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No. 1555

S.P. 596

In Senate, May 31, 2013

An Act To Strengthen Maine's Hospitals and To Provide for a New Spirits Contract

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator FLOOD of Kennebec. (GOVERNOR'S BILL)

Cosponsored by Representative FREDETTE of Newport and

Senators: BURNS of Washington, COLLINS of York, CUSHING of Penobscot, HAMPER of Oxford, KATZ of Kennebec, LANGLEY of Hancock, MASON of Androscoggin, PLUMMER of Cumberland, SAVIELLO of Franklin, SHERMAN of Aroostook, THIBODEAU of Waldo, THOMAS of Somerset, WHITTEMORE of Somerset, YOUNGBLOOD of Penobscot, Representatives: AYOTTE of Caswell, BEAULIEU of Auburn, BENNETT of Kennebunk, BLACK of Wilton, CAMPBELL of Orrington, CHASE of Wells, COTTA of China, CRAFTS of Lisbon, CRAY of Palmyra, CROCKETT of Bethel, DAVIS of Sangerville, DOAK of Columbia Falls, DUNPHY of Embden, DUPREY of Hampden, FITZPATRICK of Houlton, GIFFORD of Lincoln, GILLWAY of Searsport, GUERIN of Glenburn, HARVELL of Farmington, JACKSON of Oxford, JOHNSON of Eddington, JOHNSON of Greenville, KESCHL of Belgrade, KINNEY of Limington, KNIGHT of Livermore Falls, LONG of Sherman, MAKER of Calais, MALABY of Hancock, MAREAN of Hollis, McCLELLAN of Raymond, McELWEE of Caribou, NADEAU of Fort Kent, NEWENDYKE of Litchfield, NUTTING of Oakland, PARRY of Arundel, PEASE of Morrill, POULIOT of Augusta, REED of Carmel, SANDERSON of Chelsea, SIROCKI of Scarborough, TIMBERLAKE of Turner, TURNER of Burlington, TYLER of Windham, WALLACE of Dexter, WEAVER of York, WILLETTE of Mapleton, WILSON of Augusta, WINCHENBACH of Waldoboro, WOOD of Sabattus.

1 and incentives offered to agency liquor stores, must be reported annually to the joint
2 standing committees of the Legislature having jurisdiction over appropriations and
3 financial affairs and alcoholic beverage matters. The report must include the impact of
4 those spending initiatives on the number of cases of spirits sold in the State and on sales
5 generally.

6 **Sec. A-3. 28-A MRSA §88**, as enacted by PL 2003, c. 20, Pt. LLL, §2 and
7 affected by §4, is repealed.

8 **Sec. A-4. 28-A MRSA §90** is enacted to read:

9 **§90. Contract for operations of wholesale liquor activities**

10 **1. Statement of purpose.** The Legislature finds that it is in the public interest to
11 seek efficiencies and maximize growth in the State's wholesale spirits business while
12 ensuring that growth in revenue from the business is achieved in a socially responsible
13 manner. The contracting of the operations of the wholesale spirits business should serve
14 this purpose and provide the State's agency liquor store partners with effective and
15 efficient services in order to responsibly serve consumers of spirits in the State.

16 **2. Contract for operations.** The Commissioner of Administrative and Financial
17 Services, referred to in this section as "the commissioner," shall enter into a contract for
18 warehousing, distribution and spirits administration and a contract for spirits trade
19 marketing, each for a term of 10 years. Each contract must be awarded pursuant to a
20 competitive bid process in a manner similar to the process described in Title 5, chapter
21 155, subchapter 1-A. The commissioner is prohibited from contracting with a bidder who
22 also holds a license in this State or another state to distill, bottle or manufacture spirits.

23 **3. Development of request for bid proposals; fee.** The commissioner shall develop
24 a request for proposals designed to encourage vigorous bidding for the purpose of
25 awarding 2 contracts for the operations of the State's wholesale spirits business. The
26 commissioner shall request bids for the operation of spirits trade marketing separately
27 from bids for the combined operations of warehousing, distribution and spirits
28 administration. In order to be considered for a contract to conduct spirits trade marketing,
29 a bidder must submit a nonrefundable application fee of up to \$5,000. In order to be
30 considered for a contract to conduct warehousing, distribution and spirits administration,
31 a bidder must submit a nonrefundable application fee of up to \$20,000. The application
32 fee must be credited to an Other Special Revenue Funds account within the division of
33 purchases within the Department of Administrative and Financial Services to be used for
34 managing the application process. A request for proposals must inform potential bidders
35 of the State's target gross revenue profit margin over the term of the contract and require
36 the bidder to affirm that the bidder, or any of the principal officers of the bidder, does not
37 hold or have a direct financial interest in a license or permit in this State or any other state
38 for the distillation, bottling or manufacture of alcoholic beverages. The request for
39 proposals must instruct potential bidders to propose the scope of operations the bidder
40 will provide and the fee for that service expressed as a percentage of revenue generated
41 by the wholesale business. The request for proposals must direct bidders to indicate if the
42 bidder intends to use subcontractors and to identify those subcontractors. The request for
43 proposals must also inform potential bidders that they may propose incentives for the

1 bidder intended to encourage responsible growth of revenue and enhanced efficiencies in
2 services provided.

