

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1890

S. P. 564

In Senate, June 21, 1977

The Committee on Judiciary suggested by Committee on Reference of Bills
Approved by a Majority of the Legislative Council pursuant to Joint Rule 25.
Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Collins of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Make Additional Corrections of Errors and
Inconsistencies in the Laws of Maine.**

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve such uncertainties and confusion to prevent any injustice or hardship on the people of Maine; and

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

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

Sec. 1. 1 MRSA § 12, last sentence, is amended to read:

If compensation for land is not agreed upon, the estate may be taken for the intended purpose by payment of a fair compensation, to be ascertained and determined in the same manner as and by proceedings similar to those provided for ascertaining damages in locating highways, in Title 23, chapters 201 to ~~209~~ 207.

Sec. 1-A. 3 MRSA § 2, as repealed and replaced by PL 1975, c. 750, § 1 is amended by adding a new paragraph at the end to read:

The expenses of members of the Legislature traveling outside the State shall be reimbursed for their actual expenses provided that the expense vouchers are approved by the President of the Senate or the Speaker of the House of Representatives.

Sec. 2. 3 MRSA § 3, as last amended by PL 1973, c. 590, § 2, is repealed.

Sec. 3. 3 MRSA § 164, sub-§ 13 is enacted to read:

13. Commission or special committee recommending legislation; ex officio membership. The Director of Legislative Research, or his designee, shall be an ex officio member, without a vote, of any commission or special committee established by legislative Act or resolve whose purpose is to make an inquiry and recommend a legislative solution to the Legislature. Membership under this subsection shall be limited to advising the commission on the preparation of legislation in final form for submission to the Legislature and providing drafting assistance to the extent possible.

Sec. 4. 4 MRSA § 9-A, last ¶, as enacted by PL 1973, c. 675, is amended by adding at the end a new sentence to read:

Any statute incorporated specifically or in general terms in a rule shall remain in effect.

Sec. 5. 4 MRSA § 103, 2nd and 3rd sentences, as last amended by PL 1969, c. 466, § 3, are further amended to read:

Such justice shall terminate his service before his 71st birthday, except that a justice who is serving his first term of judicial office which can be credited for the purpose of qualifying for compensation upon retirement may serve for the remainder of that single term beyond his 71st birthday. Any justice who continues to serve until or after his 71st birthday, except a justice who is serving his first term of judicial office which can be credited for the purpose of qualifying for compensation upon retirement, shall waive his right to the compensation mentioned and make no claim therefor at the termination of his service.

Sec. 6. 5 MRSA § 552, sub-§ 7, as enacted by PL 1973, c. 723, § 1, is repealed.

Sec. 7. 5 MRSA § 554 is repealed and the following enacted in its place:

§ 554. Personnel records

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service shall be reported to the commissioner at such time, in such form and together with such supportive or pertinent information as he shall by rule prescribe.

The commissioner shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data as he deems pertinent.

Records of the Department of Personnel shall be public records and open to inspection of the public during regular office hours at reasonable times and in accordance with such procedure as the commissioner may provide.

The term "public records," as defined in Title 1, section 402, subsection 3, shall not apply to: Working papers, research material, records and the examinations prepared for and used specifically in the examination or evaluation of applicants for positions within the classified service of State Government; applications, resumes, rating or performance evaluation sheets, records of disciplinary actions, interoffice or intraoffice memoranda or other correspondence deemed to be related to the personal history of state employees or applicants for classified state positions.

Sec. 8. 5 MRSA § 555, as last amended by PL 1973, c. 633, § 21, is further amended by adding at the end the following new paragraph:

When a permanent, classified employee is on extended leave, a substitute may be employed, subject to personnel rules, until return separation of the incumbent.

Sec. 9. 5 MRSA § 593, as amended by PL 1975, c. 766, § 4, is repealed and the following enacted in its place:

§ 593. Appeals to the commissioner

Any employee or appointing authority aggrieved by the determination of the Department of Personnel concerning the classification of positions, the allocation of new positions in the classified service may appeal from such determination to the commissioner. Such appeal shall be made within 30 days after receipt of written notice of such determination from the department. Such employee or appointing authority, or his representative, shall be afforded a public hearing before the commissioner with an opportunity to present facts and arguments in support of or in relation to such appeal at a time and place and in such manner as may be prescribed by the commissioner. The commissioner shall examine and review such appeal and make such changes in the classification, allocation or reallocation as may be just and equitable. Determinations of the commissioner shall be transmitted to the State Budget Officer, the employees and department heads affected thereby.

Any classification of a position and any allocation or reallocation of a position made by the commissioner pursuant to this section shall become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation of funds therefor, except that the State Budget Officer may, if he determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year.

Sec. 10. 5 MRSA § 632, last ¶, as repealed and replaced by PL 1975, c. 766, § 4, is repealed and the following enacted in its place:

All persons competing in any test shall be given written notice of their final earned ratings or of their failure to attain placement upon the eligible register.

Sec. 11. 5 MRSA § 633, first sentence, as amended by PL 1975, c. 766, § 4, is further amended to read:

It shall be the duty of the commissioner to ascertain and record the duties and responsibilities of all positions in the service and to establish classes for such positions, in conformity with regulations adopted therefor by the ~~board~~ commissioner as provided in section ~~592~~ 631.

