

REVISOR'S REPORT 2011
Chapter 2

**Submitted to the Joint Standing
Committee on Judiciary
pursuant to the Maine Revised Statutes,
Title 1, chapter 4.**

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Sec. 1. 2 MRSA §9, as amended by PL 2011, c. 655, Pt. MM, §§1 to 4 and affected by §26, is corrected to read:

§9. Governor's ~~Office of Energy Independence and Security~~ Office

1. Office established. The Governor's Energy Office, referred to in this section as "the office," is established in the Executive Department to carry out responsibilities of the State relating to energy resources, planning and development. The office is directly responsible to the Governor.

2. Director. The office is under the control and supervision of the Director of the Governor's Energy Office, referred to in this section as "the director." The director is appointed by the Governor and serves at the pleasure of the Governor.

2-A. Funding. The office is funded in accordance with this subsection.

A. The office is funded by federal funds that are available to and received by the office. Such federal funds may be applied to support the personal services and all other costs of the office.

B. To the extent federal funds are inadequate to meet the funding needs of the office, the office may receive funds from the Efficiency Maine Trust, established in Title 35-A, chapter 97, but only for that portion of the office's activities that support or reasonably relate to programs or activities of the Efficiency Maine Trust. The director shall keep an accounting of the office's resources devoted to its various duties and activities, including that portion of its resources devoted to activities in support of or reasonably related to programs or activities of the Efficiency Maine Trust. The office shall annually by January 15th provide the accounting to the joint standing committee of the Legislature having jurisdiction over energy matters. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the Efficiency Maine Trust funds to support the office. In accordance with any legislative allocation or deallocation of Efficiency Maine Trust funds to support the office, the director shall request from the Efficiency Maine Trust and the trust shall provide the allocated resources to the office.

C. Any additional funding of the office must be provided from the General Fund or other available resources.

3. Duties. The director is responsible for the execution of the duties of the office. The director shall:

A. Serve as a member of the Efficiency Maine Trust Board, established under Title 5, section 12004-G, subsection 10-C;

B. In collaboration with the relevant state agencies, coordinate state energy policy and actively foster cooperation with the Efficiency Maine Trust, established in Title 35-A, chapter 97;

C. In consultation with the Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy plan to the Governor and the Legislature by January 15, 2009 and submit an updated plan every 2

years thereafter. Within the comprehensive state energy plan, the director shall identify opportunities to lower the total cost of energy to consumers in this State and transmission capacity and infrastructure needs and recommend appropriate actions to lower the total cost of energy to consumers in this State and facilitate the development and integration of new renewable energy generation within the State and support the State's renewable resource portfolio requirements specified in Title 35-A, section 3210 and wind energy development goals specified in Title 35-A, section 3404. The comprehensive state energy plan must include a section that specifies the State's progress in meeting the oil dependence reduction targets in subsection 5. The office shall make recommendations, if needed, for additional legislative and administrative actions to ensure that the State can meet the reduction targets in subsection 5. The recommendations must include a cost and resource estimate for technology development needed to meet the reduction targets;

C-1. By February 1st of each year, prepare and submit to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an annual report that describes the activities of the office during the previous calendar year in carrying out its duties under this subsection and describes the State's progress in implementation of the state energy plan prepared pursuant to paragraph C. After receipt and review of the annual report required under this paragraph, the joint standing committee of the Legislature having jurisdiction over utilities and energy matters may submit legislation relating to energy policy;

D. In collaboration with other relevant state agencies, private industry and nonprofit organizations, collect and analyze energy data, including, but not limited to, data on energy supply, demand and costs in this State with consideration of all available energy sources;

E. Coordinate the dissemination of energy information to the public and the media;

F. Provide technical assistance and information to the Governor and the Legislature regarding the State's short-range and long-range energy needs and the resources to meet those needs;

G. Seek, accept and administer funds from public and private sources and develop partnerships with public and private entities to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;

H. Work with transmission and distribution utilities, state agencies involved in the permitting of energy generation facilities and other relevant entities to negotiate agreements that create value for electricity consumers with developers of renewable generation who are interested in building energy generation facilities or developing or utilizing energy transmission infrastructure in this State. This paragraph does not authorize the director to be a signatory to any such agreement unless that authority is otherwise granted by law. The director shall report on activities undertaken pursuant to this paragraph by February 1, 2009, and annually thereafter, to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters;

I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; and

J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C including lowering the total cost of energy to consumers in this State.

4. Advice to state agencies. The director shall advise state agencies regarding energy-related principles for agencies to consider, along with the laws and policies governing those agencies, in conjunction with the sale, lease or other allowance for use of state-owned land or assets for the purpose of development of energy infrastructure. For the purposes of this subsection, "state-owned" and "energy infrastructure corridor" have the same meanings as in Title 35-A, section 122, subsection 1. At a minimum, the director shall consider the following principles in advising state agencies under this subsection:

- A. The principles for the determination of the long-term public interest of the State as specified in Title 35-A, section 122, subsection 1-D, paragraph B;
- B. Avoiding wherever possible the use of lands subject to the provisions of the Constitution of Maine, Article IX, Section 23;
- C. Maximizing the benefit realized from the State's strategic location within New England and the northeastern region; and
- D. Complying with the provisions of the memorandum of agreement between the Maine Turnpike Authority and the Department of Transportation under Title 35-A, section 122, subsection 1-C, when applicable.

