

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

out in section 6 under the direction and supervision of the Department of Environmental Protection.

**Sec. B-6. Allocations from General Fund bond issue; to construct water pollution control facilities, to close and clean up municipal solid waste landfills and to mitigate storm water pollution through a comprehensive watershed protection program.** The proceeds of the sale of bonds must be expended as designated in the following schedule.

1997-98

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

Construction of water pollution control facilities	\$1,000,000
Grants to municipalities to close and clean up solid waste landfills	\$4,500,000
Mitigation of storm water pollution through establishment of a comprehensive watershed protection program	\$500,000

**TOTAL ALLOCATIONS** \$6,000,000

**Sec. B-7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State have ratified the issuance of bonds as set forth in this Part.

**Sec. B-8. Appropriation balances at year end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

**Sec. B-9. Bonds authorized but not issued.** Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued; except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

**Sec. B-10. Referendum for ratification; submission at statewide election; form of question; effective date.** This Part must be submitted to the legal voters of the State of Maine at the June 1998 primary election following passage of this Part. The municipal officers of this State shall notify the inhabitants of their respective cities, towns

and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$6,000,000 bond issue to construct water pollution control facilities, to close and clean up municipal solid waste landfills and to mitigate storm water pollution through a comprehensive watershed protection program?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if a majority of the legal votes are cast in favor of the Part, the Governor shall proclaim the result without delay, and the Part becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

**PART C**

**Sec. C-1. PL 1997, c. 519, Pt. B, §3** is amended to read:

**Sec. B-3. Contingent upon ratification of bond issue.** This Part takes effect only if a ~~\$13,000,000~~ \$6,000,000 General Fund bond issue, including \$500,000 for mitigation of storm water pollution through the establishment of a comprehensive watershed protection program, is approved by the voters of the State.

Effective pending referendum.

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**CHAPTER 562**

**S.P. 678 - L.D. 1902**

**An Act to Amend the Filing Date Provision in the Maine Residents Property Tax Program, to Provide an Application Clause for Certain Provisions of Law Relating to Computer Software, to Clarify Provisions of Law Regarding Transfers of Money from the Tax Relief Fund for Maine Residents to the General Fund and to Correct**

### Certain Provisions in Recently Enacted Legislation

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

**Whereas,** delay in making certain changes to the tax laws and to Public Law 1997, chapter 557 would interfere with administration of the tax laws; and

**Whereas,** legislative action is immediately necessary in order to ensure continued and efficient administration of the tax laws; and

**Whereas,** the 90-day period will not terminate until after July 1, 1997, the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses will become due and payable prior to July 1, 1997; and

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

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

#### PART A

**Sec. A-1. 36 MRSA §6204,** as amended by PL 1997, c. 557, Pt. A, §2 and affected by Pt. G, §1, is further amended to read:

##### §6204. Filing date

A claim may not be paid unless the claim is filed with the Bureau of Taxation on or after ~~October~~ August 1st and on or before the following January 31st.

**Sec. A-2. PL 1997, c. 557, Pt. A, §5** is repealed.

#### PART B

**Sec. B-1. PL 1997, c. 557, Pt. B, §13** is repealed and the following enacted in its place:

**Sec. B-13. Transfer of funds.** The State Controller shall transfer from the Tax Relief Fund for Maine Residents to the General Fund \$434,232 in fiscal year 1997-98 and \$2,195,280 in fiscal year 1998-99 to offset the revenue loss associated with the credits and exemptions established in this Part.

**Sec. B-2. PL 1997, c. 557, Pt. B, §14** is enacted to read:

**Sec. B-14. Application.** Those sections of this Part that enact the Maine Revised Statutes, Title 36, section 1752, subsection 1-E; amend Title 36, section 1752, subsection 17; and repeal Title 36, section 1752, subsection 17-A, paragraph F apply to transactions occurring on or after October 1, 1997. That section of this Part that enacts Title 36, sections 5219-L and 5219-M applies to tax years beginning on or after January 1, 1998.

**Sec. B-3. PL 1997, c. 557, Pt. D, §3** is repealed and the following enacted in its place:

**Sec. D-3. Transfer of funds.** The State Controller shall transfer from the Tax Relief Fund for Maine Residents to the General Fund \$44,698 in fiscal year 1997-98 and \$74,022 in fiscal year 1998-99 to offset the revenue loss associated with the sales tax exemption established in this Part.

