract. The original title of LD 946 was "An Act Concerning Preference to Maine Workers and Contractors."

Committee Amendment "A" (S418), the majority report of the committee, proposed to replace the original bill with provisions intended to provide Maine businesses with timely information on opportunities to participate as subcontractors in contracts awarded by the State. The amendment proposed that potential bidders be notified through the bidding documents of the availability of information on Maine subcontractors and suppliers. The State would have to notify the appropriate economic development organization of anticipated contracting opportunities and, if a contract were expected to exceed \$100,000, Maine businesses would also be notified of the opportunity. The amendment also proposed that the current statutory provision giving a preference to resident bidders for equally favorable bids be amended to reflect the requirements currently in the Maine Revised Statutes, Title 5 that apply to state public improvement projects.

Committee Amendment "B" (S419), the minority report of the committee, proposed to replace the bill entirely. The amendment would have repealed the provisions of Public Law 1995, chapter 387, that were enacted during the First Regular Session (LD 1200, State and Local Government). The provisions in chapter 387 require the State to add a certain percent increase to the bid of an out-of-state contractor if that contractor's home state gives preference to its own in-state bidders. (Not adopted)

Enacted law summary

Public Law 1995, chapter 524 imposes certain requirements on the State so that Maine businesses have available timely information on opportunities to participate as subcontractors in contracts awarded by the State. Potential bidders are notified through the bidding documents of the availability of information on Maine subcontractors and suppliers. The State must notify the appropriate economic development organization of anticipated contracting opportunities and, if a contract is expected to exceed \$100,000, Maine businesses are also notified of the opportunity.

The current statutory provision giving a preference to resident bidders for equally favorable bids is amended to refer to the requirements currently in the Maine Revised Statutes, Title 5 that apply to state public improvement projects.

LD 1056 Resolve, to Create an Advisory Committee to Assist in the Management of State Employee Workers' Compensation Costs RESOLVE 63

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN	OTP-AM MAJ	H-743
	ONTP MIN	S-420

LD 1056, which was carried over from the First Regular Session, proposed to create an advisory committee to review the current method of funding workers compensation costs for state employees and make recommendations to the Governor and the Legislature on the best way to fund those costs consistent with fiscal responsibility, efficiency and public accountability. The proposal required the advisory committee to report its recommendations before the Second Regular Session of the 117th Legislature. The original title of LD 1056 was "Resolve, to Create an Advisory Committee to Assist in the Funding of State Employee Workers' Compensation Claims."

Committee Amendment "A" (S420), the majority report, proposed to replace the entire bill and change the focus of the advisory committee from workers' compensation funding issues to the State's management of its return-to-work and safety programs. The membership of the advisory committee would have increased from 9 to 12 members and experience in workplace safety and return-to-work programs would have been required for certain members. The amendment required the first meeting to be called by September 15, 1996 and at that meeting the Department of Administrative and Financial Services, Bureau of Human Resources would be required to report on the programs that the State has in place and the steps that have been taken to improve the State's management of its workers' compensation costs. The proposal required the advisory committee to report to the Governor and the legislative committees having jurisdiction over labor matters and state and local government matters by February 1, 1997. The amendment also added a fiscal note to the bill.

House Amendment "A" to Committee Amendment "A" (H743) proposed that the first meeting of the advisory committee be called by the Chair of the Legislative Council.

Enacted law summary

Resolve 1995, chapter 63 creates an advisory committee to review the State's management of its return-to-work and safety programs. The Governor, the President of the Senate and the Speaker of the House of Representatives each appoint 4 of the 12 members of the committee. The Resolve specifies the affiliation or experience expected for each member. The first meeting must be called by the Chair of the Legislative Council by September 15, 1996 and at that meeting the Department of Administrative and Financial Services, Bureau of Human Resources is required to report on the programs that the State has in place and the steps that have been taken to improve the State's management of its workers' compensation costs. The advisory committee must report its recommendations to the Governor and the legislative committees having jurisdiction over labor matters and state and local government matters by February 1, 1997.

LD 1606 An Act to Amend the Overtime Laws as They Pertain to Bonuses

PUBLIC 510
EMERGENCY

Sponsor(s)
WINSOR
MILLS

Committee Report
OTP

Amendments Adopted

LD 1606 proposed to clarify that the calculation of overtime pay under Maine law is intended to be identical to the calculation of overtime pay under the federal Fair Labor Standards Act.

Enacted law summary

Public Law 1995, chapter 510 clarifies that the calculation of overtime pay under Maine law is identical to the calculation of overtime pay under the federal Fair Labor Standards Act.

Chapter 510 was enacted as an emergency measure effective February 22, 1996.

LD 1609 An Act to Provide Consistent Retirement Plan Options for Game Wardens, Marine Patrol Officers, Forest Rangers and Baxter State Park Authority Rangers

PUBLIC 624
EMERGENCY

Sponsor(s)
CHASE

Committee Report
OTP-AM

Amendments Adopted
H-817

Last year a retirement option was provided to game wardens, marine patrol officers and Baxter State Park Authority rangers allowing persons employed in those capacities to elect a retirement plan that provided full benefits at 55 years of age with at least 25 years of service. Any game warden, marine patrol officer or Baxter State Park Authority ranger electing this retirement plan was required to pay the full actuarial and administrative costs associated with the election. If the election is not made, the employee participates in the regular retirement plan for state employees, which is the plan under which wardens and rangers currently are covered. LD 1609 proposed to extend the election to forest rangers.

Committee Amendment "A" (H817) retained the provisions of the bill and proposed to make several technical amendments to the bill and the law enacted last year to streamline administration of retirement options and plans for various groups of employees. The amendment proposed the following.

1. To establish January 1, 1997 as a standard date for exercise of an early retirement plan election.
2. To permit game wardens, marine patrol officers, Baxter State Park Authority rangers and forest rangers who elect the retirement plan option to retire before 55 years of age with at least 25 years of service at a reduced benefit. The rate of reduction is the same as for state police, prison guards and other state employees who retire before normal retirement age.
3. To clarify that game wardens, marine patrol officers and forest rangers electing to retire at 55 years of age with 25 years of service may have been first employed in those capacities both before and after August 31, 1984, the date when the prior special retirement plans for those employees were eliminated. Without this clarification, the election may not be available to employees having this employment history. The date of first hire may have

implications for the rate of reduction applied to the benefits of a person electing the retirement plan available to these employers.

4. To add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 624 extends to forest rangers a retirement option that was provided to game wardens, marine patrol officers and Baxter State Park Authority rangers last year. The option allows persons employed as a forest ranger to elect a retirement plan that provided full benefits at 55 years of age with at least 25 years of service. Any person electing this retirement plan is required to pay the full actuarial and administrative costs associated with the election. If the election is not made, the employee participates in the regular retirement plan for state employees, which is the plan under which forest rangers currently are covered.

Public Law 1995, chapter 624 also makes the following technical amendments to streamline administration of retirement options and plans for various groups of employees.

1. It establishes January 1, 1997 as a standard date for exercise of early retirement plan election.
2. It permits game wardens, marine patrol officers, Baxter State Park Authority rangers and forest rangers who elect the retirement plan to retire before 55 years of age with at least 25 years of service at a reduced benefit. The rate of reduction is the same as for state police, prison guards and other state employees who retire before normal retirement age.
3. It clarifies that game wardens, marine patrol officers and forest rangers electing to retire at 55 years of age with 25 years of service may have been first employed in those capacities both before and after August 31, 1984, the date when the prior special retirement plans for those employees were eliminated. Without this clarification, the election may not be available to employees having this employment history. The date of first hire may have implications for the rate of reduction applied to the benefits of a person electing the retirement plan available to these employers.

Chapter 624 was enacted as an emergency measure effective April 8, 1996.

LD 1633 An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	OTP-AM MAJ	
	ONTP MIN	

LD 1633 proposed to clarify the payment of interest on overdue workers' compensation benefits. Current law identifies 2 different rates of interest. The bill proposed to establish a rate of 1% per month for each calendar month that the benefit payment has been due and would have given a period of grace for the month in which each benefit first accrues. Benefits payable within each calendar month would be treated as a single award with interest to accrue only from the end of the month forward. The method of calculation would have applied to all workers' compensation obligations arising after the effective date of the bill regardless of the date of injury.

Committee Amendment "A" (S424), the majority report, would have clarified that the interest charged would be simple, not compound, and that it would only be charged for each complete calendar month that the payment had been due. The amendment would have also added a fiscal note to the bill.

LD 1637 An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1997 P & S 58
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	S-440

The Maine State Retirement System is required by law to present its annual operating budget to the Legislature for approval. LD 1637 is the system's 3rd annual budget. The budget is for the fiscal year 199697.

The bill identifies the system's Personal Services costs and its costs for All Other operating expenses. The bill attributes the expenses of the system proportionally among the General Fund; Non-General Fund; and Participating Local Districts.

Senate Amendment "A" (S440) expresses legislative approval of the collective bargaining agreements between the Maine State Retirement System and its employees as required by law.

Enacted law summary

Private and Special Law 1995, chapter 58 is the Maine State Retirement System's annual operating budget for the fiscal year 199697. Legislative approval is required by law. Private and Special Law 1995, chapter 58 also expresses legislative approval of the collective bargaining agreements between the Maine State Retirement System and its employees as required by law.

Chapter 58 was enacted as an emergency measure effective July 1, 1996.

LD 1698 An Act to Make Changes to the Disability Plans Administered by the Maine State Retirement System and to Establish a Process for Further Improvements PUBLIC 643
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH RAND	OTP-AM	H-899 H-911

LD 1698 proposed to expedite the decisionmaking process for disability retirement under the Maine State Retirement System. This bill would have:

1. Permitted the Board of Trustees of the Maine State Retirement System to designate additional medical boards to review applications for disability retirement;
2. Required that the executive director of the system submit to the medical board within 30 days of receipt applications for disability retirement; and

3. Eliminated language that limits, except in certain circumstances, the payment of disability retirement benefits to not more than 6 months before the date of receipt by the executive director of the written application.

Committee Amendment "A" (H899) proposed to replace the bill and resulted from the February 20, 1996 report of the Maine State Retirement System to the Labor Committee pursuant to Private and Special Law 1995, chapter 38. The amendment dealt with the same issues as the bill in a more comprehensive way. It also would have addressed other disability issues identified in the retirement system report. The amendment also adds an emergency preamble and clause.

The amendment proposed:

1. Changes in the Maine Revised Statutes, Title 5, chapter 423, subchapter V, articles 3 and 3-A and chapter 425, subchapter V, articles 3 and ~~A~~ to improve the present administration of the disability plans;
2. To establish the level of benefit payments under the disability plans amended to comply with the federal Older Workers Benefit Protection Act; and
3. To establish a study committee to study the merger of the 3 disability plans administered by the Maine State Retirement System into one pooled plan modeled after the Maine Revised Statutes, Title 5, chapter 423, subchapter V, article ~~A~~ and chapter 425, subchapter V, article 3A to study other changes to the disability plan or plans.

The amendment proposed to permit the Board of Trustees of the Maine State Retirement System to establish more than one medical board, clarify the medical board's role in rehabilitation reviews and give the board flexibility through rulemaking to determine how it would obtain medical consultation on each applicant for disability retirement benefits.

It proposed to establish the level of disability retirement allowance at 59% of the member's average final compensation for judges, state employees and teachers who are covered by a "no-age" disability plan in compliance with the federal Older Workers Benefit Protection Act.

It proposed to repeal provisions requiring Maine State Retirement System members to file statements of health.

It proposed to modify current preexisting condition language to allow an applicant to meet the 5-year continuous creditable service requirement notwithstanding a break in service as long as a continuous years of service are earned after the preexisting condition arises.

It proposed to establish criteria for determining whether a recipient of disability retirement benefits is eligible for rehabilitation services.

It proposed to repeal the provisions of current law providing members the option to elect coverage under a disability plan that is amended to meet the requirements of the federal Older Workers Benefit Protection Act because the election has taken place.

It proposed to establish provisions applying to participating local districts that are parallel to those that apply to state employees.

This amendment also added a fiscal note to the bill.

House Amendment "B" to Committee Amendment "A" (H911) proposed to delete language from the committee amendment that modified current preexisting condition language to allow an

applicant to meet the 5-year continuous creditable service requirement notwithstanding a break in service as long as 5 continuous years of service are earned after the preexisting condition arises. The reason for deleting the language was to eliminate a possible increase in the Retirement System's unfunded liability. This amendment directed the Committee to Study Disability Retirement to study this issue.

House Amendment "A" to Committee Amendment "A" (H03) proposed to place the financial burden of erroneous disability benefit overpayments due solely to a mistake of the Maine State Retirement System on the Maine State Retirement System, rather than on the recipient of the benefit who has come to rely on the mistake, if the overpayments have continued for at least 10 years. The amendment would have applied to disability retirement benefits paid on or after January 1, 1995. The amendment also proposed to add an appropriation section to the bill. (Not adopted)

Enacted law summary

Public Law 1995, chapter 643 does the following:

Establishes a study committee to study the merger of the three disability plans administered by the Maine State Retirement System into one pooled plan.

Permits the Board of Trustees of the Maine State Retirement System to establish more than one medical board, clarifies the medical board's role in rehabilitation reviews and gives the board flexibility through rulemaking to determine how it will obtain medical consultation on each applicant for disability retirement benefits.

Establishes the level of disability retirement allowance at 59% of the member's average final compensation for judges, state employees and teachers who are covered by a "age" disability plan in compliance with the federal Older Workers Benefit Protection Act.

Repeals provisions requiring Maine State Retirement System members to file statements of health.

Establishes criteria for determining whether a recipient of disability retirement benefits is eligible for rehabilitation services.

Repeals the provisions of current law providing members the option to elect coverage under a disability plan that is amended to meet the requirements of the federal Older Workers Benefit Protection Act because the election has taken place.

Enacts provisions applying to participating local districts that are parallel to those that apply to state employees.

Chapter 643 was enacted as an emergency measure effective April 10, 1996.

Companies

EMERGENCY

Sponsor(s)
HANLEY
BENEDIKT

Committee Report
OTP-AM

Amendments Adopted
S-464

LD 1761 proposed to prohibit an employee leasing company from offering health benefits on a self-insured basis without meeting the funding and reporting requirements that currently apply to other forms of multiple employer welfare arrangements. These requirements include establishing the self-insured health benefit plan as a separate trust and complying with various filing, reporting and actuarial standards. The bill also would have required that if a multiple employer welfare arrangement is terminated, prior written notice must be provided to the affected employees. Similar notice is currently required prior to termination of other group insurance plans. The bill proposed to strengthen the regulation of multiple employer welfare arrangements by requiring arrangements to obtain fidelity bonds and by clarifying the standards applicable to the annual certifications of balance sheets and statements of operations of multiple employer welfare arrangements prepared by certified public accountants.

The bill also proposed to transfer the responsibility for registering employee leasing companies from the Bureau of Insurance to the Commissioner of Labor. In addition, the bill proposed to direct the Commissioner of Labor to work with various state officials to develop material to assist new businesses or small employers that are considering using an employee leasing company. This material would be designed to help the employer ask the right questions in order to minimize the financial risk to the business and the employees.

Committee Amendment "A" (S464) proposed a less stringent approval process for self-insured health benefit plans offered by an employee leasing company than is required of other multiple employer welfare arrangements. The amendment proposed that a number of requirements be met in order for the self-insured health benefit plan offered by an employee leasing company to be approved by the Superintendent of Insurance. The leasing company would have to be registered in Maine, an annual audited financial report would have to be submitted to the Bureau of Insurance, and a certified public accountant would have to attest on a quarterly basis that employees are being paid, taxes are being paid and adequate reserves and excess insurance are being maintained. The excess insurance would have to be provided by an insurer licensed in Maine. This proposed approval process would have applied existing self-insured plans that continue to be provided after April 30, 1996 and all new self-insured plans established on or after April 30, 1996. The amendment also proposed that the Superintendent of Insurance be authorized to approve an arrangement conditioned upon the timely receipt of the required information if the superintendent had determined that the arrangement is properly funded. The amendment also adds a one-time filing fee for all multiple employer welfare arrangements subject to the Maine Revised Statutes, Title 24A, chapter 81, classifies the rules that may be adopted and adds a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 618 defines a health benefit plan provided by an employee leasing company as a multiple employer welfare arrangement and regulates the plan if it is offered on a self-insured basis. The approval process for self-insured plans offered by an employee leasing company is less stringent than that required of other multiple employer welfare arrangements. A number of requirements must be met for the self-insured health benefit plan offered by an employee leasing company to be approved by the Superintendent of Insurance. The leasing company must be registered in Maine, an annual audited financial report must be submitted to the Bureau of Insurance, and a certified public accountant must attest on a quarterly basis that

employees are being paid, taxes are being paid and adequate reserves and excess insurance are being maintained. The excess insurance must be provided by an insurer licensed in Maine. This regulation applies to existing selfinsured plans that continue to be provided after April 30, 1996 and all new selfinsured plans established on or after April 30, 1996. The Superintendent of Insurance is authorized to approve an arrangement conditioned upon the timely receipt of the required information if the superintendent determines that the arrangement is properly funded.

Chapter 618 also strengthens the regulation of all types of multiple employer welfare arrangements subject to the provisions of the Maine Revised Statutes, Title ~~24~~, chapter 81 by requiring arrangements to obtain fidelity bonds and by clarifying the standards applicable to the annual certifications of balance sheets and statements of operations prepared by certified public accountants. It also requires that if a multiple employer welfare arrangement is terminated, prior written notice must be provided to the affected employees. A ~~one~~ filing fee is also required. The responsibility for registering employee leasing companies is transferred from the Bureau of Insurance to the Commissioner of Labor. The Commissioner of Labor is directed to work with various state officials to develop material to assist new businesses or small employers that are considering using an employee leasing company.

Chapter 618 was enacted as an emergency measure effective April 8, 1996.

**LD 1770 An Act to Exempt Certain Individuals from Unemployment Insurance Requirements PUBLIC 587
EMERGENCY**

Sponsor(s)
LAWRENCE

Committee Report
OTP-AM

Amendments Adopted
S-453

LD 1770 proposed to make Maine's unemployment laws consistent with federal unemployment laws by exempting from the definition of "employment" for unemployment insurance purposes all persons engaged in fishing. Current state law exempts only those individuals engaged in fishing from a boat. The change proposed in the bill would only apply as long as the federal exemption continued. LD 1770 was originally titled "An Act to Exempt All Individuals Engaged in Fishing from Unemployment Insurance Requirements."

Committee Amendment "A" (S453) replaced the original bill with a more limited exemption from the state unemployment insurance requirements. The amendment proposed that services performed in harvesting shellfish for depuration from contaminated areas would not be considered employment for the purposes of unemployment insurance taxes and benefit eligibility. The amendment also proposed that services performed by a licensed guide would also be exempt if that employment is exempt from the federal unemployment tax. The amendment also added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 587 provides that services performed in harvesting shellfish for depuration from contaminated areas are not considered employment for the purposes of unemployment insurance taxes and benefit eligibility. It also provides that services performed by a licensed guide are also exempt if that employment is exempt from the federal unemployment tax.

Chapter 587 was enacted as an emergency measure effective April 1, 1996.

**LD 1807 An Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment PUBLIC 612
EMERGENCY**

Compensation

Sponsor(s)
JOY
BEGLEY

Committee Report
OTP-AM

Amendments Adopted
H-781

LD 1807 proposed to exempt the remuneration paid to some direct sellers from unemployment insurance contributions under the Employment Security Law so that it would not be used to establish coverage for unemployment insurance. The proposed change was intended to exempt individual distributors such as Mary Kay, Avon, Amway and Tupperware. The proposal would not have exempted sellers of major renovations or improvements to the structure of a home, business or property.

Committee Amendment "A" (H781) proposed to add an emergency preamble, an emergency clause and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 612 provides that services performed by certain direct sellers are not considered employment for the purposes of unemployment insurance taxes and benefit eligibility. Chapter 612 specifically refers to the definition of direct sellers provided in federal law and explicitly states that the exemption does not extend to sellers of major renovations or improvements to the structure of a home, business or property.

Chapter 612 was enacted as an emergency measure effective April 3, 1996.

LD 1825 An Act Regarding Survivor Benefits in the Event of Divorce and Remarriage

PUBLIC 604
EMERGENCY

Sponsor(s)
SMALL

Committee Report
OTP-AM

Amendments Adopted
S-495
S-503

Under current law, a recipient of reduced retirement benefit from the Maine State Retirement System who is divorced may change the beneficiary from the original spouse to someone else only if the divorce occurs after retirement. LD 1825 proposed to permit a recipient to change the beneficiary from the original spouse to someone else even if the divorce occurred before the beneficiary was named.

Committee Amendment "A" (S495) proposed to make the following additions to the bill.

1. It made changes to clarify that the bill deals only with retirement beneficiaries, not other types of beneficiaries.
2. It provided for the possibility that a member may have more than one former spouse.
3. It added an emergency preamble and an emergency clause to the bill.

Senate Amendment "A" to Committee Amendment "A" (S03), presented on behalf of the Committee on Bills in the Second Reading, proposed to make technical changes to a provision of

law that is parallel to another provision, Title 5, section 1780A, subsection 1, paragraph B, already included in the committee amendment.

Enacted law summary

Under current law, a recipient of reduced retirement benefit who is divorced may change the beneficiary from the original spouse to someone else only if the divorce occurs after retirement. Public Law 1995, chapter 604 permits a recipient to change the beneficiary from the original spouse to someone else even if the divorce occurred before the beneficiary was named.

Chapter 604 was enacted as an emergency measure effective April 2, 1996.

LD 1846 An Act to Combine Certain Reporting Requirements for Employees

PUBLIC 657

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RUHLIN	OTP-AM	S-520
REED G		S-584

LD 1846 proposed to change both the employment security laws and the tax laws to assist with the collection of unemployment contributions and income tax withholding on a single form. The bill proposed to change the reporting due dates, penalty provisions and appeal periods to facilitate the integration of these 2 processes.

Committee Amendment "A" (\$520) proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (\$84) proposed to remove the fiscal note from the bill and add a new one.

Enacted law summary

Public Law 1995, chapter 657 amends a number of provisions related to the employment security laws and the tax laws to enable the collection of unemployment contributions and income tax withholding on a single form. Reporting and payment due dates are set as the last day of the month following the close of the calendar quarter for both unemployment and income tax withholding reports. Late filing penalties are set at the greater of \$25 or 10% of the amount due, rather than separate penalties for each tax. Late payment penalties for unemployment are set at 1% of the amount unpaid for each month in arrears up to a maximum of 25%, which matches the income tax withholding late payment penalties. Chapter 657 also makes the provisions on waivers or abatements of penalties consistent and establishes a 30 day appeal period for both unemployment and income tax withholding determinations. The confidentiality statute applicable to income tax withholding is also modified to allow the Department of Labor access to the information related to unemployment insurance.

LD 1850 An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System

P & S 78
EMERGENCY

Sponsor(s)
TREAT

Committee Report
OTP-AM

Amendments Adopted
H-875

LD 1850 proposed to permit employees of the Child Development Services System to elect not to receive the distribution of retirement funds from the Maine State Retirement System as required under law upon the dissolution of a participating local district and to retain accrued creditable service under the Retirement System.

Committee Amendment "A" (H875) replaced the bill. The amendment proposed a more comprehensive method to accomplish the intent of the bill. The amendment clarified the options of CDS employees and former employees upon dissolution of CDS as a participating local district, established a time frame in which the options must be exercised, directed the retirement system to provide assistance to those exercising an option, provided for equitable distribution of funds if there are insufficient assets to make full payment or transfer and provided for distribution of any remaining assets after full payment and transfer have been made. The amendment also proposed to add an emergency preamble and clause and a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 78 provides options to employees and former employees of the Child Development Services System, "CDS," with regard to distribution of retirement funds and the transfer of creditable service following dissolution of CDS as a participating local district under the Maine State Retirement System. The amendment clarifies the options, establishes a time frame in which the options must be exercised, directs the retirement system to provide assistance to those exercising an option, provides for equitable distribution of funds if there are insufficient assets to make full payment or transfer and provides for distribution of any remaining assets after full payment and transfer have been made.

Chapter 78 was enacted as an emergency measure effective April 10, 1996.

LD 1855 **An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives**

DIED BETWEEN
HOUSES

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 1855 was reported by the minority of the Joint Standing Committee on Labor pursuant to Resolve 1995, chapter 39. Like the majority report, LD 1856, this bill proposed to clarify implementation of current law regarding payment of the actuarial and administrative costs of early retirement incentives offered by school administrative units to teachers. This bill differs from LD 1856 in that it proposed to:

1. Make operation of the current law requiring employers to pay the additional actuarial and administrative costs of early retirement incentives prospective from March 15, 1996;
2. Absolve school administrative units of any obligation for the costs of early retirement occurring before March 15, 1996; and

3. Delegate authority to establish the method of calculation and payment of the costs of early retirement to the Early Retirement Incentives Review Panel, established in the bill, through adoption of major substantive rules.

LD 1856 An Act to Clarify the Early Retirement Incentives Law

PUBLIC 541
EMERGENCY

Sponsor(s)

Committee Report
OTP MAJ

Amendments Adopted

LD 1856 was reported by the majority of the Joint Standing Committee on Labor pursuant to Resolve 1995, chapter 39. The bill proposed to clarify implementation of current law regarding payment of the actuarial and administrative costs of early retirement incentives offered by school administrative units to teachers since July 1, 1993. For prospective application to payments after the effective date of the legislation, the bill proposed to:

1. Establish the criteria for determining whether a payment in connection with retirement is an early retirement incentive;
2. Make the school unit responsible for demonstrating whether the criteria are met;
3. Create the Early Retirement Incentives Review Panel to rule whether a payment constitutes an early retirement incentive; and
4. Establish the procedure for calculation of actuarial and administrative costs and payment of those costs.

With respect to payments made in connection with retirement between July, 1, 1993 and June 28, 1995, the bill established the responsibility of 8 school units to pay the actuarial and administrative costs for early retirement incentives that they paid to their employees.

The bill was introduced as an emergency in order to take effect before the end of the moratorium relieving employers of the obligation to pay the costs of early retirement incentives enacted last year. The moratorium expired March 15, 1996. If this bill or a similar bill had not been enacted before that date, according to the Attorney General's office, all school units that made payments in connection with early retirement could have been liable for the actuarial and administrative costs resulting from those retirements. This bill limited the obligation to pay actuarial and administrative costs to 8 school units that offered early retirement incentives.

Enacted law summary

Public Law 1995, chapter 541 clarifies implementation of current law regarding payment of the actuarial and administrative costs of early retirement incentives offered by school administrative units to teachers since July 1, 1993. For prospective application to payments after the effective date of the legislation, the bill:

1. Establishes the criteria for determining whether a payment in connection with retirement is an early retirement incentive;
2. Makes the school unit responsible for demonstrating whether the criteria are met;

3. Creates the Early Retirement Incentives Review Panel to rule whether a payment constitutes an early retirement incentive; and
4. Describes the procedure for calculation of actuarial and administrative costs and payment of those costs.

With respect to payments made in connection with retirement between July, 1, 1993 and June 28, 1995, the bill establishes the responsibility of 8 school units to pay the actuarial and administrative costs for early retirement incentives that they paid to their employees.

Chapter 541 was enacted as an emergency measure effective March 14, 1996.

**LD 1862 An Act to Ensure That Employees Are Compensated for
Accrued Vacation Time in the Event of the Sale of a
Business**

PUBLIC 580
EMERGENCY

Sponsor(s)
TUTTLE
MILLS
HATCH

Committee Report
OTP-AM

Amendments Adopted
H-840

LD 1862 proposed to require that the seller of a business pay its employees any unpaid wages and any accrued vacation pay within 2 weeks following the sale of the business.

Committee Amendment "A" (H840) proposed to permit the seller to comply with the requirement that employees be compensated for wages earned and accrued vacation time by entering into an agreement with the buyer for the buyer to assume that obligation to pay unpaid wages and honor accrued vacation time. The amendment also proposed adding an emergency preamble, an emergency clause and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 580 provides that the seller of a business is obligated to pay its employees any unpaid wages and any accrued vacation pay within 2 weeks following the sale of the business. A seller may comply with this requirement by entering into an agreement with the buyer for the buyer to assume that obligation to pay unpaid wages and honor accrued vacation time.

Chapter 580 was enacted as an emergency measure effective March 29, 1996.

Joint Standing Committee on Labor

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Employment Conditions - General</i>			
<u>Enacted</u>			
LD 946	An Act Concerning Notification to Maine Workers and Contractors	PUBLIC 524.....	190
LD 1606	An Act to Amend the Overtime Laws as They Pertain to Bonuses	PUBLIC 510 EMERGENCY.....	192
LD 1761	An Act to Amend the Laws Regarding Employee Leasing Companies	PUBLIC 618 EMERGENCY.....	197
LD 1862	An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business	PUBLIC 580 EMERGENCY.....	203

Not Enacted

None

Employment Conditions - Health and Safety; Substance Abuse Testing

Enacted

LD 1056	Resolve, to Create an Advisory Committee to Assist in the Management of State Employee Workers' Compensation Costs	RESOLVE 63.....	191
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Not Enacted

None

Public Employee Labor Relations

Enacted

None

		<u>Final Disposition</u>	<u>Page #</u>
<u>Not Enacted</u>			
LD 926	An Act to Prevent Impasse in Collective Bargaining by Allowing Parties of Either Side to Request Mediation	ONTP.....	190

Retirement System - Administration

Enacted

LD 1637	An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 1997	P & S 58 EMERGENCY.....	194
LD 1850	An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System	P & S 78 EMERGENCY.....	201
LD 1856	An Act to Clarify the Early Retirement Incentives Law	PUBLIC 541 EMERGENCY.....	202

Not Enacted

LD 483	An Act to Abolish the Legislative Retirement System	DIED BETWEEN HOUSES.....	189
LD 1855	An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives	DIED BETWEEN HOUSES.....	201

Retirement System - Benefits

Enacted

LD 1609	An Act to Provide Consistent Retirement Plan Options for Game Wardens, Marine Patrol Officers, Forest Rangers and Baxter State Park Authority Rangers	PUBLIC 624 EMERGENCY.....	192
LD 1698	An Act to Make Changes to the Disability Plans Administered by the Maine State Retirement System and to Establish a Process for Further Improvements	PUBLIC 643 EMERGENCY.....	194
LD 1825	An Act Regarding Survivor Benefits in the Event of Divorce and Remarriage	PUBLIC 604 EMERGENCY.....	199
LD 1850	An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System	P & S 78 EMERGENCY.....	201

		<u>Final Disposition</u>	<u>Page #</u>
<u>Not Enacted</u>			
LD 483	An Act to Abolish the Legislative Retirement System	DIED BETWEEN HOUSES.....	189

Retirement System - Teachers

<u>Enacted</u>			
LD 1856	An Act to Clarify the Early Retirement Incentives Law	PUBLIC 541 EMERGENCY.....	202

<u>Not Enacted</u>			
LD 1855	An Act to Limit the Liability of Employers for the Costs of Early Retirement Incentives	DIED BETWEEN HOUSES.....	201

Unemployment Compensation and Employment Training

<u>Enacted</u>			
LD 1770	An Act to Exempt Certain Individuals from Unemployment Insurance Requirements	PUBLIC 587 EMERGENCY.....	198
LD 1807	An Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation	PUBLIC 612 EMERGENCY.....	199
LD 1846	An Act to Combine Certain Reporting Requirements for Employees	PUBLIC 657.....	200

<u>Not Enacted</u>			
	None		

Workers' Compensation

<u>Enacted</u>			
	None		

<u>Not Enacted</u>			
LD 1633	An Act to Clarify the Laws Governing the Calculation of Interest on Decrees under the Workers' Compensation Laws	INDEF PP.....	193

Summary of Committee Action by Joint Standing Committee on Legal and Veterans Affairs

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	15	71.4%	3.8%
B. Bills carried over from 1st Regular Session	5	23.8%	1.3%
C. Bills carried over from 1st Special Session	<u>1</u>	<u>4.8%</u>	<u>0.3%</u>
Total Bills Considered	21	100.0%	5.3%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	0	0.0%	0.0%
<i>OTP-AM</i>	7	33.3%	1.9%
<i>ONTP</i>	<u>6</u>	<u>28.6%</u>	<u>1.6%</u>
Total Unanimous Reports	13	61.9%	3.5%
B. Divided Reports			
<i>2-Way</i>	8	38.1%	2.1%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	8	38.1%	2.1%
Total Bills Reported Out	21	100.0%	5.6%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	7	33.3%	1.8%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>1</u>	<u>4.8%</u>	<u>0.3%</u>
Total Enacted or Finally Passed	8	38.1%	2.0%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	2	N/A	N/A

Joint Standing Committee on Legal and Veterans Affairs

LD 400 An Act to Clarify the Laws Relating to Gaming and Harness Racing

PUBLIC 677

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIPIETRO	ONTP MAJ OTP-AM MIN	H-922 S-569

L.D. 400, originally titled “An Act to Authorize Video Gambling”, was carried over from the First Regular Session. It proposed to authorize the operation of video lottery terminals in clubs, hotels, nonprofit establishments and lounges licensed to sell liquor for on-premise consumption. The bill proposed an extensive regulatory system to monitor and oversee video gambling operations.

(The bill, as originally drafted, was not adopted. For other bills concerning gambling see L.D.s 1218, 1303 and 1891.)

Committee Amendment "A" (H874), which was the Minority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed technical corrections to the bill. The amendment also proposed allocation sections and a fiscal note.

(Not adopted)

Senate Amendment "A" (S569) This amendment proposed to replace the bill and to change the title to that given in the header of this summary. This amendment proposed to make a technical correction in the off-track betting laws concerning reduced payments for certain off-track betting facilities. This amendment also proposed to repeal the July 2, 1997 sunset of the reduced payment provision (Title 8, section 27-5).

Current law requires that an organization must be in existence for at least 2 years prior to applying for a beano license. Chartered posts of nationally established veterans' organizations are exempt from the 2-year requirement. This amendment proposed to expand the exemption from the 2-year requirement to all organizations in this State having a charter from a national organization.

House Amendment "A" To Senate Amendment "A" (H22) proposed to strike the emergency preamble and the emergency clause from Senate Amendment "A" (S-569).

Senate Amendment "A" To SENATE AMENDMENT "A" (S92) and SENATE AMENDMENT "B" (S-591) both proposed new provisions concerning enforcement of the gambling laws. Specifically, the amendments proposed to define “illegal gambling machine” and to provide that illegal gambling machines and their monetary contents are subject to seizure and forfeiture in both civil and criminal proceedings.

(Not adopted)

Enacted law summary

Public Law 1995, chapter 677 makes a technical correction in the off-tracking betting laws concerning reduced payments for a certain off-track betting facility. It also repeals the sunset of the section of law providing for the reduced payments. It also allows any organization chartered

by a national organization to obtain a beano license, relieving these organizations of the current requirement that they be in existence in this state for 2 years before obtaining a license.

LD 848 An Act to Further the Privatization of Liquor Stores within the State ONTP

<u>Sponsor(s)</u> STEVENS A	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 848 was carried over from the First Regular Session. It proposed to change the agency liquor store licensing process by eliminating certain selection guidelines, including the location requirements for agency liquor stores, and the licensing process. The bill proposed to allow the Bureau of Liquor Enforcement to issue an agency store license to any applicant who satisfies basic requirements and rules set by the bureau and who pays the annual \$2,000 license fee or \$300 license renewal fee. (See also L.D. 1706.)

LD 1076 An Act to Clarify the Laws Regarding the Ejection of a Person from a Boardinghouse DIED BETWEEN BODIES

<u>Sponsor(s)</u> JONES K	<u>Committee Report</u> OTP MAJ ONTP MIN	<u>Amendments Adopted</u>
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LD 1076, carried over from the First Regular Session, proposed to provide that the law relating to ejection of disruptive or destructive persons from inns, hotels, lodging houses and boardinghouses applies, regardless of length of stay, if the guest is receiving services typically supplied to transient guests and possession and control of the room remain with the management of the facility.

LD 1218 An Act to Amend the Laws Relating to Harness Racing ONTP

<u>Sponsor(s)</u> KERR	<u>Committee Report</u> OTP-AM MAJ ONTP MIN	<u>Amendments Adopted</u>
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LD 1218, carried over from the First Regular Session, proposed to authorize the operation of video lottery terminals at commercial harness racing tracks, fairs and off-track betting facilities ("OTBs"). The bill proposed to allow Scarborough Downs to operate up to 600 terminals and Bangor Historic Raceway, each fair and each OTB to operate up to 200 terminals under limited regulatory oversight by the Harness Racing Commission. (See also L.D.s 400, 1303 and 1891, concerning gambling.)