Nothing in this subsection alters any of the responsibilities or limits any of the authority of the Department of Administrative and Financial Services, Bureau of General Services pursuant to Title 5. Nothing in this subsection alters or limits the ability of departments or agencies of the State, along with the Bureau of General Services pursuant to Title 5, to generate or cogenerate energy at state facilities for use on site and elsewhere.

5. Oil dependence reduction plan. The office, with input from stakeholders and in consultation with the Efficiency Maine Trust, shall develop a plan to reduce the use of oil in all sectors of the economy in this State. The plan must:

- A. Be designed to achieve the targets of reducing the State's consumption of oil by at least 30% from 2007 levels by 2030 and by at least 50% from 2007 levels by 2050;
- B. Focus on near-term policies and infrastructure changes that set the State on a reasonable trajectory to meet the 2030 and 2050 targets in paragraph A;
- C. Prioritize the improvement of energy efficiency and the transition to the use of alternative energy sources for heating and transportation; and
- D. Draw on existing state data and studies rather than new analyses, including, but not limited to, analyses and data from the State's climate action plan pursuant to Title 38, section 577 and the progress updates to the climate action plan under Title 38, section 578, the comprehensive state energy plan pursuant to subsection 3, paragraph C, the Efficiency Maine Trust's triennial plan pursuant to Title 35-A, section 10104, subsection 4 and analyses completed by the Federal Government, nonprofit organizations and other stakeholders.

6. Maine Energy Resources Development Program. The Maine Energy Resources Development Program, referred to in this subsection as "the program," is established to promote energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy. The office, as funding allows, shall

administer the program. The director may accept private money for the purpose of funding the program.

A. The director shall include, in the comprehensive state energy plan under subsection 3, paragraph C, a report that specifies, in regard to the program, the expenditure of program funds, the purposes for which the funds were used and the amount of the funds and the sources from which the funds were derived.

B. For all proposed program expenditures of \$10,000 or more, the director shall seek approval for those expenditures from the Governor. If the Governor approves, the director shall seek approval for those expenditures from the Legislature under the procedures authorizing the transfer of funds set forth in Title 5, section 1585.

7. Reporting of petroleum inventories and deliveries. The following provisions govern the reporting of petroleum inventories and deliveries.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

(1) "Petroleum product" means propane; gasoline; unleaded gasoline; gasohol; kerosene; #2 heating oil; diesel fuel; kerosene-based jet fuel; aviation gasoline; #4, #5 and #6 residual oil for utility and nonutility uses; and Bunker C oil;

(2) "Primary storage facility" means a facility that receives petroleum products into the State by pipeline or by ship; and

(3) "Primary supplier" means a refiner, marketer, distributor, firm or person who makes the first sale of any petroleum product to resellers or consumers in this State.

B. Each owner or lessee of a primary storage facility in the State shall make an accurate report of petroleum inventories and deliveries on the first and 3rd Monday of each month to the office on a form provided by the director. The form must contain a conspicuous statement of the penalties provided in paragraph D and must require, with regard to the owner's or lessee's primary storage facility, the following information:

(1) The total inventory of each petroleum product stored in the State, as measured within not more than 3 working days prior to the reporting date; and

(2) The quantities of each petroleum product delivery expected into the State within 15 days of the reporting date or within any longer period established by the director.

C. Each primary supplier of petroleum products shall make an accurate report of actual and anticipated deliveries on the 3rd Monday of each month to the office on a form provided by the director, unless the report is already being submitted in accordance with federal regulations. The form must contain a conspicuous statement of the penalties provided in paragraph D and must require the following information:

(1) Actual deliveries of all petroleum products in this State during the preceding calendar month;

(2) Anticipated deliveries of all petroleum products in this State during the following calendar month or during any longer period established by the director; and

(3) Allocation fractions for all petroleum products for the following month or for any longer period established by the director.

D. A person who violates this subsection is subject to the following penalties.

(1) An owner or lessee of a primary storage facility or a primary supplier who fails to provide the information required by this subsection commits a Class D crime. Violation of this subparagraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

(2) An owner or lessee of a primary storage facility or a primary supplier who knowingly or recklessly supplies false or misleading information is guilty of a violation of Title 17-A, section 453. An owner or lessee of a primary storage facility who supplies false or misleading information commits a civil violation for which a fine of \$2,500 may be adjudged.

E. The office shall provide reports to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters as follows:

(1) If the office determines, based on available information, that there is or may be a significant shortfall in supply inventories or anticipated deliveries into the State of home heating oil or kerosene, the office shall provide a report including:

- (a) The information that suggests a supply shortfall;
- (b) Current and anticipated inventories of home heating oil and kerosene storage supplies;
- (c) Any recommendations of the office for actions by the State in response to the anticipated supply shortfall; and
- (d) A report on inventories, deliveries, curtailments, shortfalls or other matters relating to the availability of petroleum products in this State, at the request of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

EXPLANATION

Public Law 2011, chapter 655, Part MM, section 1 renamed the Governor's Office of Energy Independence and Security as the Governor's Energy Office. This section changes the headnote to the Maine Revised Statutes, Title 2, section 9 to reflect that change.