Sec. 12. 5 MRSA § 634, first paragraph, as amended by PL 1975, c. 766, § 4, is further amended to read:

The commissioner shall, as soon as practicable after the adoption of the classification plan, submit to the ~~board~~ Legislature a proposed plan of compensation showing for each class of position in the classified service minimum and maximum salary rates and such intermediate rates as he deems desirable.

Sec. 13. 5 MRSA § 634, 2nd ¶, as last amended by PL 1975, c. 766, § 4, is further amended to read:

When the compensation plan has become effective through its adoption by the ~~board~~ as provided in section ~~592~~ Legislature, it shall constitute the official schedule of salaries for all classes of positions in the classified service, except that if the adoption of a compensation plan results in the reduction of salary of an employee, the Commissioner of Personnel shall certify to the proper fiscal officer of the State that the employee's salary shall not be subject to any reduction for a period of one year from the effective date of adoption of said plan.

Sec. 14. 5 MRSA § 634, 3rd ¶, first sentence, as amended by PL 1975, c. 766, § 4, is further amended to read:

Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the commissioner ~~and the board~~.

Sec. 15. 5 MRSA § 637, as amended by PL 1975, c. 766, § 4, is further amended to read:

§ 637. Service ratings

The commissioner shall establish standards of performance for each class of position and a system of service ratings based upon such standards, which shall be in effect upon their approval ~~by the board~~ as provided in section ~~592~~ 631.

Sec. 16. 5 MRSA § 671, 2nd ¶, last sentence is repealed and the following enacted in its place:

No person shall be appointed, transferred, promoted or reduced as an officer, clerk or employee or laborer in the classified service in any manner or by any

means other than those prescribed in chapters 51 to 67 and in the rules made in pursuant to chapters 51 to 67.

Sec. 17. 5 MRSA § 671, last ¶ is repealed and the following enacted in its place:

Competitive and noncompetitive, in accordance with rules and regulations prescribed by the commissioner.

Sec. 18. 5 MRSA § 673, first ¶ is repealed and the following enacted in its place:

All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment sought by them.

Sec. 19. 5 MRSA § 673, last ¶, as last amended by PL 1975, c. 766, § 4, is further amended to read:

Public notice of the time, place and general scope or nature of every examination or test shall be given in the manner prescribed by rules and regulations drawn up by the commissioner.

Sec. 20. 5 MRSA § 678, first ¶, as amended by PL 1973, c. 390, § 4, is further amended to read:

An appointing authority may dismiss, suspend or otherwise discipline an employee for cause. This right is subject to the right of appeal and arbitration of grievances set forth in sections 751 to 753, or by personnel rule; and said sections 751 to 753 shall apply to any employee who has satisfactorily completed an initial probationary period.

Sec. 21. 5 MRSA § 711, sub-§ 13 is enacted to read:

13. Scalers and surveyors appointed by the Director of the Bureau of Public Lands pursuant to Title 12, section 553, subsection 3, paragraph H.

Sec. 22. 5 MRSA § 711, sub-§ 14, is enacted to read:

14. Appointed by the Commissioner of Conservation. The Director of the Bureau of Forestry, the Director of the Bureau of Parks and Recreation and the Director of the Bureau of Public Lands.

Sec. 23. 5 MRSA § 741 is repealed.

Sec. 24. 5 MRSA § 1094, sub-§ 3, last ¶, as amended by PL 1967, c. 57, § 2, is further amended to read:

Any member who has served as a member of either the House of Representatives or the Senate, or as a member of the Executive Council of the State of Maine, shall be entitled to receive the appropriate creditable service for such legislative or Executive Council service. Any member of the retirement system who does serve as a member of the House of Representatives or the Senate or as a member of the Executive Council shall have deductions taken from his salaries and shall be entitled to all applicable rights and benefits

of this Title. Any such member shall become entitled to receive time credits for the duration of his election or until such time as he shall officially resign from the House of Representatives or the Senate, ~~or as a member of the Executive Council~~ but in no instance shall he receive more than one year of creditable service in any one-year period.

Sec. 25. 5 MRSA § 1094, sub-§ 16, last ¶, as enacted by PL c. 742, § 1, is amended to read:

Paragraph B shall not apply to teachers who retire immediately following completion of the contractual obligations of a contract valid and in effect on ~~the effective date of this Act~~ July 29, 1976. Such retiring teachers may receive credit for membership service for accumulated or accrued leave under this section as in effect immediately prior to ~~the effective date of this Act~~ July 29, 1976.

Sec. 26. 5 MRSA § 1121, sub-§ 2, ¶ G, as enacted by PL 1965, c. 439, § 1, is amended to read:

G. Paragraph C shall apply to all superintendents employed in any public school who have been retired under an order issued by the Governor ~~and Council~~ and are now receiving benefits, providing such benefits are less than those authorized by ~~said~~ paragraph C.

Sec. 26-A. 5 MRSA § 1122, sub-§ 4, as repealed and replaced by PL 1975, c. 622, § 54, is amended by adding at the end a new paragraph to read:

For the purpose of this subsection, the disability beneficiary's average final compensation at retirement, used to determine his earning capacity, shall include the same percentage adjustments, if any, that would apply to the amount of retirement allowance of the beneficiary under section 1128.

Sec. 27. 5 MRSA § 1541, sub-§ 11-A is enacted to read:

11-A. Travel expenses; reimbursement; rules, regulations. The State Controller, with the approval of the Commissioner of Finance and Administration, may adopt, modify or abrogate rules and regulations for travel expense reimbursement and to carry out this chapter.