**Sec. B-4. PL 1997, c. 557, Pt. D, §4** is enacted to read:

**Sec. D-4. Application.** This Part applies to transactions occurring on or after October 1, 1997.

**Sec. B-5. PL 1997, c. 557, Pt. E, §3** is repealed and the following enacted in its place:

**Sec. E-3. Transfer of funds.** The State Controller shall transfer from the Tax Relief Fund for Maine Residents to the General Fund \$1,400,724 in fiscal year 1997-98 and \$982,215 in fiscal year 1998-99 to offset the revenue loss associated with the income tax credit established in this Part.

#### PART C

**Sec. C-1. PL 1997, c. 395,** as enacted, is amended by repealing the emergency clause and inserting in its place the following:

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

**Sec. C-2. PL 1997, c. 556, §§1, 2, and 4,** as enacted, are repealed.

**Sec. C-3. Retroactivity.** That section of this Part that amends Public Law 1997, chapter 395 applies retroactively to June 5, 1997.

#### PART D

**Sec. D-1. 1 MRSA §1005,** as enacted by PL 1975, c. 621, §1, is amended to read:

##### §1005. Open meetings

Notwithstanding any other provision of law, all meetings, hearings or sessions of the commission shall be open to the general public unless, by an affirmative vote of at least 6 3 members, the commission requires the exclusion of the public.

**Sec. D-2. 12 MRSA §7035, sub-§11-B**, as amended by PL 1997, c. 432, §5, is further amended to read:

**11-B. Free fishing days.** The Saturday and Sunday of Father's Day weekend and the Saturday and Sunday immediately preceding President's Day are free fishing days. Notwithstanding sections 7151 and 7371, it is lawful during any free fishing day established under this subsection for any person to fish without a license in inland waters, except that this subsection does not apply to any person whose license to fish is under suspension or revocation. All other provisions of chapters 701 to 721 relating to fishing apply during any free fishing day.

**Sec. D-3. 22 MRSA §1555-B, sub-§5**, as enacted by PL 1997, c. 305, §5, is amended to read:

**5. Possession and use of cigarettes, cigarette papers or tobacco products; use of false identification by minors prohibited.** A person under 18 years of age may not purchase, possess or use cigarettes, cigarette paper or any tobacco product or offer false identification in an attempt to purchase any tobacco products or to purchase, possess or use cigarettes, cigarette paper or any other tobacco product.

**Sec. D-4. 22 MRSA §1556-A, sub-§2**, as amended by PL 1997, c. 305, §6, is further amended to read:

**2. Enforcement; jurisdiction.** Enforcement of criminal offenses may be carried out by written summons pursuant to Title 17-A filed in the District Court. Enforcement of civil violations set forth in section 1555-B, ~~subsection 2~~ may be carried out by complaint filed in Administrative Court or District Court. All ~~other~~ civil violations ~~under this chapter involving licenses issued pursuant to section 1551-A~~ are within the jurisdiction of the Administrative Court pursuant to section 1557, subsection 1.

**Sec. D-5. 24-A MRSA §6804, sub-§1**, as enacted by PL 1997, c. 430, §1 and affected by §2, is amended to read:

**1. Superintendent's authority.** The superintendent may deny, suspend, revoke or refuse to renew the license of a viatical settlement provider if the superintendent finds just cause to do so, which may include, but is not limited to, a finding that:

A. There was any material misrepresentation in the application for the license or other information submitted to the superintendent;

B. The licensee or any officer, partner or key management personnel of the licensee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action to suspend or revoke a viatical license or is otherwise shown to be untrustworthy or incompetent to act as a viatical settlement provider or viatical settlement broker;

C. The licensee as a viatical settlement provider demonstrates unreasonable payments to viators;

D. The licensee or any officer, partner or key management personnel of the licensee has been convicted of any felony of which criminal fraud is an element; or

E. The licensee has violated any of the provisions of this chapter or any rules adopted pursuant to this chapter.

**Sec. D-6. 30-A MRSA §371-B**, as enacted by PL 1997, c. 37, §1 and c. 87, §1, is repealed and the following enacted in its place:

**§371-B. Selection; qualifications**

**1. Manner of election or appointment.** Sheriffs are elected or appointed and hold their offices according to the Constitution of Maine. Their election must be conducted and determined as is provided for county commissioners. Sheriffs take office on the first day of January following their election.

