

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
SENATE
109TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. S-328)

SENATE AMENDMENT "B " to S.P. 581, L.D. 1639, Bill,
"AN ACT to Make Additional Corrections of Errors and Inconsistencies
in the Laws of Maine."

Amend the Bill by inserting after the enacting clause
the following:

'PART A'

Further amend the Bill by striking out all of the following
sections:

'Section 11
Section 16
Section 17
Section 18

Section 29
Section 30

Section 33
Section 34
Section 35
Section 38
Section 54
Section 55
Section 73
Section 76
Section 89
Section 100
Section 141
Section 146
Section 147
Section 150
Section 151
Section 152
Section 153
Section 154
Section 155
Section 156
Section 157
Section 158
Section 195
Section 202-A
Section 238
Section 255
Section 257
Section 270
Section 272

Section 273
Section 281
Section 283
Section 284
Section 286
Section 287
Section 291
Section 295'

Further amend the Bill by renumbering the sections to read consecutively.

Further amend the Bill by inserting at the end before the Emergency clause the following:

'PART B

Sec. 1. 5 MRSA §552, first ¶, as amended by PL 1979, c. 127, §26, is further amended to read:

Certain words and phrases shall have, for the purposes of chapters 51 to ~~60~~ 67, the following ~~meaning~~ meanings.

Sec. 2. 5 MRSA §552, sub-§3, as amended by PL 1979, c. 127, §27, is further amended to read:

3. Classified service. "Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by chapters 51 to ~~60~~ 67.

Sec. 3 . 5 MRSA §632, first ¶, 2nd sentence, as amended by PL 1979, c. 127, §32, is further amended to read:
Each eligible register shall consist of a list of all of the persons, who have shown by competitive tests, as provided for in section 673, that they possess the qualifications which

entitle them to be considered eligible for appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register in accordance with chapters 51 to 60 67.

Sec. 4. 5 MRSA §4574, sub-§1, first sentence, as repealed and replaced by PL 1979, c. 350, §4, is amended to read:

As used in this section and section 4573, unless the context otherwise indicates, the following terms shall have the following meanings.

Sec. 5. 7 MRSA §62, 4th sentence, as enacted by PL 1965, c. 436, §2, is amended to read:

A sum equal to ~~2c~~ 2¢ per inhabitant of the State shall be divided for reimbursement in amounts in proportion to the sums expended for premiums in the current year to each recipient of the stipend fund which does not conduct pari-mutuel racing, if said recipient has improved its facilities and has met the standards for facility improvements set by the ~~Commissioner of Agriculture~~ commissioner for said recipients.

Sec. 6. 7 MRSA §956, last ¶, as amended by PL 1977, c. 694, §90 and c. 696, §81, is repealed and the following enacted in its place:

All fees received under sections 951 to 957 by the commissioner and all money and forfeitures received by him under those sections shall be paid by him to the Treasurer of State and shall be appropriated for carrying out those sections. The commissioner shall, in a manner consistent

with the Maine Administrative Procedure Act, establish such rules as may be needed for the proper enforcement of sections 951 to 957.

Sec. 7. 7 MRSA §995, sub-§10, last sentence is amended to read:

The commissioner may authorize ~~such-board~~ the committee to employ necessary personnel, including an attorney, fix their compensation and terms of employment, and to incur such expenses, to be paid by the commissioner from moneys collected as provided, as the commissioner may deem necessary and proper to enable ~~such-board~~ the committee properly to perform such of its duties as are authorized ~~herein~~ in this Article.

Sec. 8. 10 MRSA §672, sub-§4, first sentence, as enacted by PL 1973, c. 633, §26, is amended to read:

"Local development corporation" hereinafter in this chapter called the "development corporation," shall mean any organization incorporated under Title 13, chapter 81 or Title 13-B, for the purposes of fostering, encouraging and assisting the physical location, settlement or resettlement of industrial, manufacturing and other business enterprises within the State, and to whose members no profit shall insure, but limited to those created by a municipality as defined by this chapter.

D OF R.

Sec. 9 . 10 MRSA §703, sub-§4, as last amended by PL 1977, c. 489, §2, is further amended to read:

4. Local development corporation. "Local development corporation" shall mean any organization incorporated under Title 13, chapter 81; Title 13-B; or otherwise chartered by the State, for the purpose of fostering, encouraging and assisting the physical location, settlement, and resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the State, and to whose members no profit shall enure, or for the purpose of this chapter, any organized municipality of the State.