Sec. 28. 5 MRSA § 2301, sub-§ 1, 22nd ¶ is amended to read:

Chief of the State Police or his duly designated enforcement officer, but only as he controls and supervises the licensing of official inspection stations;

Sec. 29. 5 MRSA § 3306, as repealed by PL 1975, c. 755, § 2 and as amended by PL 1975, c. 771, § 86, is repealed.

Sec. 30. 7 MRSA § 2504 is repealed and the following enacted in its place:

§ 2504. Penalties

A violation of chapters 503, 505 and 507 is a civil violation, for which a forfeiture of not more than \$10 and costs may be adjudged for each offense.

Sec. 31. 7 MRSA § 3402, as last repealed and replaced by PL 1975, c. 140, § 3, is amended to read:

§ 3402. Copies of law posted

The commissioner shall seasonably forward to the clerks of the several municipalities copies of sections 3451, 3452 and 3701 to 3703, and each clerk shall annually, at least 20 days before the first day of ~~April~~ **January**, post ~~said~~ these copies in the usual places for posting notices of the annual municipal or town elections.

Sec. 32. 7 MRSA § 3455, as enacted by PL 1973, c. 45, § 1, is further amended by adding at the end the following new paragraph:

“Owner” means any person or persons, firm, association or corporation owning, keeping or harboring a dog.

Sec. 33. 8 MRSA § 275, 2nd ¶, first sentence, as last amended by PL 1977, c. 96, § 5, is further amended to read:

A sum equal to 1% of the total contributions on regular wagers and a sum equal to ~~1½%~~ 1% of the total contributions on exotic wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter shall be paid and returned to the licensees for the purpose of supplementing purse money. **A sum equal to 1½% of the total contributions on exotic wagers on all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter shall be retained by the licensee and shall be added to purse money.**

Sec. 34. Retroactivity. Section 33 shall be retroactive to April 26, 1977.

Sec. 34-A. 9 MRSA § 3738, 2nd sentence, as amended by PL 1967, c. 494, § 9, is further amended to read:

No financial institution as defined in ~~section 222~~ **Title 9-B, section 131**, credit union, national bank or federal savings and loan association authorized to do business in this State shall be required to obtain a license or pay a license fee ~~hereunder; however, nothing.~~ **Nothing** contained in this chapter shall be deemed to have any effect whatever upon any existing law regulating the power of or the conditions and limitations under which such institutions may engage in the business of a home repair financing agency.

Sec. 34-B. 9 MRSA § 4065, as enacted by PL 1975, c. 429, § 1, is amended to read:

§ 4065. Applicability of Truth-in-Lending Act and the Maine Consumer Credit Code

If a transaction subject to this Part is also subject to the Federal Consumer Credit Protection Act, Title 1, chapter 2 ~~or this Title, Part 12~~ or the Consumer Credit Code, the provisions and requirements of said Act ~~Part 12~~ or the Consumer Credit Code shall control in any case where they may conflict with this Part.

Sec. 35. 9-A MRSA § 2-502, sub-§ 3, last sentence, as repealed and replaced by PL 1975, c. 268, is amended to read:

For purposes of this subsection a payment is applied first to any instalment due in the computational period, under section ~~2-510~~ 2-503, subsection ~~4~~ 1, ~~paragraph B~~ in which it is received and then, in the absence of specific written direction by the consumer to the contrary, to delinquent instalments and charges.

Sec. 35-A. 9-A MRSA § 3-506, as enacted by PL 1973, c. 762, § 1, is amended to read:

§ 3-506. Limitation

This Part shall not apply to any transaction covered by ~~Title 9, section 3917~~ Title 9-A, section 7-117, nor shall it apply to any sale, by any dealer or agent or salesman of a registered dealer, registered pursuant to Title 32, chapter 13, of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to Title 32, chapter 13 or expressly exempt from registration thereof.

Sec. 35-B. 9-A MRSA § 6-107, as enacted by PL 1973, c. 762, § 1, is amended to read:

§ 6-107. Application of part on administrative procedure and judicial review

Except as otherwise provided, an administrative action taken by the administrator pursuant to this Article or the Part on supervised lenders, Part 2, of the Article on Finance Charges, Article II, may be taken under Part on Administrative Procedure and Judicial Review, Part 4, of this Article, notwithstanding ~~Title 9, section 7~~ Title 9-B, section 231, subsections 2 and 3 and section 233.

Sec. 35-C. 9-A MRSA § 7-124, last sentence, as enacted by PL 1975, c. 446, § 2, is amended to read:

~~Title 9, section 6, subsection 4~~ Title 9-B, section 215, shall not apply to regulations issued under this Article.

Sec. 36. 9-B MRSA § 464, sub-§ 3, ¶ C, as enacted by PL 1977, c. 152, § 4, is amended to read:

C. Purchasing shares of any type of its own capital stock or the capital stock of its parent financial institution holding company pursuant to any stock option plan, stock bonus plan or other incentive plan for any or all directors, officers and employees duly adopted by the ~~financing~~ financial institution's board of directors.

Sec. 36-A. 10 MRSA § 8002, last ¶, as repealed and replaced by PL 1975, c. 767, § 9 and PL 1975, c. 770, § 59, is repealed and the following enacted in its place:

The commissioner shall not have the authority to exercise or interfere with the exercise of discretionary regulatory or licensing authority granted by statute to the bureaus, boards or commissions within the department set forth in section 8001.