3 **4. Information provided by bidders.** A bidder seeking consideration of the award
4 of a contract for the operations of the State's wholesale spirits business pursuant to this
5 section shall comply with the requirements of this subsection.

6 A. A bidder on a contract to operate the warehousing, distribution and spirits
7 administration functions of the wholesale spirits business shall identify services or
8 operations for which the bidder may use a subcontractor and shall demonstrate:

9 (1) The bidder's financial capacity and access to capital to maintain the
10 operations;

11 (2) The bidder's capabilities to provide adequate transportation and distribution
12 of liquor to agency liquor stores;

13 (3) The bidder's warehousing capabilities and proposed bailment rates for liquor
14 and related fees to be charged to liquor suppliers;

15 (4) That the bidder, including any principal officer of the bidder and any named
16 subcontractor, is of good moral character and has not been found to have violated
17 any state or federal law or rule governing the manufacture, distribution or sale of
18 alcoholic beverages;

19 (5) The bidder's knowledge of the wholesale liquor business, alcoholic beverage
20 industry or a related field;

21 (6) The bidder's plan to provide agency liquor stores with a minimum of 2
22 deliveries per week;

23 (7) The bidder's methods for processing orders and invoices, including any
24 minimum ordering requirements, split case restrictions and inventory control
25 plans;

26 (8) The bidder's business plan to provide services in a manner that will assist the
27 State in achieving a target growth rate comparable to or exceeding that of other
28 states that control the sale and distribution of alcoholic beverages;

29 (9) The bidder's plan for enhancing services to liquor suppliers and agency liquor
30 stores; and

31 (10) The positive impact on the economy, employment and state revenues that
32 the bidder's overall proposal will provide.

33 B. A bidder on a contract to provide spirits trade marketing shall:

34 (1) Demonstrate the bidder's business plan and marketing strategies to encourage
35 responsible growth to the wholesale spirits business;

36 (2) Demonstrate the bidder's experience or knowledge, if any, of responsible
37 marketing of alcoholic beverages;

38 (3) Identify services for which the bidder may use a subcontractor;

1 (4) Demonstrate that the bidder, including any principal officer of the bidder and
2 any named subcontractor, is of good moral character and has not been found to
3 have violated any state or federal law or rule governing the manufacture,
4 distribution or sale of alcoholic beverages; and

5 (5) Demonstrate the positive impact on the economy, employment and state
6 revenues that the bidder's overall proposal will provide.

7 In addition to the requirements of paragraphs A and B, the commissioner, in order to
8 ensure that the objective of maximizing growth in the State's wholesale spirits business is
9 achieved, may require bidders to provide additional information, including disclosure of
10 the potential of a bidder's direct and substantial conflict of interest with the State's
11 financial interest.

12 **5. Award criteria and issuance of contract.** The commissioner shall select
13 successful bidders for the contract to conduct the operations of warehousing, distribution
14 and spirits administration and the contract to provide spirits trade marketing; however,
15 both contracts may be awarded to the same bidder. The commissioner shall choose the
16 best value bidder in conformity with Title 5, section 1825-B, subsection 7 and shall
17 consider as criteria for award the information required to be provided in subsection 4, as
18 applicable. When selecting a successful bidder for the contract to conduct the operations
19 of warehousing, distribution and spirits administration, the commissioner may not
20 consider as cause for disqualification for consideration any weakness in or inability to
21 demonstrate proficiency in any one criterion listed in subsection 4, paragraph A,
22 subparagraphs (6) to (10).

23 The commissioner shall ensure that the following criteria are met before entering into a
24 contract with a bidder for operations of warehousing, distribution and spirits
25 administration:

26 A. That revenue to the State from the sale of spirits is predictable over the term of
27 the contract;

28 B. That revenue from the sale of spirits will be maximized by the issuance of the
29 contract and achieved through efficiency of services or profit sharing or both;

30 C. That the contract establishes standards of efficiency and quality of operations;

31 D. That the bidder has demonstrated that services provided to agency liquor stores
32 will be enhanced;

33 E. That, upon execution of the contract, the disruption of services to agency liquor
34 stores and suppliers will be minimal or absent; and

35 F. That the contract provides that the alcohol bureau must approve all bailment rates
36 and related fees.

37 **6. Contract provisions; oversight and performance review.** A contract provided
38 to a successful bidder in accordance with this section must require that the person
39 awarded the contract submit to the alcohol bureau, in a form determined by the alcohol
40 bureau, an annual report audited by an independent 3rd party. The alcohol bureau,
41 following receipt of the report, shall provide the report annually to the joint standing
42 committees of the Legislature having jurisdiction over appropriations and financial affairs

1 and alcoholic beverages matters. The contract must prohibit the person awarded the
2 contract from engaging in activities reserved for agency liquor stores licensed as reselling
3 agents to provide spirits to establishments licensed for on-premises consumption. The
4 contract must also include provisions that allow for ongoing performance standards
5 review so that deficiencies in such standards may result in amendments to the contract or
6 nullification. Performance standards subject to contract amendments or nullification
7 include:

8 A. Working in partnership with the State to achieve the goal of a revenue growth rate
9 comparable to the average growth rate of other states that control the sale and
10 distribution of alcoholic beverages;

11 B. Transparency in annual reporting and conformance to the reporting requirements
12 established by the alcohol bureau; and

13 C. Except for a contract awarded to conduct spirits trade marketing, responsiveness
14 to the service needs of agency liquor stores.