Committee Amendment "A" (H891), which was the Majority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed to strike and replace the bill. The amendment proposed:

1. To permit video lottery machines, including tournament video gambling, to be operated after December 1, 1996 under extensive regulation by the State Police and the Bureau of Alcoholic

Beverages and Lottery Operations. The amendment proposed to allow the following entities, if they met licensing requirements, to operate the following numbers of video lottery machines: a commercial horse racing track, up to 150 machines; an off-track betting facility, up to 50 machines; an agricultural fair licensed to accept pari-mutuel wagers, up to 5 machines; an incorporated civic organization, up to 5 machines; the Passamaquoddy Tribe, up to 50 machines on Passamaquoddy Indian territory; and the Penobscot Nation, up to 50 machines on Penobscot Indian territory;

2. To distribute proceeds of the net machine income as follows: twenty percent to the distributor of the machine; twenty-three percent to the operators of the machine; fourteen percent to various agricultural and harness racing interests; one percent to the Local Government Fund; an amount sufficient to cover the costs of enforcing and administering the law to the State Police and the Bureau of Alcoholic Beverages and Lottery Operations; and the remainder to the General Fund;

3. To define "illegal gambling machine", to establish stiff penalties for manufacturing, selling, transporting, placing or possessing an illegal gambling machine and to provide a process under which the state could seize and cause the forfeiture of an illegal gambling machine; and

4. To add an allocation section and a fiscal note.

(Not adopted)

House Amendment "A" To Committee Amendment "A" (H907) proposed to make the following changes to the Majority Report of the committee:

1. To reduce the number of video lottery machines that may be operated as follows: commercial tracks reduced to 75 video lottery machines and off-track betting facilities reduced to 25 video lottery machines;

2. To remove provisions that proposed to permit the Penobscot Nation and the Passamaquoddy Tribe to operate video lottery terminals;

3. To ban the use of the word "casino" to describe any video lottery operation;

4. To reduce the percentage of the net terminal income to which licensees are entitled from 23% to 22% and to designate this 1% of net terminal income to the Office of Substance Abuse for treatment of compulsive gambling;

5. To reduce the percentage of the net terminal income to which distributors are entitled from 22% to 21%, and to increase the state share by 1%;

6. To require that the net increase in General Fund revenue from video lottery terminals be deposited in the Maine Rainy Day Fund;

7. To replace the allocation section.

(Not adopted)

**LD 1303 An Act to Clarify Definitions Under the Laws Concerning DIED BETWEEN BODIES
Games of Chance**

Sponsor(s)
MICHAUD

Committee Report
OTP-AM MAJ
OTP-AM MIN

Amendments Adopted

LD 1303, carried forward from the First Regular Session, proposed to change the definitions of “game of chance” and “game of skill” in Maine gambling law. The bill was introduced while a challenge to a State Police interpretation of the current law was pending in court; the bill was carried over to allow the case to be decided prior to the Legislature’s acting upon the bill. Decision was rendered in PVA v. State of Maine York Superior Court Docket CV-93-686 and CV-94-412 (December 19, 1995); the court found that under the definition of “game of chance” the outcome of the game must depend in a material degree on an element of chance. The court found that “material degree” meant “decisive.” The bill proposed to define “game of chance” to mean a game the outcome of which depends to any degree on an element of chance.

(Not adopted. The definition was changed, however, by L.D. 1891.)

Committee Amendment "A" (S517), which was the Majority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed to replace the bill. The amendment proposed to amend the laws on gambling by amending the definitions of "game of chance," "contest of chance" and "game of skill." The amendment proposed to make the defining factor in whether a game was a game of chance whether chance influenced the outcome in a way that could not be overcome by the application of skill. The amendment proposed to add a fiscal note.

(Not adopted. It is this version of the definitions, however, that was adopted through L.D. 1891.)

Committee Amendment "B" (S518), which was the Minority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed to replace the bill. This amendment proposed the following:

1. To amend the title of the bill to reflect the content of the amendment and to remove the emergency preamble and the emergency clause from the bill;
2. To prohibit a person, society or organization from operating tournament video games without a license issued by the Chief of the State Police. The amendment proposed to define a “tournament video game” as a game of skill that includes elements of chance and that employs 10 or more video terminals electronically linked in a network;
4. To permit the following entities to obtain a license to operate tournament video games: a person licensed to accept pari-mutuel wagers on horse racing; a nonprofit society or organization founded, chartered or organized in this State at least 2 years before submitting an application for a license; the Penobscot Nation and the Passamaquoddy Tribe;
5. Pursuant to authority granted by federal law, to exempt licensed tournament video games from federal law that would otherwise prohibit transportation of the video terminals in the State; and
6. To add a fiscal note to the bill.

(Not adopted)

House Amendment "A" To Committee Amendment "A" (B90) proposed to allow high-stakes beano games to be operated 52 weekends per year. It proposed to retain the fee of \$50,000 for a 27-weekend license and raise the license fee to \$100,000 for a 52-weekend license.

(Not adopted)

LD 1591 An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KERR	ONTP	

LD 1591, which was part of the Productivity Task Force Plan originally presented to the Appropriations Committee and which was separated from the rest of the plan and rereferred to the Legal and Veterans Affairs Committee, proposed to make adjustments to Other Special Revenue allocations for the Maine Harness Racing Commission and provide for the Commissioner of Agriculture, Food and Rural Resources to appoint the members of the Harness Racing Promotional Board.

LD 1611 An Act to Allow Limited Partnerships between Brewers and Wholesalers ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FERGUSON	ONTP MAJ OTP-AM MIN	

Current law prohibits a brewer from having a financial interest in a wholesaler. LD 1611 proposed to permit brewers and wholesalers to form limited partnerships: the brewer would be the limited partner and the wholesaler would be the general partner.

Committee Amendment "A" (S446) which was the Minority Report of the committee, proposed to prohibit a brewer from participating in a limited partnership with a wholesaler for longer than 8 years. The amendment proposed to add a fiscal note.

(Not adopted)

LD 1621 An Act to Amend the Campaign Finance Laws ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GWADOSKY	ONTP	

LD 1621 proposed to permit the Commission on Governmental Ethics and Election Practices, in the event a campaign finance report does not substantially conform to the requirements of campaign finance laws, to assess a penalty equal to a percentage of the amount not timely disclosed multiplied by the number of days the disclosure was late. The bill proposed to permit the commission to determine the amount to be levied for nonmonetary reporting deficiencies.

LD 1628 RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions

CON RES 3

Sponsor(s)
NADEAU

Committee Report
OTP-AM

Amendments Adopted
H-714

LD 1628, a constitutional resolution, proposed to amend the State Constitution to require that a direct initiative be submitted to municipal officials earlier than is now required in order to provide municipal officials more time to certify that the petitioners are certified voters. (Subject to referendum approval)

Committee Amendment "A" (H714) proposed to add the necessary referendum clause and a fiscal note to the resolution.

Enacted law summary

Constitutional Resolution 1995, chapter 3 proposes to amend the State Constitution to require that a direct initiative be submitted to municipal officials earlier than is now required in order to provide municipal officials more time to certify that the petitioners are certified voters. (Subject to referendum approval, November, 1996.)

LD 1632 An Act Relating to the Sale of Alcoholic Beverages

PUI

Sponsor(s)
FERGUSON

Committee Report
OTP MAJ
ONTP MIN

Amendments Adopted
S-456

LD 1632 proposed to allow brewers to reimburse wholesalers, when price promotions occur, on the basis of the sales actually made ("depletion allowances") rather than on the basis of the amount shipped (current practice). The bill also allows brewers, wholesalers and retailers to offer sales promotions utilizing in-pack games and contests.

Senate Amendment "A" (S448) proposed to allow a certificate of approval holder to offer rebates on the purchase of malt liquor or wine.

(Not adopted)

Senate Amendment "B" (S456) proposed to amend the bill to provide that depletion allowances are permissible if they are posted in accordance with existing pricing requirements. It also proposed to permit in-pack games, contests and sweepstakes only if a consumer is not required to purchase an alcoholic beverage in order to participate in the game, contest or sweepstakes.

Enacted law summary

Public Law 1995, chapter 582 permits brewers to offer depletion allowances to wholesalers. It also allows brewers, retailers and wholesalers to offer in-pack sales promotions provided the consumer is not required to purchase the beverage in order to participate in the game, contest or sweepstakes.

LD 1635 An Act to Amend the Law Concerning Tobacco Use by Juveniles PUBLIC 593

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-471

LD 1635 proposed to clarify the jurisdiction of the administrative court in the enforcement of violations of the tobacco laws.

Committee Amendment "A" (S471) proposed to make a technical change to the bill to clarify that the Administrative Court has exclusive jurisdiction over all civil violations by tobacco licensees and their agents of the laws related to retail tobacco sales; to amend the laws related to transfers of retail tobacco licenses; and to amend the laws related to the sale or distribution of tobacco to minors to provide that it is an affirmative defense to prosecution that the defendant distributed tobacco products to a person under 18 years of age who furnished fraudulent proof of age.

Enacted law summary

Public Law 1995, chapter 593 clarifies that the Administrative Court has exclusive jurisdiction over all civil violations by tobacco licensees and their agents of the laws related to retail tobacco sales. It also provides that a corporate retail tobacco licensee whose stock is publicly traded must surrender its license if more than 51% of the shares of the stock are sold or transferred. It establishes as a defense to prosecution for distribution of tobacco products to minors that the defendant distributed tobacco products to a person under 18 years of age who furnished fraudulent proof of age.

LD 1653 An Act to Amend the Election Laws DIED BETWEEN BODIES

Sponsor(s)
NADEAU

Committee Report
OTP-AM

Amendments Adopted

LD 1653 proposed:

1. To amend the definition of "voting district;"
2. To clarify what records and documents are open to public inspection and to require that certain records may be excluded from public inspection pursuant to a court order of protection;
3. To change the timing of the appointment of a qualified registrar of voters;
4. To amend the term of office for the registrar of voters;
5. To amend the deadline for candidates by nomination petition to withdraw their enrollment;
6. To repeal a provision regarding the removal of a voter's name from the voting list for failure to meet voting requirements;

7. To amend the provisions regarding the declaration of intent for the formation of a new party by requiring the declaration to include the name of a candidate for Governor or for President in the last preceding general election who was nominated by petition under the proposed party's designation. It also proposed to require the telephone number and signature of the voter or group of voters who file a declaration of intent;
8. To require that a candidate who intends to form a new party around his/her candidacy to use the proposed party's designation;
9. To amend the statement required of a candidate in the candidate's consent on a candidate's petition to include a declaration that the candidate meets the qualifications of the office the candidate seeks;
10. To amend the law regarding the filing deadline of a nomination petition for a special election;
11. To provide for a refund of the filing fee for a candidate for the office of President who is unopposed in the primary;
12. To change the law related to the deposit requirements for election recounts by establishing several new levels in the payment scale;
13. To increase the number of absentee ballots that a 3rd person may have at any time;
14. To allow the return of an absentee ballot in person;
15. To amend the law regarding a broadcast announcement of a political action committee to provide that a committee's report may be viewed at the office of the Commission on Governmental Ethics and Election Practices; and
16. To amend the election laws to make them gender neutral.

Committee Amendment "A" (H737) proposed

1. To permit a candidate for State Senate or State Representative to withdraw a declaration agreeing to a voluntary spending limit if the opposing candidate does not agree to a spending limit. The amendment also proposed that a candidate that withdraws a declaration must be removed from the list, published by the Commission on Governmental Ethics and Election Practices, of those candidates who agree to spending limits;
2. To clarify that there is no statutory penalty imposed upon a candidate for failure to abide by a voluntary spending limit;
3. To provide that a registrar must place the name of a person who applies to register to vote or to enroll in a party on the voting list as soon as the voter is qualified;
4. To remove certain obsolete references in election law;
5. To preserve the law permitting a registrar of voters to remove a voter's name from a voting list for failure to meet voting requirements;
6. To prohibit a person paying another for collecting signatures if the payment is based on the number of signatures collected;

7. To remove the requirement that registrars hold particular hours before an election to accept walk-in voter registrations;
8. To remove the prohibition on a clerk delivering absentee ballots to persons who are members of a candidate's immediate family;
9. To permit more time for the Secretary of State to ensure proper printing of accurate ballot material by altering certain deadlines associated with party caucuses;
10. To make changes in several laws consistent with the proposal in the bill to amend provisions regarding the declaration of intent for the formation of a new party around a candidate;
11. To replace that portion of the bill concerning exclusion of a voter address from public inspection when the voter is protected by a court-issued protective order. The amendment proposed that a voter may have the voter's address excluded from the public record if the voter submits a signed statement that the voter has good reason to believe that the safety of the voter or of a member of the voter's family residing with the voter would be in jeopardy if the voter's address were open to public inspection.
12. To make technical changes to the bill, add an emergency clause to the bill (only those portions of the bill amending the laws related to voluntary spending limits by candidates were proposed to be made effective upon approval as an emergency) and add a fiscal note.

(Not adopted)

Senate Amendment "A" To Committee Amendment "A" (~~S161~~) and Senate Amendment "B" To Committee Amendment "A" (S507) both proposed to remove the provision of the committee amendment allowing a candidate for State Senate or State Representative to withdraw a declaration agreeing to a voluntary spending limit if the opposing candidate does not agree to a spending limit. Both amendments also proposed that spending limits apply to the entire election year, not per election.

(Not adopted)

Senate Amendment "A" (S470) and House Amendment "B" (H778) both proposed to prohibit persons who are currently charged with or have been convicted of violating state election laws from handling absentee ballots or participating in recount activities.

(Not adopted)

House Amendment "A" (H756) proposed to prohibit persons who are under indictment for violation of state election laws from handling absentee ballots or participating in recount activities.

(Not adopted)

LD 1692	An Act to Improve Local Control over Liquor Licensing	ONTP
	<u>Sponsor(s)</u>	<u>Committee Report</u>
	RAND	ONTP
		<u>Amendments Adopted</u>

LD 1692 proposed to permit municipalities to deny or suspend a liquor license for noncompliance with a local zoning or land use ordinance. The bill proposed to give municipalities access to

records of establishments that sell liquor, with approval from the Bureau of Liquor Enforcement, for the purpose of investigating compliance with licensing requirements. The bill also proposed to allow municipalities to hold hearings for consideration of requests for renewal of liquor licenses and for consideration of the suspension of liquor licenses.

**LD 1706 An Act to Implement the Recommendations of the
Task Force on Alcoholic Beverage Sales**

DIED BETWEEN BODIES

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM MAJ
OTP-AM MIN

LD 1706 proposed to implement the unanimous recommendations of the Task Force on Alcoholic Beverage Sales.

The bill proposed to require the State to move as expeditiously as possible to close all state liquor stores with the goal of completing that process by August 31, 1996. The bill proposed that before a state store could be closed, there must be at least one reselling agency store within a ~~one~~ mile radius of the store closed.

The bill proposed that the transition to full privatization of delivery of wholesale and distribution functions be completed by February 1, 1998 through contracting with a private provider of integrated services. The bill proposed to require the Bureau of Alcoholic Beverages to develop contract performance standards and manage the bidding process. The bill proposed that the State retain control of approving products that are listed for sale in Maine, the determination of the wholesale price, the oversight of contracts with private service providers and the management of revenue collection. The bill proposed to require that the Bureau of Alcoholic Beverages establish a liquor tax that generates the same amount of revenue from the sale of alcoholic beverages as was generated in fiscal year 1994~~95~~. Concern was raised that this tax provision of the bill might violate the constitutional prohibition on delegation of taxing authority. Staff provided an oral opinion and the Attorney General provided a written opinion that concluded that the provision would not violate the constitutional prohibition.

The bill proposed to require the State to provide some retraining and outplacement assistance to displaced state employees.

The bill proposed to remove limitations on the number of ~~agen~~ stores beginning April 1, 1996. The bill proposed to eliminate requirements in current law regarding proximity to existing stores but to retain proximity requirements regarding churches and schools.

The bill proposed that any agent that is federally registered as a wholesale dealer be permitted to resell to another agent or to an ~~on~~premise licensee. The bill proposed to allow the Bureau of Alcoholic Beverages and Lottery Operations to develop wholesale purchase discounts for reselling agents. The bill proposed to change license fees.

The bill proposed to remove all limitations on product and price advertising.

The bill proposed that during the transition to full privatization, the State could authorize the warehouse to distribute to ~~on~~premises licensees on the same basis as to agency stores. The bill proposed to require that transportation costs be charged separately and not be included in the wholesale price.

The bill proposed to provide funds for 4 additional liquor enforcement agents ~~the~~ Bureau of Liquor Enforcement.

The bill proposed that when privatization is complete, the liquor ~~or~~ related functions of the State Liquor and Lottery Commission be repealed.

A major portion of the text of the bill (all of Part B) proposed technical corrections in the liquor laws in order to update provisions to reflect changes made by Public Law 1993, chapter 410, Parts XX and ZZ regarding the combination of the State Liquor Commission and the State Lottery Commission into the State Liquor and Lottery Commission and the transfer of the licensing and taxation responsibilities to the Department of Public Safety.

Committee Amendment "A" (H863), which was the Majority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed to strike and replace the bill. The amendment proposed:

1. To close 5 state liquor stores;
2. To establish a package liquor store license permitting sales of spirits, wine and malt liquor at a fee that is the sum of the individual licenses to sell spirits, wine and malt liquor;
3. To require the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations to provide to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs by January 1, 1997, a report specifying how the bureau is achieving or will achieve a series of specified efficiency goals;
4. To move \$300,000 in fiscal year 199~~5~~⁹⁶ and \$300,000 in fiscal year 199~~6~~⁹⁷ from money appropriated in 1995, for technology upgrades to the Bureau of Alcoholic Beverages and Lottery Operations for technology upgrades in state liquor stores;
5. To require the Bureau of Alcoholic Beverages and Lottery Operations, by August 1, 1996, to establish a system of 6 regions for distribution of liquor among state liquor stores. The amendment proposed that in each region, the bureau designate a state liquor store to serve as a regional warehouse for the region. The amendment proposed that under the regional system, the following positions be eliminated: one Store Operations Officer and 2 Retail Store Supervisors; and
6. To add a fiscal note and allocation section, to change the title of the bill and to remove the emergency preamble and emergency clause.

(Not adopted)

Committee Amendment "B" (H864), which was the Minority Report of the Joint Standing Committee on Legal and Veterans Affairs proposed:

1. To maintain all the current restrictions on liquor advertising. In addition, the amendment proposed to prohibit offpremise advertising of spirits by ~~agency~~ liquor stores;
2. To exempt existing agency liquor stores from the requirement in the bill that agency stores carry at least \$5,000 of merchandise fit for human consumption. The amendment proposed to terminate the exemption when a license is transferred and a new license issued;
3. To provide that liquor rules adopted by the Bureau of Liquor Enforcement are "major substantive" rules for purposes of the Maine Administrative Procedure Act (new rules adopted

by the bureau implementing state liquor laws would be subject to legislative review and approval);

4. To replace the license fee structure proposed in the bill. The amendment proposed that the initial fee for an agency liquor store be \$2,000 and the renewal fee \$300. Under current law, an initial license is issued pursuant to a bidding procedure. Renewals, under current law, are \$300.
5. To remove the provision of the bill that would have permitted the Bureau of Alcoholic Beverages and Lottery Operations to close a state liquor store if the bureau determined that reasonable alternative access was available to persons previously purchasing spirits from the state store. The amendment proposed that no state liquor store be closed unless an agency store is opened within 10 miles of the closed state store.
6. To require that, during the transition to privatization of the wholesale liquor business, billings by the Bureau of Alcoholic Beverages and Lottery Operations for transportation costs associated with the wholesale sale of spirits to on-premise licensees be uniform throughout the State;
7. To remove the provision of the bill that would have allowed the Bureau of Alcoholic Beverages and Lottery Operations to provide price discounts to reselling agency liquor stores;
8. To provide that the license of an on-premise liquor licensee be suspended or revoked if the licensee attempts to purchase liquor from an agency liquor store using a bad check;
9. To permit agency liquor stores to be open on Sunday from 9 a.m. to 1 a.m. the next day, notwithstanding any local option decisions to the contrary;
10. To change the date in the bill by which state stores must be closed. This amendment proposed closure by December 31, 1996; and
11. To make technical changes to the bill, to remove the emergency preamble and emergency clause, to add a fiscal note, an appropriation section and an allocation section to the bill.

(Not adopted)

House Amendment "A" (H873) proposed to amend the bill to prohibit the sale of liquor for less than 8% above the Bureau of Alcoholic Beverages and Lottery Operations' price, except that a reselling agency liquor store would be permitted to resell liquor for less than 8% to other agents and to on-premise licensees.

(Not adopted)

General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals

Sponsor(s)
FERGUSON

Committee Report
OTP-AM

Amendments Adopted
H-823
S-489

LD 1720 proposed to permit the Military Bureau to condemn and sell military property, including armories, without further legislative approval. The bill proposed that proceeds of the sales would be deposited into an account within the bureau and could be used by the bureau to acquire, construct and repair facilities. The bill proposed to create the Armory Rental Fund into which fees charged by the bureau for rental of its armories would be deposited and from which the Bureau could draw funds for operation and maintenance of the armories.

Committee Amendment "A" (S489) proposed to create an Armory Rental Fund and authorize the Military Bureau to rent armories. The amendment proposed to delay the effective date of the creation of the Armory Rental Fund until July 1, 1997.

The amendment proposed to require the Adjutant General to obtain an appraisal of the fair market value of any real property of the Military Bureau prior to selling that property and to prohibit the Adjutant General from selling any real property for less than that appraised value.

The amendment also proposed to authorize the Adjutant General to sell the armories in Brunswick, Newport, Rumford, Sanford and South Portland, subject to the restriction that they are appraised and not sold for less than that appraised value. The amendment also proposed to require the Adjutant General to obtain the approval of the Legislature and the Governor, through the enactment of a resolve, prior to selling any other armory or real property.

House Amendment "A" To Committee Amendment "A" (H23) proposed to allow the Department of Defense and Veterans' Services, Military Bureau to make expenditures from the Capital Repair Account without legislative approval for any capital repair project costing less than \$300,000. The amendment proposed to prohibit the bureau from using the account for a capital repair project costing \$300,000 or more unless that expenditure is approved in advanced by the Legislature.

The amendment also proposed to require the Military Bureau to report to the Legislature every 2 years on planned capital repair projects costing less than \$300,000.

Enacted law summary

Public Law 1995, chapter 684 permits the Military Bureau, with certain restrictions, to sell certain military properties and to rent its armories. The revenues from these activities are placed in special accounts and the bureau has authority, with limitations, to use the funds for certain projects.

LD 1742 An Act to Amend the Liquor Licensing Laws

EMERGENCY

PUI

Sponsor(s)
STONE

Committee Report
OTP-AM

Amendments Adopted
H-726
S-447

LD 1742, originally titled "An Act to Amend the Definition of Outdoor Stadium in the Liquor Licensing Laws," proposed to allow a stadium with 3,000 or more seats to be a licensed establishment for purposes of selling wine or malt liquors at times when the facility is being used for the playing of professional baseball. The bill proposed to allow concessionaires or lessees of such facilities to be issued licenses for the sale of wine or malt liquor.

Committee Amendment "A" (H726) proposed to permit curling clubs to obtain licenses to sell liquor to be consumed on premises, to make a technical change in the bill, to amend the title of the bill and to add a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S147) proposed a further technical change to the bill.

Enacted law summary

Public Law 1995, chapter 558 allows a stadium with 3,000 or more seats to be a licensed establishment for purposes of selling wine or malt liquors at times when the facility is being used for the playing of professional baseball and permits a curling club to obtain a license to sell liquor to be consumed on premises.

LD 1744 An Act to Revise the State Active Service Laws

PUBLIC 600

Sponsor(s)
NADEAU

Committee Report
OTP-AM

Amendments Adopted
H-784

LD 1744 proposed to authorize the Governor, the Adjutant General and the Deputy Adjutant General to order any member of the Maine National Guard into active state service for any purpose if the member consents. This bill proposed to remove the authority of the local sheriffs and Justices to call the Maine National Guard into state service. The bill proposed to add "helicopter airlift service" as an authorized service under state active service law. It proposed to remove a reference to the source of funding for the Commissioner of Human Services to reimburse the Maine National Guard for rendering emergency assistance.

The bill proposed to change the notice requirements for state service. It also proposed to provide that a commissioned officer does not enjoy the rights, authority and immunity of a law enforcement officer unless the officer is called up in emergency situations.

Committee Amendment "A" (H784) proposed to remove the emergency preamble and emergency clause. The amendment proposed to retain existing law allowing a Justice of the Supreme Judicial Court, a Justice of the Superior Court, a county sheriff and certain local officials to request assistance from the state military forces under certain circumstances.

The amendment proposed to remove the provision in the bill that would have allowed the Adjutant General and the Deputy Adjutant General to order a member of the Maine National Guard, with the member's consent, to perform active state service. The amendment proposed to grant this authority to the Governor or the Governor's designee. The amendment proposed to add an allocation section and a fiscal note.

Enacted law summary

Public Law 1995, chapter 600 authorizes the Governor or the Governor’s designee to order any member of the Maine National Guard into active state service for any purpose if the member consents. It adds "helicopter airlift service" as an authorized service under state active service law. It removes the reference in law to the source of funding for the Commissioner of Human Services to reimburse the Maine National Guard for rendering emergency assistance. It requires reasonable notice, appropriate to the duty to be performed, to members of the state military forces prior to their being called into active state service. It provides that a commissioned officer does not enjoy the rights, authority and immunity of a law enforcement officer unless the officer is called up in emergency situations.

LD 1785 An Act Relating to Payment of Tristate Lotto Prizes

PUBLIC 652

Sponsor(s)
NADEAU
FERGUSON

Committee Report
OTP-AM

Amendments Adopted
H-773

LD 1785 proposed to permit the voluntary assignment of Tristate Lotto prizes. The bill proposed to permit an assignor of a prize to cancel the assignment within 45 business days after the assignment agreement is signed. This bill also proposed to permit the prizewinner to pledge future prize payments as collateral for a loan. The bill proposed that provisions of the bill permitting the assignment or pledge of prizes would be repealed if the United States Internal Revenue Service or a court rules, with regard to prizes that are not assigned or pledged, that the right to do so requires the taxation of the entire prize in the year in which it is received rather than the years in which amounts are actually paid.

Committee Amendment "A" (H773) proposed to reduce the period in which the assignor of a prize is permitted to cancel an assignment to 15 business days

Enacted law summary

Public Law 1995, chapter 652 permits the voluntary assignment of Tristate Lotto prizes. It permits a prizewinner to cancel an assignment within 15 business days after an assignment agreement is signed. It also permits the prizewinner to pledge future prize payments as collateral for a loan. This law does not become effective until concurrent legislation is enacted by New Hampshire and Vermont

LD 1823 An Act to Reform Campaign Finance

DIED BETWEEN BODIES

Sponsor(s)

Committee Report
ONTP MAJ
OTP-AM MIN

Amendments Adopted

LD 1823, a citizen initiative, proposed to change campaign and election laws. The initiative proposed a voluntary, publicly financed campaign financing option for candidates running for Governor, State Senator and State Representative. The initiative proposed that participating candidates not be permitted to accept or spend private contributions during the primary or general elections and be required to abide by other campaign contribution and spending restrictions. The

initiative proposed to establish a special fund to fund these campaigns. Sources of revenue for the fund would be qualifying contributions obtained by participating candidates, a transfer of money from the legislative and executive budgets, a voluntary \$3 income tax checkoff and voluntary donations.

The initiative proposed to change the makeup and process of selection of the Commission on Governmental Ethics and Election Practices and to fund its operations in monitoring campaign finance data by increasing lobbyist registration fees.

The initiative proposed to reduce the amount of money that political action committees, committees, corporations, associations and individuals may contribute to candidates.

The House of Representative requested an Opinion of the Justices on several legal questions about the initiative. The justices responded on April 3 (Docket N. OJ-96-3) by stating that since the bill had "expired" in the legislative process, there was no solemn occasion and they had no authority to issue an opinion.

Because LD 1823 was not enacted, the initiative is subject to referendum in November, 1996.

Committee Amendment "A" (H836), which was the Minority Report of the Joint Standing Committee on Legal and Veterans Affairs, proposed to add a fiscal note to the bill.

LD 1827 An Act to Seek Congressional Term Limits ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

LD 1827, a citizen initiative, proposed to require the Secretary of State to print certain words next to the names of candidates who either refused to pledge to support congressional term limits or who failed to undertake any one of a number of listed activities in support of congressional term limits or in support of the calling of a Constitutional Convention. This initiative also proposed to direct the Legislature to make application to Congress calling for a constitutional convention to propose an amendment to the federal constitution to establish congressional term limits and to direct the Governor to aid in such application. It proposed to direct the State's congressional delegation to work to support such an amendment to the federal constitution.

The House of Representatives sought an Opinion of the Justices on several legal questions raised by this initiative. The justices responded with their opinions on these questions on April 3, 1996 (Docket No. OJ-96-2).

Because LD 1827 was not enacted, the initiative is subject to referendum in November, 1996.

LD 1851 An Act to Clarify the Process for Referendum Recount DIED BETWEEN BODIES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COMMITTEE BILL	OTP	

LD 1851, which was reported by the Joint Standing Committee on Legal and Veterans' Affairs pursuant to Public Law 1995, chapter 506, section 2, proposed to recast the election recount process in the context of referendum recounts to clarify the various procedural requirements.

This bill also proposed to allow the Secretary of State to conduct a recount in stages or by region and to direct the State Police to take physical control over ballots in a sequence or order that facilitates the orderly recount of the ballots.

Currently, the costs of conducting a referendum recount are not budgeted since the costs are speculative until a recount is actually requested and conducted. This bill proposed to provide that the costs of conducting a referendum recount are paid from the Rainy Day Fund and, to the extent necessary, from the unappropriated surplus of the General Fund.

Senate Amendment "A" (S587) proposed to remove language in the bill that authorizing transfer from the Rainy Day Fund and the unappropriated surplus of the General Fund to fund costs of conducting a referendum recount.

(Not adopted)

Senate Amendment "B" (S588) also proposed to remove language in the bill that authorizes transfers from the Rainy Day Fund and the unappropriated surplus of the General Fund to fund costs of conducting a referendum recount. The amendment proposed to appropriate \$5,700,000 to the rainy day fund program in fiscal year 1995~~6~~; deappropriate \$1,800,000 from available balances in the General Purpose Aid for Local Schools program; authorize the State Controller to transfer any remaining balance in the General Purpose Aid for Local Schools program at the end of fiscal year 1995~~96~~ to the rainy day fund program; and prohibit the transfer of any remaining balances in the General Purpose Aid for Local Schools program for any other purpose for the balance of fiscal year 1995~~96~~.

(Not adopted)

Senate Amendment "C" (S596) also proposed to remove language in the bill that authorizes transfers from the Maine Rainy Day Fund and the unappropriated surplus of the General Fund to fund costs of conducting a referendum recount. The amendment proposed to appropriate \$5,700,000 to the Rainy Day Fund program in fiscal year 1996~~7~~ and deappropriate \$1,800,000 from General Purpose Aid for Local Schools.

(Not adopted)

LD 1867 An Act to Establish a Review Process for Certification of Political Petitions ONTP

Sponsor(s)
LAWRENCE

Committee Report
ONTP

Amendments Adopted

LD 1867 proposed to provide that, whenever a petition is circulated and filed with the Secretary of State in accordance with the laws governing elections, the circulator may request that the Secretary of State return names to the registrar or registrars of the appropriate municipality or municipalities for a review of the certification of names appearing on the petition.

**LD 1889 Resolve, to Validate the Reform Party Petition RESOLVE 74
EMERGENCY**

Sponsor(s)
LAWRENCE

Committee Report

Amendments Adopted

LD 1889, which was enacted without reference to committee, proposed to establish by law that the Reform Party be deemed to have met the signature requirements for the purpose of qualifying as a political party under Maine law. This resolve also proposed to extend certain deadlines for the Reform Party to fulfill certain other specified requirements of law in order to qualify as a political party.

Enacted law summary

Resolve 1995, chapter 74 establishes by law that the Reform Party is deemed to have met the signature requirements for the purpose of qualifying as a political party under Maine law and extends certain deadlines for the Reform Party to fulfill other specified requirements of law in order to qualify as a political party.

LD 1891 An Act to Clarify the Gambling Laws of Maine

PUBLIC 674

Sponsor(s)
BUCK

Committee Report

Amendments Adopted

LD 1891, which was enacted without reference to committee, was introduced immediately following the final vote on LD 1303. The bill proposed to change the definitions of "game of chance" and "game of skill" in Maine's gambling laws. The bill was intended to overrule the Maine Superior Court decision in Sylvester v. State of Maine Superior Court Docket Nos. CV-93-686 and 94-412 (York County, December 19, 1995) in which the court ruled that a tournament video poker machine was a game of skill under the Maine Revised Statutes, Title 17, section 330, subsection 2A. This bill proposed to change the law to make it clear that tournament video machines and similar games, contests, schemes or devices are games of chance regulated under the laws of Maine.

Currently, the defining element of a game or contest of chance is that the outcome depends in a material degree on an element of chance. This bill proposed to establish as the defining element whether chance influences the outcome of the game in a way that can not be overcome by the application of skill.

This bill also proposed to establish a mechanism for individuals and businesses to request a predetermination from the State Police of whether a game, contest, scheme or device is a game of skill or a game of chance, in order to assist private citizens in complying with the law.

The bill proposed to require the Chief of the State Police to notify licensees, incorporated civic organizations and the Maine Gaming Association of the provisions of the bill and the availability of the predetermination mechanism.

Enacted law summary

Public Law 1995, chapter 674 changes the definition of "game of chance" so that a defining element is whether chance influences the outcome of the game in a manner that cannot be overcome by the application of skill. It also allows individuals and businesses to request the State Police to make a determination whether a particular game, contest, scheme or device is a game of chance or a game of skill.

Joint Standing Committee on Legal and Veterans Affairs

SUBJECT INDEX

Final
Disposition **Page #**

Campaign Finance

Not Enacted

LD 1621	An Act to Amend the Campaign Finance Laws	ONTP.....	212
LD 1823	An Act to Reform Campaign Finance	DIED BETWEENBODIES.....	222

Election Law

Enacted

LD 1628	RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Municipal Certification of Direct Initiative Petitions	CON RES 3.....	213
LD 1889	Resolve, to Validate the Reform Party Petition	RESOLVE74 EMERGENCY.....	225

Not Enacted

LD 1653	An Act to Amend the Election Laws	DIED BETWEENBODIES.....	214
LD 1827	An Act to Seek Congressional Term Limits	ONTP.....	223
LD 1851	An Act to Clarify the Process for Referendum Recount	DIED BETWEENBODI	
LD 1867	An Act to Establish a Review Process for Certification of Political Petitions	ONTP.....	224

Landlord/Tenant

Not Enacted

LD 1076	An Act to Clarify the Laws Regarding the Ejection of a Person from a Boardinghouse	DIED BETWEENBODIES.....	209
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Liquor Law

Enacted

LD 1632	An Act Relating to the Sale of Alcoholic Beverages	PUBLIC582
---------	--	-------	-----------

		<u>Final Disposition</u>	<u>Page #</u>
LD 1742	An Act to Amend the Liquor Licensing Laws	..... PUBLIC 558	
	<u>Not Enacted</u>	EMERGENCY.....	221
LD 848	An Act to Further the Privatization of Liquor Stores within the State	ONTP.....	209
LD 1611	An Act to Allow Limited Partnerships between Brewers and Wholesalers	ONTP.....	212
LD 1692	An Act to Improve Local Control over Liquor Licensing	ONTP.....	216
LD 1706	An Act to Implement the Recommendations of the Task Force on Alcoholic Beverage Sales	DIED BETWEEN BODIES.....	217

Lottery/Gambling/Harness Racing

Enacted

LD 400	An Act to Clarify the Laws Relating to Gaming and Harness Racing	PUBLIC 677.....	208
LD 1785	An Act Relating to Payment of Tristate Lotto Prizes	PUBLIC 652.....	222
LD 1891	An Act to Clarify the Gambling Laws of Maine	PUBLIC 674.....	225

Not Enacted

LD 1218	An Act to Amend the Laws Relating to Harness Racing	ONTP.....	209
LD 1303	An Act to Clarify Definitions Under the Laws Concerning Games of Chance	DIED BETWEEN BODIES.....	211
LD 1591	An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing	ONTP.....	212

Tobacco

Enacted

LD 1635	An Act to Amend the Law Concerning Tobacco Use by Juveniles	PUBLIC 593.....	214
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Veterans' Affairs/Military

Enacted

LD 1720	An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals	PUBLIC 684..... 220
LD 1744	An Act to Revise the State Active Service Laws	PUBLIC 600..... 221

Summary of Committee Action by Joint Standing Committee on Marine Resources

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	10	83.3%	2.5%
B. Bills carried over from 1st Regular Session	2	16.7%	0.5%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	12	100.0%	3.0%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	1	8.3%	0.3%
<i>OTP-AM</i>	6	50.0%	1.6%
<i>ONTP</i>	<u>5</u>	<u>41.7%</u>	<u>1.3%</u>
Total Unanimous Reports	12	100.0%	3.2%
B. Divided Reports			
<i>2-Way</i>	0	0.0%	0.0%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	0	0.0%	0.0%
Total Bills Reported Out	12	100.0%	3.2%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	7	58.3%	1.8%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	7	58.3%	1.8%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	4	N/A	N/A

Joint Standing Committee on Marine Resources

LD 185 **An Act Regarding the Harvesting of Eels and Elvers**

PUBLIC 536
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HEINO LOOK	OTP-AM	H-759 H-763

LD 185 proposed to regulate the taking of eels by making it illegal to possess an eel that is less than 6 inches in length.

Committee Amendment "A" (H759) proposed to strike the bill and replace it with the following provisions.

Part A proposed to repeal the eel fishing license in effect at the time for coastal waters and enact 2 new licenses for eel fishing in the coastal waters:

1. An elver fishing license with fees of \$33 for residents and \$1,000 for nonresidents; and
2. An eel harvesting license with a fee of \$100 for residents and nonresidents.

The amendment proposed to define elvers as eels less than 6 inches in length. The amendment also proposed to enact an elver dealer's license with a fee of \$1,000 for residents and nonresidents.

The amendment proposed to define the terms "elver fyke net," "Sheldon eel trap" and "dip net" and limit the method of fishing for elvers to those nets and traps. It proposed to limit the method of fishing for eels in coastal waters to eel pots and hoop nets. The amendment proposed to limit to 5 the number of elver fyke nets, Sheldon eel traps or any combination of nets and traps an elver license holder may use. It also proposed to enact fees for the use of elver fyke nets and Sheldon eel traps of \$100 per net or trap for the first or 2nd net or trap used and \$200 per net or trap for the 3rd, 4th or 5th net or trap used. The amendment also proposed to enact a \$75 per net fee for the use of dip nets.

The amendment proposed to dedicate revenues from the elver fishing license, the eel pot fishing license, the elver fyke and dip net fees and the elver dealer license to the Eel and Elver Management Fund. The fund could be used by the Commissioner of Marine Resources to support research and management of eel and elver resources and enforcement of the eel and elver laws. Expenditures from the fund would be in accordance with a management plan that would be reviewed by the joint standing committee of the Legislature having jurisdiction over marine resource matters.

The amendment proposed to limit the harvesting of elvers to the State's coastal waters. It also proposed to enact a season for elver fishing that runs from noon of March 15th to midnight of June 15th. It proposed to prohibit the harvesting of elvers from noon on Saturdays to noon on Sundays. It proposed to prohibit the setting of any fyke nets or Sheldon eel traps from February 15th to noon of March 15th and it proposed to prohibit claiming any elver fishing locations from February 15th to noon of March 15th.