Sec. 2. 5 MRSA §1742, sub-§26, ¶E, as enacted by PL 2009, c. 1, Pt. CC, §3, is corrected to read:

E. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance; and

EXPLANATION

This section corrects a technical error.

Sec. 3. 5 MRSA §4594-G, sub-§1, ¶K, as enacted by PL 2011, c. 322, §8, is corrected to read:

K. "Standards of construction" means:

- (1) For a transportation facility, the accessibility standards adopted by the federal Department of Transportation, 49 Code of Federal Regulations, Sections 37.9, 37.41, 37.43 and 37.45 (2010);
- (2) For a facility constructed or altered by, on behalf of or for the use of a public entity, other than a transportation facility, the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Sections 35.104 and 35.151; and
- (3) For a place of public accommodation or a commercial facility, other than a facility covered by ~~subparagraphs~~ subparagraph (1) or (2), the 2010 ADA Standards for Accessible Design, 28 Code of Federal Regulations, Section 36.104 and ~~Section Sections~~ 36.401 to 36.407 36.406.

EXPLANATION

This section corrects clerical errors and a cross-reference.

Sec. 4. 5 MRSA §18462, sub-§2, ¶D, as enacted by PL 1989, c. 79, §3, is corrected to read:

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 18501, and on becoming reemployed in a position not under a special plan ~~shall~~ must on retirement receive retirement benefits as follows.

- (1) The part of the member's service retirement based on membership service before becoming disabled ~~shall~~ must be computed according to the formula for computing benefits under the member's previous special plan.
- (2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan ~~shall~~ must be computed according to the formula for computing benefits under the ~~members's~~ member's previous special plan.
- (3) If the member is found to be no longer disabled, as defined in section 18501, the member may:
 - (a) Return to a position under the member's previous special plan; or
 - (b) Remain in the position ~~which~~ that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 18452, subsection 1.
- (4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 18503.
 - (a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit ~~shall~~ must be based on section 17852, subsection 1, until the member withdraws the refusal.
 - (b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph ~~shall~~ cease.

EXPLANATION

This section corrects a clerical error and makes grammatical changes.

Sec. 5. 10 MRSA §1041, sub-§17, as amended by PL 1999, c. 657, §3, is corrected to read:

17. Electricity. Provide financial assistance for electricity generation projects; ~~and~~

Sec. 6. 10 MRSA §1041, sub-§18, as amended by PL 2011, c. 655, Pt. GG, §5 and affected by §70, is corrected to read:

18. Recycling and waste reduction. Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. The Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans; and

EXPLANATION

These sections make technical corrections.

Sec. 7. 12 MRSA §6-A, sub-§§2 and 3, as amended by PL 2011, c. 608, §18, are corrected to read:

2. Farm products. Includes only land used in the production of farm products, as defined in Title 7, section 52, subsection 3-A, in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under Title 7, chapter 2-B; ~~and~~

3. Relationship to boundary established. Is within 50 feet of any property boundary and that the application includes a depiction of the distance between any area producing farm products under consideration and any property boundary within 50 feet that is sufficient to determine the impact of Title 7, section 56, subsection 1-A on abutting land; and

EXPLANATION

This section makes technical corrections.

Sec. 8. 12 MRSA §685-B, sub-§1-A, ¶B-1, as enacted by PL 2011, c. 653, §2 and affected by §33, is reallocated to 12 MRSA §685-B, sub-§1-A, ¶B-2.

Sec. 9. 12 MRSA §685-B, sub-§1-A, ¶B-1, as enacted by PL 2011, c. 682, §15, is corrected to read:

B-1. Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit from the

commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1. A person submitting a development proposal to the Department of Environmental Protection under Title 38, section 489-A-1 shall file a notice of the intent to develop and a map indicating the location of the proposed development with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection. The Department of Environmental Protection must receive certification from the commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and the proposed development meets any land use standard established by the commission that is not considered in the department's review under Title 38, section 489-A-1, subsection 1 before issuing a permit. Nothing in this subsection may be construed as prohibiting the commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph;

Sec. 10. Effective date. That section of this report that reallocates the Maine Revised Statutes, Title 12, section 685-B, subsection 1-A, paragraph B-1 takes effect June 1, 2014.

EXPLANATION

These sections correct a numbering problem created by Public Law 2011, chapters 653 and 682, which enacted 2 substantively different provisions with the same paragraph letter, and make a technical correction.

Sec. 11. 12 MRSA §8906, sub-§3, as enacted by PL 1979, c. 545, §3, is corrected to read:

3. Contingency. If the funds available for forest fire control are not sufficient to meet actual ~~suppression~~ suppression costs in any year, the Governor may make additional funds available from the treasury not otherwise appropriated.

EXPLANATION

This section corrects a clerical error.