15 **7. Price regulation.** The alcohol bureau shall regulate the wholesale and retail
16 prices of all liquor sold by a person awarded a contract in accordance with this section.

17 **Sec. A-5. 28-A MRSA §453, sub-§2-C,** as enacted by PL 2009, c. 213, Pt. JJJJ,
18 §2, is amended to read:

19 **2-C. Licenses.** ~~Beginning July 1, 2009, the~~ The bureau shall consider whether the
20 applicant can satisfy the following criteria when determining whether to issue an agency
21 liquor store license under this section:

22 A. ~~The~~ Except as provided in subsection 2-D, the applicant has held a license to sell
23 malt liquor and wine for off-premises consumption for more than one year
24 immediately preceding application without a violation of any provision of this Title;

25 B. The applicant will be able to stock at least \$10,000 worth of spirits purchased
26 from the State or the State's wholesale distributor upon issuance of an agency liquor
27 store license; and

28 C. The applicant can purchase the initial stock of spirits using a bank check or other
29 financial instrument that certifies that funds are available.

30 **Sec. A-6. 28-A MRSA §453, sub-§2-D** is enacted to read:

31 **2-D. Exception.** If a retailer that is located in this State and has at least 5 locations
32 licensed as an agency liquor store is sold or ownership is transferred to another company
33 that will assume operation of some or all of the retailer's stores and that company submits
34 an application for an agency liquor store license at some or all of those stores, the bureau
35 may waive the requirement of subsection 2-C, paragraph A. The bureau may provide this
36 waiver only if the applicant has held a license in another state to sell malt liquor and wine
37 or spirits at retail for off-premises consumption, for at least one year prior to submitting
38 the application, without a violation of the laws governing the sale of alcoholic beverages
39 in that state and can provide the bureau with documentation of financial success as
40 determined by the bureau.

1 **LIQUOR OPERATION REVENUE BONDS**

2 **§6051. Declaration of public policy; funding**

3 The Legislature finds and declares that revenue financing bonds as authorized in this
4 subchapter are tax-exempt or taxable bonds payable from sources as provided in this
5 subchapter and such bonds do not include a legal or equitable claim against tax revenues
6 of the State and do not represent constitutional debt of or a pledge of the full faith and
7 credit of the State. The Legislature also finds that issuance of the revenue financing
8 bonds authorized in this subchapter and use of the proceeds of those bonds do not violate
9 the terms of the Constitution of Maine, Article V, Part Third.

10 **§6052. Definitions**

11 As used in this subchapter, unless the context otherwise indicates, the following
12 terms have the following meanings.

13 **1. Ancillary obligation.** "Ancillary obligation" means the obligation of the bond
14 bank in connection with liquor operation revenue bonds issued under this subchapter
15 under any of the following entered into by the bond bank:

16 A. A credit enhancement or liquidity agreement, including without limitation an
17 obligation in the form of bond insurance, a surety bond, a letter of credit, a standby
18 bond purchase agreement, a reimbursement agreement, liquidity facility or other
19 similar arrangement;

20 B. A remarketing agreement, auction agent agreement, broker-dealer agreement or
21 other agreement relating to the marketing of liquor operation revenue bonds, an
22 interest rate swap or another type of swap or hedging contract; or

23 C. An investment agreement, forward purchase agreement or similarly structured
24 investment contract.

25 **2. Cost of issuance.** "Cost of issuance" means an item of expense directly or
26 indirectly payable or reimbursable by the bond bank and related to the authorization, sale
27 or issuance of liquor operation revenue bonds, including, but not limited to, underwriting
28 fees and fees and expenses of professional consultants and fiduciaries.

29 **3. Financing costs.** "Financing costs" means all costs of issuance, capitalized
30 interest, capitalized operating expenses and debt service reserves, fees and costs of any
31 ancillary obligation or other fees, expenses and costs related to issuing, securing and
32 marketing liquor operation revenue bonds.

33 **4. Fund.** "Fund" means the Liquor Operation Revenue Fund established in section
34 6054.

35 **5. Liquor operation revenue bond.** "Liquor operation revenue bond" means a
36 bond, note or other evidence of indebtedness issued by the bond bank pursuant to this
37 subchapter.

1 **§6053. Liquor operation revenue bonds authorized**

2 **1. Revenue bonds.** Notwithstanding any other provision of law and upon written
3 approval of the Governor, the bond bank may issue liquor operation revenue bonds of up
4 to \$188,500,000 plus financing costs, and excluding bonds to refund bonds, for the
5 purpose of retiring amounts determined by the Commissioner of Health and Human
6 Services to be owed by the State to health care providers as provided by Title 22-A,
7 section 216. The bonds are payable solely from funds as provided in this subchapter.