**2. Filling vacancies.** Vacancies in the office of sheriff caused by death, resignation, removal from the county, permanent incapacity or any other reason must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a sheriff who was nominated by primary election before the general election the sheriff appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the sheriff whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is made.

**3. Minimum qualifications for officers.** A person may not be appointed to the office of sheriff, be a candidate for election to the office of sheriff or serve as sheriff of any county in the State unless the candidate meets the following qualifications:

A. The candidate swears to or affirms the Law Enforcement Code of Ethics;

B. The candidate has never been convicted of a Class C or higher crime;

C. The candidate applies to the Secretary of State for a criminal background investigation; and

D. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has acquired the minimum college credits in required courses, training hours and years of experience, or combination thereof, to qualify for an executive certificate under academy standards.

**4. Exception.** Any person who is serving or who has previously served in the office of sheriff on the effective date of this section is deemed to meet the minimum qualifications of subsection 3.

**Sec. D-7. PL 1997, c. 347, §1** is repealed.

**Sec. D-8. PL 1997, c. 554, §2, sub-§8** is amended to read:

**8. Report.** The task force shall prepare and submit a report, including any necessary implementing legislation, to the Governor, the Chief Justice of the Supreme Judicial Court, the Executive Director of the Legislative Council and the Joint Standing Committee on State and Local Government by January 1, 1998 to be submitted to the ~~First~~ Second Regular Session of the ~~119th~~ 118th Legislature.

**Sec. D-9. Resolve 1997, c. 74, §2, sub-§5** is amended to read:

5. Two representatives of the Maine School ~~Management Superintendents'~~ Association, one of whom is a member of the ~~cooperative board superintendents'~~ advisory committee of an applied technology region and one who oversees an applied technology center, appointed by the President of the Maine School ~~Management Superintendents'~~ Association;

**Sec. D-10. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 24-A, section 6804, subsection 1 takes effect October 1, 1997.

**Sec. D-11. Effective date.** Except as otherwise provided, this Part takes effect 90 days after adjournment of the First Special Session of the 118th Legislature.

## PART E

**Sec. E-1. 20-A MRSA §8207**, as enacted by PL 1995, c. 485, §4, is amended to read:

### §8207. Financing authority

The board of trustees may borrow funds, issue bonds and negotiate notes and other evidences of indebtedness or obligations of the school for renovation and construction purposes to pay for costs as defined in Title 22, section 2053, subsection 3 and may issue temporary notes and renewal notes to pay for those costs. Bonds, notes or other evidences of indebtedness or obligations of the school are legal obligations of the school payable solely from its revenues and other sources of funds, including funds obtained pursuant to Title 22, section 2053, subsection 4-B, paragraph B, and do not constitute a debt or liability and those bonds and notes are not includable in any debt limitation of the State or any municipality or political subdivision of the State. The board of trustees has the discretion to fix the date, maturities, denomination, interest rate, place of payment, form and other details of the bonds or notes of the school. Unless otherwise provided in the vote authorizing their issuance, bonds or notes of the school are signed by the treasurer and countersigned by the chair of the board of trustees. The aggregate principal amount of outstanding bonds, notes or other evidences of indebtedness of the school may not exceed \$3,000,000 at any one time, excluding temporary notes and renewal notes. The board of trustees may pledge or assign its revenues, including any funds that have been or may be appropriated to the school by the Town of Limestone, and the proceeds of those revenues as security toward its bonds, notes, other evidences of indebtedness or other obligations of the school. The proceeds of bonds, notes or other evidences of indebtedness may be invested in accordance with Title 30-A, sections 5706 and 5712. Bonds, notes and other evidences of indebtedness issued under this section are not debts of the State, nor a pledge of the credit of the State, but are payable solely from the funds of the school. The board of trustees may also borrow funds in anticipation of revenues for current operating expenses for a term not exceeding 13 months.

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

Effective June 25, 1997, unless otherwise indicated.