Sec. 12. 12 MRSA §13106-A, sub-§25, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is corrected to read:

25. Headgear required. This subsection applies to snowmobile trails funded by the Snowmobile Trail Fund of the Department of Agriculture, Conservation and Forestry, ~~Bureau~~ Division of Parks and Public Lands.

A. A person operating a snowmobile on a snowmobile trail identified by the Department of Agriculture, Conservation and Forestry, ~~Bureau~~ Division of Parks and Public Lands as having been funded by the Snowmobile Trail Fund pursuant to section 1893, subsection 3:

- (1) If the person is under 18 years of age, shall wear protective headgear that conforms to the standards established under Title 29-A, section 2083, subsection 3; and
 - (2) May not carry a passenger under 18 years of age on the snowmobile unless the passenger is wearing protective headgear that conforms to the standards established under Title 29-A, section 2083, subsection 3.
- B. The Department of Agriculture, Conservation and Forestry, ~~Bureau~~ Division of Parks and Public Lands shall develop an administratively simple means of identifying trails that have been funded by the Snowmobile Trail Fund so that snowmobile riders can readily determine to which trails this subsection applies.
- C. The following penalties apply to violations of this subsection.
- (1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
 - (2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

EXPLANATION

Public Law 2011, chapter 657, Part V consolidated the Department of Agriculture, Food and Rural Resources and the Department of Conservation to form the Department of Agriculture, Conservation and Forestry. This section makes changes to reflect that consolidation.

Sec. 13. 15 MRSA §2123, sub-§2, as amended by PL 2011, c. 601, §5, is corrected to read:

2. Venue. Venue must be in the county in which the criminal judgment was entered. Venue may be transferred by the assigned justice or judge at that assigned ~~justice~~ justice's or judge's discretion.

EXPLANATION

This section corrects a clerical error.

Sec. 14. 16 MRSA §612, sub-§2, ¶G, as enacted by PL 1979, c. 433, §2, is corrected to read:

G. ~~Petitions~~ Petitions for and warrants of pardons, commutations, reprieves and amnesties.

EXPLANATION

This section corrects a clerical error.

Sec. 15. 17-A MRSA §708, sub-§2, ¶C, as enacted by PL 2011, c. 504, §1, is corrected to read:

C. The drawer refuses to tender payment in the amount of the instrument within 5 days of receipt of a notice under this paragraph mailed by certified or registered mail evidenced by return receipt at the address printed on the instrument or given at the time of issuance. The notice must be substantially as follows:

"You are hereby notified that the following instrument(s):

Number: Date: Amount: Name of Bank: drawn upon and payable to, (has)(have) been dishonored. Pursuant to Maine law, the Maine Revised Statutes, Title 17-A, section 708, subsection 2, you have 5 days from receipt of this notice to tender payment of the total amount of the instrument(s) plus the applicable service charge(s) of \$.....(.....dollars andcents) and any fee charged to the holder of the instrument(s) by a bank or financial institution as a result of the instrument(s) not being honored, the total amount due being \$.....(.....dollars and.....cents). Pursuant to Title 17-A, section 708, subsection 2, unless this amount is paid in full towithin 5 days after the actual receipt of this notice of dishonor, your failure to pay the amount owed gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that you knew that your ~~instruments(s)~~ instrument(s) would not be honored. Your failure to pay the amount owed could result in a report to a law enforcement agency for investigation and possible criminal prosecution for negotiating a worthless instrument in violation of Title 17-A, section 708, subsection 1."

EXPLANATION

This section corrects a clerical error.

Sec. 16. 20 MRSA §3458, sub-§4, as amended by PL 1975, c. 272, §9, is corrected to read:

4. Percentage of state aid. The percentage of the total major capital outlay expenditures ~~which that~~ the administrative unit was qualified to receive in school construction aid for the proposed project at the time when the proposed project and its financing were authorized, as computed in ~~section 2356-B and~~ Table II of section 3457 and Title 20-A, section 8351.

EXPLANATION

This section corrects a cross-reference and makes a grammatical change.

Sec. 17. 20-A MRSA §3272, sub-§2, ¶B, as enacted by PL 2007, c. 304, §1, is corrected to read:

B. The person is required to attend school or alternative instruction and is at least 7 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full

days of unexcused absences or 5 consecutive school days of ~~unexcused~~ unexcused absences during a school year.

EXPLANATION

This section corrects a clerical error.

Sec. 18. 20-A MRSA §13704, sub-§6, as enacted by PL 2011, c. 635, Pt. A, §3, is corrected to read:

6. Professional improvement plan. The opportunity for a an educator who receives a summative effectiveness rating indicating ineffectiveness in any given year to implement a professional improvement plan.

EXPLANATION

This section corrects a clerical error.

Sec. 19. 20-A MRSA §15676, sub-§§1 and 2, as amended by PL 2005, c. 2, Pt. D, §39 and affected by §§72 and 74 and c. 12, Pt. WW, §18, are corrected to read:

1. Teaching staff costs. The salary and benefit costs for school level teaching staff that are necessary to carry out this Act, calculated in accordance with section 15678, adjusted by the regional adjustment under section 15682 and reduced by the amount of funds received by the school administrative unit during the most recent fiscal year under Title ~~±~~ I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.;

2. Other staff costs. The salary and benefit costs for school-level staff who are not teachers, but including substitute teachers, that are necessary to carry out this Act, calculated in accordance with section 15679, adjusted by the regional adjustment under section 15682 and reduced by the amount of funds received by the school administrative unit during the most recent fiscal year under Title ~~±~~ I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq.; and

EXPLANATION

This section corrects a reference to federal law.