The amendment proposed to prohibit fishing for elvers from boats, although it would allow nets, traps and gear to be transported by boat. It proposed to prohibit a person who fishes for elvers with a dip net from fishing while standing in the water of a river, brook or stream. It proposed to prohibit fishing for elvers in the middle 3rd of coastal rivers, streams or brooks, as measured at mean high tide. It proposed to prohibit the use of dip nets in the mouths of elver fyke nets. It proposed to prohibit fishing for elvers within 150 feet of a dam with a fishway, within 150 feet of a fishway and within 50 feet of a licensed alewife trap.

It proposed to require a person to affix to each elver fyke net and Sheldon eel trap a tag issued by the Department of Marine Resources. The amendment also proposed to prohibit a person other than a net tag holder from tending a net unless the person has written permission to do so or is in the presence of the tag holder and has permission to do so.

The amendment also proposed to enact a violation for molesting an elver fyke net. A violation would carry a minimum \$500 fine. In addition, the commissioner would be required to suspend for one year the elver fishing license of a person convicted of molesting a fyke net.

Part B of this amendment proposed to implement the recommendations of the Joint Standing Committee on Inland Fisheries and Wildlife with respect to management of the eel and elver fishery in inland waters.

The amendment proposed to prohibit the taking of elvers in inland waters, limit the eligibility for eel weir permits over the next 5 years to persons who held that permit in 1995, prohibit the use of traps and spears when harvesting eels in inland waters and increase the annual freshwater eel pot and eel weir permit fee to \$100. Money from eel pot and eel weir permits sold during calendar years 1996, 1997, 1998, 1999 and 2000 would be deposited into the Eel and Elver Management Fund that would be administered by the Department of Marine Resources in coordination with the Department of Inland Fisheries and Wildlife.

House Amendment "B" to Committee Amendment "A" (H/63) proposed to amend the committee amendment by changing the nonresident elver license fee from \$1,000 to \$334. It also proposed to change the conditions under which a person could tend an elver net or trap for another person. The amendment proposed to require a tender to have an elver fishing license and either be in the presence of the net or trap owner and have verbal permission or have written permission from a marine patrol officer to tend the owner's net or trap. The officer could issue written permission if the net or trap owner can not tend the net or trap because of a disability or personal or family medical condition.

Enacted law summary

Public Law 1995, chapter 536 enacts a variety of provisions relating to the harvesting of elvers and eels.

Part A repeals the eel fishing license in effect at the time for coastal waters and enacts 2 new licenses for eel fishing in the coastal waters:

1. An elver fishing license with fees of \$33 for residents and \$334 for nonresidents; and
2. An eel harvesting license with a fee of \$100 for residents and nonresidents.

The law defines elvers as eels less than 6 inches in length. The law also enacts an elver dealer's license with a fee of \$1,000 for residents and nonresidents.

The law defines the terms "elver fyke net," "Sheldon eel trap" and "dip net" and limits the method of fishing for elvers to those nets and traps. It limits the method of fishing for eels in coastal waters to eel pots and hoop nets. The law limits to 5 the number of elver fyke nets, Sheldon eel traps or any combination of nets and traps an elver license holder may use. It also enacts fees for the use of elver fyke nets and Sheldon eel traps of \$100 per net or trap for the first or 2nd net or trap used and \$200 per net or trap for the 3rd, 4th or 5th net or trap used. The law enacts a \$75 per net fee for the use of dip nets.

The law dedicates revenues from the elver fishing license, the eel pot fishing license, the elver fyke and dip net fees and the elver dealer license to the Eel and Elver Management Fund. The fund may be used by the Commissioner of Marine Resources to support research and management of eel and elver resources and enforcement of the eel and elver laws. Expenditures from the fund must be in accordance with a management plan that is reviewed by the joint standing committee of the Legislature having jurisdiction over marine resource matters.

The law limits the harvesting of elvers to the State's coastal waters. It also enacts a season for elver fishing that runs from noon of March 15th to midnight of June 15th. It prohibits the harvesting of elvers from noon on Saturdays to noon on Sundays. It prohibits the setting of any fyke nets or Sheldon eel traps from February 15th to noon of March 15th and it prohibits claiming any elver fishing locations from February 15th to noon of March 15th.

The law prohibits fishing for elvers from boats, although it allows nets, traps and gear to be transported by boat. It prohibits a person who fishes for elvers with a dip net from fishing while standing in the water of a river, brook or stream. It prohibits fishing for elvers in the middle 3rd of coastal rivers, streams or brooks, as measured at mean high tide. It prohibits the use of dip nets in the mouths of elver fyke nets. It prohibits fishing for elvers within 150 feet of a dam with a fishway, within 150 feet of a fishway and within 50 feet of a licensed alewife trap.

It requires a person to affix to each elver fyke net and Sheldon eel trap a tag issued by the Department of Marine Resources. The law also prohibits a person other than a net tag holder from tending a net unless the person has written permission to do so or is in the presence of the tag holder and has permission to do so.

The law also enacts a violation for molesting an elver fyke net. A violation carries a minimum \$500 fine. In addition, the commissioner is required to suspend for one year the elver fishing license of a person convicted of molesting a fyke net.

It also requires a tender to have an elver fishing license and either be in the presence of the net or trap owner and have verbal permission or have written permission from a marine patrol officer to tend the owner's net or trap. The officer may issue written permission if the net or trap owner can not tend the net or trap because of a disability or personal or family medical condition.

Part B of the law deals with the management of the eel and elver fishery in inland waters. The law prohibits the taking of elvers in inland waters, limits the eligibility for eel weir permits over the next 5 years to persons who held that permit in 1995, prohibits the use of traps and spears when harvesting eels in inland waters and increases the annual freshwater eel pot and eel weir permit fee to \$100. Money from eel pot and eel weir permits sold during calendar years 1996, 1997, 1998, 1999 and 2000 is deposited into the Eel and Elver Management Fund that is administered by the Department of Marine Resources in coordination with the Department of Inland Fisheries and Wildlife.

Chapter 536 was enacted as an emergency measure effective March 14, 1996.

LD 1210 An Act to Protect Nearshore Groundfish Spawning Areas ONTP

Sponsor(s)
HARRIMAN

Committee Report
ONTP

Amendments Adopted

LD 1210 proposed to require that the Commissioner of Marine Resources adopt rules by January 1, 1996 that identify the time and location of cod, haddock and yellowtail flounder spawning in coastal waters. The bill proposed to prohibit all commercial harvesting of marine organisms in those spawning areas during the period those species are spawning.

LD 1647 An Act to Increase the Number of Lobster Traps Allowed on Trawls in Hancock County ONTP

Sponsor(s)
PINKHAM

Committee Report
ONTP

Amendments Adopted

LD 1647 proposed to increase the number of lobster traps allowed on trawls in Hancock County from 3 to 10.

LD 1649 An Act to Increase Penalties in the Sea Urchin Fishery ONTP

Sponsor(s)
RICE

Committee Report
ONTP

Amendments Adopted

LD 1649 proposed to establish a minimum fine of \$500 for violations of laws pertaining to the sea urchin fishery.

LD 1670 An Act to Permit Retired Marine Patrol Officers to Enter into Commercial Fishing ONTP

Sponsor(s)
POVICH

Committee Report
ONTP

Amendments Adopted

LD 1670 proposed to provide that a retired marine patrol officer may not be denied a license under the marine resources laws on the basis of a requirement that the officer possessed a license at some time in the past or on the basis that the officer owned and operated a boat or other equipment for the harvesting of a marine organism at some time in the past.

LD 1695 An Act to Amend the Laws Regarding Drag Limits in South Bay PUBLIC 518

<u>Sponsor(s)</u> LOOK	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1695 proposed to amend the law regarding drag limits in South Bay by clarifying that South Bay is in Lubec and by repealing the requirement that the ring size be the legal size in effect that applies to a holder of a license or federal permit.

Enacted law summary

Public Law 1995, chapter 518 amends the law regarding drag limits in South Bay by clarifying that South Bay is in Lubec and by repealing the requirement that the ring size be the legal size in effect that applies to a holder of a license or federal permit.

**LD 1714 An Act to Establish a Sea Urchin Management Plan PUBLIC 595
EMERGENCY**

<u>Sponsor(s)</u> RICE LOOK	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-816 H-865
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LD 1714 proposed to make the following changes and additions to the sea urchin laws. The bill proposed to create the Sea Urchin Council to advise the Commissioner of Marine Resources on the use of the Sea Urchin Research Fund. The bill also proposed to broaden the purposes for which the fund may be used and allow the commissioner to use 1/2 of the fund's annual revenues to enforce sea urchin laws.

The bill also proposed to increase the fines for 2nd and 3rd convictions of the sea urchin laws. The bill also proposed to require a 10 day license suspension for a first conviction of the sea urchin laws; a oneyear license suspension for a 2nd conviction of the sea urchin laws; and a lifetime license revocation for a 3rd conviction of the sea urchin laws.

The bill proposed to prohibit dragging for sea urchins between May 1st and October 14th.

The bill proposed to increase the number of sea urchin harvesting zones from 2 to 4 and establish closure times for each zone. The zone closures would be as follows:

- Zone 1 (western) February 1st July 31st
- Zone 2 (midwestern) March 1st August 31st
- Zone 3 (mideastern) April 1st September 30th
- Zone 4 (eastern) February 1st July 31st

Maine waters would be closed to all sea urchin harvesting for 3 months, from May 1st to July 31st. The bill proposed to allow sea urchin harvesters to fish in 2 adjacent zones. The bill proposed to prohibit sea urchin harvesting on Sundays during the months of August, September, October, February, March and April.

The bill proposed to extend for 4 years certain emergency provisions relating to sea urchin harvesting and exclude from the repeal certain emergency provisions. All of the emergency provisions are currently scheduled to be repealed January 1, 1999. The bill proposed to extend

the repeal date to January 1, 2004. The emergency provisions are the harvesting zones, limited entry, licensing by zone, license surcharges, the Sea Urchin Research Fund and log books. The bill proposed to exclude license surcharges, the Sea Urchin Research Fund and log books from the repeal date.

The bill proposed to require the commissioner to establish conservation beds in each zone. Sea urchin harvesting would be prohibited in the beds at all times.

The bill proposed to establish a roeyield content of 10% per lot, with a 2% tolerance by volume.

The bill proposed to allow the commissioner to annually issue a number of new sea urchin licenses that equals the difference between the number of licenses issued in the prior calendar year and the number of licenses issued in 1994. The new licenses would be distributed equitably among the classes of handfishing, dragging and handraking and trapping licenses. The commissioner would be required to establish a lottery system for awarding the new licenses.

The bill also proposed to establish specific log book requirements for holders of wholesale seafood licenses with a sea urchin processor's permit and for holders of wholesale seafood licenses with a sea urchin buyer's permit.

Committee Amendment "A" (H816) proposed to replace the bill. It proposed to establish new sea urchin harvesting seasons for the two sea urchin harvesting zones and enact a process for selecting the days in which harvesting is allowed. The amendment proposed to set a season for hand-harvesting, raking and trapping from August 1st to April 30th of the following year. The Commissioner of Marine Resources would by rule select 150 days in Zone 1 and 170 days in Zone 2 that are open to urchin harvesting by hand, rake or trap. The amendment proposed to set a season for harvesting by drags from October 1st to April 30th of the following year. The Commissioner of Marine Resources would by rule select up to 150 days in Zone 1 and up to 170 days in Zone 2 that are open to urchin harvesting by drag. The commissioner's selection of open harvesting days would be made in consultation with a Sea Urchin Zone Council.

The amendment also proposes a process for harvesters to change the zone in which they harvest sea urchins during the remaining 2 years of the moratorium on entry into the urchin fishery. The process would require changes to be authorized by the Commissioner of Marine Resources. The commissioner could authorize a switch to a zone at the time of licensing only when the number of licenses issued for a zone in the previous licensing year is less than the number of licenses issued 2 years earlier. The total switches in a year could not exceed the number by which the licenses issued for a zone in the previous licensing year is less than the number of licenses issued 2 years earlier.

The amendment also proposed changes for the expiration date of sea urchin harvesting licenses from December 31st to June 30th. It also proposed to extend 1996 calendar year licenses to June 30, 1997 and require harvesters to fish during the extended period in the zone for which the license was issued. It also proposed to extend the repeal date of the sea urchin fishery moratorium, the zones and other emergency provisions from January 1, 1999 to June 30, 1999.

The amendment also proposed to enact a \$500 minimum fine for a violation of the sea urchin laws.

House Amendment "A" to Committee Amendment "A" (H65) proposed to strike those parts of Committee Amendment "A" that change the expiration date from December 31 to June 30 for a sea urchin and scallop diving tender license, a handfishing sea urchin license, a sea urchin dragners license and a sea urchin handraking and trapping license. It also proposed to strike that part of Committee Amendment "A" that extended the repeal date for emergency provisions.

Enacted law summary

Public Law 1995, chapter 595 establishes new sea urchin harvesting seasons for the two sea urchin harvesting zones and enacts a process for selecting the days in which harvesting is allowed. It sets a season for handharvesting, raking and trapping from August 1st to April 30th of the following year. The Commissioner of Marine Resources must by rule select 150 days in Zone 1 and 170 days in Zone 2 that are open to urchin harvesting by hand, rake or trap. The law also sets a season for harvesting by drags from October 1st to April 30th of the following year. The Commissioner of Marine Resources must by rule select up to 150 days in Zone 1 and up to 170 days in Zone 2 that are open to urchin harvesting by drag.

The commissioner's selection of open harvesting days must be made in consultation with the Sea Urchin Zone Council, which is created in the law.

The law also enacts a process for harvesters to change the zone in which they harvest sea urchins during the remaining 2 years of the moratorium on entry into the urchin fishery. The process requires changes to be authorized by the Commissioner of Marine Resources. The commissioner may authorize a switch to a zone at the time of licensing only when the number of licenses issued for a zone in the previous licensing year is less than the number of licenses issued 2 years earlier. The total switches in a year may not exceed the number by which the licenses issued for a zone in the previous licensing year is less than the number of licenses issued 2 years earlier.

The law also enacts a \$500 minimum fine for a violation of the sea urchin laws and adds a fiscal note to the bill.

Chapter 595 was enacted as an emergency measure effective April 2, 1996.

LD 1715 An Act to Create a Scallop Diving Tender License PUBLIC 530

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOLDTHWAIT	OTP-AM	S-430

At the time LD 1715 was presented, a person who tended scallop divers was required to purchase a license that applied to both the sea urchin fishery and the scallop fishery. A sea urchin license surcharge, which is used for research, is applied to that license. The bill proposed a separate scallop tender's license so that someone who exclusively tends scallop divers would not have to pay the sea urchin fishery surcharge.

Committee Amendment "A" (S430) proposed to clarify that a scallop tender license is required to tend scallop divers and to tend scallop divers from a boat that is used by scallop divers in the harvesting of scallops. It also proposed to clarify that a sea urchin and scallop tender license is required to tend sea urchin and scallop divers and to tend sea urchin and scallop divers from a boat that is used by sea urchin and scallop divers in the harvesting of those marine organisms.

Enacted law summary

Public Law 1995, chapter 530 creates a scallop tender license. It also makes technical changes to the combined sea urchin and scallop tender license.

LD 1717 An Act Allowing Towns to Form Regional Shellfish Management Committees PUBLIC 531 EMERGENCY

Sponsor(s)
PINGREE
SIMONEAU

Committee Report
OTP-AM

Amendments Adopted
S-429

LD 1717 proposed to clarify that a shellfish management agreement between 2 or more municipalities may be administered by a regional shellfish conservation committee comprised of residents of the towns in the agreement.

Committee Amendment "A" (S429) proposed to add an emergency preamble and emergency clause to the bill.

Enacted law summary

Public Law 1995, chapter 531 clarifies that a shellfish management agreement between 2 or more municipalities may be administered by a regional shellfish conservation committee comprised of residents of the towns in the agreement.

Chapter 531 was enacted as an emergency measure effective March 12, 1996.

**LD 1727 An Act Concerning Special Licenses in the Department of
Marine Resources**

PUBLIC 567

Sponsor(s)
BUTLAND

Committee Report
OTP-AM

Amendments Adopted
S-457

LD 1727 proposed that the Commissioner of Marine Resources be authorized to issue special licenses for research, aquaculture or education without the advice and consent of the Marine Resources Advisory Council.

Committee Amendment "A" (S457) proposed to clarify the activities for special licenses, issued by the Commissioner of Marine Resources, that do not require prior approval by the Marine Resources Advisory Council.

Enacted law summary

Public Law 1995, chapter 567 authorizes the Commissioner of Marine Resources to issue special licenses for research, aquaculture or education without the advice and consent of the Marine Resources Advisory Council.

**LD 1733 An Act to Clarify Certain Provisions of Law Pertaining to
Lobster Management**

PUBLIC 568
EMERGENCY

LD 1733 proposed that a person who can document experience as a sternperson on a lobster boat be allowed to obtain a lobster license without entering the apprenticeship program.

Committee Amendment "A" (S488) proposed to replace the bill and add an emergency preamble and emergency clause. It proposed to make changes to the restrictions on who may obtain a lobster and crab fishing license in 1996 and later years. It proposed to allow a person to obtain a Class I, Class II or Class III lobster license if:

1. The person held a license and harvested lobsters in 1993 or 1994 or at any time between January 1, 1995 and September 30, 1995;
2. The person documents to the Commissioner of Marine Resources that the person obtained practical lobster fishing experience as a sternperson at any time between January 1, 1995 and October 1, 1995 and during any part of any calendar year prior to calendar year 1995;
3. The person documents to the Commissioner of Marine Resources that the person obtained practical lobster fishing experience as a sternperson during any part of any 2 calendar years prior to calendar year 1995; or
4. The person documents to the Commissioner of Marine Resources that the person made a substantial investment in lobster gear at any time between January 1, 1993 and September 30, 1995. The term "substantial investment" must be defined by the Commissioner of Marine Resources.

The amendment proposed to enact a noncommercial lobster license that would allow a resident to fish for and take lobsters with 5 traps. It also proposed to strike one of the conditions for a waiver from the apprentice program. It proposed to enact a waiver condition allowing the Commissioner of Marine Resources to waive all or part of the experience requirement and program length for a person who held a lobster license in the past and who can document lobster harvesting.

The amendment proposed to clarify that the Commissioner of Marine Resources may not make a rule for a lobster management zone that regulates the number of lobster traps fished and the time periods allowed for complying with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur unless the rules were proposed by the lobster management policy council of that zone.

The amendment proposed to exempt regulations for lobster management zones from the process that allows people to petition an agency of the State to make a rule. It also proposed to clarify other provisions of the lobster laws.

Enacted law summary

Public Law 1995, chapter 568 makes changes to the restrictions on who may obtain a lobster and crab fishing license in 1996 and later years. It allows a person to obtain a Class I, Class II or Class III lobster license if:

1. The person held a license and harvested lobsters in 1993 or 1994 or at any time between January 1, 1995 and September 30, 1995;

2. The person documents to the Commissioner of Marine Resources that the person obtained practical lobster fishing experience as a sternperson at any time between January 1, 1995 and October 1, 1995 and during any part of any calendar year prior to calendar year 1995;
3. The person documents to the Commissioner of Marine Resources that the person obtained practical lobster fishing experience as a sternperson during any part of any 2 calendar years prior to calendar year 1995; or
4. The person documents to the Commissioner of Marine Resources that the person made a substantial investment in lobster gear at any time between January 1, 1993 and September 30, 1995. The term "substantial investment" must be defined by the Commissioner of Marine Resources.

The law creates a noncommercial lobster license that allows a resident to fish for and take lobsters with 5 traps. It strikes one of the conditions for a waiver from the apprentice program. It enacts a waiver condition allowing the Commissioner of Marine Resources to waive all or part of the experience requirement and program length for a person who held a lobster license in the past and who can document lobster harvesting.

The law clarifies that the Commissioner of Marine Resources may not make a rule for a lobster management zone that regulates the number of lobster traps fished and the time periods allowed for complying with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur unless the rules were proposed by the lobster management policy council of that zone.

The law exempts regulations for lobster management zones from the process that allows people to petition an agency of the State to make a rule. It also clarifies other provisions of the lobster laws.

Chapter 568 was enacted as an emergency measure effective March 20, 1996.

LD 1763 **An Act to Require a Municipality to Issue the Same Number of Nonresident Recreational Shellfish Licenses as Resident Licenses** ONTP

Sponsor(s)
GREENLAW

Committee Report
ONTP

Amendments Adopted

LD 1763 proposed to require a municipality that enacts a shellfish conservation ordinance to provide an equal number of resident and nonresident recreational licenses.

LD 1841 **An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature** PUBLIC 660

Sponsor(s)
LOOK

Committee Report
OTP

Amendments Adopted

LD 1841 proposed that all assets of the Maine Sardine Council, including property, equipment and unexpended cash balances derived from the sardine tax and any other sources, be distributed by the Legislature in an equitable manner among all companies with members on the council who are council members upon the date of dissolution. The Legislature would be required to review recommendations from the Joint Standing Committee on Marine Resources regarding the distribution of assets to council members. The bill also proposed to require the State Auditor to perform an audit of the council's finances prior to the council's dissolution. The bill also proposed to require the council to report annually to the Joint Standing Committee on Marine Resources.

Enacted Law summary

Public Law 1995, chapter 660 requires that all assets of the Maine Sardine Council, including property, equipment and unexpended cash balances derived from the sardine tax and any other sources, be distributed by the Legislature in an equitable manner among all companies with members on the council who are council members upon the date of dissolution. The Legislature must review recommendations from the Joint Standing Committee on Marine Resources regarding the distribution of assets to council members. The bill also requires the State Auditor to perform an audit of the council's finances prior to the council's dissolution. The bill also requires the council to report annually to the Joint Standing Committee on Marine Resources.

LD 1876 An Act Concerning the Salmon Aquaculture Monitoring and Research Fund

PUBLIC 609
EMERGENCY

Sponsor(s)
GOLDTHWAIT

Committee Report
OTP

Amendments Adopted
S-515

LD 1876 proposed to repeal the repeal date of July 1, 1996 of the Salmon Aquaculture Monitoring and Research Fund and change its name to the Salmon Aquaculture Monitoring, Research and Development Fund. It also proposed to prescribe 3 purposes for which the Commissioner of Marine Resources may expend fund revenues that exceed the operating expenses of a salmon aquaculture water quality and lease program. The 3 purposes would be: to address emergency matters in the State's salmon aquaculture industry; to address matters of long-term interest to the State's salmon aquaculture industry; and to rebate the excess revenues back to salmon growers who paid the revenues.

The bill also proposed to create the Maine Salmon Aquaculture Advisory Council. The Commissioner of Marine Resources would be required to consult with the council when determining expenditures from the fund.

Senate Amendment "A" (S515) proposed to add an allocation and a fiscal note to the bill.

The bill also creates the Maine Salmon Aquaculture Advisory Council. The Commissioner of Marine Resources is required to consult with the council when determining expenditures from the fund.

Enacted law summary

Public Law 1995, chapter 609 repeals the repeal date of July 1, 1996 of the Salmon Aquaculture Monitoring and Research Fund and changes its name to the Salmon Aquaculture Monitoring, Research and Development Fund. It also prescribes 3 purposes for which the Commissioner of Marine Resources may expend fund revenues that exceed the operating expenses of a salmon aquaculture water quality and lease program. The 3 purposes are: to address emergency matters in the State's salmon aquaculture industry; to address matters of long-term interest to the State's salmon aquaculture industry; and to rebate the excess revenues back to salmon growers who paid the revenues. The bill also creates the Maine Salmon Aquaculture Advisory Council. The Commissioner of Marine Resources is required to consult with the council when determining expenditures from the fund.

Chapter 609 was enacted as an emergency measure effective April 2, 1996.

Joint Standing Committee on Marine Resources

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Aquaculture</i>			
<u>Enacted</u>			
LD 1876	An Act Concerning the Salmon Aquaculture Monitoring and Research Fund	PUBLIC 609 EMERGENCY.....	240
<u>Not Enacted</u>			
	None		
<i>Department Administration/Authority</i>			
<u>Enacted</u>			
LD 1727	An Act Concerning Special Licenses in the Department of Marine Resources	PUBLIC 567.....	237
<u>Not Enacted</u>			
	None		
<i>Eels/Elvers</i>			
<u>Enacted</u>			
LD 185	An Act Regarding the Harvesting of Eels and Elvers	PUBLIC 536 EMERGENCY.....	230
<u>Not Enacted</u>			
	None		
<i>Groundfish</i>			
<u>Enacted</u>			
LD 1210	An Act to Protect Nearshore Groundfish Spawning Areas	ONTP.....	233
<u>Not Enacted</u>			
	None		

Lobster

Enacted

LD 1733	An Act to Clarify Certain Provisions of Law Pertaining to Lobster Management	PUBLIC 568 EMERGENCY..... 238
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Not Enacted

LD 1647	An Act to Increase the Number of Lobster Traps Allowed on Trawls in Hancock County	ONTP..... 233
----------------	---	----------------------

Miscellaneous

Enacted

LD 1695	An Act to Amend the Laws Regarding Drag Limits in South Bay	PUBLIC 518..... 234
----------------	--	----------------------------

Not Enacted

LD 1670	An Act to Permit Retired Marine Patrol Officers to Enter into Commercial Fishing	ONTP..... 233
----------------	---	----------------------

Municipal Shellfish Authority

Enacted

LD 1717	An Act Allowing Towns to Form Regional Shellfish Management Committees	PUBLIC 531 EMERGENCY..... 237
----------------	---	---

Not Enacted

LD 1763	An Act to Require a Municipality to Issue the Same Number of Nonresident Recreational Shellfish Licenses as Resident Licenses	ONTP..... 239
----------------	--	----------------------

Sardines

Enacted

LD 1841	An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature	PUBLIC 660..... 240
----------------	---	----------------------------

Not Enacted

None

Scallops

Enacted

LD 1715 An Act to Create a Scallop Diving Tender License PUBLIC 530..... **236**

Not Enacted

None

Sea Urchins

Enacted

LD 1714 An Act to Establish a Sea Urchin Management Plan PUBLIC 595
EMERGENCY..... **234**

Not Enacted

LD 1649 An Act to Increase Penalties in the Sea Urchin Fishery ONTP..... **233**

Summary of Committee Action by Joint Standing Committee on Natural Resources

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	18	81.8%	4.5%
B. Bills carried over from 1st Regular Session	4	18.2%	1.0%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	22	100.0%	5.6%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	1	4.5%	0.3%
<i>OTP-AM</i>	11	50.0%	2.9%
<i>ONTP</i>	<u>3</u>	<u>13.6%</u>	<u>0.8%</u>
Total Unanimous Reports	15	68.2%	4.0%
B. Divided Reports			
<i>2-Way</i>	7	31.8%	1.9%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	7	31.8%	1.9%
Total Bills Reported Out	22	100.0%	5.9%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	14	63.6%	3.5%
<i>Private and Special Laws</i>	2	9.1%	0.5%
<i>Resolves</i>	1	4.5%	0.3%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	17	77.3%	4.3%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	7	N/A	N/A

Joint Standing Committee on Natural Resources

LD 646 **An Act to Create a Process for Identifying New Owners for Dams or Releasing Current Owners from Water Maintenance Obligations**

PUBLIC 630

Sponsors(s)
HANLEY

Committee Report
OTP-AM

Amendments Adopted
S-484

LD 646 proposed to reenact the law allowing a dam owner to abandon ownership of a dam under certain circumstances, and requiring the State to assume ownership of the dam. This bill was carried over from the 1st Regular Session of the 117th Legislature. A staff study on the issue of dam abandonment was performed during the legislative interim and presented to the Natural Resources Committee at the beginning of the 2nd Regular Session.

Committee Amendment "A" (S484) replaced the bill. It proposed to provide a formal process through which a dam owner would seek a new owner for the dam and, if a new owner was not found, would require the Department of Environmental Protection to issue an order requiring the current owner to release water from the dam. This water release order would relieve the dam owner of any obligation to maintain a water level to meet the needs of persons other than the owner.

Under the process proposed in the amendment, the owner of any dam not licensed by the Federal Energy Regulatory Commission would petition the Department of Environmental Protection to begin the process and would publish newspaper notice and send individual notice to interested parties (municipalities, tribal governments, abutting property owners, the Department of Inland Fisheries and Wildlife, the Department of Conservation and the Maine Emergency Management Agency). The amendment proposed to require that a local government notified of this process hold a public meeting to discuss the issue of dam ownership.

If none of the interested parties wished to assume ownership of the dam following consultation with the dam owner, the state agencies involved (Conservation, Fisheries and Wildlife, Emergency Management) would be required to evaluate the public value of the dam and to assume ownership if the public interest warranted assumption. The public interest would be determined by weighing factors such as the cost of maintaining the dam, the benefit of maintaining the dam and the benefit of releasing water from the dam.

If a department did not assume ownership of the dam, the Department of Environmental Protection, following public notice of intent to issue an order, would issue an order requiring the dam owner to release the water from the dam.

The amendment would allow a dam owner to request that compensation be paid for any transfer of dam ownership, but if the request for compensation prevents the transfer of the dam, the dam owner would not be entitled to proceed through the process.

The amendment also proposed to specify that governmental entities protected by the Maine Tort Claims Act are not liable for tort claims due to their construction, ownership, maintenance or use of dams.

The amendment proposed to allow the DEP to set water levels for dams not yet determined to be under the jurisdiction of the Federal Energy Regulatory Commission.

Enacted law summary

Public Law 1995, chapter 630 creates a formal process through which the owner of a dam that is not federally-licensed may seek a new owner for the dam. The owner must notify and consult with municipalities, tribal governments, abutting property owners and the state departments of conservation, inland fisheries and wildlife and emergency management. The purpose of the consultation is to attempt to locate a new owner for the dam from among persons and agencies with an interest in maintaining the dam. If a state agency (Conservation, Inland Fisheries & Wildlife or Emergency Management) finds that the public interest warrants state assumption of the dam, the agency must assume ownership. The public interest would be determined by weighing factors such as the cost of maintaining the dam, the benefit of maintaining the dam and the benefit of releasing water from the dam.

If a new owner is not found, the law requires the Department of Environmental Protection to issue an order requiring the current owner to release water from the dam. This water release order would relieve the dam owner of any obligation to maintain a water level to meet the needs of persons other than the owner.

The new law also specifies that the Maine Tort Claims Act includes protection from liability for tort claims due to the construction, ownership, maintenance or use of dams. Finally, the law allows the Department of Environmental Protection to set water levels for dams not yet determined to be under the jurisdiction of the Federal Energy Regulatory Commission.

LD 819 An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone

PUBLIC 542

Sponsors(s)
BUNKER

Committee Report
OTP-AM

Amendments Adopted
H-685
S-436

LD 819, which was carried over from the 1st Regular Session, proposed to require the Board of Environmental Protection to adopt rules under the shoreland zoning law providing for individualized, written notification to a landowner whose property is being considered for placement in a resource protection zone.

Committee Amendment "B" (H685) replaced the bill. It proposed to require a municipality to send notice by firstclass mail to a landowner whose property is being considered for placement in a resource protection zone. Notice would be sent at least 14 days before the municipal planning board first discusses placing the property in the resource protection zone. If the Board of Environmental Protection adopted an ordinance for a municipality, the municipality would provide the names and addresses of landowners to the board, and the board would provide notice to landowners. The board would send notice at least 30 days before the close of the public comment period before adoption by the board.

The amendment proposed to require the municipality and the board to file written certificates indicating the names and addresses of persons they notified, and made the list prima facie evidence that notice was sent. A landowner who challenged the validity of an ordinance or map on the grounds that the municipality or the board failed to provide the required notice would be required to prove that notice was not sent, that the person did not otherwise have knowledge of the ordinance or map and that the person was materially prejudiced by that lack of knowledge.

Senate Amendment "A" to Committee Amendment "B" (S136) proposed to clarify the obligation of a municipality to notify landowners by specifying that notice must be given at least 14 days before the planning board votes to send the ordinance or map to a public hearing. The amendment also proposed to clarify that the notice provision applies only to the initial placement in the zone, not to subsequent planning board actions that do not affect the inclusion of the property in the resource protection zone.

Enacted law summary

Public Law 1995, chapter 542 requires the governmental entity adopting a shoreland zoning ordinance (a municipality, or the Board of Environmental Protection) to provide individual notice to property owners whose property is being considered for placement in a resource protection zone. When a municipality is adopting the ordinance or map, the municipality must provide notice at least 14 days before the planning board votes to send the ordinance or map to a public hearing. When the board is adopting the ordinance, notice must be sent at least 30 days before the close of the public comment period prior to formal board consideration. Notice must be sent by first-class mail, and written certificates serve as evidence that the notice was sent as required.

LD 1014 **Resolve, Directing the Commissioner of Environmental Protection to Propose a Plan to Reorganize the Department of Environmental Protection ONTP**

<u>Sponsors(s)</u> GOULD	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1014 proposed to require the Commissioner of Environmental Protection to prepare a proposal to restructure the department along functional lines, resulting in a technical services division, a licensing division and an enforcement division.

LD 1042 **An Act to Amend the Surface Water Ambient Toxics Monitoring Program ONTP**

<u>Sponsors(s)</u> ETNIER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1042 proposed to increase the fee collected on oil terminal licensees and oil transporters in order to fund a portion of the Ambient Surface Water Toxics Monitoring program. The monitoring program currently receives only partial funding from the General Fund. The bill also proposed to modify the date for reporting on the monitoring program to the Natural Resources Committee from January 1st of each year to February 15th.

During the 1st Regular Session of the 117th Legislature, the committee adopted an amendment proposing to strike the oil fee increase and to provide full funding for the program through an additional General Fund appropriation. The amendment retained the portion of the bill that moved the reporting deadline.

The bill was carried over by the Appropriations Committee at the end of the 1st Regular Session and rereferred to the Natural Resources Committee at the beginning of the 2nd Regular Session. Instead of voting to approve LD 1042, the committee worked to support the governor's proposal that additional funding for the program be included in the supplemental budget. The supplemental

budget that was enacted (Public Law 1995, chapter 665) included a General Fund appropriation of \$285,000 for fiscal year 1996-97, which, when added to the existing General Fund appropriation, enables the surface water toxics monitoring program to proceed with full funding for that fiscal year.

LD 1608 An Act Creating a Process for Municipalities to Withdraw from the Cobbossee Watershed District

P & S 59

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMREN	OTP-AM MAJ	H-734
CAREY	ONTP MIN	

LD 1608 proposed to allow the Town of Mount Vernon to withdraw as a member of the Cobbossee Watershed District.

Committee Amendment "A" (H734) replaced the bill. It proposed to establish a process through which the voters of any municipality in the Cobbossee Watershed District could elect to withdraw the municipality from the district. The amendment also proposed to require the district to establish a process for equitably distributing the financial liabilities of the district when a municipality elects to withdraw.

Enacted law summary

Private and Special Law 1995, chapter 59 establishes a process through which the voters of any municipality in the Cobbossee Watershed District may elect to withdraw the municipality from the district. The amendment also requires the district to establish a process for equitably distributing the financial liabilities of the district when a municipality elects to withdraw.

LD 1610 An Act to Enhance Used Oil Recycling Capabilities

PUBLIC 573

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL J	OTP-AM	H-777
ETNIER		

LD 1610 proposed to do the following:

1. Allow persons wishing to construct used oil collection centers to receive low interest loans or grants from funding administered by the Finance Authority of Maine for the purpose of constructing a center that meets the applicable requirements;
2. Provide a definition of a used oil collection center within the Maine Hazardous Waste, Septage and Solid Waste Management Act;
3. Authorize the Commissioner of Environmental Protection to waive certain costs incurred by the Maine Hazardous Waste Fund. Reimbursements not to exceed \$10,000 per fiscal year could be waived if the commissioner determined that the center had been designed and operated in accordance with the applicable standards. Reimbursement waivers could not be granted more than twice per fiscal year at any one location;

4. Provide the Department of Environmental Protection with authority to adopt rules relating to the registration, design and operation of used oil collection centers; and
5. Establish registration, design and operational requirements for used oil collection centers.

Committee Amendment "A" (H777) replaced the bill. The amendment proposed to do the following:

1. Provide definitions, within the Maine Hazardous Waste, Septage and Solid Waste Management Act, of "Class I liquid," "Class II liquid," "used oil" and "used oil collection center;"
2. Authorize the Commissioner of Environmental Protection to waive the reimbursement of costs to the Maine Hazardous Waste Fund incurred in the removal or abatement of hazardous waste from a registered used oil collection center if the center is in compliance with applicable statutory requirements and rules. Reimbursement could not be waived more than once per year for any one used oil collection center, and waivers could not total more than \$10,000 in any one fiscal year;
3. Authorize the Board of Environmental Protection to adopt rules relating to the registration, design and operation of used oil collection centers and identify those rules as major substantive rules for the purposes of the Maine Administrative Procedure Act; and
4. Establish registration, design and operational requirements for used oil collection centers to be eligible for reimbursement waivers.

Enacted law summary

Public Law 1995, chapter 573 authorizes the Commissioner of Environmental Protection to waive the reimbursement of costs to the Maine Hazardous Waste Fund incurred in the removal or abatement of hazardous waste from a registered used oil collection center, if the center is in compliance with applicable statutory requirements and rules. Reimbursement may not be waived more than once per year for any one used oil collection center, and waivers may not total more than \$10,000 in any one fiscal year. It also establishes registration, design and operational requirements for used oil collection centers to be eligible for reimbursement waivers, and it authorizes the Board of Environmental Protection to adopt rules relating to the registration, design and operation of used oil collection centers. Those rules are major substantive rules for the purposes of the Maine Administrative Procedure Act.

LD 1623 Resolve, Authorizing the Dredging of Wells Harbor and Sand Renourishment of Wells Beaches by the United States Army Corps of Engineers ONTP

Sponsors(s)
LORD

Committee Report
ONTP

Amendments Adopted

LD 1623 proposed to require the Department of Environmental Protection to issue necessary permits to allow the United States Army Corps of Engineers to dredge Wells Harbor and to use the sand to replenish the sand beaches of Wells.