8 **2. Amount and terms.** The bond bank may issue liquor operation revenue bonds
9 from time to time in amounts and upon such terms as the bond bank considers
10 appropriate. The terms of the liquor operation revenue bonds, their payment schedule and
11 other terms and provisions to facilitate their creditworthiness must be determined by the
12 bond bank.

13 **3. Form; interest; taxability.** The bond bank shall determine the terms of the liquor
14 operation revenue bonds, including:

15 A. The form of the liquor operation revenue bonds;

16 B. The rate or rates at which the liquor operation revenue bonds bear interest and
17 whether such interest is intended to be includable in or excludable from the gross
18 income of the bond owners for federal and state income tax purposes pursuant to the
19 United States Internal Revenue Code of 1986, as amended; and

20 C. The maturity, except that a liquor operation revenue bond may not mature later
21 than June 30, 2024.

22 **4. Not a pledge of the full faith or credit; not a debt.** Liquor operation revenue
23 bonds are not in any way a debt or liability of the State and do not constitute a loan of the
24 credit of the State or create any debt or debts or liability or liabilities on behalf of the
25 State or constitute a pledge of the faith and credit of the State. All liquor operation
26 revenue bonds issued by the bond bank, unless funded or refunded by bonds of the bond
27 bank, are payable solely from revenues or funds pledged or available for their payment as
28 authorized in this subchapter. Each liquor operation revenue bond must contain on its
29 face a statement to the effect that the bond bank is obligated to pay the principal, interest
30 and redemption premium, if any, solely from the revenues pledged for those purposes and
31 that neither the faith and credit nor the taxing power of the State is pledged to the
32 payment of the principal, interest or redemption premium, if any, on the liquor operation
33 revenue bonds.

34 **5. Bond proceeds.** Except as otherwise be provided under the indenture of trust or
35 resolution of the bond bank authorizing the liquor operation revenue bonds, the net
36 proceeds from any sale of liquor operation revenue bonds must be deposited into the
37 Health Care Liability Retirement Fund established in Title 22-A, section 216.

38 **6. Agreements with financial institutions.** For the purposes of this subchapter, the
39 bond bank may enter into an ancillary obligation or other agreement or contract with a
40 commercial bank, trust company or banking or other financial institution within or
41 outside the State that is necessary, desirable or convenient in the opinion of the bond bank

1 to provide any services to the bond bank to assist the bond bank in effectuating the
2 purposes of this subchapter. The bond bank may enter into, amend or terminate any
3 ancillary obligation or other agreement as the bond bank determines to be necessary or
4 appropriate. The ancillary obligation or other agreement may include without limitation
5 contracts commonly known as interest rate swap agreements, forward purchase contracts
6 or guaranteed investment contracts and futures or contracts providing for payments based
7 on levels of, or changes in, interest rates. These contracts may be entered into by the bond
8 bank in connection with or incidental to entering into or maintaining any agreement that
9 secures liquor operation revenue bonds issued under this subchapter or any investment or
10 contract providing for investment of reserves or similar facility guaranteeing an
11 investment rate for a period of years not to exceed the underlying terms of the liquor
12 operation revenue bonds. The determination by the bond bank that an ancillary obligation
13 or other agreement or the amendment or termination of an ancillary obligation or other
14 agreement is necessary or appropriate as provided in this section is conclusive. An
15 ancillary obligation or other agreement may contain provisions regarding payment,
16 security, default, remedy, termination and payments and other terms and conditions as
17 determined by the bond bank, after giving due consideration to the creditworthiness of the
18 counterparty or other obligated party, including any rating by any nationally recognized
19 rating agency, and to any other criteria as may be appropriate.

20 A liquor operation revenue bond or any ancillary obligation or other agreement made
21 pursuant to this subsection may contain a recital that it is issued or executed, respectively,
22 pursuant to this subchapter. The recital is conclusive evidence of the validity of the liquor
23 operation revenue bond or ancillary obligation or other agreement and of the regularity of
24 the proceedings relating to them.

25 **7. Remedies of holders of bonds.** If the bond bank defaults in the payment of
26 principal of or interest on any issue of liquor operation revenue bonds after the principal
27 and interest become due, whether at maturity or upon call for redemption or otherwise,
28 and that default continues for a period of 30 days, or if the bond bank fails or refuses to
29 comply with this subchapter or defaults in an agreement made with the holders of an
30 issue of liquor operation revenue bonds, the holders of 25% in aggregate principal
31 amount of liquor operation revenue bonds then outstanding, by instrument or instruments
32 filed in the office of the clerk of courts of Kennebec County and proved or acknowledged
33 in the same manner as a deed to be recorded, may appoint a trustee to represent the
34 bondholders. The trustee, in the trustee's own name, by mandamus or other suit, action or
35 proceeding at law or in equity, shall enforce all rights of the bondholders or holders of the
36 ancillary obligations or other agreements and require the bond bank to carry out any other
37 agreements with the bondholders or holders of such ancillary obligations or other
38 agreements and to perform the bond bank's duties required under this subchapter, as long
39 as the bonds are limited revenue obligations. An obligation to make debt service
40 payments does not constitute a debt or liability of the State or any political subdivision of
41 the State within the meaning of any constitutional or statutory limitation, or a loan of the
42 credit of the State, or a pledge of the faith and credit of the State or any political
43 subdivision of the State, and the State has no legal obligation to appropriate money for
44 those payments or other such obligations. Payments of the principal of, redemption
45 premium, if any, and interest on the liquor operation revenue bonds must be made solely
46 from amounts derived from the fund or as otherwise authorized by this subchapter.