Sec. 37. ~~10~~ **MRSA § 1474, sub-§ 3, ¶ B, first sentence**, as enacted by PL 1975, c. 770, § 57, is amended to read:

The following notice: "If a dealer fails to perform his obligation under the warranty, the purchaser shall give the dealer written notice of such failure before the purchaser initiates a civil action in accordance with section ~~1456~~ 1476.

Sec. 37-A. ~~12~~ **MRSA § 685-B, sub-§ 2, ¶ B**, as enacted by PL 1971, c. 457, § 5, is repealed and the following enacted in its place:

B. The fee prescribed by the commission rules, such fee to be the greater of \$10 or 1/10 of 1% of the total construction costs;

Sec. 38. ~~12~~ **MRSA § 1978, sub-§ 2, first sentence**, as repealed and replaced by PL 1971, c. 356, § 12, is amended to read:

It is unlawful to operate or attempt to operate any snowmobile in any place while ~~intoxicated by the use~~ under the influence of intoxicating liquor or drugs or to operate or attempt to operate any snowmobile in any place while a person's mental or physical faculties are ~~impaired by the use~~ under the influence of intoxicating liquors or drugs.

Sec. 39. ~~12~~ **MRSA § 2070, sub-§ 10, last sentence**, as amended by PL 1975, c. 772, § 5, is repealed and the following enacted in its place:

In all other cases, the division shall send a list of registrations issued annually to the Bureau of Taxation.

Sec. 40. ~~12~~ **MRSA § 2602**, as last amended by PL 1977, c. 78, § 83, is repealed.

Sec. 41. ~~12~~ **MRSA § 3058**, as last amended by PL 1977, c. 78, § 92, is repealed.

Sec. 42. ~~13~~ **MRSA § 982, last sentence** is amended to read:

If, upon complaint by any person, the Governor ~~and Council~~, after notice and hearing, find that any institution or association has violated this section, such institution or association shall forfeit its right to any appropriation from the State.

Sec. 42-A. ~~13~~ **MRSA § 1822, sub-§ 4** is amended to read:

4. Financing. Financing any of the above enumerated activities for its members, subject to the limitations of ~~Title 9, section 171, subsection 2~~ **Title 9-B, section 466.**

Sec. 43. ~~13~~ **MRSA § 1956, sub-§ 2, 1st sentence**, as enacted by PL 1973, c. 621, § 1, is amended to read:

The board shall consist of 5 members who shall be appointed by the Governor ~~with the approval of the Council.~~

Sec. 44. ~~13~~ **MRSA § 1956, sub-§ 2, 2nd ¶, 5th sentence**, as enacted by PL 1973, c. 621, § 1, is amended to read:

In the event of a vacancy, the Governor ~~and Council~~ shall, within one month, appoint a successor to fill the unexpired term of his predecessor.

Sec. 45. 14 MRSA § 6321, first ¶, 2nd sentence, as enacted by PL 1975, c. 552, § 5, is repealed and the following enacted in its place:

The method of foreclosure of real estate mortgages provided by this section is an alternative method to those provided in sections 6201 and 6203 and is specifically subject to the order of priorities set out in section 6205.

Sec. 45-A. 14 MRSA § 6325, 1st sentence, as enacted by PL 1975, c. 552, § 5, is amended to read:

The method of foreclosure set forth in sections 6321 to 6324 may be used for the foreclosure of all real property mortgages **executed subsequent to October 1, 1975**, except for railroad mortgages, so called, or for indentures or deeds of trust securing bond issues of corporations wherein the method of foreclosure or sale is provided in the indenture or deed of trust or any similar instrument; provided that any such railroad mortgage, corporate indenture, deed of trust or similar instrument executed subsequent to January 1, 1976 shall be subject to this subchapter unless the applicability of this chapter is expressly negated in such instrument.

Sec. 46. 15 MRSA § 454, 2nd sentence is amended to read:

A copy of the indictment, plea, evidence and charge of the presiding justice, certified by the Official Court Reporter, shall be filed in the office of the Secretary of State, so that it may be used in any pardon hearing before the Governor ~~and Council~~, and the expense thereof shall be paid by the State.

Sec. 47. 15 MRSA § 2115-A, sub-§ 4, as enacted by PL 1967, c. 547, § 1, is amended to read:

4. Fees and costs. The Supreme Judicial Court shall allow reasonable counsel fees ~~which in any case shall not be less than minimum bar fees prevailing for similar services in the county in which the criminal case was heard~~ and costs for the defense of appeals under this section.

Sec. 48. 16 MRSA § 1 is repealed.

Sec. 49. 16 MRSA § 55 is repealed.

Sec. 50. 16 MRSA § 56, as amended by PL 1973, c. 295, is further amended to read:

§ 56. Prior conviction as affecting credibility

No person is incompetent to testify in any court or legal proceeding in consequence of having been convicted of an offense, but conviction of a felony, any larceny or any other crime involving moral turpitude may be shown to affect his credibility, provided that less than 15 years have transpired since said conviction ~~and~~ or less than 10 years have transpired since termination of any incarceration period therefor.

Sec. 51. 16 MRSA § 59, as enacted by PL 1967, c. 406, is repealed.

Sec. 52. 16 MRSA § 60, as enacted by PL 1973, c. 48, is repealed.

Sec. 53. 16 MRSA § 354 is repealed.

Sec. 54. 16 MRSA § 355, last sentence, is repealed.