Sec. 20. 20-A MRSA §15689, sub-§12, as enacted by PL 2011, c. 655, Pt. F, §1, is reallocated to 20-A MRSA §15689, sub-§13.

EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapter 655, Part C, section 10 and Part F, section 1, which enacted 2 substantively different provisions with the same subsection number.

Sec. 21. 21-A MRSA §673, sub-§1, ¶A, as amended by PL 2011, c. 534, §15, is corrected to read:

A. A voter or an election official may challenge another voter only upon personal knowledge or a reasonably supported belief that the challenged voter is unqualified. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because the challenged person:
 - (a) Does not meet the age requirements as specified in ~~sections~~ section 111, subsection 2 and section 111-A;
 - (b) Is not a citizen of the United States; or
 - (c) Is not a resident of the municipality or appropriate electoral district within the municipality;
- (4) Registered to vote during the closed period or on election day and did not provide satisfactory proof of identity and residency to the registrar pursuant to section 121, subsection 1-A, except that only an election official may challenge for this reason;
- (5) Did not properly apply for an absentee ballot;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have the ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another;
- (11) Committed any other specified violation of this Title; or
- (12) Voted using the wrong ballot for the appropriate electoral district or political party, if applicable.

EXPLANATION

This section corrects a clerical error.

Sec. 22. 22 MRSA §13, sub-§6, ¶B, as amended by PL 2011, c. 687, §2, is corrected to read:

B. Notwithstanding paragraph A, the department may terminate or suspend the participation of a provider in the MaineCare program pursuant to federal regulation and state rule. This authority includes, but is not limited to, provider payment suspensions required under section ~~1714-D~~ 1714-E.

EXPLANATION

This section corrects a cross-reference.

Sec. 23. 22 MRSA §23, sub-§1, ¶B, as enacted by PL 2011, c. 687, §4, is corrected to read:

B. A gambling facility, as defined in Title 8, section 1001, subsection 16, except that use of the electronic benefits transfer system is permitted in any portion of the premises of a gambling facility that is set aside separately for the sale primarily of staple foods as defined in 7 United ~~State~~ States Code, Section 2012(r); or

EXPLANATION

This section corrects a clerical error.

Sec. 24. 22 MRSA §1511, sub-§13, as enacted by PL 2011, c. 655, Pt. M, §1, is reallocated to 22 MRSA §1511, sub-§15.

EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapters 655 and 701, which enacted 2 substantively different provisions with the same subsection number.

Sec. 25. 22 MRSA §1714-D, as enacted by PL 2011, c. 687, §9, is reallocated to 22 MRSA §1714-E.

EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapters 657 and 687, which enacted 2 substantively different provisions with the same section number.

Sec. 26. 22 MRSA §2157, sub-§11, as amended by PL 1985, c. 676, §2, is corrected to read:

11. Artificial flavoring and coloring. If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact. If the artificial flavoring and artificial coloring declaration does not refer to the entire contents of the package, the words "artificial flavoring" and "artificial coloring" must follow immediately

each of the ingredients of the package containing one or more of these substances. The common or usual name of any chemical preservative must be immediately followed by the words "chemical preservation-." To the extent that compliance with the requirements of this subsection is impracticable, exemptions ~~shall~~ must be established by ~~regulations promulgated~~ rules adopted by the Commissioner of "Agriculture, ~~Food and Rural Resources~~" Conservation and Forestry. This subsection, and subsections 7 and 9, with respect to artificial coloring, ~~shall~~ do not apply in the case of butter, cheese or ice cream; or

EXPLANATION

Public Law 2011, chapter 657, Part V consolidated the Department of Agriculture, Food and Rural Resources and the Department of Conservation to form the Department of Agriculture, Conservation and Forestry, and Part W, section 6 changed the title of the Commissioner of Agriculture, Food and Rural Resources accordingly. This section implements Part W, section 6, makes grammatical changes and makes technical corrections.

Sec. 27. 22 MRSA §3174-UU, as enacted by PL 2011, c. 657, Pt. S, §1, is reallocated to 22 MRSA §3174-VV.

EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapter 657, Part O, section 2 and Part S, section 1, which enacted 2 substantively different provisions with the same section number.

Sec. 28. 22 MRSA §5115, first ¶, as enacted by PL 1973, c. 630, §1, is corrected to read:

Coordinated community programs are authorized to be provided by the office through grants to each area agency with a plan approved under section 5118 for paying part of the cost, pursuant to the last 2 ~~paragraphs~~ paragraphs of this section, of the preparation, development and administration of a plan by each area agency designated pursuant to section 5116, subsection 1, paragraph B for a coordinated community program consistent with section 5118 and the evaluation of activities carried out under such plan; and the development and provision of coordinated community programs for the delivery of social services.