1 Neither the faith and credit nor the taxing power of the State or of any political
2 subdivision of the State is pledged to the payment of the principal of, redemption
3 premium for, if any, or interest on the liquor operation revenue bonds.

4 **8. State authorized to enter into contracts.** The State, including any department,
5 commission, agency or other instrumentality of the State, is authorized to enter into an
6 agreement, contract or other arrangement with the bond bank in connection with the
7 issuance of liquor operation revenue bonds.

8 **9. Reserve fund for liquor operation revenue bonds.** The bond bank may
9 establish a capital reserve fund for the benefit of holders of liquor operation revenue
10 bonds subject to the provisions of section 6006, subsection 5.

11 **10. Agreement of the State.** The bond bank is authorized to include the following
12 statement in its liquor operation revenue bonds or contracts or ancillary obligations: "The
13 State hereby pledges to and agrees with the holders of any liquor operation revenue bonds
14 issued pursuant to the Maine Revised Statutes, Title 30-A, chapter 225, subchapter 5 and
15 with those parties who may enter into any ancillary obligation or contract with the Maine
16 Municipal Bond Bank pursuant to that subchapter that the State will not limit, alter,
17 restrict or impair the rights vested in the Maine Municipal Bond Bank and in any party to
18 an ancillary obligation or contract until the liquor operation revenue bonds, together with
19 interest, including interest on any unpaid installment of interest and all costs and expenses
20 in connection with any actions or proceedings by or on behalf of the bondholders, are
21 fully met and discharged and such contracts and ancillary obligations are fully performed
22 on the part of the Maine Municipal Bond Bank."

23 Nothing in this subchapter precludes the limitation or alteration of the rights vested in the
24 bond bank and holders of liquor operation revenue bonds if and when adequate provision
25 is made by law for the protection of the holders of liquor operation revenue bonds of the
26 bond bank or those entering into contracts or ancillary obligations with the bond bank.

27 **§6054. Liquor Operation Revenue Fund**

28 **1. Fund established.** The Liquor Operation Revenue Fund, referred to in this
29 section as "the fund," is a nonlapsing fund established within the bond bank to receive the
30 amounts referred to in subsection 2 and to pay amounts due under the liquor operation
31 revenue bonds and any ancillary obligations. The fund must be held separate and apart
32 from all other money, funds and accounts of the bond bank.

33 **2. Funding.** Notwithstanding section 85, subsection 1, beginning July 1, 2014, there
34 must be deposited directly into the fund any amounts received pursuant to Title 28-A,
35 section 90 and Title 22-A, section 216 and any other money or funds transferred or made
36 available to the bond bank only for the purposes of the fund from any other source
37 including without limitation amounts required to be deposited in the fund by the terms of
38 any ancillary obligation or other agreement related to liquor operation revenue bonds.

39 **3. Use of fund during bond retirement period; fiscal years before July 1, 2017.**
40 Money in the fund must be held and applied solely to the payment of the liquor operation
41 revenue bonds and any ancillary obligations secured by the fund as the bonds and
42 ancillary obligations become due and payable and for the retirement of liquor operation

1 revenue bonds, including the payment of any redemption premium required to be paid
2 when any liquor operation revenue bonds are redeemed or retired before maturity or for
3 the payment of ancillary obligations; except that, to the extent there is money in the fund
4 not needed in accordance with terms of the liquor operation revenue bonds and ancillary
5 obligations, before June 30th of each year, the bond bank shall withdraw an amount not
6 exceeding \$16,714,844 in the fiscal year ending June 30, 2015, \$16,639,000 in the fiscal
7 year ending June 30, 2016 and \$16,817,000 in the fiscal year ending June 30, 2017 to be
8 paid to the State and distributed as follows:

9 A. First, to the General Fund as undedicated revenue up to \$8,714,884 in the fiscal
10 year ending June 30, 2015, \$8,889,000 in the fiscal year ending June 30, 2016 and
11 \$9,067,000 in the fiscal year ending June 30, 2017;

12 B. Second, the remainder, if any, in each fiscal year divided in equal amounts to an
13 account within the Department of Health and Human Services and an account within
14 the Department of Environmental Protection, up to \$3,500,000 per account or the
15 maximum amount allowed for federal matching funds purposes under federal water
16 programs, whichever is less, to be used for revolving loan funds for drinking water
17 systems and wastewater treatment; and

18 C. Third, the remainder, if any, to an account within the Department of
19 Transportation to be used for the construction of highways and bridges.