LD 1651 An Act Concerning the Seasonal Sale of Reformulated Gasoline

P & S 60

Sponsors(s)
POULIN
LORD

Committee Report
OTP-AM

Amendments Adopted
H-741

LD 1651 proposed to adopt a seasonal reformulated gasoline program for the State of Maine, under which reformulated gasoline would be required during the 4-month ozone season (mid-May through mid-September), and prohibited during the remaining months, unless federal law required its use.

Committee Amendment "A" (H741) replaced the bill. It proposed to require the Commissioner of Environmental Protection to consult with legislators, the United States Environmental Protection Agency and interested parties in the development of recommendations regarding seasonal sale and geographic distribution of reformulated gasoline in the State.

Enacted law summary

Private and Special Law 1995, chapter 60 requires the Commissioner of Environmental Protection to consult with legislators, the United States Environmental Protection Agency and interested parties in the development of recommendations regarding seasonal sale and geographic distribution of reformulated gasoline in the State.

LD 1658 An Act to Encourage Tire Stockpile Abatement

PUBLIC 578
EMERGENCY

Sponsors(s)
GOULD

Committee Report
OTP-AM

Amendments Adopted
H-768

LD 1658 proposed to amend the law to require the Department of Environmental Protection to deposit into the Tire Management Fund the entire amount budgeted by the Legislature for tire stockpile abatement and to require the department to use that money within 2 years exclusively for the removal of tires from uncontrolled stockpiles.

Committee Amendment "A" (H768) proposed to replace the bill. It proposed to direct the Department of Environmental Protection to cooperate with tire-related industries and with the State Planning Office, the Department of Economic and Community Development, the Department of the Attorney General, the Finance Authority of Maine, the Maine State Police, the Maine National Guard and the Department of Corrections to develop a program to reduce the size and number of used tire stockpiles in the State. It also required the Department of Economic and Community Development to promote beneficial reuse of used tires by fostering a favorable business climate for businesses currently assisting in the processing of waste tires and by providing for the introduction of viable new technology to convert waste tires to commodities.

Enacted law summary

Public Law 1995, chapter 578 directs the Department of Environmental Protection to cooperate with tire-related industries and with the State Planning Office, the Department of Economic and Community Development, the Department of the Attorney General, the Finance Authority of Maine, the Maine State Police, the Maine National Guard and the Department of Corrections to

develop a program to reduce the size and number of used tire stockpiles in the State. It also requires the Department of Economic and Community Development to promote beneficial reuse of used tires by fostering a favorable business climate for businesses currently assisting in the processing of waste tires and by providing for the introduction of viable new technology to convert waste tires to commodities.

Chapter 578 was enacted as an emergency measure effective March 29, 1996.

**LD 1659 An Act to Allow Municipalities and Regions to Include
Beneficial Use of Waste Originated in Their Jurisdiction As
Credit in Demonstrating Recycling Progress**

PUBLIC 552

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOULD	OTP-AM MAJ ONTP MIN	H-739

Current law categorizes incineration of waste as recycling only if the waste is burned as a fuel source substitute in industrial boilers; the waste material would have otherwise been stockpiled or placed in a landfill; and the State Planning Office has determined that there is no reasonably available recycling market for the waste.

LD 1659 proposed to remove those limitations on the classification of incineration as recycling and to clarify that individual municipalities and regions may take recycling credit for this use of waste in determining whether they have made reasonable progress toward the state's 50% recycling goal. Current law credits incineration as recycling only in calculating the statewide recycling percentage.

Committee Amendment "A" (H739) replaced the bill. It proposed to allow municipalities to count certain types of incineration as recycling in determining whether the municipality is making reasonable progress toward the State recycling goal. It proposed to add incineration of waste plastics and waste wood and incineration at waste-to-energy plants to the list of activities counted as recycling. It proposed to retain some of the conditions under which incineration counts as recycling. The State Planning Office would have to determine that no reasonably available market exists for the waste, and the waste must be burned as a substitute for fossil fuel, although the fossil fuel need not be the primary fuel in the incinerator. .

Enacted law summary

Public Law 1995, chapter 552 allows a municipality to count certain types of incineration as recycling in determining whether the municipality is making reasonable progress toward the State recycling goal. It also adds incineration of waste plastics and waste wood and incineration at waste-to-energy plants to the list of activities counted as recycling. It retains some of the conditions under which incineration counts as recycling. The State Planning Office would have to determine that no reasonably available market exists for the waste, and the waste must be burned as a substitute for fossil fuel, although the fossil fuel need not be the primary fuel in the incinerator.

LD 1671 An Act to Amend the Laws Regarding the Revolving Loan Fund for Wastewater Facilities

PUBLIC 564
EMERGENCY

Sponsors(s)
MITCHELL EH

Committee Report
OTP-AM

Amendments Adopted
H-733

LD 1671 proposed to amend the current law regarding the revolving loan fund for wastewater facilities to allow the fund to be used for any projects authorized under the federal Clean Water Act and for remediation of municipal landfills that affect groundwater.

Committee Amendment "A" (H733) proposed to add a provision to the bill clarifying that the Department of Environmental Protection, in prioritizing municipal projects for financing under the revolving loan fund, must consider the availability of cost-effective private sector alternatives to those municipal projects. The amendment also proposed to correct a reference to federal law and to make the bill an emergency measure.

Enacted law summary

Public Law 1995, chapter 564 amends the current law regarding the revolving loan fund for wastewater facilities to allow the fund to be used for any projects authorized under the federal Clean Water Act and for remediation of municipal landfills that affect groundwater. It also clarifies that the Department of Environmental Protection, in prioritizing municipal projects for financing under the revolving loan fund, must consider the availability of cost-effective private sector alternatives to those municipal projects.

Chapter 564 was enacted as an emergency measure effective March 25, 1996.

LD 1672 An Act to Amend Certain Laws Administered by the Department of Environmental Protection

PUBLIC 642
EMERGENCY

Sponsors(s)
GOULD

Committee Report
OTP-AM MIN
OTP-AM MAJ

Amendments Adopted
H-858

LD 1672, which is the omnibus bill submitted by the Department of Environmental Protection, proposed to:

1. Enable the Board of Environmental Protection to open existing air emission licenses prior to their expiration dates for cause, as defined in federal regulations;
2. Extend the repeal date of the Maine Environmental Protection Fund fee schedule to 90 days after adjournment of the Second Regular Session of the 118th Legislature;
3. Allow the limited use of copper compounds and other algicides in situations where lake restoration technologies have been tried and no additional restoration programs are available;
4. Reword current law to provide that, when the parent of a corporation changes but the corporation itself remains intact, no license transfers are required;
5. Repeal the existing hydrocarbon standard for ambient air;

6. Allow the Commissioner of Environmental Protection to enforce contracts entered into by recipients of bond funds for landfill closure and remediation;
7. Allow a license holder to voluntarily surrender a sludge or residual utilization license without the need to extinguish the license through a court action, as required by the Maine Administrative Procedure Act;
8. Revise spill reporting requirements to incorporate revisions to reportable quantities specified in federal regulations;
9. Provide liability protection for persons who voluntarily assist in responding to and cleaning up a discharge of hazardous matter;
10. Clarify the definition of "hazardous materials" for the purpose of the fees imposed by Title 38, section 1319I, subsection 4B;
11. Broaden the rule-making authority of the Board of Environmental Protection so that the board can amend its waste oil rules to cover all aspects of waste oil management; and
12. Repeal the requirement for review of low-level radioactive waste facilities by the Department of Environmental Protection.

Committee Amendment "B" (H858), the minority committee report, was adopted by the Legislature. This amendment proposed to change the provision relating to the use of copper compounds and other algicides in lakes. It would require that copper compounds may be used only if the Department of Inland Fisheries and Wildlife determines that the use will not adversely impact the fishery management plan for the water body.

This amendment also proposed to delete the section of the bill expanding the Department of Environmental Protection's rule-making authority over waste oil and to clarify when ownership of a facility or structure licensed under any law administered by DEP is considered to be transferred.

This amendment proposed to make additional changes to DEP's involvement in regulation of low-level radioactive waste. It proposed to remove the Commissioner of Environmental Protection from the Advisory Commission on Radioactive Waste and to clarify that approval of a low-level radioactive waste facility by the Legislature does not exempt the facility owner or operator from the need to obtain other licenses and approvals required by law.

Committee Amendment "A" (H857), the majority report of the committee, was not adopted by the Legislature. It included all the provisions in the minority amendment and an additional provision amending the shoreland zoning laws. It proposed to allow a municipality to permit additional expansion in a shoreland zone of structures that do not meet the water setback requirements. Expansion would be allowed provided the total footprint of all structures on the lot did not exceed a prescribed square footage, based on how much shore frontage the lot contained, with a maximum footprint of 1,250 square feet. Height of the expansion would be limited to the lesser of the height of the existing structure or 25 feet.

The provision proposed to prohibit expansion that created further nonconformity with the water setback requirement, prohibited creation of roofed living space closer to the shore than existing roofed living space and limited the expansion of structures closer to the water by prohibiting lateral expansion greater than 30%. The amendment also proposed to require the property owner to take measures to lessen storm water runoff from the expansion by maintaining a buffer strip or providing other measures to lessen the runoff. Finally, the amendment proposed to require that

wastewater disposal systems be in substantial compliance with, or be brought into substantial compliance with, state wastewater disposal rules.

Enacted law summary

Public Law 1995, chapter 642, the omnibus bill submitted by the Department of Environmental Protection, makes a number of changes in the laws implemented by DEP, including the following:

- (1) Extends the repeal date of the Maine Environmental Protection Fund fee schedule to 90 days after adjournment of the Second Regular Session of the 118th Legislature;
- (2) Allows the limited use of copper compounds and other algicides in situations where lake restoration technologies have been tried, no additional restoration programs are available, and use will not harm fisheries management plans;
- (3) Clarifies when ownership of a corporation changes and permits must be transferred;
- (4) Provides liability protection for persons who voluntarily assist in responding to and cleaning up a discharge of hazardous matter; and
- (5) Repeals the requirement for DEP to review low-level radioactive waste facilities, unless the facility falls under the threshold of other general DEP permitting laws, such as the Site Location of Development Law, removes the Commissioner of Environmental Protection from the Advisory Commission on Radioactive Waste and clarifies that approval of a low-level radioactive waste facility by the Legislature does not exempt the facility owner or operator from the need to obtain other licenses and approvals required by law.

Chapter 642 was enacted as an emergency measure effective April 10, 1996.

LD 1721 **Resolve, to Form a Task Force to Examine Methods of Reimbursing Automobile Owners for Emissions Testing and Consequent Repair Costs ONTP**

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEVELAND	ONTP MAJ	
ADAMS	OTP-AM MIN	

LD 1721 proposed to create a task force to examine methods of reimbursing persons for test fees and repair costs incurred as a result of the auto emissions testing program required by state law in 1994 and repealed in 1995. The Task Force would also examine ways to alleviate costs that may be imposed upon motor vehicle owners under any testing program imposed in the future under requirements of federal law.

Committee Amendment "A" (S442), the minority report of the committee, which was not adopted, proposed to limit the scope of the Task Force to a study of methods of reimbursing motor vehicle owners for test fees paid for the emissions testing program repealed in 1995.

LD 1781 **An Act to Support Abatement of Uncontrolled Tire Stockpiles PUBLIC 579
EMERGENCY**

Sponsors(s)
GOULD

Committee Report
OTP-AM

Amendments Adopted
H-782

LD 1781 proposed to extend the \$1 per tire fee imposed on the retail sale of new tires to sales of tires that occur as part of a sale of a motorized vehicle. The bill proposed to require that the revenue raised by this change be credited to the Tire Management Fund to be used to pay the costs of tire stockpile abatement, remediation and cleanup.

Committee Amendment "A" (H782) replaced the bill. It proposed to enact specific prohibitions against improper disposal, storage, processing or transportation of used motor vehicle tires. It proposed to set forth standards for the Commissioner of Environmental Protection to use in determining whether a tire pile constitutes an uncontrolled tire stockpile and to specify the process for serving responsible parties with an order relating to an uncontrolled tire stockpile and a process for appealing the order.

The amendment also proposed to allow state, county and local law enforcement officers to examine the licenses of persons transporting scrap tires to determine whether they comply with waste transporter licensure and manifest rules and to impound the vehicle if a violation is found. Failure to comply with the licensure and manifest requirements would be a Class E crime, with a fine up to \$10,000 for each violation, and a minimum fine of from \$500 to \$4,500 depending on the vehicle weight. A person would commit a Class D crime if that person transported tires to an unauthorized facility after being cited under this law. The fine for those violations would be up to \$25,000 per violation.

Enacted law summary

Public Law 1995, chapter 579 enacts specific prohibitions against improper disposal, storage, processing or transportation of used motor vehicle tires. It sets forth standards for the Commissioner of Environmental Protection to use in determining whether a tire pile constitutes an uncontrolled tire stockpile and specifies the process for serving responsible parties with an order relating to an uncontrolled tire stockpile and a process for appealing the order.

The amendment also allows state, county and local law enforcement officers to examine the licenses of persons transporting scrap tires to determine whether they comply with waste transporter licensure and manifest rules and to impound the vehicle if a violation is found. Failure to comply with the licensure and manifest requirements would be a Class E crime, with a fine up to \$10,000 for each violation, with a minimum fine of from \$500 to \$4,500 depending on the vehicle weight. A person would commit a Class D crime if that person transported tires to an unauthorized facility after being cited under this law. The fine for those violations would be up to \$25,000 per violation

Chapter 579 was enacted as an emergency measure effective March 29, 1996.

**LD 1794 Resolve, Directing the Land and Water Resources Council to
Take Steps Needed to Ensure Successful Implementation of**

RESOLVE 72

State Land Use Law Reforms

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 1794, one of three pieces of legislation resulting from a study of the Site Location of Development Law by the Land and Water Resources Council, proposed to direct the Land and Water Resources Council to assess current state, local and regional policies and programs that influence the cost of development, redevelopment and related public services and that affect land use and development patterns. The resolve proposed to require that the Land and Water Resources Council report its recommendations, including any proposed legislation, in its January 1997 annual report.

Enacted law summary

Resolve 1995, chapter 72, one of three pieces of legislation resulting from a study of the Site Location of Development Law by the Land and Water Resources Council, directs the Land and Water Resources Council to assess current state, local and regional policies and programs that influence the cost of development, redevelopment and related public services and that affect land use and development patterns. The resolve requires the Land and Water Resources Council to report its recommendations, including any proposed legislation, in its January 1997 annual report.

LD 1804 An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge DIED BETWEEN HOUSES

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LORD CHICK	ONTP MAJ OTP MIN	

LD 1804 proposed to provide that the limits on municipal authority to enact ordinances regarding solid waste facilities do not apply to municipal ordinances enacted prior to September 30, 1989 that relate to the spreading of wastewater treatment plant sludge on land.

LD 1824 An Act Relating to Solid Waste Management PUBLIC 588

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-481

LD 1824 proposed to make several changes relating to solid waste management reporting and planning and to development of a state-owned solid waste disposal facility.

Current law requires the State Planning Office to revise the state solid waste management and recycling plan every 2 years. This bill proposed to require revision of the plan every 5 years, but to require reporting of data on solid waste generation and management every 2 years. In conjunction with the 5year revision of the plan, the bill proposed to require the State Planning Office to convene a task force to evaluate the state laws prohibiting licensure of new commercial solid waste disposal facilities and to make recommendations to the Legislature regarding that policy.

The bill also proposed to prohibit the State Planning Office from beginning construction of a state-owned solid waste disposal facility until the Legislature gives specific approval to construction. The Office must report to the Legislature when it believes that construction and operation of a state-owned solid waste disposal facility is needed to meet capacity needs identified in the state plan, and must propose a method of operation for the facility.

Finally, the bill proposed to clarify that expansion of an existing commercial solid waste disposal facility is not subject to certain restrictions in the law if the expansion does not affect disposal capacity.

Committee Amendment "A" (S481) proposed to clarify that expansions of commercial solid waste disposal facilities are exempt from certain restrictions in current law only if the expansion is not used for solid waste disposal. The amendment proposed to specify a date by which the next revision of the state solid waste management plan must be completed and to provide for revisions every 5 years.

The amendment also proposed to clarify that the provision requiring the State Planning Office to maintain ownership of the state solid waste facility site does not prohibit the State from complying with obligations it may have to lease or transfer property pursuant to a contract entered into before the effective date of this bill, or pursuant to any amendment to that contract entered into before or after the effective date of this bill.

Enacted law summary

Public Law 1995, chapter 588 makes several changes relating to solid waste management reporting and planning and to development of a state-owned solid waste disposal facility. This law requires the State Planning Office to revise the solid waste management and recycling plan by January 1, 1998 and every 5 years thereafter, instead of every 2 years as required in current law. It requires the Office to report data on solid waste generation and management every 2 years. In conjunction with the 5-year revision of the plan, the law requires the State Planning Office to convene a task force to evaluate the state laws prohibiting licensing of new commercial solid waste disposal facilities and to make recommendations to the Legislature regarding that policy.

The law also prohibits the State Planning Office from beginning construction of a state-owned solid waste disposal facility until the Legislature gives specific approval to construction. The Office must report to the Legislature when it believes that construction and operation of a state-owned solid waste disposal facility is needed to meet capacity needs identified in the state plan, and must propose a method of operation for the facility. The law requires the State Planning Office to maintain ownership of the site, but clarifies that this does not prohibit the State from complying with obligations it may have to lease or transfer property pursuant to a contract entered into before the effective date of this bill, or pursuant to any amendment to that contract entered into before or after the effective date of this bill.

Finally, the law clarifies that expansion of an existing commercial solid waste disposal facility is exempt from certain restrictions in the law only if the expansion is not used for solid waste disposal.

LD 1834 An Act to Amend the Laws Relating to Regulation of Wetlands

PUBLIC 575

Sponsors(s)

Committee Report
OTP-AM

Amendments Adopted
S-483

LD 1834 proposed to amend the section of law specifying when minor wetland alterations (alterations of fewer than 4,300 square feet of freshwater wetland) may be performed without a permit under the natural resources protection laws. It adds a requirement that, when those projects are performed without a permit, a 25-foot setback from other protected resources must be maintained and proper erosion control techniques must be used. It also adds a provision specifying that minor projects are not exempt from the permitting requirement if they are performed in wetlands protected by a shoreland zoning designation or in peat lands or wetlands with 20,000 square feet of open water or marsh. Current law requires a person to obtain a permit to conduct a project in land surrounding those areas, but seems to allow projects within the protected areas themselves without a permit.

The bill rewrites the entire subsection relating to minor alterations to improve clarity and to restate language providing that legally performed alterations before September 29, 1995 are not included in determining whether the project qualifies for the 4,300 square foot exemption.

Finally, the bill proposed to add a provision exempting projects performed in constructed, or man-made, ponds from the permitting requirement.

Committee Amendment "A" (S483) corrects a numerical error in the wetlands law enacted in the First Regular Session of the 117th Legislature, relating to the designation of imperiled and critically imperiled natural areas.

Enacted law summary

Public Law 1995, chapter 575 proposed to amend the section of law specifying when minor wetland alterations (alterations of fewer than 4,300 square feet of freshwater wetland) may be performed without a permit under the natural resources protection laws. It rewrites the entire section to improve clarity. It adds a requirement that, when those projects are performed without a permit, a 25-foot setback from other protected resources must be maintained and proper erosion control techniques must be used. It also adds a provision specifying that minor projects are not exempt from the permitting requirement if they are performed in wetlands protected by a shoreland zoning designation or in peat lands or wetlands with 20,000 square feet of open water or marsh. Current law requires a person to obtain a permit to conduct a project in land surrounding those areas, but seems to allow projects within the protected areas themselves without a permit.

The law also adds a provision exempting projects performed in constructed, or man-made, ponds from the permitting requirement.

LD 1838 **An Act to Remove Statutory References to the Maine Waste Management Agency** PUBLIC 656

Sponsors(s)

Committee Report

Amendments Adopted

LD 1838 proposed to remove remaining statutory references to the Maine Waste Management Agency, which was abolished by legislation enacted in the 1st Regular Session of the 117th Legislature. It also proposed to clarify that certain rules adopted by the Maine Waste Management Agency under sections of law repealed in 1995 are no longer in effect.

Committee Amendment "A" (H853) proposed to discontinue or transfer some of the program responsibilities transferred to the State Planning Office from the former Maine Waste Management Agency. See the enacted law summary (2nd paragraph to end of summary) for a description of the committee amendment.

Enacted law summary

Public Law 1995, chapter 656 removes remaining statutory references to the Maine Waste Management Agency, which was abolished in legislation enacted in the 1st Regular Session of the 117th Legislature. It also clarifies that rules adopted by MWMA pursuant to sections of law repealed in 1995 are no longer effective.

The law also discontinues or transfer some of the program responsibilities transferred to the State Planning Office from the former Maine Waste Management Agency.

The law:

1. Requires businesses to take solid waste reduction investment tax credits by the end of the tax year ending not later than June 30, 1998 and requires the State Planning Office to notify persons who have been certified for the tax credit of this deadline;
2. Changes the requirement to revise the Maine solid waste management and recycling plan from every 2 years to every 5 years, but requires the State Planning Office to report data and a trend analysis every 2 years;
3. Eliminates the State Planning Office responsibility for researching and writing a report on plastic holding devices and for separately reporting on aseptic packaging recycling;
4. Removes authority to approve alternative labels for plastic containers and makes violations of labeling laws violation of the Maine Unfair Trade Practices Act;
5. Transfers the administration of the toxics-in-packaging rules to the Department of Environmental Protection;
6. Removes the State Planning Office from the Pollution Prevention Advisory Committee;
7. Removes the requirement that the State Planning Office evaluate municipal efforts to implement the waste management hierarchy and prepare a separate report to the Governor and Legislature on this progress. Evaluation of municipal progress toward the State 50% recycling goal continues;
8. Adds a preference for regional efforts when allocating the State Planning Office's waste management financial and technical assistance resources; and changes the maximum recycling grant local match requirement from 25% to 50%;

9. Clarifies the nature of marketing assistance and removes the requirement that the State Planning Office assist industries with reusing industrial and commercial wastes;
10. Removes the requirement that the State Planning Office assist the Department of Administrative and Financial Services with state agency recycling efforts and with assessing state agency waste reduction and recycling activities;
11. Eliminates the State Planning Office's mandatory role in providing business assistance with office paper recycling and instead authorize the office to provide such assistance;
12. Eliminates the requirement that the State Planning Office conduct a program of public education;
13. Makes the State Planning Office's participation in regional and national initiatives voluntary rather than mandatory; and
14. Eliminates the granting of exemptions from the prohibition against nonremovable rechargeable batteries.

LD 1853 An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws

PUBLIC 704

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-876
	ONTP MIN	

LD 1853 is one of three pieces of legislation resulting from a study of the site location of development laws by the Land and Water Resources Council. This bill proposed to amend the municipal subdivision laws by requiring municipalities to prepare an estimate of the additional cost of municipal and state services caused by a proposed subdivision development. The estimate would be based on guidelines prepared by the State Planning Office.

This bill proposed to amend the state site location of development laws to:

1. Raise the threshold for requiring a site law permit for subdivisions from 5 lots on 20 acres to 15 lots on 30 acres;
2. Raise the threshold for requiring a site law permit for structures and subdivisions in “municipalities with capacity”. Structures up to 7 acres and subdivisions up to 100 acres located in such municipalities would not need a state site law permit;
3. Define “municipality with capacity” as:
 - A. Any municipality with subdivision regulations, site plan review regulations, a process for case-by-case review of structures, a planning board or other review authority, and resources to administer and enforce its ordinances; and
 - B. Beginning in 2003, any municipality with 2,500 or more residents;
4. Add to site law jurisdiction any development that generates 100 or more passenger car equivalents (PCE’s) at peak hour;
5. Raise the threshold for review of transmission lines from 100 kilovolts to 120 kilovolts;

6. Change the traffic standard for projects subject to the site law to: provide that a project that triggers site law jurisdiction only because of traffic impacts need only meet the traffic standard; eliminate review of traffic impacts for projects that fall under site law jurisdiction for non-traffic reasons but that generate fewer than 100 PCE's at peak hour. The bill also proposed to require the Department of Transportation to use a flexible system for reviewing traffic impacts under the site law, including performance standards for developments that generate 100 to 200 PCE's at peak hour;
7. Require DOT to take over regulation of traffic impacts beginning June 30, 1999, unless the Legislature adopts an alternative regulatory system and to require DOT to report to the Legislature by February 1, 1999 on possible alternatives to DOT assumption of traffic regulation;
8. Allow the Department of Environmental Protection to give an advance ruling on whether a project would meet the traffic requirements;
9. Amend the standards under the site law for soil type and erosion; and
10. Repeal the exemption for certain residential subdivisions and for storage facilities.

The bill proposed to require studies regarding groundwater quality and quantity. It would direct the Land and Water Resources Council to form a committee to develop recommendations concerning legislation required to address the storage, use and handling of petroleum products, hazardous materials and certain other substances with the potential to contaminate groundwater. It would also direct the DEP to work with interested parties to develop a program to minimize the potential for unreasonable adverse impacts on the availability of groundwater to support existing uses and present recommendations concerning any statutory requirements to the Land and Water Resources Council.

The bill also proposed to make the following changes regarding erosion and sedimentation control and storm water management:

1. Establish standards for controlling erosion and sedimentation from any project that involves filling, displacing or exposing soil; the bill proposed to prohibit a person from allowing eroded material from leaving the project site or entering a protected natural resource, and to require a person to install and maintain stabilization and erosion control measures; and
2. Establish a new permit requirement to regulate storm water runoff created by certain types of projects. The DEP would adopt stormwater quantity and quality standards for projects subject to the law, which would include projects that create more than 5 acres of disturbed area, 1/2 acre of impervious area in the watershed of a waterbody at risk from development or 1 acre of impervious area in other areas. The department would be required to list watersheds of bodies of water most at risk.

Committee Amendment "A" (H876) proposed to make the following changes to the bill.

1. Strike out provisions requiring municipalities to calculate and report the public costs of subdivision development;
2. Amend the storm water standard under the site location of development laws to provide that metallic mineral mining activities are subject to the storm water standard in all parts of the State, not just in the organized areas, and to clarify that certain projects needing a site

- law permit must comply with applicable storm water standards even if they are exempt from the new storm water permitting law;
3. Add a section requiring the Department of Environmental Protection to develop by rule a process for granting a planning permit under the site law to allow for prepermitting of projects;
 4. Strike out the section of the bill that would have exempted some pipelines from the law requiring analysis of alternative location and character;
 5. Strike the provision exempting farm ponds over 10 acres, since that provision has been included in other legislation (See LD 1858);
 6. Amend language stating when a municipality may request that the Department of Environmental Protection review projects in a municipality with capacity to review those projects. This amendment would clarify that the municipality or an adjacent municipality may request that the Department of Environmental Protection review a project when there are regional environmental impacts. In such cases, the department reviews the project only for the regional environmental impacts and the municipality would review for all other issues under the site law;
 7. Require the Commissioner of Environmental Protection to use model local ordinances that review issues addressed by the site law in determining whether a municipality has adequate site plan review ordinances for purposes of determining municipal capacity;
 8. Require the department to publish a list of municipalities with capacity by January 1, 1997 and deem certain municipalities to have capacity if the list is not published in time;
 9. Specify that certain modifications of subdivisions permitted under the site law are not required to obtain Department of Environmental Protection approval;
 10. Move the reporting date for the groundwater study groups to report back to the Legislature from January 10, 1997 to January 10, 1998;
 11. Change the erosion and sedimentation control standards to require that a person take measures to prevent unreasonable erosion, rather than requiring a person to prevent any eroded material from leaving the project site or entering a protected natural resource and to exempt the standard forest management activities regulated by Maine Land Use Regulation Commission standards;
 13. Limit the content and geographic applicability of storm water quality rules. Quality rules would apply only in the direct watersheds of bodies of water most at risk from new development and in sensitive or threatened regions and watersheds. The Department of Environmental Protection would be required to determine which watersheds and regions fall within these categories through rulemaking, which is classified as major substantive rulemaking. Until the regions of applicability are defined, storm water quality standards would not apply;
 14. Clarify the forest management exemption from the stormwater permit and add exemptions for projects subject to certain federal permitting requirements, single family residence construction or expansion projects, permitted waste facilities, and certain transportation projects subject to storm water standards to be developed by the Department of Environmental Protection and the Department of Transportation or the Maine Turnpike Authority; and

15. Change the effective date to provide that the Act is effective July 1, 1997, except that rulemaking is authorized beginning 90 days after adjournment of the session.

House Amendment "A" (H885), which was offered but not adopted, would have removed the provision increasing the threshold for review of transmission lines from 100 kilovolts to 120 kilovolts.

Enacted law summary

Public Law 1995, chapter 704 makes the following changes in the state site location of development laws and other laws related to development:

1. Raises the threshold for requiring a site law permit for subdivisions from 5 lots on 20 acres to 15 lots on 30 acres;
2. Raises the threshold for requiring a site law permit for structures and subdivisions in "municipalities with capacity". Structures up to 7 acres and single-family residential subdivisions up to 100 acres located in such municipalities will not be subject to state site law permit requirements. A person may petition DEP to review regional environmental impacts from any such project;
3. Defines "municipality with capacity" as:
 - A. Any municipality with subdivision regulations, site plan review regulations, a process for case-by-case review of structures, a planning board or other review authority, and resources to administer and enforce its ordinances; and
 - B. Beginning in 2003, any municipality with 2,500 or more residents;
4. Adds to site law jurisdiction any development that generates 100 or more passenger car equivalents at peak hour;
5. Raises the threshold for review of transmission lines from 100 to 120 kilovolts;
6. Changes the traffic standard for projects subject to the site law to provide that: project that triggers site law jurisdiction only because of traffic impacts is only subject to the traffic standard; eliminate review of traffic impacts for projects that fall under site law jurisdiction for non-traffic reasons but that generate fewer than 100 PCE's at peak hour. The law requires the Department of Transportation to use a flexible system for reviewing traffic impacts under the site law, including performance standards for developments that generate 100 to 200 passenger car equivalents at peak hour;
7. Requires the Department of Transportation to take over regulation of traffic impacts beginning June 30, 1999, unless the Legislature adopts an alternative regulatory system and requires DOT to report to the Legislature by February 1, 1999 on possible alternatives to DOT assumption of traffic regulation;
8. Allows DEP to issue an advance ruling on whether a proposed project meet the site law's traffic requirements;
9. Adds a section requiring the Department of Environmental Protection to develop by rule a process for granting a planning permit under the site law to allow for prepermitting of projects;

10. Amends the standards under the site law for soil type and erosion;
11. Repeals the exemption for certain residential subdivisions;
12. Directs the Land and Water Resources Council to form a committee to develop recommendations concerning legislation required to address the storage, use and handling of petroleum products, hazardous materials and certain other substances with the potential to contaminate groundwater. The Department of Environmental Protection in concert with others is directed to develop a program to minimize the potential for unreasonable adverse impacts on the availability of groundwater to support existing uses and present recommendations concerning any statutory requirements to the Land and Water Resources Council. Recommendations are due to the Legislature by January 10, 1998;
13. Establishes standards outside the site law for controlling erosion and sedimentation from any project that involves filling, displacing or exposing soil; it requires a person performing the project to take steps to prevent unreasonable erosion beyond the project site or into a protected natural resource, and requires a person to install and maintain erosion control and stabilization measures; and
14. Establishes a new permit requirement to regulate storm water runoff created by certain types of projects. The DEP will adopt stormwater quantity and quality standards for projects subject to the law, which will include projects that create more than 5 acres of disturbed area, 1/2 acre of impervious area in the watershed of a waterbody at risk from development or 1 acre of impervious area in other areas. The department will be required to list watersheds of bodies of water most at risk. Stormwater quality standards will only apply in certain geographic areas, which will also be defined by DEP by rule. All rules relating to stormwater permitting are "major substantive" rules and will be reviewed by the Legislature before becoming effective. Certain types of projects are exempt from this permitting requirement, including: certain forest management activities; single-family residence construction or expansion projects; permitted waste facilities, and certain transportation projects subject to storm water standards to be developed by the Department of Environmental Protection and the Department of Transportation or the Maine Turnpike Authority.

The law takes effect July 1, 1997, except that rulemaking is authorized beginning 90 days after adjournment of the 117th, Second Session (July 4, 1996).

LD 1854 An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries

PUBLIC 700

<u>Sponsors(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-872
	ONTP MIN	

Current law establishes performance standards for certain medium sized borrow pits (internally drained gravel or sand excavations between 5 and 30 acres), and allows a person to operate such a pit without obtaining a permit, provided they notify the department of their operation and comply with the performance standards. All other mining activities regulated by the State require a permit under the Site Location of Development laws. LD 1854 proposed to allow most regulated mining activities to proceed under a notification/performance standards system, rather

than a prior permitting system, except metallic mineral mining and peat mining. Metallic mineral mining would still require a site law permit and peat mining would be regulated by the natural resources protection laws.

To achieve this change in regulation, the bill proposed to change the current law regarding medium sized borrow pits by:

1. Amending the applicability section of the law to include excavations for topsoil, clay or silt;
2. Allowing persons with a valid site location of development law permit for mining activities to file a notice of intent to comply with the performance standards rather than continue under the permit;
4. Authorizing a variance to allow excavation into the seasonal high water table. The owner or operator of an excavation would be required to replace a public or private drinking water supply if the excavation activities impact the drinking water supply;
5. Authorizing a variance to allow externally drained excavations;
6. Making the traffic standards the same as those under the site location of development laws, effective January 1, 1997;
7. Authorizing a variance from the noise standards adopted by the Board of Environmental Protection;
8. Allowing the department to require financial assurance for a variance application for a larger working pit;
9. Altering the variance process to include requirements for a public information meeting, public notice and an appeal process; and
10. Adding performance standards for erosion control for excavations for clay, topsoil or silt less than 5 acres in size.

The bill also proposed to create a separate article to regulate quarries, where rock is removed by underground blasting. The notification requirements and performance standards are the same as for borrow pits and other excavations described above. Additional standards are imposed on the blasting activities.

Committee Amendment "A" (H872) proposed to allow a municipality in which a proposed excavation is located, which believes that the excavation may cause unreasonable adverse impacts, to submit comments to the Department of Environmental Protection and requires the department to respond to the comments. It also requires an owner or operator of an excavation to mail notice to the municipality and to abutting property owners at least 7 days prior to mailing notice to the regulator and commencing excavation activity.

This amendment also proposed to add language specifying that rules relating to variance standards and reclamation requirements are major substantive rules and that the variance standard rules must be provisionally adopted by January 1, 1997. It also proposed that variances are not available until March 1, 1997, except to those owners or operators who filed a notice of intent to comply prior to the effective date of this legislation.

Finally, the amendment proposed to change the effective date of new traffic standards to coincide with the effective date of the site law bill and to clarify that public informational meetings are required for variances.

Enacted law summary

Current law establishes performance standards for certain medium sized borrow pits (internally drained gravel or sand excavations between 5 and 30 acres), and allows a person to operate such a pit without obtaining a permit, provided they notify the department of their operation and comply with the performance standards. All other mining activities regulated by the State require a permit under the Site Location of Development laws. Public Law 1995, chapter 700 amends the law to allow most regulated mining activities to proceed under a notification/performance standards system, rather than a prior permitting system, except metallic mineral mining and peat mining. Metallic mineral mining will still require a site law permit and peat mining will be regulated by the natural resources protection laws. The law also changes some of the performance standards.

Current law regarding medium sized borrow pits is changed by:

1. Amending the applicability section of the law to include excavations for topsoil, clay or silt;
2. Requiring excavation owners or operators to send notice to abutting property owners at least 7 days prior to submitting notice to regulators.
3. Allowing persons with a valid site location of development law permit for mining activities to file a notice of intent to comply with the performance standards rather than continue under the permit;
4. Authorizing a variance to allow excavation into the seasonal high water table. The owner or operator of an excavation would be required to replace a public or private drinking water supply if the excavation activities impact the drinking water supply;
5. Authorizing a variance to allow externally drained excavations;
6. Making the traffic standards the same as those under the site location of development laws, effective July 1, 1997;
7. Authorizing a variance from the noise standards adopted by the Board of Environmental Protection;
8. Allowing the department to require financial assurance for a variance application for a larger working pit;
9. Altering the variance process to include requirements for a public information meeting, public notice and an appeal process; and
10. Adding performance standards for erosion control for excavations for clay, topsoil or silt less than 5 acres in size; and
11. Allowing a municipality in which a proposed excavation is located to submit comments to the Department of Environmental Protection if it believes that the excavation may cause unreasonable adverse environmental impacts and requires the department to respond to the comments.

The law also creates a separate article to regulate quarries, where rock is removed by underground blasting. The notification requirements and performance standards are the same as for borrow pits and other excavations described above. Additional standards are imposed on the blasting activities.

Rules relating to the variance standards and reclamation requirements are major substantive rules and the variance standard rules must be provisionally adopted by January 1, 1997. Variances are not available until March 1, 1997, except to those owners or operators who filed a notice of intent to comply prior to the effective date of this law.

LD 1858 An Act Regarding Agricultural Irrigation Ponds

PUBLIC 659
EMERGENCY

Sponsors(s)
KIEFFER
DONNELLY

Committee Report
OTP-AM

Amendments Adopted
S-531

LD 1858 proposed to establish a general permit under the Natural Resources Protection Act for alteration of a stream to construct an irrigation pond. The general permit would be deemed approved 30 days from the date an application was accepted for processing by the department, unless the applicant is notified that legal requirements have not been met. When eligibility criteria and specified standards are met, the general permit would replace the requirement for an individual permit under the Natural Resources Protection Act.

This bill also proposed to require the Department of Environmental Protection to report back to the joint standing committee of the Legislature having jurisdiction over natural resource matters concerning the effectiveness of the new general permit.

Committee Amendment "A" (S531) proposed to add a provision to correct a technical error in the designation of imperiled natural communities and to add a provision to the bill to remove the 10-acre limit on the size of farm and fire ponds that are exempted from permitting under the site location of development laws.

Enacted law summary

Public Law 1995, chapter 659 establishes a general permit under the Natural Resources Protection Act for alteration of a stream to construct an irrigation pond. The general permit is deemed approved 30 days from the date an application is accepted for processing by the department, unless the applicant is notified that legal requirements have not been met. When eligibility criteria and specified standards are met, the general permit replaces the requirement for an individual permit under the Natural Resources Protection Act.