Sec. 10. 10 MRSA §1312, sub-§9, as enacted by PL 1977, c. 514, is repealed.

Sec. 11. 10 MRSA §1327, as enacted by PL 1977, c. 514 is repealed.

Sec. 12. 12 MRSA §667, last ¶, as amended by PL 1973, c. 460, §17, is further amended to read:

Within the restricted zone, the bureau is empowered to acquire by eminent domain on behalf of the State, any land, or improvements or any interest therein, water and power rights, specifically excluding from the power to acquire by eminent domain the Telos Dam Lot and Lock Dam Lot and water and power rights connected therewith, however, the power and authority of the bureau as otherwise provided to accomplish the purposes of this chapter shall apply to the Telos Dam Lot and Lock Dam Lot.

Sec. 13. 13-B MRSA §201, sub-§2, ¶A, first sentence,
as enacted by PL 1977, c. 525; §13, is amended to read:

Parishes and societies, as that term is used in Title 13,
section 2861 et seq; independent local churches, as that term
is used in Title 13, section 3021 et seq; meeting houses, as
that ~~terms~~ term is used in Title 13, section 3101 et seq; and
churches organized as noncapital stock corporations under
Title 13, section 901 et seq.

Sec. 14. 13-B MRSA §201, sub-§2, ¶A, last ¶, as enacted
by PL 1977, c. 525, §13, is amended to read:

If any of the foregoing corporations files ~~an annual~~/^abiennial
report pursuant to section 1301 of this ~~chapter~~ Act, the filing
of the report shall be deemed an election by that corporation to
be governed by all of the provisions of this chapter, unless
clearly inapplicable.

Sec. 15. 13-B MRSA §201, sub-§3, ¶¶D and E, as enacted
by PL 1977, c. 525, §13, are amended to read:

D. Cemetery corporations which do not issue shares, as
that term is used in Title 13, section 1031 et seq; and

E. County and local agricultural societies, as that
term is used in Title 7, section 61 et seq; and

Sec. 16. 13-B MRSA §201, sub-§3, ¶F is enacted to read:

F. Local development corporations, as that term is used
in Title 10, section 671, et seq.

D OF R.

Sec. 17, 13-B MRSA §201, sub-§3, last ¶, as enacted by PL 1977, c. 525, §13, is amended to read:

If any of the foregoing corporations are organized under applicable provisions of this ~~chapter~~ Act, they shall be governed by the provisions of this chapter unless clearly inapplicable; provided further that if any of the foregoing corporations files ~~an~~ annual/^abiennial report pursuant to section 1301 of this ~~chapter~~ Act, the filing of the report shall be deemed an election by that corporation to be governed by all of the provisions of this chapter unless clearly inapplicable.

Sec. 18. 15 MRSA §2115-A, sub-§§1, 2 and 3, as repealed and replaced by PL 1979, c. 343, §2, are amended to read:

1. Appeals prior to trial. An appeal may be taken by the State in criminal cases on questions of law from the District Court and from the Superior Court to the ~~Supreme-Judicial Court~~ law court: From an order of the court prior to trial which suppresses any evidence, including, but not limited to, physical or identification evidence or evidence of a confession or admission; from an order which prevents the prosecution from obtaining evidence; from a pretrial dismissal of an indictment, information or complaint; or from any other order of the court prior to trial which, either under the particular circumstances of the case or generally for the type of order in question, has a reasonable likelihood of causing either serious impairment to or termination of the prosecution.

2. Appeals after trial. An appeal may be taken by the State from the Superior Court or the District Court to the

~~Supreme-Judicial-Court~~ law court after trial and after a finding of guilty by a jury or the court from the granting of a motion for a new trial, from arrest of judgment, from dismissal or from other orders requiring a new trial or resulting in termination of the prosecution in favor of the accused, when an appeal of the order would be permitted by the double jeopardy provisions of the Constitution of the United States and the Constitution of Maine.

3. When defendant appeals. When the defendant appeals from a judgment of conviction, it is not necessary for the State to appeal. It may argue that error in the proceedings at trial in fact supports the judgment. The State may also establish that error harmful to it was ~~committed~~ committed in the trial resulting in the conviction from which the defendant has appealed which should be corrected in the event that the ~~Supreme-Judicial-Court~~ law court reverses on a claim of error by the defendant and remands the case for a new trial. If the case is so reversed and remanded, the ~~Supreme-Judicial-Court~~ law court shall also order correction of the error established by the State.