20 **4. Use of fund during bond retirement period; from July 1, 2017 until bonds**
21 **retired.** Money in the fund must be held and applied solely to the payment of the liquor
22 operation revenue bonds and any ancillary obligations secured by the fund as the bonds
23 and ancillary obligations become due and payable and for the retirement of liquor
24 operation revenue bonds, including the payment of any redemption premium required to
25 be paid when any liquor operation revenue bonds are redeemed or retired before maturity
26 or for the payment of ancillary obligations; except that, to the extent there is money in the
27 fund not needed in accordance with terms of the liquor operation revenue bonds and
28 ancillary obligations, before June 30th of each year, the bond bank shall withdraw an
29 amount not exceeding \$7,000,000 to be paid to the State and distributed as follows:

30 A. First, in equal amounts to an account within the Department of Health and Human
31 Services and an account within the Department of Environmental Protection, up to
32 \$3,500,000 per account or the maximum amount allowed for federal matching funds
33 purposes under federal water programs, whichever is less, to be used for revolving
34 loan funds for drinking water systems and wastewater treatment; and

35 B. The remainder, if any, to an account within the Department of Transportation to
36 be used for the construction of highways and bridges.

37 Immediately upon retirement of all outstanding liquor operation revenue bonds and
38 ancillary obligations secured by the fund, the bond bank shall withdraw any excess
39 money in the fund and transfer it to the Maine Budget Stabilization Fund established in
40 Title 5, section 1532.

41 **5. Use of fund after bond retirement.** After all liquor operation revenue bonds and
42 any ancillary obligations secured by the fund have been retired, additional proceeds

1 credited to the fund from Title 22-A, section 216 and Title 28-A, section 90 must be
2 disbursed on a quarterly basis to the State and credited by the State Controller as follows:

3 A. The lesser of 15% and the maximum amount allowed for federal matching funds
4 purposes under federal water programs, divided equally between an account within
5 the Department of Health and Human Services and an account within the Department
6 of Environmental Protection for revolving loan funds for drinking water systems and
7 wastewater treatment;

8 B. Thirty-five percent to an account within the Department of Transportation for
9 construction of highways and bridges; and

10 C. The remainder to the Maine Budget Stabilization Fund established in section
11 1532.

12 **Sec. B-3. Appropriations and allocations.** The following appropriations and
13 allocations are made.

14 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

15 **Land and Water Quality 0248**

16 Initiative: Allocates funds for the state share to match available federal matching funds
17 for wastewater treatment projects.

18	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
19	All Other	\$0	\$1,331,000
20			
21	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$1,331,000

22	ENVIRONMENTAL PROTECTION,		
23	DEPARTMENT OF		
24	DEPARTMENT TOTALS	2013-14	2014-15
25			
26	OTHER SPECIAL REVENUE FUNDS	\$0	\$1,331,000
27			
28	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,331,000

29 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

30 **Health - Bureau of 0143**

31 Initiative: Allocates funds for the state share to match available federal matching funds
32 for drinking water projects.

1	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
2	All Other	\$0	\$1,331,000
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$1,331,000</u>

5 **Health Care Liability Retirement Fund N157**

6 Initiative: Authorizes the expenditure of bond proceeds from the sale of liquor operation
7 revenue bonds for the state share of payments to health care providers for services
8 provided prior to December 1, 2012.

9	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
10	All Other	\$188,500,000	\$0
11			
12	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$188,500,000</u>	<u>\$0</u>

13 **Medical Care - Payments to Providers 0147**

14 Initiative: Allocates the federal share of payments to health care providers for services
15 provided prior to December 1, 2012.

16	FEDERAL EXPENDITURES FUND	2013-14	2014-15
17	All Other	\$301,700,000	\$0
18			
19	FEDERAL EXPENDITURES FUND TOTAL	<u>\$301,700,000</u>	<u>\$0</u>

20 **HEALTH AND HUMAN SERVICES,**
21 **DEPARTMENT OF (FORMERLY DHS)**
22 **DEPARTMENT TOTALS**

23		2013-14	2014-15
24	FEDERAL EXPENDITURES FUND	\$301,700,000	\$0
25	OTHER SPECIAL REVENUE FUNDS	\$188,500,000	\$1,331,000
26			
27	DEPARTMENT TOTAL - ALL FUNDS	<u>\$490,200,000</u>	<u>\$1,331,000</u>

28 **SECTION TOTALS**

29		2013-14	2014-15
30	FEDERAL EXPENDITURES FUND	\$301,700,000	\$0
31	OTHER SPECIAL REVENUE FUNDS	\$188,500,000	\$2,662,000
32			
33	SECTION TOTAL - ALL FUNDS	<u>\$490,200,000</u>	<u>\$2,662,000</u>

1 **PART C**

2 **Sec. C-1. 28-A MRSA §81, sub-§1**, as amended by PL 1999, c. 535, §3, is
3 further amended to read:

4 **1. Oversight of Bureau of Alcoholic Beverages and Lottery Operations.** The
5 commission shall monitor the operation of the alcohol bureau in its administration of the
6 laws relating to the sale of spirits ~~and fortified wine~~.