Sec. 55. 16 MRSA § 452 is repealed.

Sec. 56. 17 MRSA § 2265, 2nd ¶, as enacted by PL 1971, c. 405, § 1, is repealed and the following enacted in its place:

A record of adjudication of a violation of this section or section 2266 shall be forwarded to the Secretary of State in accordance with Title 29, section 2304, who shall add such violation to that department's point system and such violation shall be counted in determining an individual's total points under the point system of the Division of Motor Vehicles.

Sec. 57. 18 MRSA § 1551, as last amended by PL 1971, c. 598, § 20, is further amended to read:

§ 1551. Letters of administration

Upon the death of any person intestate, the judge having jurisdiction shall grant administration of such intestate's goods or estate to the ~~widow, husband spouse or next of kin or husband of the daughter~~ widow, husband spouse or next of kin or husband of the daughter of the deceased, or 2 or more of them, as he thinks fit, if the applicants are more than 18 years old and are in other respects qualified for the trust, but if unsuitable or being residents in the county they, after due notice, neglect or refuse for 30 days from the death of the intestate to take out letters of administration, he may commit administration on such estate to such person as he deems suitable.

Sec. 58. 18 MRSA § 2552, as repealed and replaced by PL 1977, c. 192, is amended by adding at the end the following new sentences:

If a claim based on section 2551 is settled without an action having been commenced, the amount paid in settlement of the claim shall be distributed as provided in this section. No settlement on behalf of minor children shall be valid unless approved by the court, as provided in section 3652.

Sec. 59. 20 MRSA § 2206, as repealed and replaced by PL 1977, c. 133, is repealed and the following enacted in its place:

§ 2206. North American Indians residing in Maine defined

As used in this chapter, "North American Indians residing in Maine" shall be deemed to include:

1. **Tribal census.** Those persons whose names are included on the current tribal census of either the Passamaquoddy or Penobscot Tribes of Indians; and

2. **Malacite and Micmac Tribes.** Those persons who hold a band number of the Malacite and Micmac Tribes who have resided in the State during the 5 consecutive years next preceding their application for a scholarship.

Sec. 60. 20 MRSA § 2921, 2nd sentence, as enacted by PL 1967, c. 452, § 1, is amended to read:

He shall appoint ~~one member~~ 2 members for one year, 2 members for 2 years and 3 members for 3 years.

Sec. 60-A. 21 MRSA § 604, sub-§ 2, 2nd ¶, last sentence, as enacted by PL 1977, c. 233, § 2, is amended to read:

No such notice is required in any municipality in which all ~~of the~~ voting places are accessible to these persons.

Sec. 61. 29 MRSA § 342, 2nd ¶, as enacted by PL 1975, c. 770, § 137, is repealed and the following enacted in its place:

A person is "engaged in the business of buying, selling or offering to negotiate the sale of a vehicle" if that person buys motor vehicles for the purpose of resale, sells or offers to negotiate the sale of more than 5 motor vehicles in any 12-month period, or displays or permits the display of 3 or more motor vehicles for sale at any one time or within any 30-day period upon premises owned or controlled by him, unless that person has owned and registered each vehicle for at least 6 months.

Sec. 62. 29 MRSA § 1373, as amended by PL 1973, c. 222, § 7 and as repealed by PL 1977, c. 22, is repealed.

Sec. 63. 29 MRSA § 1655, last ¶, first sentence, as amended by PL 1975, c. 745, § 11, is further amended to read:

~~The provisions of this section, as they relate~~ This section, as it relates to weight tolerances, shall not apply to motor vehicles manufactured prior to the 1976 model year when the model year of such a vehicle is 10 or more years prior to the year for which registered, unless the Departments of Transportation and Public Safety are provided with proof that the gross axle weight ratings, the gross vehicle weight rating or both, as certified by the vehicle manufacturer, or an intermediate or final stage manufacturer as defined in ~~section 1652~~ section 1652 by federal regulations, are such that they will permit said vehicle to take advantage of a portion or all of the tolerances in this section without exceeding such certified gross axle or gross weight ratings.

Sec. 64. 29 MRSA § 1911, 2nd sentence, as amended by PL 1967, c. 431, § 1, is repealed and the following enacted in its place:

Service of this process shall be made by leaving a copy thereof with a fee of \$2 in the hands of the Secretary of State, or in his office. This service shall be sufficient service upon such a nonresident, provided that notice of this service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant and the defendant's receipt for such registered mail and the plaintiff's affidavit of compliance herewith are appended to the summons and are filed with the clerk of the court in which the action is pending, or that such notice and copy are served upon the defendant by an officer duly qualified to serve legal process in the jurisdiction where the defendant is found on the officer's return showing such service to have been made is filed with the clerk of the court where the action is pending. If the defendant is deceased, service may be made in the same manner upon his personal representative, and if there is no personal representative, upon the public administrator in the county in which the action is pending. When service is made upon the public administrator, he shall forthwith petition the

probate court of his county for probate of the defendant's estate, any other statutory requirements for probate of estates notwithstanding.

Sec. 65. 29 MRSA § 2123, as last amended by PL 1975, c. 731, § 61, is further amended to read:

§ 2123. Penalties

Whoever violates or fails to comply with any provision of sections 1369 ~~and 2122 to 2126, 2122, 2124 or 2125~~, or any rules or regulations established thereunder, shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 90 days, or by both.