This law also requires the Department of Environmental Protection to report back to the joint standing committee of the Legislature having jurisdiction over natural resource matters concerning the effectiveness of the new general permit.

Finally, the law removes the 10-acre limit on the size of farm and fire ponds that are exempted from permitting under the site location of development laws.

Chapter 659 was enacted as an emergency measure effective April 10, 1996.

Joint Standing Committee on Natural Resources

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Air Quality/Auto Emissions</i>			
<u>Enacted</u>			
LD 1651	An Act Concerning the Seasonal Sale of Reformulated Gasoline	P & S 60.....	251
LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY.....	253
<u>Not Enacted</u>			
LD 1721	Resolve, to Form a Task Force to Examine Methods of Reimbursing Automobile Owners for Emissions Testing and Consequent Repair Costs	ONTP.....	255
<i>Department of Environmental Protection</i>			
<u>Enacted</u>			
LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY.....	253
LD 1781	An Act to Support Abatement of Uncontrolled Tire Stockpiles	PUBLIC 579 EMERGENCY.....	256
<u>Not Enacted</u>			
LD 1014	Resolve, Directing the Commissioner of Environmental Protection to Propose a Plan to Reorganize the Department of Environmental Protection	ONTP.....	248
<i>Hazardous Waste/Hazardous Substances/Toxics</i>			
<u>Enacted</u>			
LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY.....	253
<u>Not Enacted</u>			
	None		

Hydropower/Dams

Enacted

LD 646	An Act to Create a Process for Identifying New Owners for Dams or Releasing Current Owners from Water Maintenance Obligations	PUBLIC 630..... 246
---------------	--	----------------------------

Not Enacted

None

Land Use

Enacted

LD 1794	Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms	RESOLVE 72..... 257
LD 1853	An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws	PUBLIC 704..... 261
LD 1854	An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries	PUBLIC 700..... 265

Not Enacted

None

Natural Resources Protection Act

Enacted

LD 1858	An Act Regarding Agricultural Irrigation Ponds	PUBLIC 659 EMERGENCY..... 268
----------------	---	---

Not Enacted

LD 1623	Resolve, Authorizing the Dredging of Wells Harbor and Sand Renourishment of Wells Beaches by the United States Army Corps of Engineers	ONTP..... 250
----------------	---	----------------------

Oil and Petroleum Products

Enacted

LD 1610 An Act to Enhance Used Oil Recycling Capabilities PUBLIC 573..... **249**

Not Enacted

None

Radioactive Waste

Enacted

**LD 1672 An Act to Amend Certain Laws Administered by the
Department of Environmental Protection** PUBLIC 642
EMERGENCY..... **253**

Not Enacted

None

Recycling

Enacted

**LD 1659 An Act to Allow Municipalities and Regions to Include
Beneficial Use of Waste Originated in Their Jurisdiction
As Credit in Demonstrating Recycling Progress** PUBLIC 552..... **252**

**LD 1838 An Act to Remove Statutory References to the Maine Waste
Management Agency** PUBLIC 656..... **259**

Not Enacted

None

Septic Systems/Wastewater

Enacted

**LD 1671 An Act to Amend the Laws Regarding the Revolving
Loan Fund for Wastewater Facilities** PUBLIC 564
EMERGENCY..... **253**

Not Enacted

None

Shoreland Zoning

Enacted

LD 819	An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone	PUBLIC 542.....	247
---------------	--	-----------------	------------

Not Enacted

None

Site Location of Development Law

Enacted

LD 1853	An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws	PUBLIC 704.....	261
LD 1854	An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries	PUBLIC 700.....	265

Not Enacted

None

Solid, Biomedical and Special Waste

Enacted

LD 1659	An Act to Allow Municipalities and Regions to Include Beneficial Use of Waste Originated in Their Jurisdiction As Credit in Demonstrating Recycling Progress	PUBLIC 552.....	252
LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY.....	253
LD 1824	An Act Relating to Solid Waste Management	PUBLIC 588.....	257
LD 1838	An Act to Remove Statutory References to the Maine Waste Management Agency	PUBLIC 656.....	260

Not Enacted

LD 1804	An Act to Grandfather Municipal Ordinances Regulating the Spreading of Sludge	DIED BETWEEN HOUSES.....	257
----------------	--	-----------------------------	------------

Solid Waste Facilities

Enacted

LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY..... 253
LD 1824	An Act Relating to Solid Waste Management	PUBLIC 588..... 257
LD 1838	An Act to Remove Statutory References to the Maine Waste Management Agency	PUBLIC 656..... 260

Not Enacted

None

Tires

Enacted

LD 1658	An Act to Encourage Tire Stockpile Abatement	PUBLIC 578 EMERGENCY..... 251
LD 1781	An Act to Support Abatement of Uncontrolled Tire Stockpiles	PUBLIC 579 EMERGENCY..... 256

Not Enacted

None

Water Quality/Water Pollution

Enacted

LD 1608	An Act Creating a Process for Municipalities to Withdraw from the Cobbossee Watershed District	P & S 59..... 249
LD 1671	An Act to Amend the Laws Regarding the Revolving Loan Fund for Wastewater Facilities	PUBLIC 564 EMERGENCY..... 253
LD 1672	An Act to Amend Certain Laws Administered by the Department of Environmental Protection	PUBLIC 642 EMERGENCY..... 253
LD 1853	An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws	PUBLIC 704..... 261

Summary of Committee Action by Joint Standing Committee on State and Local Government

	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
I. <u>BILLS CONSIDERED</u>			
A. Bills referred to committee	23	79.3%	5.8%
B. Bills carried over from 1st Regular Session	6	20.7%	1.5%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	29 *	100.0%	7.3%
		<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>		
A. Unanimous Reports			
<i>OTP</i>	5	17.2%	1.3%
<i>OTP-AM</i>	15	51.7%	4.0%
<i>ONTP</i>	<u>6</u>	<u>20.7%</u>	<u>1.6%</u>
Total Unanimous Reports	26	89.7%	7.0%
B. Divided Reports			
<i>2-Way</i>	3	10.3%	0.8%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	3	10.3%	0.8%
Total Bills Reported Out	29 *	100.0%	7.8%
		<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>		
A. Bills enacted or finally passed			
<i>Public Laws</i>	10	34.5%	2.5%
<i>Private and Special Laws</i>	4	13.8%	1.0%
<i>Resolves</i>	4	13.8%	1.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	18	62.1%	4.5%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	1	N/A	N/A

*Includes some bills reported out pursuant to Law or Joint Order.

Joint Standing Committee on State and Local Government

LD 975

An Act to Establish the Department of Health and Family Services

ONTP

Sponsor(s)
MORRISON

Committee Report
ONTP

Amendments Adopted

LD 975 was carried over from the First Regular Session. The bill proposed to establish the Department of Health and Family Services. The department would have assumed fully the duties of the current Department of Human Services and Department of Mental Health and Mental Retardation. The department would have consisted of 4 bureaus: the Bureau of Child and Family Services, the Bureau of Health, the Bureau of Income Maintenance and the Bureau of Long-term Services. The department would have included the Division of Substance Abuse, bringing into the department the current Office of Substance Abuse.

In Part B LD 975 proposed to transfer from the Department of Human Services and the Department of Mental Health and Mental Retardation to the Department of Health and Family Services all of the expenditures, assets, liabilities, appropriations and allocations, rules, contracts and agreements, records, property and employees of those 2 departments. It would have directed the Revisor of Statutes to make any statutory corrections necessary for consistency of the statutes.

In Part C LD 975 proposed to direct transitional activities concerning the budget and the functions of the departments involved. It would have directed the Joint Standing Committee on Human Resources to submit legislation needed to correct errors and inconsistencies.

In Part D LD 975 proposed to amend the Maine Revised Statutes, Title 5 as required to establish the new department.

In Part E LD 975 proposed to amend the Maine Revised Statutes, Title 22 as required to transfer functions from the Department of Human Services to the Department of Health and Family Services.

In Part F LD 975 proposed to amend the Maine Revised Statutes, Title 33 as required to transfer functions from the Department of Mental Health and Mental Retardation to the Department of Health and Family Services.

In Part G LD 975 proposed to amend the Maine Revised Statutes, Title 2 as required to establish the Department of Health and Family Services and corrects crossreferences in Title 5.

In Part H LD 975 would have corrected crossreferences in the Maine Revised Statutes, Title 34-B.

In Part I LD 975 proposed to transfer the Office of Substance Abuse from the Executive Department to the Department of Health and Family Services and would have changed the office's name to the Division of Substance Abuse.

In Parts J and K LD 975 proposed to transfer from the Office of Substance Abuse to the Department of Health and Family Services all of the expenditures, assets, liabilities, appropriations and allocations, rules, contracts and agreements, records, property and employees of that office.

It would have directed the Revisor of Statutes to make any statutory corrections necessary for consistency of the statutes. It would have directed transitional activities concerning the budget and the functions of the departments involved. It would have directed the Joint Standing Committee on Human Resources to submit legislation needed to correct errors and inconsistencies.

LD 1185 An Act to Give the Washington County Legislative Delegation a Role in the County Budget Process ONTP

Sponsor(s)
BUNKER

Committee Report
ONTP

Amendments Adopted

LD 1185 was carried over from the First Regular Session. Under current law the Washington County budget is finalized by the county commissioners following input from the county budget advisory committee and the county legislative delegation. LD 1185 proposed to require the county commissioners to present budget recommendations to the county legislative delegation following input from the budget advisory committee. The legislative delegation would have had final authority for approval of the county budget.

LD 1213 An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring ONTP

Sponsor(s)
AMERO

Committee Report
ONTP

Amendments Adopted

LD 1213 contains the recommendations of the Special Commission on Governmental Restructuring and was carried over from the First Regular Session.

Part A of the bill proposed to implement the recommendations of the majority of the Special Commission on Governmental Restructuring regarding the creation of an Office of Advocacy to replace several existing advocacy organizations. The commission's report contains a minority view on this issue.

Part B of the bill proposed to establish the ~~8~~member Public Education Strategic Planning Council. The members of the council would have been the Chancellor of the University of Maine System, the President of the Maine Technical College System, the President of the Maine Maritime Academy, the Commissioner of Education, one person from each of the boards of trustees of the University of Maine System, the Maine Technical College System and the Maine Maritime Academy and one person who is a member of the State Board of Education. The purpose of the council would have been to create and maintain a long-term strategic plan for public education in the State and make related funding and policy recommendations to the Legislature.

Part C of the bill proposed to reorganize the Department of Environmental Protection along functional lines, reducing the size of the Board of Environmental Protection from 10 members to 3 members and limiting the board's authority to hearing appeals of the license decisions of the Commissioner of Environmental Protection. All other duties formerly vested in the board, including all rulemaking activities, all licensing functions and the authority to modify, revoke or

suspend licenses would have been assumed by the commissioner. Part C would have made an appeal to the board a prerequisite for the filing of a judicial appeal.

Part D of the bill proposed to require the Director of the Bureau of Information Services to ensure that standards for the acquisition of data processing and telecommunications equipment by state agencies optimize the electronic exchange of information and promote interagency telecommunications. Part D also would have directed the Bureau of General Services, within the Department of Administrative and Financial Services, to develop a plan for the effective consolidation of state-owned facilities using a model that incorporated assessment of cost advantages of owning versus leasing.

Part E of the bill proposed to establish the Maine Cultural Foundation as a nonprofit corporation for the purpose of supporting the State's cultural heritage.

LD 1443 An Act to Identify New Federal Mandates

PUBLIC 591

Sponsor(s)
GERRY

Committee Report
OTP-AM

Amendments Adopted
H-775

LD 1443 was carried over from the First Regular Session. The bill proposed to create a mechanism in which agencies in State Government would be required to identify and assess the impact of any federally mandated program and identify those provisions inconsistent with state laws. It also would have required that a state agency consider the cost of the mandate as well as the impact on the State's citizens when developing policies in response to a federal mandate.

Committee Amendment "A" (H775) replaced the original bill. The amendment would have required every agency and department of the State to submit to the State Budget Officer a list of any new laws, new regulations or other actions that may require the State to comply with any federal mandate. The State Budget Officer would be required to provide a compiled list of new federal mandates to the Legislature by January 1st of each year. The amendment also would have added a fiscal note.

Enacted law summary

Public Law 1995, chapter 591 was enacted as proposed by Committee Amendment A. The law requires every agency and department of the State to submit to the State Budget Officer a list of any new laws, new regulations or other actions that may require the State to comply with any federal mandate. The State Budget Officer is required to provide a compiled list of new federal mandates to the Legislature by January 1st of each year. The amendment also adds a fiscal note.

LD 1566 An Act to Reform the Kennebec County Budget Process

ONTP

Sponsor(s)
MITCHELL EH

Committee Report
ONTP

Amendments Adopted

LD 1566 was carried over from the First Regular Session. The bill proposed to change the budget process in Kennebec County by removing the requirement that the budget be submitted to the Legislature for approval and by allowing the county commissioners to change the budget submitted by the budget advisory committee, but only by a unanimous vote. The bill would have

changed the terms of the Kennebec County commissioners to unstagge~~red~~ 2-year terms. The bill also required tax bills issued in Kennebec County to state the portion of taxes being raised by the municipality for Kennebec County and the names of the Kennebec County commissioners.

LD 1570 An Act to Establish a User Fee System for Towns Requiring Sheriff's Services ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
OTT	ONTP MAJ	
	OTP-AM MIN	

LD 1570 proposed to make the following changes to laws regarding the cost of county government and was carried over from the First Regular Session.

1. It would have permitted county commissioners to charge user fees to municipalities for the cost of law enforcement functions.
2. It would have provided that if the county commissioners of York County assess such user fees, then the municipalities that use law enforcement functions must pay 60% of the cost to the county for providing these functions, apportioned among these municipalities on a ~~per~~capita basis and the balance must be funded by the general county tax on all municipalities.
3. It would have clarified that existing law permits county commissioners to assess a municipality for communications services related to dispatching county police services in that municipality.
4. It would have given county commissioners authority to assess a municipality a fee for the capital costs of communications equipment.
5. It would have given the county commissioners of York County authority to collect from a municipality fees for booking and pretrial detention costs at the county jail for arrestees from that municipality.
6. It would have allowed a municipality to recover these booking and pretrial detention costs from the arrested person if that person is convicted of any criminal offense related to the arrest. The bill provided that the sentencing court assess as part of the sentence a reimbursement fee to cover a municipality's costs under this bill unless the court determines that the person does not have the ability to pay. It also provided that if a person is assessed this fee and does not pay, that person's license or permit to operate a motor vehicle in this State must be suspended.

Committee Amendment "A" (H780) would have replaced the bill. It proposed to authorize York County, through the county charter process, to adopt an alternative method of funding the cost of county services that is based, in whole or in part, on the collection of user fees. The amendment applied only to York County. (Not adopted)

LD 1612 An Act to Repeal the Requirement that Disbursement PUBLIC 549

Warrants Receive an Affirmative Vote by Municipal Officers

EMERGENCY

Sponsor(s)
AMEROCommittee Report
OTP-AMAmendments Adopted
S-421
S-444

LD 1612 proposed to repeal the language added by Public Law 1995, chapter 83 that requires an affirmative vote of the municipal officers on the disbursement warrant, in addition to the signatures of a majority of those officers, in order for the municipal treasurer to disburse money.

Committee Amendment "A" (S421) requires municipal funds to be disbursed only by warrant affirmatively voted and signed by a majority of the municipal officers. The bill would have removed the requirement of an affirmative vote. This amendment proposed to retain the requirements of current law but would have allowed municipalities to provide by charter or ordinance for alternative methods of authorizing the municipal treasurer to disburse funds.

Senate Amendment "A" (S444) proposed to add an emergency preamble and an emergency clause to the bill.

Enacted law summary

Public Law 1995, chapter 549 allows municipalities to provide by charter or ordinance for a method of authorizing the municipal treasurer to disburse funds other than by warrant voted on and signed by a majority of the municipal officers. The law was enacted as an emergency measure effective March 20, 1996.

LD 1615 An Act to Amend the Piscataquis County Budget Process

PUBLIC 520

Sponsor(s)
HALLCommittee Report
OTP-AMAmendments Adopted
S-423

LD 1615 proposed to amend the Piscataquis County budget process to remove legislative involvement.

Committee Amendment "A" (S423) proposed to clarify that the county commissioners have final approval authority over the budget and any amendments to the budget.

Enacted law summary

Public Law 1995, chapter 520 removes the requirement that the Piscataquis County budget be approved by the Legislature. The county commissioners have final authority over the county budget.

LD 1617 An Act to Establish the Penobscot County Budget Committee

PUBLIC 682

Sponsor(s)
HALLCommittee Report
ONTP MAJ
OTP-AM MINAmendments Adopted
S-476
S-586

LD 1617 proposed to establish the Penobscot County Budget Committee.

Committee Amendment "A" (S476) proposed several changes to the bill. It would have:

1. Changed the selection process for the county legislative delegation members of the budget committee so that they are chosen by the county delegation;
2. Required the county commissioners and budget committee to explain the proposed county budget to the legislative delegation at a meeting called by the chair of the legislative delegation;
3. Changed the vote needed for the budget committee to override changes made by the county commissioners in the budget committee's recommended budget from 4/5 of the committee's membership to 2/3;
4. Clarified that the budget as finalized by the county commissioners and budget committee is the authorization for the assessment of county taxes;
5. Repealed the budget committee on December 31, 1999; and
6. Added a fiscal note.

House Amendment "A" To Committee Amendment "A" (H55) would have made the municipal official and the legislative delegation members to the Penobscot County Budget Committee nonvoting members. (Not adopted)

House Amendment "B" To Committee Amendment "A" (H83) would have specified that the municipal official be an elected municipal official and makes the legislative delegation members to the Penobscot County Budget Committee nonvoting members. (Not adopted)

Senate Amendment "A" (S586) would have provided a General Fund appropriation to the Department of Administrative and Financial Services of \$1,000 in fiscal year 1996 to provide additional funds for the local costs associated with the Penobscot County Budget Committee including additional advertising, postage and printing costs.

Enacted law summary

Public Law 1995, chapter 682 establishes the 15-member Penobscot County Budget Committee. The budget committee includes 3 members of the county legislative delegation selected by the delegation, and the budget must be presented to the delegation each year by the county commissioners and budget committee. The county commissioners approve the county budget, except that the budget committee may override changes made in the committee's recommendations by a 2/3 vote of the full membership of the committee.

LD 1679 **Resolve, Regarding Legislative Computer Information Systems** INDEF PP

Sponsor(s)
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted

LD 1679 would have established the Commission to Study the Use of the Legislative Computer System to review the appropriate use of the Legislative computer information system. The

commission would have been required to issue its report and any necessary legislation by February 15, 1996.

Committee Amendment "A" (H866) would have replaced the original bill and addressed the problem with the current law cited by the office of the Attorney General, in a memorandum dated August 11, 1995. The amendment would have prohibited the use of the state computer system to advocate for the election or defeat of any elected municipal, county or state candidate, including leadership positions, any constitutional officers or federal representatives. The amendment also would have clarified that any document created or stored on a State Government computer system must be made available in compliance with the Maine Revised Statutes, Title 1, chapter 13, the Maine Freedom of Access Law. (Not adopted)

LD 1683 An Act to Establish the Town Boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan Located in the County of Somerset P & S 64

Sponsor(s)
STEDMAN

Committee Report
OTP

Amendments Adopted

The purpose of LD 1683 was to define and describe with greater certainty the location of the common boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan.

Enacted law summary

Private and Special Law 1995, chapter 64 describes the location of the common boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan.

LD 1700 An Act to Allow the Removal from Public Office of Certain Elected County Officials PUBLIC 683

Sponsor(s)
BUNKER

Committee Report
OTP-AM

Amendments Adopted
H-803
H-916

LD 1700 proposed to expand current law to provide consistent treatment in the appointment of a replacement to fill a vacancy caused by death, resignation, removal from the county and permanent incapacity in the offices of judge of probate, register of probate, county commissioner, county treasurer, sheriff and register of deeds. The bill directed the Governor to appoint a person to fill a vacancy until after the next general election if the incumbent elected official becomes permanently incapacitated. Similar provisions already exist for district attorneys and municipal officers.

Committee Amendment "A" (H803) proposed to define the term "permanent incapacity" that results in a vacancy in county office. The amendment also removed the emergency preamble and emergency clause from the bill and added a fiscal note to the bill.

House Amendment "C" (H916) proposed to strike from the bill provisions concerning appointments to fill vacancies in the office of sheriff, leaving the law regarding vacancies in the office of sheriff as it currently exists.

Enacted law summary

Public Law 1995, chapter 683 establishes a consistent treatment in the filling of vacancies caused by death, resignation, removal from the county and permanent incapacity in the offices of judge of probate, register of probate, county commissioner, county treasurer and register of deeds. The Governor appoints a replacement until the next general election. Chapter 683 also defines the term permanent incapacity.

LD 1701 An Act to Reduce the Number of Legislative Confirmation Hearings PUBLIC 519

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM	H-699

LD 1701 proposed to reduce the number of legislative confirmation hearings by removing the confirmation requirement for various boards and commissions. In addition it proposed to replace a reference to the Maine Commission for Women in the Maine Commission on Domestic Abuse.

Committee Amendment "A" (H699) proposed to remove the Land for Maine's Future Board, the Loring Development Authority of Maine, the Marine Resources Advisory Council, the Inland Fisheries and Wildlife Advisory Council and the Real Estate Commission from the bill. The entities would have continued to be subject to legislative confirmation. The amendment also would have added a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 519 removes the requirement for legislative confirmation from the following boards and commissions: Board of Directors of the Maine Education and Training Export Partnership, Maine Science and Technology Foundation, Adaptive Equipment Loan Program Fund Board, Maine Education Assistance Board, Maine Education Loan Authority, and the chair of the Maine State Cultural Affairs Council.

LD 1723 Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia RESOLVE 65

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DEXTER	OTP-AM	H-717

LD 1723 would have allowed the State to sell a certain parcel of land to Joseph Squeglia upon payment of back taxes owed.

Committee Amendment "A" (H717) would have clarified that in addition to back taxes, Mr. Squeglia must also pay interest and other related costs.

Enacted law summary

Resolve 1995, chapter 65 authorizes the State to sell a certain parcel of land to Joseph Squeglia upon payment of back taxes, interest and other related costs owed.

LD 1735 An Act to Clarify the Agency Rulemaking Process

PUBLIC 574

Sponsor(s)
AMERO

Committee Report
OTP-AM

Amendments Adopted
S-455

LD 1735 proposed to make changes in the provisions of the Maine Administrative Procedure Act governing legislative review of certain agency rules to:

1. Clarify that the review requirements apply to major substantive rules adopted pursuant to legislative authority enacted after January 1, 1996;
2. Establish that if new rulemaking legislation fails to indicate whether a rule is subject to legislative review, the rule is subject to review automatically; and
3. Direct the Secretary of the Senate and the Clerk of the House of Representatives to jointly suggest a committee of reference for each rule to be reviewed by the Legislature and to publish notice of receipt of the rule and the suggested reference in the daily Calendar for action by both chambers.

Committee Amendment "A" (S455) proposed to remove the requirement in the bill that any new rule not categorized by the Legislature in the authorizing legislation as either "routine technical" or "major substantive" to be automatically considered a major substantive rule and subject to legislative review. The amendment also restored the requirement in current law that 20 copies of a major substantive rule and related materials be initially submitted to the Executive Director of the Legislative Council for distribution to a joint standing committee and so that legislative leadership and nonpartisan staff have notice of pending rule reviews.

Enacted law summary

Public Law 1995, chapter 574 clarifies that the legislative review of agency rules applies to major substantive rules adopted pursuant to legislative authority enacted after January 1, 1996 and provides that rules filed with the Legislature enacted after January 1, 1996 and provides that rules for review be referred to the appropriate joint standing committee in the same manner as bills.

LD 1736 An Act to Amend the Budget Process in Androscoggin County

ONTP

Sponsor(s)
FITZPATRICK

Committee Report
ONTP

Amendments Adopted

LD 1736 proposed to abolish the current Androscoggin County budget committee and replace it with the Androscoggin County Budget Advisory Committee. The bill also would have established a position of Androscoggin County manager.

**LD 1745 An Act to Establish the Boundary Line between the Town of
Cornville and the Towns of Solon and Athens**

P & S 65

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1745 proposed to define and describe with greater certainty the location of the common boundary between the Town of Cornville and the Towns of Solon and Athens.

Enacted law summary

Private and Special Law 1995, chapter 65 describes the location of the common boundary between the Town of Cornville and the Towns of Solon and Athens.

**LD 1751 Resolve, to Authorize the Exchange of a Parcel of Land Owned
by the State with One Owned by Luke Bolduc**

RESOLVE 62

Sponsor(s)
GUERRETTE
MCCORMICK

Committee Report
OTP

Amendments Adopted

LD 1751 proposed to authorize the Commissioner of Defense and Veterans' Services to exchange a certain piece of land owned by the State with a certain piece of land owned by a private citizen.

Enacted law summary

Resolve 1995, chapter 62 authorizes the Commissioner of Defense and Veterans' Services to exchange a certain piece of land owned by the State with a certain piece of land owned by a private citizen.

**LD 1754 An Act to Improve the Hancock County Budget
Procedure**

DIED BETWEEN HOUSES

Sponsor(s)
RUHLIN
POVICH

Committee Report
ONTP MAJ
OTP-AM MIN

Amendments Adopted

LD 1754 proposed to require the Hancock County commissioners to present the county budget to the Hancock County legislative delegation and would have given the Hancock County legislative delegation authority to modify the budget by a 2/3 vote.

Committee Amendment "A" (\$492) would have replaced the bill. The amendment proposed to shift the responsibility for calling and scheduling the informational meeting on the Hancock County budget estimates from county commissioners to the chair of the county legislative delegation. Copies of the budget estimate would have been required to be provided for the delegation 7 days before the meeting. The amendment also clarified the process for the apportionment of county taxes and clarified that a copy of the final county budget must be filed

with the State Auditor. Finally, the amendment would have added a mandate preamble and fiscal note to the bill.

LD 1790 An Act to Implement Performance Budgeting in State Government

PUBLIC 705
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AMERO DAGGETT	OTP-AM	S-502 S-525

LD 1790 would have defined a schedule for implementing performance budgeting in State Government. Performance budgeting allocates resources based on the achievement of measurable objectives, which, in turn, are related to an agency's mission and goals. As strategic planning clarifies agencies' objectives and lays the foundation for performance-based budgets, this bill would have required all state agencies to develop strategic plans. This bill would have required that each state agency develop in the next biennium a strategic plan and tie measurable objectives for one program to its budget proposal.

Because performance budgets are based on an agency's goals and objectives, the budget unit is centered around programs that will achieve those goals. Frequently, agencies share common goals. As a result, effective budgeting requires agencies to conduct joint strategic planning and budgeting. This bill would have required that agencies of State Government that share common goals and objectives be grouped into policy areas. For the 2000-2001 biennium, this bill would have required strategic planning and performance budgets on a policy area basis.

Committee Amendment "A" (S502) would have made some technical changes, correcting several dates. The amendment also would have required that an agency consult with and receive comments from the joint standing committee of the Legislature having jurisdiction over that agency's matters for the development of a strategic plan.

Senate Amendment "A" To Committee Amendment "A" (S-525) would have removed the Department of Corrections from the group of departments required to participate in a demonstration project to develop joint strategic plans and budgets in the area of job training.

Senate Amendment "B" To Committee Amendment "A" (S572) would have clarified that Legislators are not entitled to the legislative per diem or any expenses for attendance at any meetings regarding performance-based budgeting if those meetings are held when the Legislature is not in session. (Not adopted)

Enacted law summary

Public Law 1995, chapter 705 defines a schedule for implementing performance budgeting in State Government. Performance budgeting allocates resources based on the achievement of measurable objectives, which, in turn, are related to an agency's mission and goals. As strategic planning clarifies agencies' objectives and lays the foundation for performance-based budgets, the law requires all state agencies to develop strategic plans. The law also requires that each state agency develop in the next biennium a strategic plan and tie measurable objectives for one program to its budget proposal. In developing their plans, agencies must consult with and receive comments from the joint standing committee of the Legislature having jurisdiction over their affairs.

Because performance budgets are based on an agency's goals and objectives, the budget unit is centered around programs that will achieve those goals. Frequently, agencies share common goals. As a result, effective budgeting requires agencies to conduct joint strategic planning and budgeting. Chapter 705 requires that agencies of State Government that share common goals and objectives be grouped into policy areas. For the 20002001 biennium, the law requires strategic planning and performance budgets on a policy area basis.

Public Law 1995, chapter 705 was enacted as an emergency measure effective April 12, 1996.

LD 1792 An Act Concerning the Number of Washington County Commissioners PUBLIC 611

Sponsor(s)
CASSIDY

Committee Report
OTP-AM

Amendments Adopted
S-487

LD 1792 proposed a referendum to ask the voters of Washington County whether the county should be reapportioned to increase the number of county commissioner districts. The bill also would have repealed the 2 at-large county commissioner positions created in 1995.

Committee Amendment "A" (S487) proposed to add a mandate preamble and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 611 repeals the 2 at-large county commissioner positions established in 1995 and sets up a referendum to determine whether the voters of Washington County wish the county to be reapportioned into 5 county commissioner districts.

LD 1810 An Act to Amend the Boundary between Berwick and South Berwick ONTP

Sponsor(s)
FARNUM

Committee Report
ONTP

Amendments Adopted

LD 1810 would have established a new boundary between the Town of Berwick and the Town of South Berwick.

LD 1821 Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 6 Locations RESOLVE 80

Sponsor(s)
MITCHELL EH
AMERO

Committee Report
OTP-AM

Amendments Adopted
H-806
S-583

LD 1821 proposed to give the Commissioner of Administrative and Financial Services authority to lease or to convey ownership or possession of certain state property to purchasers or lessees. The commissioner would be able to list the properties with one or more real estate brokers, solicit bids by newspaper advertisement or sell directly to purchasers. The commissioner would have established the purchase price and the terms of sale or lease.

Committee Amendment "A" (H806) proposed to eliminate the conveyance of the Aroostook County property and clarifies that revenues that exceed a certain amount must be deposited in either the Reserve Fund for State House Preservation and Maintenance or the General Fund, depending on the amount of excess. This amendment also proposed to add an allocation section and a fiscal note to the resolve.

Senate Amendment "A" To Committee Amendment "A" (S83) proposed to add the Bath Children's Home to the properties that the Department of Administrative and Financial Services is authorized to sell or lease.

Enacted law summary

Resolve 1995, chapter 80 gives the Commissioner of Administrative and Financial Services authority to lease or to convey ownership or possession of certain state property to purchasers or lessees. The commissioner may list the properties with one or more real estate brokers, solicit bids by newspaper advertisement or sell directly to purchasers. The commissioner shall establish the purchase price and the terms of sale or lease.

**LD 1828 An Act to Transfer Land from the Town of Brownfield
to the Town of Hiram**

P & S 69

Sponsor(s)
TRUE

Committee Report
OTP-AM

Amendments Adopted
H-791

LD 1828 proposed to establish a new boundary between the Town of Hiram and the Town of Brownfield by transferring to the Town of Hiram a portion of land and all of the Notch Road that extends through the Town of Brownfield.

Committee Amendment "A" (H791) proposed to add a mandate preamble, an effective date requiring an affirmative vote by the residents of Brownfield and a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 69 establishes a new boundary between the Town of Hiram and the Town of Brownfield by transferring to the Town of Hiram a portion of land and all of the Notch Road that extends through the Town of Brownfield. The transfer is effective upon approval of the voters of the Town of Brownfield.

LD 1840 **Resolve, for Laying the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1996** RESOLVE 66
EMERGENCY

Sponsor(s) Committee Report Amendments Adopted
 OTP

LD 1840 proposed to authorize the laying of the county taxes and expenditures of Piscataquis County government for the year 1996.

Enacted law summary

Resolve 1995, chapter 66 authorizes the laying of county taxes and expenditures of Piscataquis County government for the year 1996 and was enacted as an emergency measure effective March 28, 1996.

LD 1844 **An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1 Services in the Unorganized Territories** PUBLIC 607
EMERGENCY

Sponsor(s) Committee Report Amendments Adopted
AMERO OTP
DONNELLY

In order to provide enhanced 91-1 emergency telephone services in the unorganized territories, the county commissioners must assign and maintain physical addresses. The Attorney General has expressed the opinion that this does not constitute a "service" within the meaning of the Maine Revised Statutes, Title 30A, section 7501, subsection 6. LD 1844 proposed to provide specific statutory authority to permit the county commissioners to enact an ordinance to establish standards for assigning and maintaining physical addresses for the purpose of enhanced 9-1 service in the unorganized territories.

Enacted law summary

Public Law 1995, chapter 607 provides specific statutory authority to permit the county commissioners to enact an ordinance to establish standards for assigning and maintaining physical addresses for the purpose of enhanced 9-1 service in the unorganized territories. The law was enacted as an emergency measure effective April 2, 1996.

LD 1845 **Resolve, for Laying the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1996** RESOLVE 67
EMERGENCY

Sponsor(s) Committee Report Amendments Adopted
 OTP

LD 1845 proposed to authorize the laying of the county taxes and expenditures of Penobscot County government for the year 1996.

Enacted law summary

Resolve 1995, chapter 67 authorizes the laying of county taxes and expenditures of Penobscot County government for the year 1996 and was enacted as an emergency measure effective March 28, 1996.

**LD 1859 An Act to Authorize the Disposition of Property Interests
at the Pineland Center**

P & S 79

Sponsor(s)
BUTLAND

Committee Report
OTP-AM

Amendments Adopted
S-528
S-585

LD 1859 proposed to provide for the disposition of property interests in Pineland Center. The bill would have created the Pineland Conversion Committee, which would have had the authority to enter into agreements for the sale or lease of Pineland Center.

If the Pineland Conversion Committee did not enter into a contract for the sale or lease of substantially all of the state property, the Governor would have appointed members to the Pineland Development Authority, which would have the authority to manage the property in the name of the State.

Committee Amendment "A" (S528) proposed to make a technical change to the bill. It also would have provided that affirmative votes of the Pineland Conversion Committee and the Pineland Development Authority must include one and two votes, respectively, of local members, clarifies that future private uses of the property are subject to local zoning ordinances, required that offers pursuant to section 12 of the bill must be in writing and clarified that the purposes of special utility districts under section 13, subsection 5 of the bill are not exclusive. The amendment also would have added an appropriation section and a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" (S85) proposed to delete the appropriation section since the 1996-1997 supplemental budget, L.D. 1759, as amended, includes funding for this same purpose.

Enacted law summary

Private and Special Law 1995, chapter 79 creates the Pineland Conversion Committee, which has the authority to enter into agreements for the sale or lease of Pineland Center.

If the Pineland Conversion Committee does not enter into a contract for the sale or lease of substantially all of the state property, the Governor shall appoint members to the Pineland Development Authority, which will have the authority to manage the property in the name of the State as provided in the law.

LD 1872 Resolve, to Secure a Release of Property from the State

RESOLVE 81

Sponsor(s)
MCCORMICK

Committee Report
OTP-AM

Amendments Adopted
S-536

SHIAH

LD 1872 proposed to authorize the release of the State's interest in a parcel of land that escheated to the State when the owner died intestate, with no known heirs, in 1960. Subsequently, in 1965, the property was purchased by the Arlt family from the Town of Richmond. However, there has never been any legislative action taken regarding the transfer of this property. Thus, this resolve is necessary to quiet title to the property.

Committee Amendment "A" (S536) proposed to replace the resolve and establish a dollar amount, not to exceed \$12,240, for the conveyance of certain parcels of land situated in the Town of Richmond. The amendment also proposed to clarify the tax map lots of the property and add a fiscal note to the resolve.

Enacted law summary

Resolve 1995, chapter 81 authorizes the conveyance of the State's interest in certain parcels of land in Richmond for not more than \$72,240. The land that escheated to the State when the owner died intestate, with no known heirs, in 1960.

LD 1878 Resolve, to Amend the 1995 Kennebec County Budget RESOLVE 77

Sponsor(s)
MADORE

Committee Report

Amendments Adopted

LD 1878, which was engrossed without reference to committee, proposed to amend last year's budget resolve for Kennebec County to account for reimbursements for housing state and federal prisoners that exceeded budgeted amounts and for associated costs that also exceeded budgeted amounts. The amendment restores balance in the county budget and makes funds available to pay the costs incurred. It does not affect the amount raised by taxation.

Enacted law summary

Resolve 1995, chapter 77 amends the 1995 Kennebec County budget to account for reimbursements to the county for housing state and federal prisoners that exceeded budgeted amounts and for associated costs that also exceeded budget amounts.

**LD 1881 Resolve, for Laying the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1996 RESOLVE 82
EMERGENCY**

Sponsor(s)

Committee Report
OTP

Amendments Adopted

LD 1881 proposed to authorize the laying of the county taxes and expenditures of Kennebec County government for the year 1996.

Enacted law summary

Sponsor(s)
GWADOSKY

Committee Report

Amendments Adopted

LD 1885, which was engrossed without reference to committee, ~~de~~ addresses a problem with the current law cited by the office of the Attorney General, in a memorandum dated August 11, 1995. The bill proposed to prohibit the use of the state computer system to advocate for the election or defeat of any elected municipal, county or state candidate, including leadership positions, any constitutional officers or federal representatives. The bill also proposed to clarify that any document created or stored on a State Government computer system must be made available in compliance with the Maine Revised Statutes, Title 1, chapter 13, the Maine Freedom of Access Law.

Enacted law summary

Public Law chapter 703 prohibits the use of the state computer system to advocate for the election or defeat of any elected municipal, county or state candidate and clarifies that any document created or stored on a State Government computer system must be made available in compliance with the Maine Revised Statutes, Title 1, chapter 13, the Maine Freedom of Access Law. The law was enacted as an emergency measure effective April 11, 1996.