Sec. 19. 18 MRSA §2351, 4th sentence is amended to read:

If any sum of money directed by a decree of the probate court to be paid over, in any solvent or insolvent estate or pecuniary legacy, remains for 6 months unclaimed, the executor, administrator, guardian or trustee who was ordered to pay over the same shall ~~pay-such-sum-of-money-to-the-treasurer-of-the-county-in-which-the-probate-court-has-jurisdiction, who shall give a receipt there-~~

~~for, specifying the amount, name of estate and name of person entitled thereto, which said receipt shall be filed in the probate court and allowed as a sufficient voucher therefor~~ dispose of it according to Title 33, chapter 27.

Sec. 20. 18 MRSA §2351, last ¶, is amended to read:

Any sums of money directed by a decree of the probate court to be paid over which remained unclaimed for 6 months in the hands of any executor, administrator, guardian or trustee, and were deposited in some savings bank or like institution as directed by the probate court to accumulate for the benefit of the person entitled thereto under this section, shall with all accumulations be ~~deposited in the treasury of the county in which said probate court has jurisdiction, for the benefit of persons entitled by the decree of the probate court having original jurisdiction of the proceedings, in which said decree ordering such deposits was originally based~~ disposed of according to Title 33, chapter 27.

Sec. 21. 18 MRSA §2353 is repealed.

Sec. 21-A. Application; Title 18, section 2353. All sums on deposit with any county under Title 18, section 2353 shall be deposited with the Treasurer of State according to Title 33, chapter 27, together with any records or other evidence of ownership, within 90 days of the effective date of this Act.

D OF R.

Sec. 22. 22 MRSA §2613, sub-§1, last ¶, first sentence,
as enacted by PL 1975, c. 751, §4, is amended to read:
Prior to granting a variance, the commissioner shall provide
~~notice-in-the-state-newspaper-and~~ an opportunity for public
hearing pursuant to the ^{Maine} ~~Administrative Procedure Act~~ on the
proposed variance.

Sec. 23. 22 MRSA §2613, sub-§2, last ¶, first sentence,
as enacted by PL 1975, c. 751, §4, is repealed and the following
enacted in its place:

Prior to implementation of a schedule for compliance with
contaminant level or treatment technique requirements and for
implementation of control measures, the commissioner shall provide
notice and opportunity for public hearing pursuant to the
requirements of the ^{Maine} Administrative Procedure Act.

Sec. 24. 24 MRSA §2316, next to the last sentence, as
enacted by PL 1979, c. 267, §1, is repealed and the following
enacted in its place:

No contracts may be delivered or issued for delivery in this
State unless they meet the requirements of Title 24-A,
sections 2438 to 2445.

Sec. 25. 26 MRSA §1024-A is enacted to read:

§1024-A. Bargaining units

1. Legislative intent. It is the express legislative intent
that, in order to foster meaningful collective bargaining, units
shall be structured in such a way as to avoid excessive fragmentation
whenever possible. In accordance with this policy, bargaining

units shall be structured on a university system-wide basis with one unit for each of the following occupational groups:

- A. Faculty;
- B. Professional and administrative staff;
- C. Clerical, office, laboratory and technical;
- D. Service and maintenance;
- E. Supervisory classified; and
- F. Police.

It is intended that Cooperative Extension Service employees be included in appropriate units.

2. Academy units. It is the express legislative intent to foster meaningful collective bargaining for employees of the Maine Maritime Academy. Therefore, in accordance with this policy, bargaining units shall be structured with one unit for each of the following occupational groups:

- A. Faculty;
- B. Administrative staff; and
- C. Classified employees.

3. Vocational-technical institutes and state schools for practical nursing units. It is the express legislative intent to foster meaningful collective bargaining for employees of the vocational-technical institutes and state schools for practical nursing. Therefore, in accordance with this policy, the bargaining units shall be structured with one unit in each of the following occupational groups:

A. Faculty and instructors; and

B. Administrative staff.

4. Assignment to bargaining units. In the event of a dispute over the assignment of jobs or positions to a unit, the executive director shall examine the community of interest, including work tasks among other factors, and make an assignment to the appropriate statutory bargaining unit set forth in subsection 1, 2 or 3.

5. Additional bargaining units. Notwithstanding subsection 1, 2 or 3, the Legislature recognizes that additional or modified university system-wide units, academy units, vocational-technical institute units or state schools for practical nursing units may be appropriate in the future. Therefore, the employer or employee organizations may petition the executive director for the establishment of additional or modified university system-wide units, academy units, vocational-technical institute units or state schools for practical nursing units.