EXPLANATION

This section corrects a clerical error.

Sec. 29. 24-A MRSA §1402, sub-§1, ¶G, as enacted by PL 2011, c. 554, §2, is corrected to read:

G. An individual who satisfies the following with regard to portable electronic device insurance as defined under section 7001, subsection 6, paragraph A:

- (1) The individual collects claim information from, or furnishes claim information to, insureds or claimants and conducts data entry including entering data into an automated claims adjudication system; and
- (2) The individual is an employee of an adjuster licensed under this chapter or the adjuster's affiliate.

No more than 25 individuals under the supervision of one licensed adjuster or insurance producer described under paragraph C may be exempt pursuant to this ~~paragraph~~ paragraph.

For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronic device insurance claims that is used by an adjuster, insurance producer or supervised individual operating pursuant to this paragraph; complies with all claims payment requirements of the Maine Insurance Code; and is certified as compliant with this paragraph by a licensed adjuster that is an officer of a business entity licensed under this chapter.

EXPLANATION

This section corrects a clerical error.

Sec. 30. 24-A MRSA §2404, sub-§3, ¶D, as amended by PL 2003, c. 173, §1, is corrected to read:

D. A corporation has an insurable interest in the lives of its employees, former employees and retirees for the purpose of funding, in the aggregate, all or part of the corporation's cost for preretirement and postretirement medical, death, disability and pension benefits to its employees, former employees, retirees or their beneficiaries, ~~provided that~~ as long as an insurance program used to finance these employee benefits includes former employees, retirees or a broad class of employees selected by objective standards related to age, service, sex or category of employment and that the proceeds created by that insurance program are used for the sole purpose of funding the ~~corporations's~~ corporation's preretirement or postretirement benefit programs covering at least a broad class of employees; and

EXPLANATION

This section corrects a clerical error and makes a grammatical change.

Sec. 31. 25 MRSA §2901, as amended by PL 2011, c. 633, §13, is corrected to read:

§2901. Department; commissioner

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the

Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Bureau of Highway Safety, the Maine Drug Enforcement Agency, Maine Emergency Medical Services, the Bureau of Capitol ~~Security~~ Police, the Bureau of Consolidated Emergency Communications and the Gambling Control Unit.

EXPLANATION

This section replaces the word "Security" with the word "Police" to implement the intent of the revision clause contained in Public Law 2009, chapter 317, Part E, section 16.

Sec. 32. 26 MRSA §3202, sub-§7, as enacted by PL 2011, c. 491, §13, is corrected to read:

7. Union participation. An apprenticeship program may be proposed for registration by an employer or group of employers or an employers association. An employer or employers association with ~~the~~ respect to which there exists a standard or a collective bargaining agreement or other instrument that provides for participation by a union in any aspect of the operation of the substantive matters of an apprenticeship program must, if such participation is exercised, include in the apprenticeship program proposed for registration written acknowledgment of union agreement or no objection to the registration. If such participation is not so provided for or practiced, the employer or employers association must simultaneously furnish to an existing union, if any, that is the collective bargaining agent of the employees to be trained a copy of its application for registration and of the apprenticeship program. The registration agency shall provide for receipt of union comments within 45 days before final action on the application for registration.

EXPLANATION

This section corrects a clerical error.

Sec. 33. 26 MRSA §3206, sub-§2, as enacted by PL 2011, c. 491, §13, is corrected to read:

2. Deregistration by the Maine Apprenticeship Program upon reasonable cause. The Maine Apprenticeship Program may undertake deregistration proceedings with respect to an apprenticeship program if the apprenticeship program is not conducted, operated or administered in accordance with the apprenticeship program's standards under section 3203 or with the requirements of this chapter, including ~~not~~ but not limited to failure to provide on-the-job learning; failure to pay an apprentice a progressively increasing wage consistent with skills acquired; and persistent and significant failure to perform successfully. For purposes of this subsection, persistent and significant failure to perform successfully occurs when a sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assurance assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years or shows no indication of improvement in the areas identified by the Maine Apprenticeship Program during a review process as requiring corrective action. The Maine Apprenticeship Program shall follow

procedures regarding agency-initiated deregistration as outlined in 29 Code of Federal Regulations, Section 29.8.

EXPLANATION

This section corrects a clerical error.

Sec. 34. 27 MRSA §401, as amended by PL 1989, c. 503, Pt. B, §115, is corrected to read:

§401. Commission

A state commission, to be known as the "Maine Arts Commission," as established by Title 5, section 12004-G, subsection ~~9~~ 7-B, ~~shall~~ must consist of not less than 15 nor more than 21 members, each of whom ~~shall~~ must have a continuing interest in the fields of art and culture in the State, to be appointed by the Governor from among citizens of Maine. In making such appointments, due consideration ~~shall~~ must be given to the recommendations made by representative civic, educational and professional associations and groups concerned with or engaged in artistic and cultural fields generally.

EXPLANATION

This section corrects a cross-reference and makes grammatical changes.