LD 1886 An Act to Reduce the Notice and Hearing Requirements Imposed on Quasi-municipal Corporations and Districts PUBLIC 655

Sponsor(s)
MURPHY

Committee Report

Amendments Adopted

LD 1886, which was engrossed without reference, proposed to require that quasi-municipal corporations or districts must publish notice at least 17 days, but not more than 24 days, before a meeting at which a regulation will be adopted or a program expanded.

Enacted law summary

Public Law chapter 655 requires that quasi-municipal corporations or districts must publish notice at least 17 days, but not more than 24 days, before a meeting at which a regulation will be adopted or a program expanded.

**LD 1887 An Act to Revise the Salaries of Certain County Officers PUBLIC 701
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted
S-551 (SA)

LD 1887 proposed to correct the salaries of certain county officers in Piscataquis County, retroactive to January 1, 1995 and establish the 1996 salaries for county officers in Androscoggin, Kennebec, Penobscot and Piscataquis counties.

Senate Amendment "A" (S551) proposed to correct a clerical error.

Enacted law summary

Public Law chapter 701 establishes the 1996 salaries for county officers in Androscoggin, Kennebec, Penobscot and Piscataquis counties and was enacted as an emergency measure effective April 11, 1996.

Joint Standing Committee on State and Local Government

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Administrative Procedures; Rulemaking</i>			
<u>Enacted</u>			
LD 1735	An Act to Clarify the Agency Rulemaking Process	PUBLIC 574.....	285
LD 1886	An Act to Reduce the Notice and Hearing Requirements Imposed on Quasimunicipal Corporations and Districts	.....PUBLIC 655	
<i>Boards and Commissions</i>			
<u>Enacted</u>			
LD 1701	An Act to Reduce the Number of Legislative Confirmation Hearings	PUBLIC 519.....	284
LD 1859	An Act to Authorize the Disposition of Property Interests at the Pineland Center	P & S 79.....	292
<i>County Budgets</i>			
<u>Enacted</u>			
LD 1615	An Act to Amend the Piscataquis County Budget Process	PUBLIC 520.....	281
LD 1617	An Act to Establish the Penobscot County Budget Committee	PUBLIC 682.....	281
LD 1840	Resolve, for Laying the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1996	RESOLVE 66 EMERGENCY.....	290
LD 1845	Resolve, for Laying the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1996	RESOLVE 67 EMERGENCY.....	290
LD 1878	Resolve, to Amend the 1995 Kennebec County Budget	RESOLVE 77.....	292
LD 1881	Resolve, for Laying the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1996	RESOLVE 82 EMERGENCY.....	292
LD 1883	Resolve, for Laying the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1996	RESOLVE 83 EMERGENCY.....	293

		<u>Final Disposition</u>	<u>Page #</u>
LD 1887	An Act to Revise the Salaries of Certain County Officers	PUBLIC 701 EMERGENCY.....	294
<u>Not Enacted</u>			
LD 1185	An Act to Give the Washington County Legislative Delegation a Role in the County Budget Process	ONTP.....	278
LD 1566	An Act to Reform the Kennebec County Budget Pcess	ONTP.....	279
LD 1736	An Act to Amend the Budget Process in Androscoggin County	ONTP.....	285
LD 1754	An Act to Improve the Hancock County Budget Procedure	DIED BETWEEN HOUSES.....	286

County Government

Enacted

LD 1700	An Act to Allow the Removal from Public Office of Certain Elected County Officials	PUBLIC 683.....	283
LD 1792	An Act Concerning the Number of Washington County Commissioners	PUBLIC 611.....	288
LD 1844	An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1-1 Services in the Unorganized Territories	PUBLIC 607 EMERGENCY.....	290

Not Enacted

LD 1570	An Act to Establish a User Fee System for Towns Requiring Sheriff's Services	ONTP.....	280
----------------	---	-----------	------------

Departments and Agencies of State Government

Enacted

LD 1790	An Act to Implement Performance Budgeting in State Government	PUBLIC 705 EMERGENCY.....	287
----------------	--	------------------------------	------------

Not Enacted

LD 975	An Act to Establish the Department of Health and Family Services	ONTP.....	277
LD 1213	An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring	ONTP.....	278

Land: Boundaries, Name Changes, Access, Transfer

Enacted

LD 1683	An Act to Establish the Town Boundary between the Town of Canaan and the Town of Cornville and between the Town of Canaan and the Town of Skowhegan Located in the County of Somerset	P & S 64.....	283
LD 1723	Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia	RESOLVE65.....	284
LD 1745	An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens	P & S 65.....	286
LD 1751	Resolve, to Authorize the Exchange of a Parcel of Land Owned by the State with One Owned by Luke Bolduc	RESOLVE 62.....	286
LD 1828	An Act to Transfer Land from the Town of Brownfield to the Town of Hiram	P & S 69.....	289
LD 1872	Resolve, to Secure a Release of Property from the State	RESOLVE 81.....	292

Not Enacted

LD 1810	An Act to Amend the Boundary between Berwick and South Berwick	ONTP.....	288
----------------	---	-----------	------------

Legislature and Legislative Process

Enacted

LD 1679	Resolve, Regarding Legislative Computer Information Systems	INDEF PP.....	282
LD 1701	An Act to Reduce the Number of Legislative Confirmation Hearings	PUBLIC 519.....	284

Mandates

Enacted

LD 1443	An Act to Identify New Federal Mandates	PUBLIC 591.....	279
LD 1884	An Act to Reduce Costs for Municipalities	PUBLIC 664 EMERGENCY.....	293

Municipalities and Quasi-Municipal Corporations

Enacted

LD 1612	An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers	PUBLIC 549 EMERGENCY.....	281
LD 1886	An Act to Reduce the Notice and Hearing Requirements Imposed on Quasimunicipal Corporations and Districts	PUBLIC 655.....	294

Restructuring

Not Enacted

LD 975	An Act to Establish the Department of Health and Family Services	ONTP.....	277
LD 1213	An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring	ONTP.....	278

State Contracts and Fiscal Procedures

Enacted

LD 1790	An Act to Implement Performance Budgeting in State Government	PUBLIC 705 EMERGENCY.....	287
----------------	--	------------------------------	------------

State Officials

Enacted

LD 1821	Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 6 Locations	RESOLVE 80.....	289
----------------	--	-----------------	------------

State Property

Enacted

LD 1723	Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia	RESOLVE 65.....	284
----------------	--	-----------------	------------

		<u>Final Disposition</u>	<u>Page #</u>
LD 1751	Resolve, to Authorize the Exchange of a Parcel of Land Owned by the State with One Owned by Luke Bolduc	RESOLVE 62.....	286
LD 1821	Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 6 Locations	RESOLVE 80.....	289
LD 1859	An Act to Authorize the Disposition of Property Interests at the Pineland Center	P & S 79.....	291
LD 1872	Resolve, to Secure a Release of Property from the State	RESOLVE 81.....	292
LD 1885	An Act Regarding the State Government Computer System	PUBLIC 703 EMERGENCY.....	294

Summary of Committee Action by Joint Standing Committee on Transportation

	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
I. <u>BILLS CONSIDERED</u>			
A. Bills referred to committee	17	85.0%	4.3%
B. Bills carried over from 1st Regular Session	3	15.0%	0.8%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	20	100.0%	5.1%
		<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	1	5.0%	0.3%
<i>OTP-AM</i>	13	65.0%	3.5%
<i>ONTP</i>	<u>3</u>	<u>15.0%</u>	<u>0.8%</u>
Total Unanimous Reports	17	85.0%	4.6%
B. Divided Reports			
<i>2-Way</i>	3	15.0%	0.8%
<i>3-Way</i>	0	0.0%	0.0%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	3	15.0%	0.8%
Total Bills Reported Out	20	100.0%	5.4%
		<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	12	60.0%	3.0%
<i>Private and Special Laws</i>	2	10.0%	0.5%
<i>Resolves</i>	1	5.0%	0.3%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	15	75.0%	3.8%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	0	N/A	N/A

Joint Standing Committee on Transportation

LD 59 **An Act to Repeal the Sensible Transportation Policy Act** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEGLEY	ONTP MAJ	
CAMPBELL	OTP-AM MIN	

LD 59 proposed to repeal the Sensible Transportation Policy Act, which requires the Department of Transportation, when making planning, capital investment and project decisions, to consider and comply with certain environmental and policy considerations and to establish a procedure for public participation.

Committee Amendment "A" (S-439) was the minority report. The amendment updated language in the original bill that was amended by Public Law 1995, chapter 341. It also proposed to repeal additional sections of law that crossreference the Sensible Transportation Policy Act. The minority report was not accepted.

LD 465 **An Act to Improve the Local Road Assistance Program** PUBLIC 678

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROWE	OTP-AM	H-684

LD 465 proposed to amend the definition of "average miles maintained," which is used to determine state contributions for the Local Road Assistance Program. It proposed requiring an increase in the number of miles for each mile of road with more than 2 lanes. It specified that the additional funding for the wider roads must come from additional appropriations to the Local Road Assistance Program.

Committee Amendment "A" (H684) proposed use of the term "lane mile" to clarify the extent to which distribution would increase for roads with more than 2 lanes and changed the formula to calculate distribution on a lane mile basis. It proposed that the change in distribution begin with payments due March 1, 1997.

Enacted law summary

Public Law 1995, chapter 678 provides for distribution from the Local Road Assistance Program to be calculated on a lane mile basis, thereby increasing the distribution for roads with more than 2 lanes. The change in distribution begins with payments due March 1, 1997.

LD 739 **An Act to Allow Issuance of Duplicate Registrations for Trailers and Semitrailers** PUBLIC 513

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STONE	OTP-AM	H-687

LD 739 proposed allowing businesses that hold current certificates of registration on 4 or more trailers or semitrailers to keep the original certificates in a central location and requiring

businesses that use this provision to keep a photocopy of the certificate of registration in each vehicle.

Committee Amendment "A" (H687) replaced the original bill. It proposed allowing a person registering a trailer or semitrailer to be issued a duplicate registration for an additional \$2 fee. It also proposed adding a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 513 allows a person registering a trailer or semitrailer to be issued a duplicate registration for an additional \$2 fee.

LD 1619 An Act to Repeal the Sunset Provision for Distribution from the Maine Environmental Trust Fund PUBLIC 508 EMERGENCY

Sponsor(s) Committee Report Amendments Adopted

LD 1619 was reported out pursuant to Public Law 1993, chapter 410, Part BBB, section 6.

Enacted law summary

Public Law 1995, chapter 508 repeals the sunset provision for distribution from the Maine Environmental Trust Fund, providing for continuing distribution from the fund at 60% to the Maine State Parks Fund and 40% to the Maine Endangered and Nongame Wildlife Fund..

Chapter 508 was enacted as an emergency measure effective January 29, 1996.

LD 1639 An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien PUBLIC 645 EMERGENCY

Sponsor(s) Committee Report Amendments Adopted
STROUT OTP-AM H-847
STEVENS A H-852
 H-854
 H-895

LD 1639 proposed several technical and substantive changes to the motor vehicle laws.

Committee Amendment "A" (H847) proposed technical changes to the original bill and proposed removing provisions relating to primary insurance requirements for consumer rental vehicles. It proposed adding Parts B, C, D and E to the bill . Part B proposed several additional technical and substantive changes to the motor vehicle laws. Part C proposed provisions for a new general issue license plate in July of 1999. Parts D and E proposed allocation sections for the bill.

House Amendment "A" to Committee Amendment "A" (H52) proposed allowing the Secretary of State to hold as confidential the driver's license and vehicle registration records at the request of a person providing a copy of a protection order issued to protect the requestor from abuse or harassment.

House Amendment "B" to Committee Amendment "A" (HB54) proposed the issuance of official state nondriver identification cards to persons 15, 16 and 17 years of age beginning July 1, 1996.

House Amendment "C" to Committee Amendment "A" (HB95) proposed changing the appointment process for members of the task force on the production and issuance of license plates. Instead of the Chairs of the Joint Standing Committee on Transportation appointing the members, it proposed giving the authority to House and Senate leadership.

Enacted law summary

Public Law 1995, chapter 645, Part A makes the fees associated with the University of Maine System plates consistent with the conservation registration plate fees. It repeals language that allowed a registrant to retain an existing plate number for use on an antique vehicle. It also repeals the requirement that persons with a disability have their name on the registration placard.

It allows the Secretary of State to eliminate the certificate of lien document and allows the certificate of title to act as both prima facie evidence of ownership and documentation for lien purposes. It requires a salvage vehicle repaired by the use of a front or rear clip to be designated as a rebuilt salvage on the certificate of title. It increases the amount of liability insurance that dealers must carry to maintain dealer plates.

It requires a licensee's signature to be the same as the name displayed on the license. It corrects the reference to the designation on a driver's license for special endorsement.

Part B of the enacted law does the following.

It allows the Secretary of State to develop a program for appointment of registration agents to issue registrations that do not involve excise tax and registrations for which the excise tax has already been paid.

It allows the Secretary of State to hold certain driver's license and vehicle registration records as confidential. It amends the information required on the registration application, specifying that a person's legal name be used on an application, that the year of manufacture be included and that only the initial registration application requires the signature of the owner or owner's legal representative. It permits persons to notify the Secretary of State of name and address changes by means other than by writing. It allows the issuance of official state nondriver identification cards to persons 15-17 years of age.

It allows the Secretary of State to establish a multiyear fleet registration program for registrants with 100 or more registrations. It allows an extension of a long term trailer registration prior to the registration's expiration. It requires that a vehicle being added to a fleet with a common expiration date receive a prorated excise tax for the actual number of months in the registration.

It allows for the issuance of the Purple Heart recipient's special award plate to the recipient's surviving spouse. It makes the addition or attachment of an unauthorized symbol or mark to a registration plate a civil violation.

It allows the State Tax Assessor to delegate certain responsibilities relating to the motor carrier fuel tax to the Bureau of Motor Vehicles. It makes clear that transporter plates may be issued to auction businesses for the purpose of transporting vehicles to and from the auction site.

It makes consistent and corrects omissions in the OUI laws as amended in the First Regular Session of the 117th Legislature. It corrects an omission in the definition of habitual offender.

Part C of the enacted law does the following.

It provides for a new general issue of registration plates to begin on July 1, 1999 and be completed by December 31, 2000. It repeals language designating the lobster design as the general issue plate design on July 1, 1999 and allows the Secretary of State to purchase a specialty plate rather than produce the plate at the Maine State Prison when the demand for that plate is low. It increases the fee for reserving license plate numbers effective July 1, 1996. Effective July 1, 1996, it increases motor vehicle registration fees by \$1 to cover equipment costs and other costs associated with a new general issue license plate.

It establishes a program within the Highway Fund to receive \$1 of each registration fee to be used for expenses relating to the production and issuance of license plates. It establishes a moratorium on the issuance of new specialty license plates until July 1, 1999. It creates a task force to study the production and issuance of license plates.

Chapter 645 was enacted as an emergency measure effective April 10, 1996.

LD 1676 An Act to Implement the Recommendations of the Registration Improvement Committee ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'GARA	ONTP	

LD 1676 proposed to enact the recommendations of the Secretary of State's Registration Improvement Committee. It would have allowed the Secretary of state to appoint nongovernmental entities as registration agents and to implement a remote registration transactions program. It would have required the State Tax Assessor to certify software for the electronic calculation of motor vehicle excise tax. It would have allowed the Secretary of State and the Superintendent of Insurance to develop an alternate means of verifying motor vehicle liability insurance. It would have allowed the Secretary of State and nongovernmental registration agents to collect motor vehicle excise tax and required the Bureau of Motor Vehicles to transmit collected excise taxes to the appropriate municipality.

This bill proposed an optional multi-year fleet registration for registrants with 100 or more registrations. It proposed to require that excise tax be prorated for a vehicle added to a fleet with a common expiration date. Certain provisions of this legislation were enacted in Part B of P.L. 1995, c. 645. (see Bill Summary for LD 1639)

LD 1680 An Act Concerning Portable Scale Tolerances on the Interstate Highway System PUBLIC 517

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'GARA	OTP-AM	H-695

LD 1680 proposed allowing vehicles traveling on the Interstate Highway System a 4% tolerance on gross and axle weight limits if the vehicle was weighed by portable scales.

Committee Amendment "A" (H695) proposed adding a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 517 allows vehicles traveling on the Interstate Highway System a 4% tolerance on gross and axle weight limits if the vehicle is weighed by portable scales. This is consistent with federal regulations.

LD 1681 An Act Pertaining to the Northern New England Passenger Rail Authority PUBLIC 543

Sponsor(s)
O'GARA

Committee Report
OTP

Amendments Adopted
S-445

LD 1681 proposed to clarify and to correct certain provisions of the Northern New England Passenger Rail Authority 's enabling act.

Senate Amendment "A" (S445) proposed to remove the language in the original bill that stated the Northern New England Passenger Rail Authority's rulemaking authority is not "rulemaking" and is not subject to supervision by any board, commission or agency.

Enacted law summary

Public Law 1995, chapter 543 clarifies that the Northern New England Passenger Rail Authority is an authority within the meaning of the Maine Tort Claims Act. It removes the December 31, 1995 time frame for initiation of service between Boston and Portland. It clarifies that the quorum requirements for a meeting of the authority's board of directors are calculated on the basis of the number of director positions currently occupied.

LD 1682 An Act to Transfer the Responsibility for Air Search and Rescue from the Commissioner of Transportation to the Chief of the State Police PUBLIC 555

Sponsor(s)
STROUT

Committee Report
OTP-AM

Amendments Adopted
H-740

LD 1682 proposed to transfer responsibility for air search and rescue from the Commissioner of Transportation to the Chief of the State Police.

Committee Amendment "A" (H740) proposed allowing the air search and rescue plan developed by the Chief of State Police to determine the notification system for and to specify the role of various agencies in air search and rescue operations.

Enacted law summary

Public Law 1995, chapter 555 transfers responsibility for air search and rescue from the Commissioner of Transportation to the Chief of the State Police and allows the plan developed by the Chief to specify the role of various agencies in air search and rescue operations.

Sponsor(s)
STEVENS A

Committee Report
OTP-AM

Amendments Adopted
S-454

LD 1687 submitted by the Department of Public Safety proposed several clarifications of and changes to the motor vehicle laws.

Committee Amendment "A" (S454) proposed a Part A to include and amend provisions in the original bill and a Part B that proposed additional clarifications and changes. The amendment also proposed adding a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 584 , Part A does the following:

Clarifies that a pickup truck must be registered as a truck if the combined gross weight of the pickup truck plus a towed trailer or semitrailer exceeds 6,000 pounds and that the fee schedule currently applicable to a truck tractor and semitrailer is also applicable to a truck and semitrailer. Clarifies that a truck registered for more than 6,000 pounds must have splash guards.

Corrects an error regarding inspection of a motor vehicle that was previously registered in another state. Requires vehicles to be equipped with turn signals.

Deletes references to public scales for weighing vehicles and allows a designee of the Chief of the State Police to establish weigh points.

Makes it clear that the gross vehicle and axle weight forgivenesses are not intended to increase allowable gross vehicle and axle weights. Clarifies that a Violation Summons and Complaint is not issued for minor weight violations.

Part B does the following:

Amends the definition of "law enforcement officer" to include officers and special investigators of the Bureau of Taxation.

Makes consistent the penalty provisions for traffic infractions. Clarifies the penalties that apply to a person establishing residency who violates the licensing or registration requirements of the State.

Allows a person's Maine license to be expired for 90 days before the violation becomes a Class E crime.

Allows a law enforcement officer to use video equipment in a motor vehicle for law enforcement purposes.

Corrects an ambiguity in the penalty for speeding on the Maine Turnpike or the Interstate Highway System.

Exempts operators of allterrain vehicles from the licensing requirements of the Maine Revised Statutes, Title 29-A unless the ATV is registered for highway use.

LD 1690 An Act Relating to the Potential Improvement of the Maine Turnpike Authority ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUTLAND	ONTP MAJ OTP-AM MIN	

LD 1690 proposed to increase the amount of bonds the Maine Turnpike Authority may issue in connection with a widening of the turnpike from Exit 1 to Exit 6, if all or a portion of a project is approved. The bill also proposed to clarify the Maine Turnpike Authority's obligations for transportation planning that pertain to such a project.

Committee Amendment "A" (S443) proposed a minority report. It proposed to direct the Maine Turnpike Authority to proceed with all actions necessary to widen the turnpike from Exit 1 to Exit 6-A upon meeting the requirements of the Sensible Transportation Policy Act as defined in the Maine Revised Statutes, Title 23, section 196A and upon approval of the widening by the voters in a statewide referendum. The minority report was not accepted.

LD 1734 An Act to Amend the Commercial Vehicle Weight Laws PUBLIC 546

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS A	OTP-AM	S-438

LD 1734 proposed amending the penalties for weight violations. When a vehicle is in violation of both gross and axle weight Interstate Highway limits, a minimum fine of \$20 each would be imposed for each violation of Interstate Highway weight limits, in addition to the fine for the highest applicable penalty. It proposed allowing the Secretary of State to suspend the registration or right to operate vehicles having 5 or more aggravated gross weight violations within a 24-month period or 7 or more such violations within a 3~~6~~month period.

Committee Amendment "A" (S438) proposed a technical correction and adding a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 546 amends the penalties for weight violations on the interstate highway making the penalties consistent with federal regulations. It allows the Secretary of State to suspend the registration or right to operate vehicles having 5 or more aggravated gross weight violations within a 24month period or 7 or more such violations within a 3~~6~~month period.

LD 1740 An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law PUBLIC 597

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEDMAN	OTP-AM	H-747 H-758

LD 1740 proposed to exempt rural mail carriers of the United States Postal Service from wearing safety seatbelts while engaged in the delivery of mail.

Committee Amendment "A" (H747) proposed to exempt taxi drivers from the responsibility of having paying passengers use a seatbelt. It proposed amending the language in the original bill to clarify that the rural postal carrier is exempt from the seatbelt provision requiring the operator of a motor vehicle to be buckled.

House Amendment "A" to Committee Amendment "A" (H58) proposed amending the seatbelt law to make it a primary violation if a person age 4 through 18 years of age is not secured in a seat belt.

Enacted law summary

Public Law 1995, chapter 597 exempts rural postal carriers from the seat belt provision requiring the operator of a motor vehicle to be buckled. It exempts taxi drivers from the responsibility of having paying passengers use a seat belt. It allows primary enforcement of the seatbelt law for persons age 4 through 18.

LD 1782 An Act to Create the Motor Carrier Training Advisory Board PUBLIC 605

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-748 H-807

LD 1782 proposed creation of the Motor Carrier Training Advisory Board to advise the Secretary of State on matters relating to advanced commercial driver training and continuing education. The bill also proposed adding a member to the Secretary of State's driver education technical review panel to represent the motor carrier industry.

Committee Amendment "A" (H748) proposed establishing the Motor Carrier Training Advisory Board within the Department of the Secretary of State rather than the Department of Transportation. It proposed altering the board's membership to include a commercial driver, an additional member of the public, and a member of the joint standing committee of the Legislature having jurisdiction over transportation matters. It proposed changing the term served from 2 years to 3 years for each member and staggering initial terms.

House Amendment "A" to Committee Amendment "A" (H07) proposed that the member of the Motor Carrier Training Advisory Board who is a member of the joint standing committee of the Legislature having jurisdiction over transportation matters be appointed jointly by the President of the Senate and the Speaker of the House of Representatives rather than by the chairs of that committee.

Enacted law summary

Public Law 1995, chapter 605 creates the Motor Carrier Training Advisory Board within the Department of the Secretary of State and adds a member representing the motor carrier industry to the Secretary of State's driver education technical review panel.

LD 1815 An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1997

P & S 73

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-846

LD 1815 proposed allocations from gross revenues of the Maine Turnpike Authority for the authority's fiscal year ending December 31, 1997.

Committee Amendment "A" (H846) proposed providing supplementary information related to the Maine Turnpike Authority's 1997 budget and adds a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 73 makes allocations from gross revenues of the Maine Turnpike Authority for the authority's fiscal year ending December 31, 1997. It provides supplemental information on capital expenditures and debt service on bonds.

LD 1826 An Act to Allow a Change in the Speed Limit on Certain Highways

ONTP

Sponsor(s)
O'DEA

Committee Report
ONTP

Amendments Adopted

LD 1826 proposed repealing the maximum speed limits in statute of 65 m.p.h. on the interstate and other divided controlled-access highways and 60 m.p.h. on other highways. The bill proposed requiring a person to operate a vehicle at a reasonable and prudent speed. The bill proposed allowing the Commissioner of Transportation, with the approval of the Chief of the State Police, to impose a maximum speed limit in those areas determined dangerous based upon an engineering and traffic investigation.

LD 1829 Resolve, to Name a Portion of Highway in Millinocket in Honor of Prisoners of War and Those Designated as Missing in Action and to Name Portions of Roads That Follow the St. George River

RESOLVE 73
EMERGENCY

Sponsor(s)
CLARK
STEVENS A

Committee Report
OTP-AM

Amendments Adopted
H-788
H-851

LD 1829 proposed designating part of Route 157 in Millinocket as a "POWIA Highway."

Committee Amendment "A" (H788) proposed clarifying that plaques designating this portion of highway as a "POWMIA Highway" will be designed and created by the local Marine Corps League.

House Amendment "A" to Committee Amendment "A" (H51) proposed changing the title of the bill and adds a section to the resolve to designate the route from the Town of Port Clyde to the Town of Montville as the "Georges River Scenic Byway."

Enacted law summary

Resolve 1995, chapter 73 designates a portion of Route 157 in Millinocket as a POW-MIA Highway and names a specified route from Montville to Port Clyde as the Georges River Scenic Byway.

Chapter 73 was enacted as an emergency measure effective April 3, 1996

LD 1830 An Act to Make Supplemental Allocations from the Highway Fund, Allocations from Other Funds and a General Fund Appropriation and to Amend Certain Transportation Laws P & S 83
EMERGENCY

<u>Sponsor(s)</u> STROUT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-848
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LD 1830 proposed supplemental allocations from the Highway Fund and other special revenue funds and proposed authorizing the unencumbered balance in the Highway Fund salary plan account from fiscal year 1994-95 to lapse to the Highway Fund.

Committee Amendment "A" (H848) proposed directing the Department of Transportation to develop a plan for the transition of responsibilities for operation of the Augusta State Airport to the City of Augusta. It also proposed a General Fund appropriation and a Highway Fund allocation to the State Police to fund the addition of a DNA wing to the state crime lab and proposed adding a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 83, Part A makes supplemental allocations from the Highway Fund, the Federal Expenditure Fund and the Other Special Revenue funds. Part B authorizes the unencumbered balance in the Highway Fund salary plan account from fiscal year 1994-95 to lapse to the Highway Fund. Part C directs the Department of Transportation to develop a plan for the transition of responsibilities for operation of the Augusta State Airport to the City of Augusta. Part D provides a General Fund appropriation and a Highway Fund allocation to the State Police to fund the addition of a DNA wing to the state crime lab.

Chapter 83 was enacted as an emergency measure effective April 11, 1996

LD 1836 An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities ONTP

<u>Sponsor(s)</u> LEMKE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1836 proposed to require that investigators from the Maine State Police accident reconstruction program and the commercial vehicle enforcement unit investigate fatal accidents involving a truck that weighs 10,000 pounds or more or a bus. It proposed to require that a

prosecution arising out of such an investigation be conducted by the Office of the Attorney General. The bill also proposed to specify that investigators may travel out-of-state when necessary in the course of an investigation.

LD 1864 An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate PUBLIC 663

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-849
	OTP-AM MIN	

LD 1864 was reported out pursuant to a joint order. The bill proposed to amend the provisions for a logo signing program on the interstate to facilitate implementation of the program.

Committee Amendment "A" (H849) proposed the majority report of the Joint Standing Committee on Transportation. It proposed additional provisions to clarify and facilitate the implementation of a logo sign program. It also proposed adding a fiscal note to the bill. This amendment was adopted.

Committee Amendment "B" (H850) proposed the minority report of the Joint Standing Committee on Transportation. It would have repealed authorization for a logo sign program on the interstate. This amendment was not adopted.

Enacted law summary

Public Law 1995, chapter 663 restricts logo signs on the interstate highway to areas of the interstate that are rural in character. It allows logo signs only for businesses providing gas, food, lodging and camping. It requires a separate logo sign be installed for a particular type of service if 3 or more qualified businesses are located at an exit. It clarifies that logos for more than one type of service may be displayed on a logo sign. It specifies when more than one logo sign is allowed per exit and prohibits more than 4 signs per exit

LD 1871 An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996, to Clarify the Maine Turnpike Authority's Budget Process and to Facilitate the Evaluation of Automated Toll Collection PUBLIC 613
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS A	OTP-AM	S-519 S-523

LD 1871 proposed allocation of additional turnpike revenues to pay for unbudgeted expenses caused by the delayed completion of the Maine Turnpike Authority's toll conversion project and the associated delay in the authority's planned reductions in the work force.

Committee Amendment "A" (S519) proposed to clarify that legislative approval is not required for capital expenditures by the Maine Turnpike Authority or for expenditures necessary to satisfy requirements of bond resolutions. This amendment also proposed to remove the requirement that the turnpike convert to an automated toll collection system prior to completing its alternatives evaluation.

Senate Amendment "A" to Committee Amendment "A" (§23) proposed to correct a typographical error.

Enacted law summary

Public Law 1995, chapter 613 allocates additional turnpike revenues to pay for unbudgeted expenses caused by the delayed completion of the Maine Turnpike Authority's toll conversion project. It clarifies that legislative approval is not required for capital expenditures by the Maine Turnpike Authority or for expenditures necessary to satisfy requirements of bond resolutions. Legislative approval is required for the authority's operating budget. It removes the requirement that the turnpike convert to an automated toll collection system prior to completing its alternatives evaluation.

Chapter 613 was enacted as an emergency measure effective April 3, 1996.

Joint Standing Committee on Transportation

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Air/Railroads</i>			
<u>Enacted</u>			
LD 1681	An Act Pertaining to the Northern New England Passenger Rail Authority	PUBLIC 543.....	306
LD 1682	An Act to Transfer the Responsibility for Air Search and Rescue from the Commissioner of Transportation to the Chief of the State Police	PUBLIC 555.....	306
<u>Not Enacted</u>			
	None		
<i>Commercial Vehicles/Weights</i>			
<u>Enacted</u>			
LD 1680	An Act Concerning Portable Scale Tolerances on the Interstate Highway System	PUBLIC 517.....	305
LD 1734	An Act to Amend the Commercial Vehicle Weight Laws	PUBLIC 546.....	308
LD 1782	An Act to Create the Motor Carrier Training Advisory Board	PUBLIC 605.....	309
<u>Not Enacted</u>			
LD 1836	An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities	ONTP.....	311
<i>Department of Transportation</i>			
<u>Enacted</u>			
LD 465	An Act to Improve the Local Road Assistance Program	PUBLIC 678.....	302
<u>Not Enacted</u>			
LD 59	An Act to Repeal the Sensible Transportation Policy Act	ONTP.....	302

Highway Fund

Enacted

LD 1830	An Act to Make Supplemental Allocations from the Highway Fund, Allocations from Other Funds and a General Fund Appropriation and to Amend Certain Transportation Laws	P & S 83 EMERGENCY..... 311
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Not Enacted

None

Miscellaneous

Enacted

LD 1619	An Act to Repeal the Sunset Provision for Distribution from the Maine Environmental Trust Fund	PUBLIC 508 EMERGENCY..... 303
LD 1829	Resolve, to Name a Portion of Highway in Millinocket in Honor of Prisoners of War and Those Designated as Missing in Action and to Name Portions of Roads That Follow the St. George River	RESOLVE 73 EMERGENCY..... 310
LD 1864	An Act to Facilitate the Implementation of a Logo Sign Program on the Interstate	PUBLIC 663..... 312

Not Enacted

None

Motor Vehicle Laws

Enacted

LD 1639	An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien	PUBLIC 645 EMERGENCY..... 303
LD 1687	An Act to Make Changes to the Motor Vehicle Laws	PUBLIC 584..... 307
LD 1740	An Act to Exempt Working Rural Mail Carriers from the Seat Belt Law	PUBLIC 597..... 308

Summary of Committee Action by Joint Standing Committee on Utilities and Energy

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills referred to committee	16	72.7%	4.0%
B. Bills carried over from 1st Regular Session	6	27.3%	1.5%
C. Bills carried over from 1st Special Session	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Bills Considered	22 *	100.0%	5.6%
II. <u>BILLS REPORTED OUT OF COMMITTEE</u>	<u>Number</u>	<u>% of Bills Reported Out By This Committee</u>	<u>% of All Bills Reported Out</u>
A. Unanimous Reports			
<i>OTP</i>	1	4.5%	0.3%
<i>OTP-AM</i>	10	45.5%	2.7%
<i>QNTP</i>	<u>7</u>	<u>31.8%</u>	<u>1.9%</u>
Total Unanimous Reports	18	81.8%	4.8%
B. Divided Reports			
<i>2-Way</i>	3	13.6%	0.8%
<i>3-Way</i>	1	4.5%	0.3%
<i>4-Way</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Divided Reports	4	18.2%	1.1%
Total Bills Reported Out	22 *	100.0%	5.9%
III. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of This Committee's Bill Load</u>	<u>% of All Bills Considered</u>
A. Bills enacted or finally passed			
<i>Public Laws</i>	6	27.3%	1.5%
<i>Private and Special Laws</i>	7	31.8%	1.8%
<i>Resolves</i>	0	0.0%	0.0%
<i>Constitutional Resolutions</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	13	59.1%	3.3%
B. Vetoes			
<i>Overrides</i>	0	0.0%	0.0%
<i>Sustained</i>	0	0.0%	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%	0.0%
IV. <u>NUMBER OF CONFIRMATION SESSIONS</u>	0	N/A	N/A

*Includes some bills reported out pursuant to Law or Joint Order.

Joint Standing Committee on Utilities and Energy

LD 734 **An Act to Revise the Ogunquit Sewer District Charter** ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARLETON	ONTP	

LD 734, which was carried over from the 1st Regular Session, proposed to repeal the charter of the Ogunquit Sewer District and replace that charter. It proposed to rearrange and combine sections of the original charter and to make a number of changes to the charter.

LD 828 **An Act to Provide Affordable Access to Information Services in All Communities of the State through Enhanced Library and School Telecommunications** PUBLIC 631

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM MAJ OTP-AM MIN	H-832

LD 828, which was carried over from the 1st Regular Session, proposed to establish a new state policy to promote public access to new telecommunications technologies and information networks. It proposed to require the Public Utilities Commission to develop library access plans to promote affordable public access to advanced telecommunications technologies and networks. It would have required the commission to consider a variety of options, including:

1. Reduced telephone rates for qualified public libraries;
2. Reduced service and equipment charges for installation of telephone lines and other equipment installed by a telephone utility for qualified public libraries;
3. Option plans which allow qualified public libraries to purchase blocks of time or to enter into other payment arrangements with a telephone utility; and
4. The development of a special library access fund to which telephone utilities would be required to contribute and that would be available to qualified public libraries to assist in paying the costs of acquiring and using advanced telecommunications technologies.

Committee Amendment "A" (H832) is the majority report. It replaced the bill and proposed to repeal an outdated provision requiring the Public Utilities Commission to submit a report. It proposed to establish a new state policy that affordable access to those information services that require a computer and rely on the use of the telecommunications network should be made available in all communities of the State without regard to geographic location. It also proposed to give the Public Utilities Commission the authority to do the following to carry out the goals of the State's telecommunications policy:

1. To require a telecommunications carrier offering intrastate telecommunications services to provide telecommunications services, including instruction and equipment related to such services, at reduced charges or at no charge to qualified libraries and schools for the establishment and use of a program providing access to information networks;

2. To require a telecommunications carrier offering intrastate telecommunications services to provide funds for qualified libraries and schools to obtain telecommunications services, including instruction and equipment related to such services, from other vendors; and
3. To establish a telecommunications access fund to which all telecommunications carriers offering telecommunications services in the State are required to contribute.

The amendment also proposed to impose limitations on the authority granted to the Public Utilities Commission by the Maine Revised Statutes, Title 35, section 7104A, subsection 1. It proposed to require the Public Utilities Commission to limit the annual cost to each telecommunications carrier of all programs to not more than 1.5% of its intrastate revenues; to ensure that funds are collected in a competitively neutral manner; to attribute any amount collected from a telecommunications carrier as an offset to any required intrastate support mechanism to preserve and advance universal service; and not to exercise its authority with respect to any telecommunications carrier other than a local exchange carrier serving more than 100,000 lines until September 30, 1997, except to the extent required by federal law.

The amendment proposed to define "qualified library," "qualified school," "telecommunications carrier" and "telecommunications service." It also proposed to require the Public Utilities Commission to report annually to the joint standing committee of the Legislature having jurisdiction over utilities matters on the progress made in meeting the goal of information access established in Title 35A, section 7101, subsection 4 and factors promoting or impeding the achievement of that goal.

The amendment proposed to provide for the repeal of the provision granting the Public Utilities Commission additional authority and the provision imposing limitations on that authority on February 1, 2001. The amendment also proposed to make the bill retroactive to May 1, 1995. Finally, the amendment proposed to clarify that the Public Utilities Commission's approval of NYNEX's plan to provide access to information networks and services to public schools and public libraries is authorized by this legislation.

The amendment also proposed to add a fiscal note to the bill.

Committee Amendment "B" (H833) is the minority report. It replaced the bill and proposed to do the same as the majority report, except it would have permitted the Public Utilities Committee to carry out its new authority only with respect to NYNEX and would have limited the annual cost to NYNEX to the amount approved by the commission in Docket Numbers 94-123 and 94-254. It also proposed to repeal those provisions on December 31, 2000. (Not adopted)

Enacted law summary

Public Law 1995, chapter 631 repeals an outdated provision in the law requiring the Public Utilities Commission to submit a report. It establishes a new state policy that affordable access to those information services that require a computer and rely on the use of the telecommunications network should be made available in all communities of the State without regard to geographic location. It also gives the Public Utilities Commission the authority to do the following to carry out the goals of the State's telecommunications policy.

1. It may require a telecommunications carrier offering intrastate telecommunications services to provide telecommunications services, including instruction and equipment related to such services, at reduced charges or at no charge to qualified libraries and

schools for the establishment and use of a program providing access to information networks.