7 **Sec. C-2. 28-A MRSA §81, sub-§2**, as amended by PL 1999, c. 535, §3, is
8 further amended to read:

9 **2. Advice.** The commission shall advise the director of the alcohol bureau regarding
10 the administration of the functions of the alcohol bureau. The commission may advise
11 the Governor and the Legislature regarding issues relating to the operation of the alcohol
12 bureau and the administration of the laws relating to the sale of spirits ~~and fortified wine~~.

13 **Sec. C-3. 28-A MRSA §83**, as amended by PL 2011, c. 693, §§1 and 2, is further
14 amended to read:

15 **§83. Bureau of Alcoholic Beverages and Lottery Operations**

16 **1. Bureau of Alcoholic Beverages and Lottery Operations; rules.** ~~Until the~~
17 ~~effective date of the privatization of the entire wholesale liquor business authorized by~~
18 ~~section 88, the~~ The alcohol bureau or a wholesale liquor provider contracted pursuant to
19 section 90 shall manage the sale, distribution and merchandising of spirits ~~and fortified~~
20 ~~wine~~ through state liquor stores, agency liquor stores and licensees. The alcohol bureau
21 may establish rules and procedures for the administration of the state liquor laws under its
22 jurisdiction. The rules adopted under this section are routine technical rules pursuant to
23 Title 5, chapter 375, subchapter 2-A. The day-to-day activities of the alcohol bureau are
24 under the supervision of the Commissioner of Administrative and Financial Services and
25 the director of the alcohol bureau.

26 **2. Purchase.** ~~Until the effective date of the privatization of the wholesale liquor~~
27 ~~business authorized by section 88, the~~ The alcohol bureau or a wholesale liquor provider
28 contracted pursuant to section 90 may buy and have in its possession spirits ~~and fortified~~
29 ~~wine~~ for sale to the public. The alcohol bureau shall buy spirits directly and not through
30 the State Purchasing Agent. All spirits ~~and fortified wine~~ must be free from adulteration
31 and misbranding.

32 **3. Sell at retail.** ~~The alcohol bureau may sell at retail in state liquor stores in~~
33 ~~original packages, either over the counter or by shipment to points within the State, spirits~~
34 ~~of all kinds and fortified wine for consumption off the premises of state liquor stores~~
35 ~~operated under the direction of the alcohol bureau.~~

36 **4. Enter into contracts.** Subject to any applicable laws relating to public contracts,
37 the alcohol bureau may enter into contracts or agreements and establish contract
38 performance standards for the wholesale purchase of spirits ~~and fortified wine~~.

1 **5. Investigate and recommend changes.** The alcohol bureau shall carry out a
2 continuous study and investigation of the sale of alcoholic beverages throughout the State
3 and the operation and administration of state activities and recommend to the
4 Commissioner of Administrative and Financial Services any changes in the laws or rules
5 and methods of operation that are in the best interest of the State. By December 1, 2012,
6 the commissioner shall conduct a cost-benefit analysis of the discount price at which
7 agency liquor stores purchase spirits ~~and fortified wine~~ from the State or wholesale liquor
8 provider contracted by the State that includes consideration of how the discount price
9 may be adjusted to allow agency liquor stores' revenue trends to mirror proportionally
10 any upward trend in spirits sales and revenue realized by the State or the State's wholesale
11 liquor provider. The commissioner shall update the cost-benefit analysis at least every 2
12 years and shall make the analysis available, upon request, to the joint standing committee
13 of the Legislature having jurisdiction over alcoholic beverages matters.

14 **5-A. Sales incentives to agents; rules.** The alcohol bureau may adopt rules to
15 provide for a sales incentive program for agency liquor stores. The alcohol bureau shall
16 consider federal regulations that govern sales incentives for alcoholic beverages and the
17 effect of a sales incentive program on General Fund revenue and pending or existing
18 contracts with a wholesale liquor provider when developing an incentive program.
19 Notwithstanding subsection 1, rules adopted in accordance with this subsection are major
20 substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

21 **6. Certification; annual report.** The alcohol bureau shall certify monthly to the
22 Treasurer of State, the commission and the Commissioner of Administrative and
23 Financial Services a complete statement of the revenues and expenses for liquor sales for
24 the preceding month. The alcohol bureau shall make an annual report to the Governor of
25 its activities and of the amount of liquor license fees collected by the bureau, together
26 with other information it considers advisable or that the Governor requires.

27 **7. Public meetings.** The alcohol bureau and the commission may hold public
28 meetings each year at various locations within the State for the purpose of outlining
29 operations under the liquor laws, receiving suggestions and disseminating information to
30 the public.