Sec. 66. 30 MRSA § 2, sub-§ 3, 2nd sentence, as enacted by PL 1977, c. 67, § 3, is repealed and the following enacted in its place:

Without limiting the generality of the foregoing, they shall allow to sheriffs the costs of boarding, guarding and transporting prisoners, whether awaiting trial, during trial or after conviction, or juveniles, whether awaiting hearing, during hearing or after adjudication that a juvenile offense has been committed, and whether acting within or outside the county.

Sec. 67. 30 MRSA § 2, 19th ¶, last sentence, as repealed and replaced by PL 1977, c. 114, § 32, is repealed.

Sec. 68. 30 MRSA § 1105, 3rd sentence is amended to read:

If the execution is returned unsatisfied and he has not made such disclosure or if the judgment was rendered for his own official delinquency, the creditor may file an attested copy of such execution and return with the Governor ~~and Council~~, and serve on such sheriff a copy of such copy, attested by the Secretary of State, with a notice under his hand of the day on which such first copy was filed.

Sec. 69. 30 MRSA § 1901, first ¶ is repealed and the following enacted in its place:

The listed terms as used in chapters 201 to 213, 235 and 239, subchapters I to VI and chapter 241 to 245 are defined as follows, unless a different meaning is plainly required by the context.

Sec. 70. 30 MRSA § 4104, 8th sentence, as enacted by PL 1975, c. 126, is amended to read:

If the municipality does not take action within 90 days after ~~the effective date of this Act~~ **April 8, 1975**, such inaction shall constitute approval.

Sec. 71. 30 MRSA § 4162, sub-§ 8, as enacted by PL 1975, c. 339, § 9, is amended to read:

8. Persons with residential leasehold interests in public lands on October 1, 1975. With respect to persons with residential leasehold interests in public reserved lands on ~~the effective date of this Act~~ **October 1, 1975**, or on lands exchanged for public reserved lands, the Director of the Bureau of Public Lands shall enter into new leasehold agreements with such persons, and shall

thereafter renew such leases on what may from time to time be reasonable terms and conditions, so long as the lessee complies with the terms and conditions of such leases and with all applicable laws and regulations of the State.

Sec. 72. 30 MRSA § 4602, sub-§ 2, ¶ B, 1st sentence, as last amended by PL 1975, c. 771, § 326, is further amended to read:

The state authority shall have 6 commissioners, 5 of whom shall be appointed by the Governor, **subject to review by the Joint Standing Committee on State Government and to confirmation by the Legislature.**

Sec. 73. 30 MRSA § 4602, sub-§ 2, ¶ C, next to last sentence, as enacted by PL 1969, c. 470, § 8, is amended to read:

The rate and amount of compensation of the director shall be established by the Governor ~~with the advice and consent of the Executive Council.~~

Sec. 74. 30 MRSA § 4602, sub-§ 2, ¶ D, 1st ¶, next to last sentence, as repealed and replaced by PL 1975, c. 770, § 175, is amended to read:

Each advisory board member and commissioner shall continue to hold office after the expiration of his term until his successor shall have been appointed and, in the case of commissioners, ~~confirmed by the Executive Council~~ **reviewed by the Joint Standing Committee on State Government and confirmed by the Legislature.**

Sec. 75. 30 MRSA § 4604, 1st sentence, as amended by PL 1969, c. 470, § 10, is repealed and the following enacted in its place:

For inefficiency or neglect of duty or misconduct in office, a commissioner or director may be removed after a hearing by the governing body of the city or the selectmen of the town, or by the Governor with the advice and consent of a majority of the commissioners in the case of the state authority, provided he shall have had an opportunity to be heard in person or by counsel and been given a copy of the charges at least 10 days prior to the hearing.

Sec. 76. 32 MRSA § 351, 2nd ¶, 3rd sentence, as amended by PL 1973, c. 303, § 3, is further amended to read:

The executive secretary of said board shall keep a record of all proceedings, issue all notices except those required to be issued by the Administrative Court Judge under Title 5, chapters 301 to 307, certificates of registration and licenses, attest all such papers and orders as said board shall direct, make sanitary inspections at least twice a year of shops and other establishments subject to license under this chapter as directed by said board, and shall report annually to the Governor ~~and Council~~ giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with such recommendations as deemed necessary.

Sec. 77. 32 MRSA § 351, 3rd ¶ is amended to read:

No person operating or employed by a school of barbering shall be appointed as a member of the board, and if any member of the board, after appointment, shall affiliate himself in any way with any such school of bar-

bering, his membership on the board shall immediately terminate and the unexpired term of such member shall be filled by the Governor and Council.

Sec. 77-A. 32 MRSA § 582, 2nd sentence, as enacted by PL 1965, c. 430, § 1, is amended to read:

Such rules and regulations shall be adopted in the manner prescribed in ~~Title 9, section 6, subsection 4~~ **Title 9-B, section 215.**

Sec. 78. 32 MRSA § 2446, as enacted by PL 1975, c. 563, § 6, is amended to read:

§ 2446. Drugs

Any optometrist who uses diagnostic drugs, without first having obtained a license under section 2427 or being duly registered as provided in section 2421 and 2424 after ~~the effective date of this Act~~ **October 1, 1975**, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$200.

Sec. 79. 32 MRSA § 3279, 3rd ¶, as enacted by PL 1971, c. 591, § 1, is repealed and the following enacted in its place:

The board at its discretion may waive the requirement of the Education Commission for Foreign Medical Graduates of section 3271 for no longer than one year in granting temporary educational certificates to interns or residents.