2. It may require a telecommunications carrier offering intrastate telecommunications services to provide funds for qualified libraries and schools to obtain telecommunications services, including instruction and equipment related to such services, from other vendors.
3. It may establish a telecommunications access fund to which all telecommunications carriers offering telecommunications services in the State are required to contribute.

The law imposes limitations on the authority granted to the Public Utilities Commission by the Maine Revised Statutes, Title 35A, section 7104A, subsection 1. The Public Utilities Commission shall limit the annual cost to each telecommunications carrier of all programs to not more than 1.5% of its intrastate revenues; the Public Utilities Commission shall ensure that funds are collected in a competitively neutral manner; the Public Utilities Commission shall attribute any amount collected from a telecommunications carrier as an offset to any required intrastate support mechanism to preserve and advance universal service; and the Public Utilities Commission may not exercise its authority with respect to any telecommunications carrier other than a local exchange carrier serving more than 100,000 lines until September 30, 1997, except to the extent required by federal law.

The law defines "qualified library," "qualified school," "telecommunications carrier" and "telecommunications service." It also requires the Public Utilities Commission to report annually to the joint standing committee of the Legislature having jurisdiction over utilities matters on the progress made in meeting the goal of information access established in Title 35 section 7101, subsection 4 and factors promoting or impeding the achievement of that goal.

The law provides for the repeal of the provision granting the Public Utilities Commission additional authority and the provision imposing limitations on that authority on February 1, 2001. It clarifies that the Public Utilities Commission's approval of NYNEX's plan to provide access to information networks and services to public schools and public libraries is authorized by the Act. Finally, the law is retroactive to May 1, 1995.

LD 871 An Act Concerning the Calculation of Private Fire Protection Charges

ONTP

Sponsor(s)
ADAMS

Committee Report
ONTP

Amendments Adopted

LD 871, which was carried over from the 1st Regular Session, proposed to allow water utilities to establish rates for private fire protection that include recovery for a portion of the costs of the utilities' backup facilities, including mains, storage facilities and pumps.

LD 1533 An Act to Require the Public Utilities Commission to

ONTP

Ensure Telecommunications Service in Economic Development Areas

Sponsor(s)
DONNELLY

Committee Report
ONTP

Amendments Adopted

LD 1533, which was carried over from the 1st Regular Session, proposed to direct the Public Utilities Commission to ensure that commercial and industrial customers located in economic development areas can obtain telecommunications services at rates comparable to rates charged in more economically advantaged areas.

LD 1565 An Act to Create the Prospect Water Authority

ON

Sponsor(s)
WHITCOMB

Committee Report
ONTP

Amendments Adopted

LD 1565, which was carried over from the 1st Regular Session, proposed to create the Prospect Water Authority.

LD 1567 An Act to Facilitate Sewer and Water Main Extensions

PUBLIC 636

Sponsor(s)
OTT

Committee Report
OTP-AM

Amendments Adopted
H-796

LD 1567, which was carried over from the 1st Regular Session, proposed to repeal the requirement that, prior to constructing an extension, a sewer district obtain written assurance from the municipality through which the extension will pass that the extension and the user of the extension are in conformance with the municipality's plans and ordinances. It proposed to require the sewer district to instead consult with the municipality's code enforcement officer to determine compliance. It also proposed to require the licensing authority to obtain a bond from a private installer of a sewer or water line.

Committee Amendment "A" (H796) replaced the bill and proposed to amend the sanitary and sewer district laws that require a sanitary or sewer district to acquire from any municipality, prior to constructing a sewer extension, written assurance that the sewer extension is consistent with adopted municipal plans and ordinances regulating land use. It proposed to specify that it is the municipal officers or their designee who provides such written assurance and to require that they respond to a written request within 45 days or the written assurance would be deemed granted.

The amendment also proposed a procedure for appealing the decision of the municipal officers to the State Planning Office. It proposed that after a hearing, if the office determines that the sewer extension proposal is not inconsistent with the adopted municipal plans and ordinances, the office should issue written assurance that the proposal is consistent with the plans and ordinances, and the district could construct the sewer extension. It proposed that the decision of the State Planning Office constitutes final agency action.

The amendment also proposed to add a fiscal note to the bill.

House Amendment "A" to Committee Amendment "A" (H89) proposed to authorize a sanitary or sewer district that serves more than one municipality to construct an extension if that extension eliminates large licensed overboard discharges of 30,000 gallons per day or more by diverting the septage into the district's treatment system. To restrict use of this provision, the amendment proposed that such an extension must be a forced main construction with no direct connections except to eliminate another overboard discharge of 30,000 gallons per day or more. Any service that does not meet these restrictions would need to receive the written assurance required by the Maine Revised Statutes, Title 38, section 1163, subsection 1 and section 1252, subsection 7. (Not adopted)

Enacted law summary

Public Law 1995, chapter 636 amends the sanitary and sewer district laws that require a sanitary or sewer district to acquire from any municipality, prior to constructing a sewer extension, written assurance that the sewer extension is consistent with adopted municipal plans and ordinances regulating land use. It specifies that it is the municipal officers or their designee who provides such written assurance and requires that they respond to a written request within 45 days or the written assurance is deemed granted.

The law also provides a procedure for appealing the decision of the municipal officers to the State Planning Office. After a hearing, if the office determines that the sewer extension proposal is not inconsistent with the adopted municipal plans and ordinances, the office shall issue written assurance that the proposal is consistent with the plans and ordinances, and the district may construct the sewer extension. The decision of the State Planning Office constitutes final agency action.

LD 1600 An Act to Amend the Charter of Milbridge Water District

P & S 55

Sponsor(s)
LAYTON

Committee Report
OTP-AM

Amendments Adopted
H-690

LD 1600 proposed to amend the charter of the Milbridge Water District to provide for the election of the district's trustees from among the district's customers. It also proposed to remove a provision from the charter regarding restrictions on the indebtedness of the district.

Committee Amendment "A" (H690) proposed to require that each of the district's trustees must be 18 years of age or older, a resident of the district and reside in a household to which the district's service is provided. It also proposed to clarify that when a trustee ceases to be a resident of the district or reside in a household to which the district's service is provided, that trustee vacates the office.

Enacted law summary

Private and Special Law 1995, chapter 55 amends the charter of the Milbridge Water District to require that each of the district's trustees must be 18 years of age or older, a resident of the district and reside in a household to which the district's service is provided. It also clarifies that when a trustee ceases to be a resident of the district or reside in a household to which the district's service is provided, that trustee vacates the office. Finally, it removes a provision from the charter regarding restrictions on the indebtedness of the district.

LD 1602 An Act to Amend the Bowdoinham Water District Charter

P & S 56

Sponsor(s)
SHIAH

Committee Report
OTP-AM

Amendments Adopted
H-691

LD 1602 proposed to amend the charter of the Bowdoinham Water District by removing reference to a debt limit.

Committee Amendment "A" (H691) replaced the bill and proposed to amend the title to reflect the changes. The amendment proposed to increase the debt limit of the Bowdoinham Water District from \$500,000 to \$2,500,000. The amendment also proposed to remove from the charter of the Bowdoinham Water District reference to the maximum compensation of the treasurer and all references to the compensation of the trustees. The amendment also proposed to remove the emergency preamble and the emergency clause.

Enacted law summary

Private and Special Law 1995, chapter 56 increases the debt limit of the Bowdoinham Water District from \$500,000 to \$2,500,000. It also removes from the charter of the Bowdoinham Water District reference to the maximum compensation of the treasurer and all references to the compensation of the trustees.

LD 1605 An Act to Amend the Charter of the East Pittston Water District

P & S 57
EMERGENCY

Sponsor(s)
GUERRETTE
BEGLEY

Committee Report
OTP-AM

Amendments Adopted
H-692

LD 1605 proposed to amend the charter of the East Pittston Water District by expanding the district territory, thereby allowing the district to provide drinking water to homeowners with contaminated wells. It also proposed to amend the charter by changing the date that the annual election to elect board members is to be held and clarifying how vacancies are filled.

Committee Amendment "A" (H692) proposed to add an emergency preamble and an emergency clause to the bill. The amendment also proposed to add a provision to the charter of the East Pittston Water District exempting the district, in cases of well contamination, from the requirement that the district petition and obtain the approval of the Public Utilities Commission before taking water to supply the inhabitants of the district with pure water, provided the district has obtained the approval of the Department of Environmental Protection.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 57 amends the charter of the East Pittston Water District by expanding the district territory, thereby allowing the district to provide drinking water to homeowners with contaminated wells. It also amends the charter by changing the date that the annual election to elect board members is to be held and clarifying how vacancies are filled. It also adds a provision to the charter exempting the district, in cases of well contamination, from the requirement that the district petition and obtain the approval of the Public Utilities

Commission before taking water to supply the inhabitants of the district with pure water, provided the district has obtained the approval of the Department of Environmental Protection.

Chapter 57 was enacted as an emergency measure effective March 5, 1996.

LD 1616 An Act Relating to Pole Attachment Rate Disputes

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARPENTER	ONTP	A
	OTP-AM	B
	OTP-AM	C

LD 1616 proposed to transfer jurisdiction for settling pole attachment rate disputes from the Public Utilities Commission to the Federal Communications Commission.

Committee Amendment "A" (S474) is one of two minority reports. It replaced the bill and proposed to maintain the Maine Public Utilities Commission's jurisdiction over pole attachment rate disputes but to specify that the maximum rate that may be prescribed by the commission for pole attachments used by a cable television system solely to provide cable service may not be more than 10% higher than the average pole attachment rate in the other 5 New England states.

The amendment proposed to require the commission to conduct an annual survey of the pole attachment rates charged in the 6 New England states and to calculate the average pole attachment rate in the other 5 New England states for attachments to solely owned and jointly owned poles, with both 2 attachments and 3 attachments. The amendment also proposed to require the commission to submit an annual report to the Joint Standing Committee on Utilities and Energy on the status of pole attachment rate disputes in the State.

Finally, the amendment proposed to specify that existing agreements between public utilities and cable companies are not affected by this legislation.

The amendment also proposed to add a fiscal note to the bill. (Not adopted)

Committee Amendment "B" (S475) is one of two minority reports of the Joint Standing Committee on Utilities and Energy. It replaced the bill and proposed to maintain the Maine Public Utilities Commission's jurisdiction over pole attachment rate disputes but to specify that the maximum rate that may be prescribed by the commission for pole attachments by a cable television system is \$17 per year per pole. The amendment proposed to provide for repeal of the rate cap 90 days after the adjournment of the First Regular Session of the 120th Legislature. (Not adopted)

LD 1620 An Act to Amend the Charter of the East Boothbay Water District

P & S 62
EMERGENCY

Sponsor(s)
HEINO

Committee Report
OTP-AM

Amendments Adopted
H-750
H-760

LD 1620 proposed to increase the debt limit of the East Boothbay Water District from \$475,000 to \$900,000. It also proposed to increase the salaries of the trustees from \$50 to \$200 and the treasurer's salary from \$200 to \$500.

Committee Amendment "A" (H750) replaced the bill and proposed to decrease the territory of the East Boothbay Water District. It also proposed to remove from the district charter the ceiling on the salary that may be paid to the treasurer of the district, and instead to permit the trustees to fix the treasurer's salary. The amendment also proposed to remove the ceiling on trustees' compensation and to replace it with reference to the Maine Revised Statutes, Title-~~35~~ section 6303.

The amendment proposed to permit the trustees of the district to incur debt on behalf of the district in an amount exceeding the current debt limit by submitting a proposed new debt limit for approval in a local referendum, and proposed specific procedures for conducting such a referendum.

House Amendment "A" to Committee Amendment "A" (H760) proposed to correct a technical error.

Enacted law summary

Private and Special Law 1995, chapter 62 decreases the territory of the East Boothbay Water District. It removes from the district charter the ceiling on the salary that may be paid to the treasurer of the district, and instead permits the trustees to fix the treasurer's salary. It also removes the ceiling on trustees' compensation and replaces it with reference to the Maine Revised Statutes, Title 35-A, section 6303.

It permits the trustees of the district to incur debt on behalf of the district in an amount exceeding the current debt limit by submitting a proposed new debt limit for approval in a local referendum, and specifies procedures for conducting such a referendum.

Chapter 62 was enacted as an emergency measure effective March 26, 1996.

See also LD 1638.

LD 1631 An Act to Increase the Borrowing Capacity of the Ashland Water and Sewer District

P & S 63
EMERGENCY

Sponsor(s)
DESMOND

Committee Report
OTP-AM

Amendments Adopted
H-761

LD 1631 proposed to increase the borrowing capacity of the Ashland Water and Sewer District from \$1,000,000 to \$1,500,000, effective upon approval by referendum.

Committee Amendment "A" (H761) replaced the bill and proposed to permit the trustees of the Ashland Water and Sewer District to incur debt on behalf of the district in an amount not exceeding \$2,000,000 without obtaining approval of the voters, and to permit the trustees to incur debt exceeding that amount only upon approval by the inhabitants of the district. The amendment also proposed specific procedures for obtaining approval by local referendum.

Enacted law summary

Private and Special Law 1995, chapter 63 permits the trustees of the Ashland Water and Sewer District to incur debt on behalf of the district in an amount not exceeding \$2,000,000 without obtaining approval of the voters, and permits the trustees to incur debt exceeding that amount only upon approval by the inhabitants of the district. The law also specifies procedures for obtaining approval by local referendum.

Chapter 63 was enacted as an emergency measure effective March 26, 1996.

LD 1638 An Act to Revise the Charter of the Boothbay Harbor Water System

P & S 74
EMERGENCY

Sponsor(s)
HEINO
BEGLEY

Committee Report
OTP-AM

Amendments Adopted
H-795

LD 1638 proposed to amend the charter of the Town of Boothbay Harbor water system to clarify that the service area of the Boothbay Harbor water system includes territory also served by the East Boothbay Water District. It also proposed to grant to the Boothbay Harbor water system the exclusive authority to provide water services to portions of Boothbay and all of Boothbay Harbor and Southport, and the nonexclusive authority to provide water services to Squirrel Island, Mouse Island and other adjacent islands.

Committee Amendment "A" (H795) replaced the bill and proposed to amend the title and to add a mandate preamble, an emergency preamble and an emergency clause. It proposed to repeal the charter of the Boothbay Harbor water system and to replace that original charter with updated language. The amendment proposed to clarify the service area of the Boothbay Harbor water system and to provide that any vacancies on the board of water commissioners are filled by appointment by the remaining 2 water commissioners, with the approval of the municipal officers. The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Private and Special Law 1995, chapter 74 repeals the charter of the Boothbay Harbor water system and replaces that original charter with updated language. It clarifies the service area of the Boothbay Harbor water system and provides that any vacancies on the board of water commissioners are filled by appointment by the remaining 2 water commissioners, with the approval of the municipal officers.

Chapter 74 was enacted as an emergency measure effective April 8, 1996.

LD 1641 An Act to Amend the Maine Sanitary District Enabling Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CIANCHETTE	ONTP	

LD 1641 proposed to provide a method for the board of trustees or the residents of a sanitary district to initiate the dissolution of the sanitary district. It proposed to require the Commissioner of Environmental Protection to oversee the trustees in the winding up of the affairs of a dissolved district.

LD 1668 An Act to Protect Sources of Drinking Water in the Towns of ONTP
Searsport, Stockton Springs and Prospect

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH	ONTP MAJ OTP-AM MIN	

LD 1668 proposed to amend the charter of the Searsport Water District as follows: to provide that, unless specifically permitted by law, the district may not provide service to any entity located outside the district to which it is not providing service on July 1, 1995; to require that any new debt incurred by the district after July 1, 1995 must be approved by a majority of the legal voters, voting in a special election, within all towns in which the district provides service; to require the district to undertake all reasonable and necessary measures to protect the water quality of Half Moon Pond and grant authority to the district to regulate body contact with and the use of engines in or on Half Moon Pond; and to require the towns of Searsport and Prospect to take all reasonable measures to preserve the water quality of Half Moon Pond.

LD 1668 also proposed to expand the territory of the Searsport Water District to include the Town of Stockton Springs, subject to referendum approval in the Town of Stockton Springs, and to add 2 new trustees to the district board to be appointed by the municipal officers of the Town of Stockton Springs. It proposed to provide for a transition for adding the 2 new trustees to the district's board.

It also proposed to provide that property in the Town of Stockton Springs may be taken to pay, in the case of default by the district, district debts only if the debt is incurred after the inclusion of the Town of Stockton Springs in the district.

Committee Amendment "A" (H742) is the minority report. It replaced the bill and proposed to prohibit the Searsport Water District and the Town of Searsport and the Town of Prospect from undertaking any activity that would contribute to the degradation of the purity of the water of, and the watershed affecting, Half Moon Pond.

The amendment also proposed to provide that, unless specifically permitted by law, the district could not provide service to any entity located outside the Town of Searsport and the Town of Stockton Springs if it was not providing service to that entity on July 1, 1996. (Not adopted)

LD 1752 An Act to Merge the Charter of the Jackman Water and Sewer Districts ONTP

Sponsor(s)
DEXTER
MILLS

Committee Report
ONTP

Amendments Adopted

LD 1752 proposed to combine the Jackman Water District and the Jackman Sewer District.

LD 1768 An Act to Standardize the Creation of Water Districts PUBLIC 616

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-811

LD 1768 is the product of a legislative staff study conducted by the staff of the Joint Standing Committee on Utilities and Energy. LD 1768 proposed to standardize the creation of water districts by providing enabling legislation that would define the core powers and duties of new water districts, which would be incorporated by reference in new charters.

Committee Amendment "A" (H811) proposed to make a number of technical and substantive changes to the bill, including clarifying the intent of the bill.

Enacted law summary

Public Law 1995, chapter 616 establishes standard provisions in statute that may be incorporated by reference in the charters of new water districts. The standard provisions, which are not mandatory, include the following: powers of standard districts; authority to acquire property; eminent domain; trustee selection; trustee compensation; organization; district debt; tax exemption; and rates.

The law also clarifies and consolidates statutory provisions related to water districts.

LD 1783 An Act to Repeal the Sunset and Reporting Requirements Regarding Transportation of Unscheduled Freight in Casco Bay PUBLIC 559

Sponsor(s)
ADAMS

Committee Report
OTP

Amendments Adopted

LD 1783 proposed to repeal the sunset and reporting requirements relating to the transportation of unscheduled freight in Casco Bay contained in the Maine Revised Statutes, Title 13, section 5111.

Enacted law summary

Public Law 1995, chapter 559 repeals the sunset and reporting requirements relating to the transportation of unscheduled freight in Casco Bay.

LD 1793 An Act to Extend the Electric Rate Stabilization Projects

PUBLIC 698
EMERGENCY

Sponsor(s)
KIEFFER

Committee Report
OTP-AM

Amendments Adopted
S-458

LD 1793 proposed to extend from February 1, 1996 to February 1, 1997 the period during which certificates of approval for electric rate stabilization projects may be issued by the Public Utilities Commission and from May 1, 1996 to February 1, 1997 the period during which the Finance Authority of Maine may make loans for electric rate stabilization projects.

It also proposed to require the Finance Authority of Maine and the Public Utilities Commission to each make an additional report to the Legislature regarding electric rate stabilization project loans and agreements.

Committee Amendment "A" (S458) proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 698 extends from February 1, 1996 to February 1, 1997 the period during which certificates of approval for electric rate stabilization projects may be issued by the Public Utilities Commission and from May 1, 1996 to February 1, 1997 the period during which the Finance Authority of Maine may make loans for electric rate stabilization projects. It also requires the Finance Authority of Maine and the Public Utilities Commission to each make an additional report to the Legislature regarding electric rate stabilization project loans and agreements.

Chapter 698 was enacted as an emergency measure effective April 11, 1996.

LD 1816 An Act to Create Uniformity in the Granting of Electric and Gas Utility Easements

ONTP

Sponsor(s)
LAWRENCE

Committee Report
ONTP

Amendments Adopted

LD 1816 proposed to prohibit natural gas pipelines from taking by eminent domain lands or rights in lands or easements located within 300 feet of an inhabited dwelling.

LD 1869 An Act to Increase the Debt Limit of the Madawaska Water District

P & S 75

Sponsor(s)
AHEARNE
PARADIS

Committee Report
OTP-AM

Amendments Adopted
H-845

LD 1869 proposed to increase the debt limit of the Madawaska Water District and to replace archaic language in the district charter that pertains to water rates with newer language.

Committee Amendment "A" (H845) replaced the bill and proposed to permit the Madawaska Water District to issue, through its trustees, notes and bonds to an amount not exceeding \$1,500,000 without obtaining the approval of the voters for a higher debt limit. It also proposed specific procedures for establishing a higher debt limit through a local referendum.

The amendment also proposed to replace archaic language in the district charter that pertains to water rates with newer language.

Enacted law summary

Private and Special Law 1995, chapter 75 permits the Madawaska Water District to issue, through its trustees, notes and bonds to an amount not exceeding \$1,500,000 without obtaining the approval of the voters for a higher debt limit and specifies procedures for establishing a higher debt limit through a local referendum. It also replaces archaic language in the district charter that pertains to water rates with newer language.

LD 1877 An Act to Amend the Laws Concerning Enhanced 91-1 PUBLIC 672

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP MAJ	
	ONTP MIN	

LD 1877 is the majority report of the Joint Standing Committee on Utilities and Energy, reported out pursuant to Public Law 1993, chapter 566, section 10. It proposed to maintain the current 2¢ E-9-1-1 surcharge through July 31, 1996 and to increase the surcharge to 20¢ beginning August 1, 1996. It proposed to sunset the surcharge on August 1, 1998.

LD 1877 also proposed to require the joint standing committee of the Legislature having jurisdiction over utilities and energy matters to make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding expenditures from the E9-1-1 fund.

It also proposed to establish that any information obtained by a public or private safety agency, including a public safety answering point, for the purpose of providing 91-1 services that reveals the name, address or telephone number of a person placing an 91-1 call is confidential pursuant to the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph A. The information could be disclosed only to public or private safety agencies for processing emergency calls and providing emergency services and to law enforcement officers for investigating criminal conduct.

LD 1877 proposed to require the Public Utilities Commission to report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on or before February 1, 1997 on alternative funding mechanisms for the 91-1 system. It also proposed to give authority to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters to report out legislation regarding the 91-1 system during the First and Second Regular Sessions of the 118th Legislature.

It also proposed to include an allocation and a fiscal note.

Senate Amendment "A" (S535) proposed to restrict county governments or sheriff's departments that choose to provide E9-1-1 services that are not provided to all communities in

the county from paying for those additional ~~E~~-1-1 services with property tax revenues through the county budget. (Not adopted)

Enacted law summary

Public Law 1995, chapter 672 maintains the current 2¢~~E~~-1-1 surcharge through July 31, 1996 and increases the surcharge to 20¢ beginning August 1, 1996. It sunsets the surcharge on August 1, 1998.

It requires the joint standing committee of the Legislature having jurisdiction over utilities and energy matters to make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding expenditures from the ~~E~~-9-1-1 fund.

The law establishes that any information obtained by a public or private safety agency, including a public safety answering point, for the purpose of providing ~~E~~-1-1 services that reveals the name, address or telephone number of a person placing an ~~E~~-1-1 call is confidential pursuant to the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph A. The information may be disclosed only to public or private safety agencies for processing emergency calls and providing emergency services and to law enforcement officers for investigating criminal conduct.

The law requires the Public Utilities Commission to report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on or before February 1, 1997 on alternative funding mechanisms for the ~~E~~-1-1 system. It also gives authority to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters to report out legislation regarding the ~~E~~-9-1-1 system during the First and Second Regular Sessions of the 118th Legislature.

Joint Standing Committee on Utilities and Energy

SUBJECT INDEX

		<u>Final Disposition</u>	<u>Page #</u>
<i>Charter Changes</i>			
<u>Enacted</u>			
LD 1600	An Act to Amend the Charter of Milbridge Water District	P & S 55.....	322
LD 1602	An Act to Amend the Bowdoinham Water District Charter	P & S 56.....	323
LD 1605	An Act to Amend the Charter of the East Pittston Water District	P & S 57 EMERGENCY.....	323
LD 1620	An Act to Amend the Charter of the East Boothbay Water District	P & S 62 EMERGENCY.....	325
LD 1631	An Act to Increase the Borrowing Capacity of the Ashland Water and Sewer District	P & S 63 EMERGENCY.....	325
LD 1638	An Act to Revise the Charter of the Boothbay Harbor Water System	P & S 74 EMERGENCY.....	326
LD 1869	An Act to Increase the Debt Limit of the Madawaska Water District	P & S 75.....	329
<u>Not Enacted</u>			
LD 734	An Act to Revise the Ogunquit Sewer District Charter	ONTP.....	318
LD 1565	An Act to Create the Prospect Water Authority	.....	ONTP
LD 1668	An Act to Protect Sources of Drinking Water in the Towns of Searsport, Stockton Springs and Prospect	ONTP.....	327
LD 1752	An Act to Merge the Charter of the Jackman Water and Sewer Districts	ONTP.....	328
<i>Electricity</i>			
<u>Enacted</u>			
LD 1793	An Act to Extend the Electric Rate Stabilization Projects	PUBLIC 698 EMERGENCY.....	329

Not Enacted

None

Ferry Service

Enacted

LD 1783 **An Act to Repeal the Sunset and Reporting Requirements
Regarding Transportation of Unscheduled Freight in
Casco Bay** PUBLIC 559..... **328**

Not Enacted

None

Gas Utilities

Enacted

None

Not Enacted

LD 1816 **An Act to Create Uniformity in the Granting of Electric
and Gas Utility Easements** ONTP..... **329**

General Utilities

Enacted

None

Not Enacted

LD 1616 **An Act Relating to Pole Attachment Rate Disputes** ONTP..... **324**

Telecommunications

Enacted

LD 828 **An Act to Provide Affordable Access to Information Services
in All Communities of the State through Enhanced Library
and School Telecommunications** PUBLIC 631..... **318**

LD 1877 **An Act to Amend the Laws Concerning Enhanced 91-1** PUBLIC 672..... **330**

Not Enacted

LD 1533	An Act to Require the Public Utilities Commission to Ensure Telecommunications Service in Economic Development Areas	ONTP.....	321
----------------	---	-----------	------------

Water and Sewer (non-charter)

Enacted

LD 1567	An Act to Facilitate Sewer and Water Main Extensions	PUBLIC 636.....	321
----------------	---	-----------------	------------

LD 1768	An Act to Standardize the Creation of Water Districts	PUBLIC 616.....	328
----------------	--	-----------------	------------

Not Enacted

LD 871	An Act Concerning the Calculation of Private Fire Protection Charges	ONTP.....	320
---------------	---	-----------	------------

LD 1641	An Act to Amend the Maine Sanitary District Enabling Act	ONTP.....	327
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117th Legislature 1st Special Session Summary of Legislative Activity

I. <u>BILLS CONSIDERED</u>	<u>Number</u>	<u>% of Bills Considered</u>
A. Bills referred to committee	8	57.1%
<i>Bills referred and reported out</i>	5	35.7%
<i>Bills carried over to Second Regular Session</i>	3	21.4%
B Bills introduced without reference to committee	5	35.7%
C First session bills recalled from Governor	<u>1</u>	<u>0.3%</u>
Total Bills Considered	14	100.0%
II. <u>FINAL DISPOSITION OF BILLS</u>	<u>Number</u>	<u>% of Bills Considered</u>
A. Bills enacted or finally passed		
<i>Public Laws</i>	7	50.0%
<i>Private and Special Laws</i>	1	7.1%
<i>Resolves</i>	1	7.1%
<i>Constitutional Resolutions</i>	<u>0</u>	0.0%
Total Enacted or Finally Passed	9	64.3%
B. Bills vetoed by Governor		
<i>Overrides</i>	0	0.0%
<i>Sustained</i>	0	0.0%
<i>Pocket</i>	<u>0</u>	<u>0.0%</u>
Total Veto Actions	0	0.0%

**117th Legislature
First Special Session
November 28 to December 1, 1995**

LD 1301

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State

PUBLIC 505
EMERGENCY

Sponsor(s)

PENDEXTER
BAILEY

Committee Report

Amendments Adopted

S-331
S-414

LD 1301 proposed to repeal the Board of Commercial Driver Education and transfer its oversight and rulemaking authority to the Secretary of State. LD 1301 was introduced, referred to the Transportation Committee, unanimously reported OTP-AM, enacted in both chambers in the First Regular Session, but not signed by the Governor. The bill was recalled from the Governor's desk during the First Special Session, further amended and signed by the Governor as an emergency measure effective January 1, 1996, except that the transfer of driver education programs to the Secretary of State took effect May 1, 1996.

Committee Amendment "A" (S-331) was added to the bill in the First Regular Session. The amendment proposed to clarify the distinction between commercial driver education school and noncommercial driver education school. It clarified that a licensed driver education teacher or instructor is authorized to teach driver education as an employee or affiliate of a licensed driver education school. It reduced the examination fee proposed in the bill for a Class C operator's license examination from \$15 to \$12. Currently, a Class C license exam is \$10. This amendment also added transition provisions, allocation sections and a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-414) was added when the bill was recalled from the Governor's desk in the First Special Session. The amendment proposed to restore the examination fee for a Class C operator's license to the current price of \$10, continue the current exemption for driver education teachers and noncommercial driver education license fees for commercial driver education schools and instructors at \$250 and \$125, respectively, until January 1, 1997, reduce license fees for driver education schools and instructors on January 1, 1997 and provide a delayed effective date of May 1, 1996 for transferring oversight responsibility to the Secretary of State.

Enacted law summary

Public Law 1995, chapter 505 repeals the Board of Commercial Driver Education and transfers its oversight and rulemaking authority to the Secretary of State.

**An Act to Implement the Productivity Recommendations of
the Department of Transportation and Make Adjustments to
Highway Fund Allocations for Fiscal Years 1995-96 and
1996-97**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'GARA	OTP-AM A	H-671
STEVENS A	OTP-AM B	S-416
	OTP-AM C	

LD 1587 was referred to the Joint Standing Committee on Transportation and proposed the following. Part A made supplemental allocations from the Highway Fund, the Federal Expenditure Fund and the Highway Garage Fund. Parts B and C clarified the assignment of aeronautic functions within the Department of Transportation; abolished the Bureau of Transportation Services; and authorized the issuance of up to \$40,000,000 in special obligation bonds of the Maine Turnpike Authority to provide funds to the Department of Transportation for projects that are determined to bear a sufficient relationship to travelers on the turnpike. These bonds would be secured by not more than \$4,700,000 of the annual revenues of the turnpike that would be deducted from the operating surplus of the authority that previously has been provided to the department.

Committee Amendment "A" (H671) is the majority report. This amendment proposed to require special obligation bonds to be issued no later than June 30, 1997. It clarified the process by which the Department of Transportation and the Maine Turnpike Authority determine projects eligible for funding from this source. It added a section of unallocated law providing that the requirements of the Maine Revised Statutes, Title 23, section 1974, former subsection 4 are reflected in Title 23, section 1974, subsection 6 for purposes of any resolution initially adopted prior to the repeal of subsection 4. It also made technical changes to the bill.

Committee Amendment "B" (H672) is one of 2 minority reports. It proposed to eliminate allocations in the bill for the state highway maintenance paving program, the underground fuel tank program, the underground floor drain program and the hazardous waste storage program. It reduced the allocation in the bill to the sand salt storage program.

This amendment also would have lowered the maximum amount of bonds issued for the purpose of funding Department of Transportation projects from \$40,000,000 to \$18,000,000. It required the bonds to be issued prior to January 1, 1997. It clarified the process by which the Department of Transportation and the authority determine projects eligible for funding from this source. It added a section of unallocated law to state that the provisions of the Maine Revised Statutes, Title 23, section 1974, former section 4 are reflected in Title 23, section 1974, subsection 6 for purposes of any resolution initially adopted prior to the repeal of Title 23, section 1974, subsection 4. It also made technical changes to the bill. (Not adopted)

Committee Amendment "C" (H673) is a second minority report. It would have provided for General Fund appropriations to the State Police and corresponding deallocations from the Highway Fund to the State Police. These appropriations and deallocations would have resulted in the State Police being funded 66% from the Highway Fund and 34% from the General Fund for fiscal year 1995-96 and a 61% to 39% ratio for fiscal year 1996-97. It reduced the allocation to the Sand-salt Storage Program in the original bill.

Part D of this amendment provided for a \$9,800,000 deappropriation for the 1996-97 biennium from the General Fund based on allotment reserves and savings plans. This \$9,800,000 was allocated to Highway Fund programs in Part A of this amendment.

This amendment also lowered the maximum amount of bonds issued for the purpose of funding Department of Transportation projects from \$40,000,000 to \$18,000,000 and required the bonds to be issued prior to January 1, 1997. It clarified the process by which the Department of Transportation and the Maine Turnpike Authority determine projects eligible for funding from this source. It added a section of unallocated law to provide that the provisions of the Maine Revised Statutes, Title 23, section 1974, former section 4 are reflected in subsection 6 of that section for purposes of any resolution initially adopted prior to the repeal of subsection 4. It also made technical changes to the bill. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H674) struck the text of the committee amendment and replaced it with language that eliminated the issuance of \$34,000,000 in special obligation bonds of the Maine Turnpike Authority for the Department of Transportation projects. This amendment funded the current Transportation Investment Program backlog by utilizing \$30,000,000 in General Fund allotment reserve savings as well as approximately \$4,000,000 in additional Highway Fund productivity savings in fiscal year 1996. The amendment restored the State Police funding ratio to 50% General Fund and 50% Highway Fund. (Not adopted)

House Amendment "B" to Committee Amendment "A" (H678) removed the provisions of Committee Amendment "A" to the bill and replaced them with the provisions of Committee Amendment "B" to the bill. (Not adopted)

Senate Amendment "A" to Committee Amendment "A" (S112) struck the text of the committee amendment and replaced it with the following. It eliminated the issuance of \$34,000,000 in special obligation bonds of the Maine Turnpike Authority for the Department of Transportation projects. This amendment funded the current Transportation Investment Program backlog by utilizing \$30,000,000 in General Fund allotment reserve savings as well as approximately \$4,000,000 in additional Highway Fund productivity savings in fiscal year 1996. The amendment restored the State Police funding ratio to 50% General Fund and 50% Highway Fund. (Not adopted)

Senate Amendment "B" to Committee Amendment "A" (S113) struck the text of the committee amendment and replaced it with the following. It eliminated the issuance of \$34,000,000 in special obligation bonds of the Maine Turnpike Authority for the Department of Transportation projects. This amendment funded the current Transportation Investment Program backlog by utilizing \$30,000,000 in General Fund allotment reserve savings as well as approximately \$4,000,000 in additional Highway Fund productivity savings in fiscal year 1996. The amendment restores the State Police funding ratio to 50% General Fund and 50% Highway Fund. (Not adopted)

Senate Amendment "C" to Committee Amendment "A" (S115) removed the text of the committee amendment and replaced it like that in Committee Amendment "C". (Not adopted)

House Amendment "A" (H677) included General Fund deappropriations from the Legislature of \$250,000 in fiscal year 1996 and \$750,000 in fiscal year 1997 to offset additional General Fund appropriations in those same amounts to the Department of Transportation, Highway and Bridge Improvement program. (Not adopted)

House Amendment "B" (H681) removed \$34,000,000 from the Highway and Bridge Improvement Account that would have been used for federal demonstration projects and appropriated \$11,000,000 from the General Fund and allocated \$6,000,000 from the Highway and Bridge Improvement Account for those projects. The remaining \$17,000,000 would have come from a bond issue. (Not adopted)

Senate Amendment "A" (S416) removes the emergency preamble and the emergency clause from the bill.

Enacted law summary

Public Law 1995, chapter 504 makes supplemental allocations from the Highway Fund, the Federal Expenditure Fund and the Highway Garage Fund. It clarifies the assignment of aeronautic functions within the Department of Transportation; abolishes the Bureau of Transportation Services; and authorizes the issuance of up to \$40,000,000 in special obligation bonds of the Maine Turnpike Authority to provide funds to the Department of Transportation for projects that are determined to bear a sufficient relationship to travelers on the turnpike. These bonds would be secured by not more than \$4,700,000 of the annual revenues of the turnpike that would be deducted from the operating surplus of the authority that previously has been provided to the department. The bonds must be issued no later than June 30, 1997. Chapter 504 clarifies the process by which the Department of Transportation and the Maine Turnpike Authority determine projects eligible for funding from this source. Chapter 504 also adds a section of unallocated law providing that the requirements of the Maine Revised Statutes, Title 23, section 1974, former subsection 4 dealing with the transfer of revenues from the turnpike to the department, are reflected in Title 23, section 1974, subsection 6 for purposes of any resolution initially adopted prior to the repeal of subsection 4. It also makes technical changes to the bill.

LD 1588 An Act to Clarify the Referendum Recount Process

PUBLIC 506
EMERGENCY

Sponsor(s)
NADEAU

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
H-669

LD 1588 was referred to the Joint Standing Committee on Legal and Veterans' Affairs and proposed to establish the procedure for a statewide referendum recount. Current law governs how a statewide referendum recount is to be requested, but not how it is to be conducted. The procedure outlined in this bill provides for a process that allows scrutiny of ballots for which the intent of the voter is unclear or for which the eligibility of the voter to cast the ballot has been challenged.

Committee Amendment "A" (H669), which is the majority, proposed to strike and replace the substance of the bill. Under this amendment, the Secretary of State was required to conduct statewide referendum recounts using the same process as required for candidate recounts.

This amendment specified that the process applies to pending recount requests.

This amendment directed the Joint Standing Committee on Legal and Veterans Affairs to report out legislation to the Second Regular Session of the 117th Legislature related to the recount process for referendum questions.

This amendment also adds a fiscal note.

Enacted law summary

Public Law 1995, chapter 506 requires the Secretary of State to conduct statewide referendum recounts using the same process as required for candidate recounts. It specifies that the process

applies to pending recount requests. Chapter 506 directs the Joint Standing Committee on Legal and Veterans Affairs to report out legislation to the Second Regular Session of the 117th Legislature related to the recount process for referendum questions. The law was enacted as an emergency measure effective December 7, 1995.