Sec. 35. 32 MRSA §5507, as enacted by PL 2001, c. 261, §4 and amended by PL 2011, c. 286, Pt. B, §5, is corrected to read:

§5507. Fees

The Director of the Office of Professional and Occupational Regulation, pursuant to Title 10, section 8003, subsection 2-A, paragraph D, may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for a purpose may not exceed \$100 annually. Rules adopted pursuant to this section are routine technical rules as ~~define~~ defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

EXPLANATION

This section corrects a clerical error and makes a technical correction.

Sec. 36. 33 MRSA §593, sub-§6, as enacted by PL 1983, c. 407, §1, is corrected to read:

6. Unorganized territory. Time-share estates in the unorganized ~~territory shall~~ territory must be taxed according to the provisions of this section, and the State Tax Assessor ~~shall have~~ has all the rights and obligations applicable to a municipality or municipal officers.

EXPLANATION

This section corrects a clerical error and makes grammatical changes.

Sec. 37. 35-A MRSA §102, sub-§24, as enacted by PL 2011, c. 590, §1, is reallocated to 35-A MRSA §102, sub-§25.

EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapters 590 and 623, which enacted 2 substantively different provisions with the same subsection number.

Sec. 38. 35-A MRSA §1305, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is corrected to read:

1. Commission's powers. Each of the ~~commissioners~~ commissioners, for the purposes of this Title, may:

- A. Hold hearings;
- B. Conduct investigations;
- C. Administer oaths;
- D. Certify to official acts;
- E. Issue subpoenas;
- F. Compel the attendance of witnesses and the production of books, accounts, papers, documents and testimony;
- G. Punish by fine and imprisonment for contempt; and
- H. Issue all processes necessary to the performance of the commission's duties.

EXPLANATION

This section corrects a clerical error.

Sec. 39. 35-A MRSA §6105, sub-§4, ¶F, as amended by PL 2011, c. 602, §2, is corrected to read:

F. To provide for rate adjustments to reflect the cost of anticipated construction of plants or facilities required by the 1986 amendments to the United States Safe Drinking Water Act, Public Law 93-523, or related projects, except that rates established under this paragraph are not ~~be~~ subject to section 6104; and

EXPLANATION

This section corrects a clerical error.

Sec. 40. 36 MRSA §1760, sub-§45, ¶A-4, as enacted by PL 2011, c. 622, §3, is corrected to read:

A-4. If the property is brought into this State solely to conduct activities directly related to a declared state disaster or emergency, at the request of the State, a county, city, town or political ~~subdivision~~ subdivision of the State or a registered business, the property is owned by a person not otherwise required to register as a seller under section 1754-B and the property is present in this State only during a disaster period. As used in this paragraph, "declared state disaster or emergency" has the same meaning as in Title 10, section 9902, subsection 1 and "disaster period" means the period of 60 days that begins with the date of the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or major emergency, whichever occurs first; or

EXPLANATION

This section corrects a clerical error.

Sec. 41. 36 MRSA §2013, sub-§1, ¶C, as amended by PL 2011, c. 657, Pt. N, §2 and affected by §3, is corrected to read:

C. "Depreciable machinery and equipment" means, except as otherwise provided by this paragraph, that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles; attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry; new or used machinery and equipment used in the removal and storage of manure; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used to transport potatoes from a truck into a storage location;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in commercial fishing;

(3) New or used watercraft, machinery or equipment used directly and primarily for commercial aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights;; and

(4) New or used machinery and equipment for use directly and primarily in commercial wood harvesting, including, but not limited to, chain saws, skidders, delimiters, forwarders, slashers, feller bunchers and wood chippers.

"Depreciable machinery and equipment" does not include a motor vehicle as defined in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

EXPLANATION

This section corrects a clerical error.

Sec. 42. 36 MRSA §5211, sub-§16-B, as enacted by PL 2011, c. 622, §6 and affected by §7, is corrected to read:

16-B. Sales factor formula for certain disaster period receipts. The sales factor must exclude from the numerator sales receipts of a person whose only business activity in the State during the taxable year is the performance of services during a disaster period that are solely and directly related to a declared state disaster or emergency that were requested by the State, a county, city, town or political ~~subdivision~~ subdivision of the State or a registered business.

EXPLANATION

This section corrects a clerical error.

Sec. 43. 38 MRSA §353-B, sub-§2, ¶A, as repealed and replaced by PL 2011, c. 546, §2, is corrected to read:

A. The fees for waste discharge license groups are as follows.

Discharge group		Basis for annual fee	Median fee for discharge group	Water quality improvement surcharge
Publicly owned treatment facilities, 10,000 gallons per day or less	annual fee	2011 bill amount	\$306	
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	2011 bill amount	\$400	

Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$617
Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$1,300
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$4,553
Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$19,672

Other industrial facility, process wastewater	annual fee	2011 bill amount	\$1,214
Food handling or packaging wastewater	annual fee	2011 bill amount	\$659
Fish-rearing facility 0.1 million gallons per day or less	annual fee	2011 bill amount	\$312
Fish-rearing facility over 0.1 million gallons per day	annual fee	2011 bill amount	\$794
Marine aquaculture facility	annual fee	2011 bill amount	\$308
Noncontact cooling water	annual fee	2011 bill amount	\$192
Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater	annual fee	2011 bill amounts <u>amount</u>	\$363
Municipal combined sewer overflow	annual fee	2011 bill amount	\$413