31 **Sec. C-4. 28-A MRSA §84, sub-§1,** as corrected by RR 1999, c. 2, §29, is
32 amended to read:

33 **1. Manage sale of spirits.** Manage the sale of spirits ~~and fortified wine~~ through
34 state liquor stores, agency liquor stores and licensees in accordance with applicable laws
35 and rules that provide for the operation of wholesale distribution of spirits ~~and fortified~~
36 ~~wine;~~

37 **Sec. C-5. 28-A MRSA §85, sub-§2,** as enacted by PL 1997, c. 373, §28, is
38 amended to read:

39 **2. Inventory.** The alcohol bureau may keep and have on hand a stock of spirits ~~and~~
40 ~~fortified wine~~ for sale, the value of which, when priced for resale must be computed on
41 the delivered case cost F.O.B. liquor warehouse designated by the commission filed by
42 liquor suppliers. The inventory value must be based upon actual cost for which payment

1 may be due and may not at any time exceed the amount of working capital authorized.
2 Spirits ~~and fortified wine~~ may not be considered in the inventory until payment has been
3 made for them.

4 **Sec. C-6. 28-A MRSA §453-C, sub-§1**, as amended by PL 2005, c. 539, §5, is
5 further amended to read:

6 **1. Agent licensed to resell spirits purchased from the alcohol bureau.** An agent
7 licensed to resell spirits ~~and fortified wine~~ purchased from the State to a retail licensee
8 licensed for on-premises consumption must be licensed as a reselling agent. An agent is
9 prohibited from reselling liquor to a retail licensee licensed for on-premises consumption
10 except for spirits and fortified wine purchased from the alcohol bureau ~~or a state liquor~~
11 ~~store~~. A reselling agent may not resell fortified wine purchased from wholesalers
12 licensed to sell beer and wine in the State.

13 **Sec. C-7. 28-A MRSA §453-C, sub-§2**, as enacted by PL 2001, c. 711, §6, is
14 amended to read:

15 **2. License fee.** The fee for a state license to resell spirits ~~and fortified wine~~ to a
16 retail licensee licensed for on-premises consumption is \$50 annually.

17 **Sec. C-8. 28-A MRSA §461, first ¶**, as enacted by PL 2011, c. 140, §1, is
18 amended to read:

19 An agency liquor store shall maintain a minimum number of product codes in
20 accordance with this section. For the purposes of this section, "product code" means a
21 single spirit ~~or fortified wine~~ product purchased from the State or the State's wholesale
22 distributor.

23 **Sec. C-9. 28-A MRSA §501**, as enacted by PL 2003, c. 20, Pt. SS, §4 and
24 affected by §8 and c. 51, Pt. C, §2, is amended to read:

25 **§501. Wholesale liquor provider; definition**

26 As used in this chapter, unless the context otherwise indicates, "wholesale liquor
27 provider" means an entity or entities contracted by the State as an agent of the State for
28 the purpose of providing wholesale spirits ~~and fortified wine~~ to establishments licensed
29 by the State to sell spirits ~~and fortified wine~~ for off-premises consumption.

30 **Sec. C-10. 28-A MRSA §503**, as enacted by PL 2003, c. 20, Pt. SS, §4 and
31 affected by §8 and c. 51, Pt. C, §2, is amended to read:

32 **§503. Sale to on-premises licensees prohibited**

33 A wholesale liquor provider shall sell spirits ~~and fortified wine~~ to establishments
34 licensed by the State to sell liquor for off-premises consumption. A wholesale liquor
35 provider is prohibited from selling spirits ~~and fortified wine~~ directly to establishments
36 licensed by the State to sell liquor for on-premises consumption.

1 Fund. The Health Care Liability Retirement Fund is funded with the revenue from the
2 sale of the bonds and used to pay debts owed by the State for services provided by health
3 care providers prior to December 1, 2012; anything in excess of the amount owed is
4 transferred to the Liquor Operation Revenue Fund. The Liquor Operation Revenue Fund
5 is funded by revenue from the management of wholesale liquor activities; such revenue
6 will be used to pay the principal and interest of the liquor operation revenue bonds as
7 those amounts become due.

8 During fiscal years 2014-15, 2015-16 and 2016-17, any excess revenue up to a set
9 amount is transferred to the General Fund to offset the amounts included in budgeted
10 General Fund revenue from liquor sales and operations and to offset additional General
11 Fund costs for liquor enforcement activities; after those transfers in those fiscal years and
12 for the rest of the bond repayment period, excess revenue over the set amount, up to
13 \$7,000,000 per year, is transferred to the Department of Health and Human Services and
14 the Department of Environmental Protection for revolving loan funds for drinking water
15 systems and wastewater treatment, and, if the amount transferred for those loans is
16 limited for federal matching funds purposes, any remainder is transferred to the
17 Department of Transportation for construction of highways and bridges. Any excess
18 funds retained by the Maine Municipal Bond Bank during the bond repayment period
19 must be transferred to the Maine Budget Stabilization Fund immediately upon retirement
20 of the bonds. Following the retirement of the bonds, excess revenue is also transferred to
21 the Maine Budget Stabilization Fund.

22 Part C removes the administration of the sale of fortified wine by the State, beginning
23 July 1, 2014.