LD 1589 An Act to Implement the Recommendations of the Productivity Realization Task Force PUBLIC 502 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-657
	OTP-AM MIN	H-660
		H-663
		H-664
		H-665
		H-668
		H-675
		H-676
		S-410
		S-411

LD 1589 was referred to the Joint Standing Committee on Appropriations and Financial Affairs. The bill proposed to implement the first round of recommendations of the Productivity Realization Task Force. The bill was 187 pages and contained numerous provisions, most of which were adopted. Additionally, 23 amendments were proposed, 10 of which were adopted. The enacted law is summarized below.

Enacted law summary

Public Law 1995, chapter 502 implements the first round of recommendations of the Productivity Realization Task Force. The law is designed to achieve savings during the 117th biennium. Chapter 502:

1. Makes supplemental appropriations from the General Fund and supplemental allocations from various dedicated funds for the biennium to implement recommendations of the task force.
2. Reorganizes the Department of Agriculture, Food and Rural Resources and establishes the Maine Potato Board as an independent public instrumentality separate from the department.
3. Reduces the number of regional service delivery areas in the Department of Human Services from 5 to 3.
4. Changes the Division of Public Health Nursing to the Public Health Nursing Program.
5. Repeals the Division of Dental Health.
6. Combines the Office of Child Care Coordination with Head Start and creates a new office called the Office of Child Care and Head Start. It also transfers the Office of Child Care and Head Start from the jurisdiction of the Bureau of Child and Family Services to the Division of Purchased and Support Services.

7. Combines the Bureau of Public Lands and Bureau of Parks and Recreation within the Department of Conservation into a single agency, the Bureau of Parks and Lands; establishes the Bureau of Parks and Lands within the Department of Conservation, defines the position of deputy director of the bureau, and specifies that the deputy director is appointed by the commissioner; and combines the Maine Geological Survey and the Natural Areas Program into a single unit, the Natural Resources Information and Mapping Center.
8. Requires periodic court determination of whether reasonable efforts have been made to prevent or eliminate the need for removal of a juvenile from the juvenile's home and as to whether continuation in the home is contrary to the welfare of the juvenile before the juvenile is committed to the Maine Youth Center or other out-of-home placement.
9. Requires a court to order a parent or guardian of a juvenile committed to the Maine Youth Center or to the Department of Human Services or placed on probation to pay for medical and other treatment provided to the juvenile except in a case of excessive hardship.
10. Abolishes the Division of Probation and Parole within the Department of Corrections and the position of Director of Probation and Parole and assigns certain probation and parole responsibilities to the Commissioner of Corrections and the Associate Commissioners of Corrections.
11. Clarifies the administrative structure at the associate commissioner level in the Department of Corrections by identifying one Associate Commissioner of Corrections responsible for adult services and one Associate Commissioner of Corrections responsible for juvenile services. The Director of Correctional Programs position is retitled to Director of Policy, Legislative and Information Services.
12. Requires a client participating in a halfway house program who is also permitted to participate in a work release program to pay the costs of board and the costs of transportation if arranged by the halfway house.
13. Authorizes the Governor to order that personnel and equipment of the state military forces be employed to design and construct a security fence around the Maine Youth Center.
14. Requires the Governor, when submitting the budget, to identify the positions that are authorized for less than 52 weeks as "Positions Full-time Equivalent" and positions that are authorized for 52 weeks as "Positions Legislative Count."
15. Transfers the State Cost Allocation Program from the Bureau of the Budget to the Division of Financial and Personnel Services within the Department of Administrative and Financial Services.
16. Provides for the financial order transfer of salary savings between departments and agencies if projected vacancies from turnover do not occur.
17. Authorizes the State Budget Officer to calculate and distribute specified deappropriations.
18. Authorizes the State Budget Officer to calculate and transfer the Unfunded Actuarial Liability and Retiree Health Insurance portions of the specified deappropriations to the appropriate accounts.
19. Makes appropriations from the General Fund in the form of reductions through salary savings.

20. Makes provisions for the reduction of Personal Services appropriation and allocation recommendations in future biennial budget submissions.
21. Authorizes the General Fund salary plan account to carry forward to June 30, 1997.
22. Authorizes the State Budget Officer to calculate and transfer the Retiree Health Insurance portion of the Personal Services savings from the productivity plans to the Retiree Health Insurance Fund.
23. Establishes the Retirement Unfunded Liability account in the Department of Administrative and Financial Services and authorizes the State Budget Officer to calculate and transfer the Unfunded Actuarial Liability portion of the Personal Services savings from the productivity plans to the Retirement Unfunded Liability account.
24. Makes provisions for the allotment of funds in the Retirement Unfunded Liability account.
25. Creates 3 administrative clusters to handle various administrative functions for multiple agencies to create cost savings and efficiency.
26. Restores the Department of Professional and Financial Regulation's productivity plan.
27. Clarifies the distribution of revenues dedicated to the Allagash Wilderness Waterway.
28. Specifies that a state employee may not be prevented or impeded from contributing to the study conducted by the Productivity Realization Task Force.
29. Prohibits the Productivity Realization Task Force from including the closure of any mental health facility in any of its future recommendations.
30. Prohibits the Productivity Realization Task Force or the Governor from including any further budget reductions or the elimination of any program in the Governor Baxter School for the Deaf until March 1, 1996.
31. Provides for a retirement incentive for state employees meeting certain requirements and requires that the position left vacant as a result of any state employee exercising the option either remains vacant or another position in the department or agency or elsewhere in State Government remains vacant until the costs associated with the retirement have been recovered.

Chapter 502 was enacted as an emergency measure effective November 30, 1995.

Sponsor(s)
KERR

Committee Report
OTP-AM

Amendments Adopted
H-679

LD 1590 was referred to the Joint Standing Committee on Appropriations and Financial Affairs. The bill proposed to correct an inadvertent error in Public Law 1995, chapter 368, which prohibited the Department of Human Services from adopting rules implementing changes in the hospital assessment program. It would have allowed the department to establish new rules. In recognition of the transfer of responsibilities from the Maine Health Care Finance Commission to the Department of Human Services, references to the former are replaced by references to the latter. Because it is no longer necessary, the bill also repealed a provision in Public Law 1995, chapter 368, which required the department to uniformly reduce assessments by January 1, 1996 in the event a waiver from the Federal Government was not obtained.

Committee Amendment "A" (H679) proposed to make the bill an emergency measure. The amendment removed the provisions that do not directly pertain to collecting the hospital assessment at existing budgeted levels. It also repealed the provision that restricted rulemaking concerning the establishment of gross patient service revenue limits.

Enacted law summary

Public Law 1995, chapter 503 corrects an inadvertent error in Public Law 1995, chapter 368, which prohibited the Department of Human Services from adopting rules implementing changes in the hospital assessment program. It allows the department to establish new rules. In recognition of the transfer of responsibilities from the Maine Health Care Finance Commission to the Department of Human Services, references to the former are replaced by references to the latter. Because it is no longer necessary, Chapter 503 repeals a provision in Public Law 1995, chapter 368, which required the department to uniformly reduce assessments by January 1, 1996 in the event a waiver from the Federal Government was not obtained.

Chapter 503 was enacted as an emergency measure effective December 1, 1995.

LD 1591 An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to Harness Racing CARRIED OVER

Sponsor(s)
KERR

Committee Report
ONTP

Amendments Adopted

LD 1591 was referred to the Joint Standing Committee on Legal and Veterans' Affairs and carried over to the Second Regular Session. See discussion of this bill in the Second Regular Session bill summaries for that committee.

LD 1592 An Act to Implement the Productivity Plan of the Department of Marine Resources PUBLIC 507 EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-670

LD 1592 was referred to the Joint Standing Committee on Marine Resources. The bill proposed to establish in statute the Aquarium and Resource Center at West Boothbay Harbor Fund. The Department of Marine Resources operates a small aquarium in conjunction with the marine resources research facility in West Boothbay Harbor. The aquarium is used in support of marine education programs for primary and secondary schools. The facility is also open to the general public during the summer and fall. This bill would have authorized the department to charge a fee, the revenues of which will be placed in a fund dedicated to supporting the facility and programs offered there. The fee would be charged to the general public and not to schools. These changes were part of the Department of Marine Resources "productivity plan," as presented to the Productivity Realization Task Force.

Committee Amendment "A" (H670) adds an appropriation and a fiscal note to the bill.

Enacted law summary

Public Law 1995, chapter 507 establishes the Aquarium and Resource Center at West Boothbay Harbor Fund. The Department of Marine Resources operates a small aquarium in conjunction with the marine resources research facility in West Boothbay Harbor. The aquarium is used in support of marine education programs for primary and secondary schools. The facility is also open to the general public during the summer and fall. The department is authorized to charge a fee, the revenues of which will be placed in a fund dedicated to supporting the facility and programs offered there. The fee will be set by the Commissioner of the Department of Marine Resources.

Chapter 507 was enacted as an emergency measure effective December 7, 1995.

LD 1593 **An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council** CARRIED OVER

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-843
S-527

LD 1593 was referred to the Joint Standing Committee on Agriculture, Conservation and Forestry. The bill was carried over to the Second Regular Session. See the discussion of this bill in the Second Regular Session bill summaries for that committee.

LD 1594 **An Act to Authorize Appropriations and Allocations for the 1996-1997 Biennium and to Change Certain Provisions of the Law Necessary for the Operation of** DIED BETWEEN HOUSES

State Government

Sponsor(s)

Committee Report

Amendments Adopted

LD 1594 was not referred to committee. Part A of LD 1594 proposed to make "non-productivity" adjustments to General Fund appropriations, Federal Expenditure Fund allocations and Other Special Revenue allocations in the Department of Human Services. Part B proposed to authorize the Department of Human Services to pay the legal services for individuals appealing denial of Federal Supplemental Security Income benefits in order to reduce expenditure of General Assistance and Aid to Families with Dependent Children funds. Part B also provided that funds deappropriated from the General Fund could not be transferred or utilized for any other purpose unless appropriated by the Legislature.

LD 1595 **An Act to Increase the Number of Washington County Commissioners from 3 to 5**

PUBLIC 501
EMERGENCY

Sponsor(s)
BUNKER
CASSIDY

Committee Report

Amendments Adopted

LD 1595 was not referred to committee. The bill proposed to increase the number of Washington County commissioners by creating 2 large commissioner positions.

Enacted law summary

Public Law 1995, chapter 501 increases the number of Washington County commissioners from 3 to 5 by creating 2 large commissioner positions.

LD 1596 **An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the State Soil and Water Conservation Commission**

INDEF PP

Sponsor(s)

Committee Report

Amendments Adopted

LD 1596 was not referred to committee. The bill proposed to repeal the State Soil and Water Conservation Commission; transfer the powers, duties and functions to the Commissioner of Agriculture, Food and Rural Resources; retain existing rules and procedures; preserve existing contracts; provide for the transfer of records, property and equipment to the department; and adjust appropriations. It also would have created the State Conservation District Advisory Council to advise the commissioner on matters affecting the various soil and water conservation districts.

LD 1597 **An Act to Reduce the State Tax Valuation for the Town of Hope**

CARRIED OVER

Sponsor(s)
SAVAGE
PINGREE

Committee Report
OTP-AM

Amendments Adopted
H-682

LD 1597 was referred to the Joint Standing Committee on Taxation and was carried over to the Second Regular Session, at which time the bill was enacted as Private and Special Law 1995, chapter 52, effective January 29, 1996.

**LD 1598 Resolve, to Amend Provisions of the Androscoggin County
Budget Process**

RESOLVE 58
EMERGENCY

Sponsor(s)
CLEVELAND

Committee Report

Amendments Adopted

LD 1598 was not referred to committee. The bill proposed to repeal a law enacted last year that required the Androscoggin County Commissioners to prepare and submit an 18-month budget.

Enacted law summary

Resolve 1995, chapter 58 repeals a law enacted last year that required the Androscoggin County Commissioners, beginning in 1996, to prepare and submit an 18-month budget.

Chapter 58 was enacted as an emergency measure effective December 7, 1995.

**LD 1599 An Act to Temporarily Reestablish Eligibility Standards for
Low-Income Home Energy Assistance**

P & S 51
EMERGENCY

Sponsor(s)
GERRY
WHITCOMB

Committee Report

Amendments Adopted

LD 1599 was not referred to committee. The bill proposed that the Maine State Housing Authority extend eligibility under the Low-Income Home Energy Assistance Program on the same basis as during the 1994-95 heating season. The bill also directed the Joint Standing Committee on Human Resources to hold a public hearing on the issues raised by the recent changes in eligibility standards by January 31, 1996 and authorized the committee to report out legislation and other recommendations not later than March 1, 1996.

Enacted law summary

Private and Special Law 1995, chapter 51 directs the Maine State Housing Authority to extend eligibility under the Low-Income Home Energy Assistance Program on the same basis as during the 1994-95 heating season. Chapter 51 also directs the Joint Standing Committee on Human Resources to hold a public hearing on the issues raised by the recent changes in eligibility standards by January 31, 1996 and authorizes the committee to report out legislation and other recommendations not later than March 1, 1996. LD 1875 was reported out by the Human Resources Committee as a result. See Human Resources Committee bill summaries for the Second Regular Session for a discussion of that bill.

Chapter 51 was enacted as an emergency measure effective December 1, 1995

SUBJECT INDEX

	<u>PAGE</u>
<i>Administration, DECS, State Board and School Governance - EDU.....</i>	<i>113</i>
<i>Administrative Procedures; Rulemaking - SLG.....</i>	<i>296</i>
<i>Adoption - JUD.....</i>	<i>182</i>
<i>Aging and Long-term Care - HUM.....</i>	<i>139</i>
<i>Air Quality/Auto Emissions - NAT.....</i>	<i>270</i>
<i>Air/Railroads - TRA.....</i>	<i>314</i>
<i>Alternative Education and Choice - EDU.....</i>	<i>114</i>
<i>Animal Welfare/Dogs and Cats - ACF.....</i>	<i>19</i>
<i>Aquaculture - MAR.....</i>	<i>242</i>
<i>Attorney General/District Attorneys - JUD.....</i>	<i>182</i>
<i>Banking - BAN.....</i>	<i>53</i>
<i>Boards and Commissions - SLG.....</i>	<i>296</i>
<i>Boating and Watercraft - IFW.....</i>	<i>155</i>
<i>Business Entities - JUD.....</i>	<i>182</i>
<i>Business Regulation - BEC.....</i>	<i>72</i>
<i>Campaign Finance - LVA.....</i>	<i>226</i>
<i>Charter Changes - UTE.....</i>	<i>332</i>
<i>Child Protection/Adult Protection - JUD.....</i>	<i>182</i>
<i>Child Support - JUD.....</i>	<i>183</i>
<i>Children's Services - HUM.....</i>	<i>139</i>
<i>Civil Procedure - JUD.....</i>	<i>183</i>
<i>Commercial Vehicles/Weights - TRA.....</i>	<i>314</i>

<i>Confidentiality/Public Information - JUD.....</i>	<i>183</i>
<i>Consumer Credit - BAN.....</i>	<i>54</i>
<i>County Budgets - SLG.....</i>	<i>296</i>
<i>County Government - SLG.....</i>	<i>297</i>
<i>County Jails - CRI.....</i>	<i>92</i>
<i>Courts/Judges/Judicial Administration - JUD.....</i>	<i>184</i>
<i>Criminal Law - CRI.....</i>	<i>92</i>
<i>Criminal Procedure - CRI.....</i>	<i>93</i>
<i>Curriculum, Instruction, Textbooks and Testing - EDU.....</i>	<i>114</i>
<i>Department Administration/Authority - MAR.....</i>	<i>242</i>
<i>Department of Corrections - CRI.....</i>	<i>93</i>
<i>Department of Environmental Protection - NAT.....</i>	<i>270</i>
<i>Department of Transportation - TRA.....</i>	<i>314</i>
<i>Departmental Organization and Administration - HUM.....</i>	<i>140</i>
<i>Departments and Agencies of State Government - SLG.....</i>	<i>297</i>
<i>Economic Development -- International Trade BEC.....</i>	<i>72</i>
<i>Economic Development -- Job Creation - BEC.....</i>	<i>72</i>
<i>Economic Development -- Other - BEC.....</i>	<i>73</i>
<i>Education - Other - EDU.....</i>	<i>116</i>
<i>Eels/Elvers - MAR.....</i>	<i>242</i>
<i>Election Law - LVA.....</i>	<i>226</i>
<i>Electricity - UTE.....</i>	<i>332</i>
<i>Employment Conditions - General - LAB.....</i>	<i>204</i>
<i>Employment Conditions - Health and Safety; Substance Abuse Testing - LAB.....</i>	<i>204</i>

<i>Errors and Statutory Corrections - JUD</i>	184
<i>Family Law - JUD</i>	184
<i>Ferry Service - UTE</i>	333
<i>Fire - ACF</i>	19
<i>Forest Management/Maine Forest Service - ACE</i>	19
<i>Gas Utilities - UTE</i>	333
<i>General Utilities - UTE</i>	329
<i>Ginseng - ACF</i>	20
<i>Groundfish - MAR</i>	242
<i>Hazardous Waste/Hazardous Substances/Toxics - NAT</i>	270
<i>Health Care - BEC</i>	73
<i>Health Care - HUM</i>	141
<i>Highway Fund - TRA</i>	315
<i>Human Rights/Civil Rights - JUD</i>	184
<i>Hunting and Fishing - IFW</i>	155
<i>Hydropower/Dams - NAT</i>	271
<i>Income Maintenance - HUM</i>	142
<i>Indian Affairs - JUD</i>	184
<i>Insurance, Health - BAN</i>	54
<i>Insurance, Motor Vehicle - BAN</i>	55
<i>Insurance, Regulation and Practices - BAN</i>	55
<i>Insurance, Workers' Compensation - BAN</i>	56
<i>Juvenile Code/Juvenile Corrections - CRL</i>	93
<i>Land Use - NAT</i>	271
<i>Land Use Regulation Commission - ACE</i>	20
<i>Land: Boundaries, Name Changes, Access, Transfer - SLG</i>	298

<i>Landlord/Tenant - LVA</i>	226
<i>Landowner Relations - IFW</i>	155
<i>Law Enforcement/Public Safety - CRI</i>	93
<i>Legislature and Legislative Process - SLG</i>	298
<i>License Permits - IFW</i>	156
<i>Liquor Law - LVA</i>	226
<i>Lobster - MAR</i>	243
<i>Lottery/Gambling/Harness Racing - LVA</i>	227
<i>Mandates - SLG</i>	298
<i>Meat Inspection - ACF</i>	20
<i>Medicaid - HUM</i>	137
<i>Mental Health - HUM</i>	142
<i>Mental Retardation and Other Developmental Disabilities - HUM</i>	143
<i>Milk - ACF</i>	20
<i>Miscellaneous - ACF</i>	21
<i>Miscellaneous - HUM</i>	143
<i>Miscellaneous - MAR</i>	243
<i>Miscellaneous - TRA</i>	315
<i>Motor Vehicle Laws - TRA</i>	315
<i>Motor Vehicle Licenses/Registrations/Titles - TRA</i>	316
<i>Municipal Shellfish Authority - MAR</i>	243
<i>Municipalities and Quasi-Municipal Corporations - SLG</i>	299
<i>Natural Resources Protection Act - NAT</i>	271
<i>Occupational Regulation - BEC</i>	73
<i>Oil and Petroleum Products - NAT</i>	272
<i>Operating Under the Influence/Motor Vehicle Violations - CRI</i>	94

<i>Other - JUD</i>	187
<i>Outdoor Recreation - ACF</i>	21
<i>Penalties - IFW</i>	156
<i>Post Secondary Education - EDU</i>	114
<i>Potatoes - ACF</i>	21
<i>Probate Code - JUD</i>	185
<i>Property - JUD</i>	185
<i>Protection From Abuse/Harassment - JUD</i>	185
<i>Public Employee Labor Relations - LAB</i>	204
<i>Public Health - HUM</i>	144
<i>Radioactive Waste - NAT</i>	272
<i>Recycling - NAT</i>	272
<i>Regulation - IFW</i>	156
<i>Restructuring - SLG</i>	299
<i>Retirement System - Administration - LAB</i>	205
<i>Retirement System - Benefits - LAB</i>	205
<i>Retirement System - Teachers - LAB</i>	206
<i>Salmon - IFW</i>	156
<i>Sardines - MAR</i>	243
<i>Scallops - MAR</i>	244
<i>School Budgets - EDU</i>	115
<i>School Finance, Constructions and Buses - EDU</i>	115
<i>Sea Urchins - MAR</i>	244
<i>Sentencing/Sentencing Alternatives - CRI</i>	94
<i>Septic Systems/Wastewater - NAT</i>	272
<i>Shoreland Zoning - NAT</i>	273

<i>Site Location of Development Law - NAT</i>	273
<i>Soil and Water Conservation - ACF</i>	22
<i>Solid Waste Facilities - NAT</i>	274
<i>Solid, Biomedical and Special Waste - NAT</i>	273
<i>Special Education and Gifted and Talented - EDU</i>	116
<i>State Contracts and Fiscal Procedures - SLG</i>	299
<i>State Officials - SLG</i>	299
<i>State Property - SLG</i>	299
<i>Submerged Lands - ACF</i>	22
<i>Substance Abuse - HUM</i>	145
<i>Teachers and Administrators - EDU</i>	116
<i>Telecommunications - UTE</i>	333
<i>Tires - NAT</i>	274
<i>Tobacco - LVA</i>	227
<i>Tort Liability/Immunity -- General - JUD</i>	186
<i>Tort Liability/Immunity -- Medical Malpractice - JUD</i>	186
<i>Turnpike Authority - TRA</i>	316
<i>Unemployment Compensation and Employment Training - LAB</i>	206
<i>Veterans' Affairs/Military - LVA</i>	228
<i>Victims' Rights - CRI</i>	94
<i>Water and Sewer (non-charter) - UTE</i>	334
<i>Water Quality/Water Pollution - NAT</i>	274
<i>Wetlands - NAT</i>	275
<i>Whitewater Rafting - IFW</i>	157
<i>Workers' Compensation - LAB</i>	206

LD INDEX

	<u>PAGE</u>
LD 47.....	53
LD 59.....	298
LD 66.....	91
LD 68.....	19
LD 134.....	113
LD 183.....	20
LD 185.....	226
LD 271.....	113
LD 346.....	154
LD 384.....	142
LD 400.....	203
LD 423.....	154
LD 465.....	298
LD 483.....	184
LD 505.....	92
LD 526.....	154
LD 572.....	142

LD 636.....	155
LD 646.....	242
LD 658.....	155
LD 659.....	70
LD 690.....	20
LD 734.....	314
LD 739.....	298
LD 742.....	155
LD 752.....	22
LD 819.....	243
LD 827.....	93
LD 828.....	314
LD 830.....	94
LD 841.....	22
LD 848.....	204
LD 871.....	316
LD 880.....	94
LD 887.....	23
LD 904.....	142
LD 916.....	156

LD 926.....	185
LD 946.....	185
LD 947.....	54
LD 974.....	114
LD 975.....	273
LD 1014.....	244
LD 1030.....	70
LD 1042.....	244
LD 1056.....	186
LD 1076.....	204
LD 1079.....	24
LD 1124.....	95
LD 1148.....	54
LD 1185.....	274
LD 1210.....	229
LD 1213.....	274
LD 1218.....	204
LD 1235.....	70
LD 1267.....	2
LD 1270.....	55

LD 1294..... 71

LD 1301..... 332

LD 1303..... 206

LD 1331..... 157

LD 1358..... 157

LD 1371..... 158

LD 1385..... 24

LD 1393..... 144

LD 1404..... 2

LD 1443..... 275

LD 1445..... 159

LD 1448..... 160

LD 1457..... 72

LD 1469..... 3

LD 1510..... 73

LD 1512..... 26

LD 1513..... 27

LD 1517..... 161

LD 1533..... 317

LD 1560..... 96

LD 1565..... 317

LD 1566..... 275

LD 1567..... 317

LD 1570..... 276

LD 1587..... 333

LD 1588..... 335

LD 1589..... 336

LD 1590..... 339

LD 1591..... 207

LD 1592..... 340

LD 1593..... 4

LD 1594..... 341

LD 1595..... 341

LD 1596..... 341

LD 1597..... 342

LD 1598..... 342

LD 1599..... 342

LD 1600..... 318

LD 1601..... 114

LD 1602..... 319

LD 1604..... 115

LD 1605..... 319

LD 1606..... 187

LD 1607..... 55

LD 1608..... 245

LD 1609..... 187

LD 1610..... 245

LD 1611..... 207

LD 1612..... 277

LD 1614..... 96

LD 1615..... 277

LD 1616..... 320

LD 1617..... 277

LD 1618..... 161

LD 1619..... 299

LD 1620..... 321

LD 1621..... 207

LD 1622..... 27

LD 1623..... 246

LD 1624..... 162

LD 1625..... 162

LD 1626..... 163

LD 1627..... 97

LD 1628..... 208

LD 1629..... 163

LD 1630..... 28

LD 1631..... 321

LD 1632..... 208

LD 1633..... 188

LD 1634..... 164

LD 1635..... 209

LD 1637..... 189

LD 1638..... 322

LD 1639..... 299

LD 1640..... 97

LD 1641..... 323

LD 1642..... 97

LD 1643..... 29

LD 1644..... 115

LD 1645..... 144

LD 1646..... 116

LD 1647..... 229

LD 1649..... 229

LD 1650..... 30

LD 1651..... 247

LD 1653..... 209

LD 1654..... 55

LD 1656..... 31

LD 1657..... 32

LD 1658..... 247

LD 1659..... 248

LD 1660..... 98

LD 1661..... 77

LD 1663..... 32

LD 1665..... 32

LD 1666..... 78

LD 1667..... 165

LD 1668..... 323

LD 1670..... 229

LD 1671..... 249

LD 1672..... 249

LD 1673..... 117

LD 1675..... 56

LD 1676..... 301

LD 1678..... 98

LD 1679..... 278

LD 1680..... 301

LD 1681..... 302

LD 1682..... 302

LD 1683..... 279

LD 1684..... 33

LD 1685..... 78

LD 1686..... 5

LD 1687..... 303

LD 1689..... 117

LD 1690..... 304

LD 1691..... 5

LD 1692..... 211

LD 1693..... 79

LD 1694..... 79

LD 1695..... 230

LD 1698..... 189

LD 1699..... 34

LD 1700..... 279

LD 1701..... 280

LD 1702..... 35

LD 1703..... 36

LD 1704..... 118

LD 1705..... 99

LD 1706..... 212

LD 1707..... 166

LD 1708..... 166

LD 1709..... 80

LD 1712..... 6

LD 1714..... 230

LD 1715..... 232

LD 1716..... 120

LD 1717..... 233

LD 1718..... 99

LD 1719..... 7

LD 1720..... 215

LD 1721..... 251

LD 1723..... 280

LD 1725..... 7

LD 1726..... 146

LD 1727..... 233

LD 1728..... 81

LD 1729..... 168

LD 1730..... 120

LD 1731..... 121

LD 1732..... 36

LD 1733..... 234

LD 1734..... 304

LD 1735..... 281

LD 1736..... 281

LD 1737..... 147

LD 1738..... 82

LD 1739..... 168

LD 1740..... 304

LD 1742..... 216

LD 1743..... 122

LD 1744..... 216

LD 1745..... 282

LD 1746..... 57

LD 1747..... 100

LD 1750..... 37

LD 1751..... 282

LD 1752..... 324

LD 1753..... 39

LD 1754..... 282

LD 1755..... 41

LD 1756..... 100

LD 1757..... 41

LD 1758..... 169

LD 1760..... 100

LD 1761..... 192

LD 1762..... 42

LD 1763..... 235

LD 1764..... 122

LD 1765..... 170

LD 1766..... 82

LD 1767..... 58

LD 1768..... 324

LD 1770..... 193

LD 1772..... 123

LD 1773..... 124

LD 1776..... 8

LD 1778..... 9

LD 1780..... 101

LD 1781..... 252

LD 1782..... 305

LD 1783..... 324

LD 1784..... 124

LD 1785..... 217

LD 1786..... 101

LD 1787..... 171

LD 1788..... 125

LD 1789..... 43

LD 1790..... 283

LD 1791..... 101

LD 1792..... 284

LD 1793..... 325

LD 1794..... 253

LD 1795..... 127

LD 1796..... 84

LD 1798..... 44

LD 1799..... 172

LD 1800..... 105

LD 1801..... 58

LD 1802..... 59

LD 1803..... 45

LD 1804..... 253

LD 1805..... 172

LD 1806..... 128

LD 1807..... 194

LD 1808..... 10

LD 1809..... 11

LD 1810..... 284

LD 1811..... 173

LD 1812..... 129

LD 1813..... 59

LD 1814..... 61

LD 1815..... 306

LD 1816..... 325

LD 1818..... 106

LD 1819..... 12

LD 1820..... 147

LD 1821..... 285

LD 1823..... 217

LD 1824..... 253

LD 1825..... 194

LD 1826..... 306

LD 1827..... 218

LD 1828..... 285

LD 1829..... 306

LD 1830..... 307

LD 1831..... 62

LD 1832..... 148

LD 1833..... 148

LD 1834..... 255

LD 1835..... 130

LD 1836..... 307

LD 1838..... 256

LD 1840..... 286

LD 1841..... 236

LD 1842..... 173

LD 1843..... 12

LD 1844..... 286

LD 1845..... 286

LD 1846..... 195

LD 1847..... 175

LD 1850..... 196

LD 1851..... 218

LD 1852..... 63

LD 1853..... 257

LD 1854..... 261

LD 1855..... 196

LD 1856..... 197

LD 1858..... 264

LD 1859..... 287

LD 1860..... 65

LD 1861..... 86

LD 1862..... 198

LD 1863..... 132

LD 1864..... 308

LD 1865..... 65

LD 1866..... 106

LD 1867..... 219

LD 1868..... 176

LD 1869..... 325

LD 1870..... 107

LD 1871..... 308

LD 1872..... 288

LD 1875..... 133

LD 1876..... 236

LD 1877..... 326

LD 1878..... 288

LD 1881..... 288

LD 1882..... 46

LD 1883..... 289

LD INDEX

	<u>PAGE</u>
LD 47.....	53
LD 59.....	298
LD 66.....	91
LD 68.....	19
LD 134.....	113
LD 183.....	20
LD 185.....	226
LD 271.....	113
LD 346.....	154
LD 384.....	142
LD 400.....	203
LD 423.....	154
LD 465.....	298
LD 483.....	184
LD 505.....	92
LD 526.....	154
LD 572.....	142

LD 636.....	155
LD 646.....	242
LD 658.....	155
LD 659.....	70
LD 690.....	20
LD 734.....	314
LD 739.....	298
LD 742.....	155
LD 752.....	22
LD 819.....	243
LD 827.....	93
LD 828.....	314
LD 830.....	94
LD 841.....	22
LD 848.....	204
LD 871.....	316
LD 880.....	94
LD 887.....	23
LD 904.....	142
LD 916.....	156

LD 926..... 185

LD 946..... 185

LD 947..... 54

LD 974..... 114

LD 975..... 273

LD 1014..... 244

LD 1030..... 70

LD 1042..... 244

LD 1056..... 186

LD 1076..... 204

LD 1079..... 24

LD 1124..... 95

LD 1148..... 54

LD 1185..... 274

LD 1210..... 229

LD 1213..... 274

LD 1218..... 204

LD 1235..... 70

LD 1267..... 2

LD 1270..... 55

LD 1294..... 71

LD 1301..... 332

LD 1303..... 206

LD 1331..... 157

LD 1358..... 157

LD 1371..... 158

LD 1385..... 24

LD 1393..... 144

LD 1404..... 2

LD 1443..... 275

LD 1445..... 159

LD 1448..... 160

LD 1457..... 72

LD 1469..... 3

LD 1510..... 73

LD 1512..... 26

LD 1513..... 27

LD 1517..... 161

LD 1533..... 317

LD 1560..... 96

LD 1565..... 317

LD 1566..... 275

LD 1567..... 317

LD 1570..... 276

LD 1587..... 333

LD 1588..... 335

LD 1589..... 336

LD 1590..... 339

LD 1591..... 207

LD 1592..... 340

LD 1593..... 4

LD 1594..... 341

LD 1595..... 341

LD 1596..... 341

LD 1597..... 342

LD 1598..... 342

LD 1599..... 342

LD 1600..... 318

LD 1601..... 114

LD 1602..... 319

LD 1604..... 115

LD 1605..... 319

LD 1606..... 187

LD 1607..... 55

LD 1608..... 245

LD 1609..... 187

LD 1610..... 245

LD 1611..... 207

LD 1612..... 277

LD 1614..... 96

LD 1615..... 277

LD 1616..... 320

LD 1617..... 277

LD 1618..... 161

LD 1619..... 299

LD 1620..... 321

LD 1621..... 207

LD 1622..... 27

LD 1623..... 246

LD 1624..... 162

LD 1625.....	162
LD 1626.....	163
LD 1627.....	97
LD 1628.....	208
LD 1629.....	163
LD 1630.....	28
LD 1631.....	321
LD 1632.....	208
LD 1633.....	188
LD 1634.....	164
LD 1635.....	209
LD 1637.....	189
LD 1638.....	322
LD 1639.....	299
LD 1640.....	97
LD 1641.....	323
LD 1642.....	97
LD 1643.....	29
LD 1644.....	115
LD 1645.....	144

LD 1646..... 116

LD 1647..... 229

LD 1649..... 229

LD 1650..... 30

LD 1651..... 247

LD 1653..... 209

LD 1654..... 55

LD 1656..... 31

LD 1657..... 32

LD 1658..... 247

LD 1659..... 248

LD 1660..... 98

LD 1661..... 77

LD 1663..... 32

LD 1665..... 32

LD 1666..... 78

LD 1667..... 165

LD 1668..... 323

LD 1670..... 229

LD 1671..... 249

LD 1672..... 249

LD 1673..... 117

LD 1675..... 56

LD 1676..... 301

LD 1678..... 98

LD 1679..... 278

LD 1680..... 301

LD 1681..... 302

LD 1682..... 302

LD 1683..... 279

LD 1684..... 33

LD 1685..... 78

LD 1686..... 5

LD 1687..... 303

LD 1689..... 117

LD 1690..... 304

LD 1691..... 5

LD 1692..... 211

LD 1693..... 79

LD 1694..... 79

LD 1695..... 230

LD 1698..... 189

LD 1699..... 34

LD 1700..... 279

LD 1701..... 280

LD 1702..... 35

LD 1703..... 36

LD 1704..... 118

LD 1705..... 99

LD 1706..... 212

LD 1707..... 166

LD 1708..... 166

LD 1709..... 80

LD 1712..... 6

LD 1714..... 230

LD 1715..... 232

LD 1716..... 120

LD 1717..... 233

LD 1718..... 99

LD 1719..... 7

LD 1720..... 215

LD 1721..... 251

LD 1723..... 280

LD 1725..... 7

LD 1726..... 146

LD 1727..... 233

LD 1728..... 81

LD 1729..... 168

LD 1730..... 120

LD 1731..... 121

LD 1732..... 36

LD 1733..... 234

LD 1734..... 304

LD 1735..... 281

LD 1736..... 281

LD 1737..... 147

LD 1738..... 82

LD 1739..... 168

LD 1740..... 304

LD 1742..... 216

LD 1743..... 122

LD 1744..... 216

LD 1745..... 282

LD 1746..... 57

LD 1747..... 100

LD 1750..... 37

LD 1751..... 282

LD 1752..... 324

LD 1753..... 39

LD 1754..... 282

LD 1755..... 41

LD 1756..... 100

LD 1757..... 41

LD 1758..... 169

LD 1760..... 100

LD 1761..... 192

LD 1762..... 42

LD 1763..... 235

LD 1764..... 122

LD 1765..... 170

LD 1766..... 82

LD 1767..... 58

LD 1768..... 324

LD 1770..... 193

LD 1772..... 123

LD 1773..... 124

LD 1776..... 8

LD 1778..... 9

LD 1780..... 101

LD 1781..... 252

LD 1782..... 305

LD 1783..... 324

LD 1784..... 124

LD 1785..... 217

LD 1786..... 101

LD 1787..... 171

LD 1788..... 125

LD 1789..... 43

LD 1790..... 283

LD 1791..... 101

LD 1792..... 284

LD 1793..... 325

LD 1794..... 253

LD 1795..... 127

LD 1796..... 84

LD 1798..... 44

LD 1799..... 172

LD 1800..... 105

LD 1801..... 58

LD 1802..... 59

LD 1803..... 45

LD 1804..... 253

LD 1805..... 172

LD 1806..... 128

LD 1807..... 194

LD 1808..... 10

LD 1809..... 11

LD 1810..... 284

LD 1811..... 173

LD 1812..... 129

LD 1813.....	59
LD 1814.....	61
LD 1815.....	306
LD 1816.....	325
LD 1818.....	106
LD 1819.....	12
LD 1820.....	147
LD 1821.....	285
LD 1823.....	217
LD 1824.....	253
LD 1825.....	194
LD 1826.....	306
LD 1827.....	218
LD 1828.....	285
LD 1829.....	306
LD 1830.....	307
LD 1831.....	62
LD 1832.....	148
LD 1833.....	148
LD 1834.....	255

LD 1835..... 130

LD 1836..... 307

LD 1838..... 256

LD 1840..... 286

LD 1841..... 236

LD 1842..... 173

LD 1843..... 12

LD 1844..... 286

LD 1845..... 286

LD 1846..... 195

LD 1847..... 175

LD 1850..... 196

LD 1851..... 218

LD 1852..... 63

LD 1853..... 257

LD 1854..... 261

LD 1855..... 196

LD 1856..... 197

LD 1858..... 264

LD 1859..... 287

LD 1860.....	65
LD 1861.....	86
LD 1862.....	198
LD 1863.....	132
LD 1864.....	308
LD 1865.....	65
LD 1866.....	106
LD 1867.....	219
LD 1868.....	176
LD 1869.....	325
LD 1870.....	107
LD 1871.....	308
LD 1872.....	288
LD 1875.....	133
LD 1876.....	236
LD 1877.....	326
LD 1878.....	288
LD 1881.....	288
LD 1882.....	46
LD 1883.....	289

LD 1884..... 289

LD 1885..... 290

LD 1886..... 290

LD 1887..... 290

LD 1888..... 13

LD 1889..... 220

LD 1891..... 220