Sanitary wastewater, excluding overboard discharge	annual fee	2011 bill amount	\$736	
Sanitary overboard discharge, commercial sources	annual fee	2011 bill amount	\$446	\$75
Sanitary overboard discharge, residential sources 600 gallons per day or less	annual fee	2011 bill amount	\$231	\$75
Sanitary overboard discharge, residential sources more than 600 gallons per day	annual fee	2011 bill amount	\$313	\$75
Sanitary overboard discharge, public sources	annual fee	2011 bill amount	\$315	\$75
Aquatic pesticide application	annual fee	2011 bill amount	\$644	
Snow dumps	annual fee	2011 bill amount	\$319	
Salt and sand storage pile	annual fee	2011 bill amount	\$429	

Log storage permit	annual fee	2011 bill amount	\$422
General permit coverage for industrial storm water discharges (except construction)	annual fee	2011 bill amount	\$300
General permit coverage for marine aquaculture facility	annual fee	2011 bill amount	\$134
General permit coverage (other)	annual fee	2011 bill amount	\$164
Experimental discharge license	license fee	2011 bill amount	\$899
New or amended mixing zone, in addition to other applicable fees	flat fee	\$5,368	---
Formation of sanitary district	flat fee	\$402	---

Transfer of license for residential or commercial sanitary wastewater flat fee \$100 ---

On an annual basis, municipalities and publicly owned treatment works whose combined sewer overflows have the potential to affect shellfish harvesting areas as determined by the department by virtue of their locations within estuarine or marine waters of the State must be assessed a surcharge on their wastewater discharge licenses in a total amount of \$12,000. This amount must be allocated among the municipalities and publicly owned treatment works according to their prior 3-year average annual flows as reported to the department.

On an annual basis, publicly owned treatment works whose outfalls licensed for the discharge of treated effluent cause adjacent shellfish growing areas to be closed for the purposes of harvesting shellfish must be assessed a license surcharge in a total amount of \$25,000. This amount must be allocated among the publicly owned treatment works according to the acreage that each licensed outfall closes. This acreage must be determined by the Department of Marine Resources in consultation with the department.

EXPLANATION

This section corrects a clerical error.

Sec. 44. 38 MRSA §443-A, sub-§3, as enacted by PL 1987, c. 815, §§10 and 11, is corrected to read:

3. Remedies. Any municipality ~~which that~~ fails to adopt, administer or enforce zoning and land use ordinances as required under this article ~~shall be~~ is subject to the enforcement procedures, equitable remedies and civil penalties set forth in sections ~~347~~ 347-A to 349.

EXPLANATION

This section corrects a cross-reference and makes grammatical changes.

Sec. 45. PL 2003, c. 688, Pt. B, §6, amending clause is corrected to read:

Sec. B-6. 21-A MRSA §673, sub-§1, ¶A, as amended by PL 2003, c. 395, §2 and c. ~~477~~ 447, §13, is repealed and the following enacted in its place:

EXPLANATION

This section corrects an amending clause.

Sec. 46. PL 2011, c. 542, Pt. A, §145 is corrected to read:

Sec. A-145. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 2, in the subchapter headnote, the words "mental retardation services" are amended to read "~~services for~~ persons with intellectual disabilities or autism; services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

EXPLANATION

This section corrects a subchapter headnote.

Sec. 47. PL 2011, c. 657, Pt. X, §§3 and 4, amending clauses are corrected to read:

Sec. X-3. 5 MRSA §6204, sub-§1, as amended by PL 2011, c. 655, Pt. II, §1 and affected by §11, is further amended to read:

Sec. X-4. 5 MRSA §6204, sub-§6, as amended by PL 2011, c. 655, Pt. II, §2 and affected by §11, is further amended to read:

EXPLANATION

This section corrects amending clauses.

Sec. 48. PL 2011, c. 687, §13 is corrected to read:

Sec. 13. Emergency rules. Notwithstanding the Maine Revised Statutes, Title 5, section 8054, the department may adopt emergency rules to implement Title 22, section ~~1714-D~~ 1714-E without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health or safety or the general welfare, if notice is given through a MaineCare provider list and 5 days or more are allowed for comment prior to adoption of the rules.

EXPLANATION

This section corrects a cross-reference.

Sec. 49. P&SL 1963, c. 87, §17, sub-§4, as repealed and replaced by P&SL 2011, c. 24, §12, is corrected to read:

4. Pledges and covenants; trust agreement. In the discretion of the board of trustees of the district, an issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be a trust company inside or outside the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the district and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds of the bonds, but may not convey or mortgage the sewer system or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, ~~covenants~~ covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its sewer system or of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; and defining defaults and providing for remedies in the event of a default, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of trustees may determine reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by a resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds pledged and thereafter received by the district are immediately subject to the lien of the pledge without a physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this Act, or a trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves as may be provided in the resolution or trust agreement, are set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this Act as the payment becomes due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund are subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.

EXPLANATION

This section corrects a clerical error.