The executive director or his designee shall determine the appropriateness of such petitions, taking into consideration the community of interest and the declared legislative intent to avoid fragmentation whenever possible and to insure employees the fullest freedom in exercising the rights guaranteed by this chapter.

The executive director or his designee conducting unit determination proceedings shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them.

6. Students.

A. When collective bargaining is to take place between the university and the faculty or professional and administrative staff, the board of trustees shall appoint 3 currently enrolled students who are broadly representative of the various campuses to meet and confer with the university and who may meet and confer with the bargaining agent prior to collective bargaining.

B. During the course of collective bargaining, the student representatives designated under paragraph A shall be allowed to meet and confer with the university bargaining team at reasonable intervals during the course of negotiations, these meetings to occur at least upon receipt by the university of the initial bargaining proposal of the bargaining agent and before final agreement on a contract or any major provisions thereof. The students shall be bound by the same rules of negotiation, including, but not limited to, those regarding confidentiality, as the participants in the negotiations.

7. Unit clarification. Where there is a certified or currently recognized bargaining representative and where the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant modification in the composition of that bargaining unit, any public employer or any recognized or certified ←
→ bargaining agent may file a petition for a unit clarification, provided that the parties are unable to agree on appropriate modifications and there is no question concerning representation.

Sec. 26. 29 MRSA §2012, sub-§1, ¶G, as amended by PL 1977, c. 532, §1, is further amended to read:

G. Effective September 1, ~~1979~~ 1981, school buses with a carrying capacity of 20 or less passengers shall comply with the requirements of paragraphs B, C and E.

Sec. 27. 29 MRSA §2014, sub-§1, ¶E, as ^{last} repealed and replaced by PL 1977, c. 532, §2, is amended to read:

E. Effective September 1, ~~1979~~ 1981, all seats shall face the front of the bus and shall be divided by a center aisle which is at least 12 inches wide.

Sec. 28. 29 MRSA §2298, 2nd sentence, as enacted by PL 1979, c. 10, §2, is amended to read:

Any person found to be an habitual offender under this chapter, or former chapter 18, who is thereafter convicted of operating a motor vehicle in this State while the revocation prohibiting operation is in effect shall have committed a Class C crime.

Sec. 29. 29 MRSA §2305, first sentence, as ^{last} amended by PL 1977, c. 694, §530, is further amended to read:

In addition to or instead of any other penalty provided in this Title and imposed by any court upon any person for violation of any provision of this Title, ~~except section 1312~~, the court may suspend an operator's license for a period not exceeding 60 days, in which case the judge shall take up the license certificate of such person, who shall forthwith surrender the same and forward it by mail to the Secretary of State.

D O E R.

Sec. 30. 29 MRSA §2362, sub-§9, as enacted by PL 1977,

c. 294, §4, is amended to read:

9. Mobile home. Any mobile home even though registered in this State; or

Sec. 31. 29 MRSA §2362, sub-§11, as enacted by PL 1977,

c. 606, is amended to read:

11. Special mobile equipment. Special mobile equipment as defined in section 1, subsection 14; or

Sec. 32. 29 MRSA §2362, sub-§12 is enacted to read:

12. Special equipment. Special equipment as defined in section 1, subsection 13-A.

Sec. 33. 30 MRSA §1201, first sentence, as amended by

PL 1975, c. 632, is further amended to read:

The county commissioners of Aroostook County are authorized, on behalf of the inhabitants of Connor and Silver Ridge Townships, of Township 8, R.4, Township 10, R. 6, Township 14, R.6, Township 15, R.6, Township 16, R. 4, ~~Township 167-R-67~~ Township 17, R.4 and Township 17, R.5, and the county commissioners of Franklin County are authorized, on behalf of Township 3, R.2, BKPWKR (Jerusalem), Township 4, R.2, BKPWKR (Sugarloaf Township) and the Townships of Salem and Freeman, and the county commissioners of Hancock County are authorized, on behalf of the inhabitants of Township 8, S.D., and the unorganized coastal islands of that county, and the county commissioners of Knox County are authorized, on behalf of the inhabitants of the unorganized coastal islands of that county, and the county commissioners of Lincoln County are