Sec. 80. 32 MRSA § 3295, as enacted by PL 1973, c. 625, § 218, is repealed.

Sec. 81. 32 MRSA § 3811, sub-§ 3, as enacted by PL 1967, c. 544, § 82, is amended to read:

3. Limitation. Nothing in this chapter shall be construed as permitting the practice of medicine as defined in section ~~3257~~ **3270** by psychological examiners or psychologists.

Sec. 82. 32 MRSA § 3815, as enacted by PL 1967, c. 544, § 82, is repealed.

Sec. 83. 33 MRSA § 471, first and 2nd ¶¶, as enacted by PL 1975, c. 511, are amended to read:

The spouse of a grantor who, 20 years or more before ~~the effective date of this Act~~ **October 1, 1975**, has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed, and which spouse intends to claim such right and interest, or any person claiming by, through or under the spouse after such right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, within 2 years of ~~the effective date of this Act~~ **October 1, 1975.**

The spouse of a grantor who, less than 20 years before or at any time after ~~the effective date of this Act~~ **October 1, 1975**, has conveyed land without the joinder therein of such spouse in release of the spouse's right and interest by descent in the land conveyed and which spouse intends to claim such right

and interest, or any person claiming by, through or under the spouse after said right and interest has become vested in the spouse, may preserve such right and interest, or claim thereto, by filing the notice provided in section 472 in the registry of deeds for the county in which the land is located, before the recording of the conveyance or within the later of 20 years of the date of recording of the conveyance or 2 years of the effective date of this Act October 1, 1975.

Sec. 84. 34 MRSA § 41, 3rd sentence is amended to read:

No member of the Legislature ~~or the Governor's Council~~ shall serve on any Board of Visitors.

Sec. 85. 34 MRSA § 529, first ¶, as amended by PL 1975, c. 756, § 14, is repealed and the following enacted in its place:

When it appears to the Director of the Bureau of Corrections, for reasons of availability of rehabilitative programs and the most efficient administration of correctional resources, that the requirements of any person sentenced or committed to a penal, correctional or juvenile institution would be better met in a facility, institution or program other than that to which such person was originally sentenced, the Director of the Bureau of Corrections, with the written consent of the person so sentenced, may transfer such person to another correctional institution, residential facility or program administered by or providing services to the Bureau of Corrections; provided that no juvenile shall be transferred to a facility or program for adult offenders.

Sec. 85-A. 34 MRSA § 531, as enacted by PL 1975, c. 756, § 17 and by PL 1975, c. 770, § 200, is repealed and the following enacted in its place:

§ 531. Disciplinary action; conditions of solitary confinement and segregation

Punishments for violations of the rules of the institutions under the general administrative supervision of the Bureau of Corrections may be imposed in accordance with the procedures set forth in the rules and regulations governing such institutions. As to the Maine Correctional Center and the Maine State Prison, punishment may consist of warnings, loss of privileges, confinement to a cell and segregation or solitary confinement or a combination thereof and at the Maine State Prison may include loss of earned good conduct time. In no event shall corporal punishment be imposed. As to the Maine Youth Center, punishment may consist of warnings and loss of privileges. All punishments involving solitary confinement, segregation or loss of earned good time shall be first approved by the head of the institution.

The bureau shall develop and describe in writing a fair and orderly procedure for processing disciplinary complaints against persons in any of the institutions under its general administrative supervision and shall establish rules, regulations and procedures to insure the maintenance of a high standard of fairness and equity. The rules shall describe offenses and the punishments for them that may be imposed. Any punishment that may affect the term of commitment, sentence and parole eligibility and any complaint, the disposition of which may include the imposition of segregation or solitary

confinement of a person in such an institution, shall not be imposed without an impartial hearing at which the resident shall have the right to be present, to present evidence on his own behalf, to call one or more witnesses, which right shall not be unreasonably withheld or restricted, to question any witness who testifies at the hearing, which right shall not be unreasonably withheld or restricted and to be represented by counsel substitute as prescribed in the regulations. The person shall be informed in writing of the specific nature of his alleged misconduct and a record shall be maintained of all disciplinary complaints, hearings, proceedings and the disposition thereof. In all cases, the person charged shall have the right to appeal final disposition prior to imposition to the head of the institution and if at any stage of the proceedings the resident is cleared of the charges within a complaint or the complaint is withdrawn, all documentation to the complaint shall be expunged.

The imposition of segregation and solitary confinement shall be subject to the following conditions:

1. **Diet.** The person shall be provided with a sufficient quantity of wholesome and nutritious food.

2. **Sanitary and other conditions.** Adequate sanitary and other conditions required for the health of the person shall be maintained.

3. **Confinement exceeding 24 hours.** When solitary confinement or segregation exceed 24 hours, the head of the institution shall cause the institution physician or a member of the institution's medical staff to visit the person forthwith, and at least once in each succeeding 24-hour period in such confinement thereafter, to examine into the state of health of the person. The head of the institution shall give full consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of his confinement required to maintain the health of the person. Such confinement shall be discontinued if the physician states that it is harmful to the mental or physical health of the person.

4. **Reports.** In the event that any person shall be held in such confinement for a period in excess of 5 days, the head of the institution shall forward a report thereof to the Director of the Bureau of Corrections giving the reasons therefor. A written report shall be forwarded by the head of the institution to the Director of the Bureau of Corrections when the recommendations of the physician or medical staff member regarding any person's dietary or other health needs while in such confinement are not carried out.

Sec. 86. 34 MRSA § 1501, sub-§ 1, as amended by PL 1967, c. 391, § 26, is repealed and the following enacted in its place:

1. **Correctional institution.** "Correctional institution" means the following state institution: Maine Correctional Center.

Sec. 87. 34 MRSA § 2002, first sentence, as amended by PL 1977, c. 58, § 1 and by c. 78, § 195, is repealed and the following enacted in its place:

The commissioner shall, with the advice of the Mental Health Advisory Council, appoint and set the salary subject to the approval of the Governor,

for a Director of Mental Health who shall be a person with training and experience in mental health program administration or who has had satisfactory experience in the direction of work of a comparable nature.

Sec. 87-A. 35 MRSA § 1303, 3rd sentence, as enacted by PL 1977, c. 209, is amended to read:

Railroad police officers shall be qualified persons as defined in section 1302, subsection 1, and shall be subject to the existing rules and regulations of the commissioner.

Sec. 88. 36 MRSA § 1481, sub-§ 5, 1st sentence, is repealed and the following enacted in its place:

“Vehicle” means any motor vehicle or mobile home, and heavier and lighter than aircraft.

Sec. 89. 36 MRSA § 4523, 3rd sentence from the end, as enacted by PL 1975, c. 444, § 6, is amended to read:

Members of the council shall be allowed actual traveling and other necessary expenses incurred in the performance of their duties and each member shall receive a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the Governor and Executive Council.

Sec. 90-A. 38 MRSA § 349, sub-§ 4, ¶ B, as enacted by PL 1977, c. 300, c. 618, § 8, is repealed as follows:

~~He shall have the right to vote only in the case of a tie vote.~~

Sec. 90-A. 38 MRSA § 349, sub-§ 4, ¶ B, as enacted by PL 1977, c. 300, § 9, is repealed and the following enacted in its place:

B. Section 391 or regulations under section 394 (Great Ponds) — \$200;

Sec. 90-B. 38 MRSA § 395, as enacted by PL 1977, c. 123, § 2, is repealed and the following enacted in its place:

§ 395. Violations

Each day of violation shall be considered a separate offense. A finding that any such violation has occurred shall be prima facie evidence that the activity was performed or caused to be performed by the owner of the property upon which, or immediately adjacent to which, the violation is found to have occurred.

Sec. 90-C. 38 MRSA § 397, as enacted by PL 1977, c. 123, § 2, is repealed.

Sec. 90-D. 38 MRSA § 422, as last amended by PL 1975, c. 388, §§ 3 and 4, is repealed.

Sec. 91. 38 MRSA § 451-A, sub-§ 6, ¶ B, as enacted by PL 1975, c. 700, § 2, is amended to read:

B. Has been used as his dwelling place either year round or seasonally prior to ~~the effective date of this Act~~ March 30, 1976; and

Sec. 92. 38 MRSA § 451-A, sub-§ 6, ¶ C, sub-¶ (3), as enacted by PL 1975, c. 700, § 2, is amended to read:

(3) the discharge will not differ in kind or be greater in quantity from that which occurred prior to ~~the effective date of this Act~~ March 30, 1976, on a year round basis or seasonally;

Sec. 93. P&SL 1941, c. 69, § 20, 1st sentence, as enacted by P&SL 1957, c. 133, is amended to read:

The provisions of the Revised Statutes and amendment thereto shall apply to criminal acts and civil volations committed on the turnpike.

Sec. 93-A. P&SL 1957, c. 128, § 9, 3rd ¶ from the end, as repealed and replaced by P&SL 1977, c. 49, is repealed and the following enacted in its place:

Said trustees may not issue the district's notes or bonds in an aggregate sum of more than \$500,000, except for notes and bonds issued in anticipation of federal or state funds, or both, without first obtaining the approval of a majority of the voters at a duly called and held town meeting called by the municipal officers of the Town of Topsham. The selectmen of the town shall call such a meeting promptly on written request of a majority of the trustees of the district. Outstanding sums due on any bonds or notes issued in anticipation of federal or state funding are not to be included in determining the \$500,000 limit requiring municipal vote.

Sec. 94. Resolves, 1977, c. 10, amended. Resolved: That that part relating to District Number Six (Five) of the resolves of 1977, c. 10, is amended to read:

District Number Six (Five), consisting of that part of the City of Lewiston described as follows: Beginning in the center line of Sabattus Street and the center line of Old Greene Road; thence northerly along the center line of Old Greene Road to the center line of Garcelon Street; thence easterly and southerly along the center line of Garcelon Street to the center line of Sabattus Street; thence easterly along the center line of Sabattus Street to the center line of Pond Road; thence southwesterly along the center line of Pond Road to the center line of Webster Street; thence northwesterly along the center line of Webster Street to the center line of Mitchell Street; thence southwesterly along the center line of Mitchell Street to the center line of Pleasant Street; thence northwesterly along the center line of Pleasant Street to the center line of East Avenue; thence northerly along East Avenue to the center line of Webster Street; thence northwesterly along the center line of Webster Street to the center line of Sylvan Avenue; thence northeasterly along the center line of Sylvan Avenue to the center line of Sabattus Street; thence northeasterly along the center line of Sabattus Street to the point of beginning, 1 Representative;

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