authorized, on behalf of the inhabitants of the unorganized coastal islands of that county, and the county commissioners of Oxford County are authorized on behalf of the inhabitants of Albany and Milton Townships, and the county commissioners of Penobscot County are authorized, on behalf of the inhabitants of Argyle and Kingman Townships and the county commissioners of Somerset County are authorized on behalf of the inhabitants of Rockwood Township, and the county commissioners of Waldo County are authorized on behalf of the inhabitants of the unorganized coastal islands of that county, and the county commissioners of Washington County are authorized on behalf of the inhabitants of the unorganized coastal islands of that county to enter into contracts on such terms as they deem fit with one or more persons, associations or municipalities, or to take such other steps as they deem advisable, to provide fire protection, other than forest fire protection, for the Townships of Connor, Silver Ridge, Township 8, R.4, Township 10, R.6, Township 14, R.6, Township 15, R.6, Township 16, R.4, ~~Township-16,~~ ~~R-6,~~ Township 17, R.4, Township 17, R.5, Township 3, R.2 (Jerusalem), Township 4, R.2 (Sugarloaf Township), 8, S.D., Salem, Freeman, Albany, Milton, Argyle, Kingman, Rockwood and the unorganized coastal islands of Hancock, Knox, Lincoln, Waldo and Washington counties.

Sec. 34. 30 MRSA §1201, as last amended by PL 1975, c. 632, is further amended by adding at the end the following new paragraph:

The Town of Eagle Lake may provide fire protection, other than forest fire protection, for Township 16, R.6. Assessment, taxation, collection and enforcement of collection of an amount sufficient to provide for that protection shall comply with the provisions of the first paragraph of this section. The State Tax Assessor shall directly reimburse the Town of Eagle Lake the full amount collected for those fire protection services.

Sec. 35. 32 MRSA §7154, 2nd ¶, first sentence, as enacted by PL 1979, c. 209, §2, is amended to read:

It shall be unlawful for any polygraph examiner conducting a polygraph examination to ask any questions pertaining to sexual behavior of any type or questions that could be construed as being sexually oriented, unless the examination is conducted in the course of either a criminal investigation by law enforcement officials ~~for alleged violation of Title 17-A, chapters 11 and 35, or substantially equivalent provisions in another jurisdiction~~ or in the course of civil litigation in which sexual behavior is at issue.

Sec. 36. 32 MRSA §7154, 3rd ¶, as enacted by PL 1979, c. 209, §2, is amended to read:

It shall be unlawful for any polygraph examiner to probe the political or religious beliefs of any individual during any polygraph examination, except when the examination is conducted in the course of a criminal investigation conducted by law enforcement officials and the political or religious beliefs of the individual may be relevant to that investigation.

D OF R.

Sec. 37. 32 MRSA §7169 is enacted to read:

§7169. Admissibility of evidence

The fact that evidence was obtained in violation of this chapter shall not render the evidence inadmissible in any criminal, civil or administrative proceeding.

Sec. 38. 34 MRSA §183, sub-§6, last sentence, as enacted by PL 1979, c. 274, §7, is amended to read:

A person charged with or convicted of a crime as an adult in a demanding state, whose extradition from this State is sought by the demanding state shall be subject to the provisions of ~~chapter-9~~ Title 15, sections 201 to 229, although the person is a minor under the laws of this State.

Sec. 39. 36 MRSA §1953, first sentence, is amended to read:

The taxes, interest and penalties imposed by chapters 7 and 211 to 225, from the time the same shall be due, shall be a personal debt of the retailer or user to the State of Maine, recoverable in any court of competent jurisdiction in a civil action in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise.

Sec. 40. 36 MRSA §2686, first sentence, as repealed and replaced by PL 1973, c. 717, §3, is amended to read:

Every corporation, association or person operating in whole or in part a telephone or telegraph line for toll or other

) OF R.

compensation within the State shall annually, on or before the last day of January, return to the State Tax Assessor, signed by its treasurer or its chief accounting officer if a corporation, or by the owner or owners, or by the members of an association or one of them, if a person or association, a statement of the total gross operating revenues of such corporation, association or person from its or his operations within this State during the preceding year ending December 31st, together with payment of tax in accordance with ~~section~~ sections 2684 and 2685.

Sec. 41 . 36 MRSA §3039, as repealed and replaced by PL 1977, c. 696, is amended to read:

§3039. Additional violations

Any user, or any agent or employee of any user, who shall consume any fuel in a motor vehicle on a public highway or on a turnpike operated and maintained by the Maine Turnpike Authority, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, penalty or interest as required by this chapter and chapter 7, commits a civil violation for which a forfeiture of not less than \$10 nor more than \$300 shall be adjudged. Each day or part thereof during which any person shall consume any fuel in a motor vehicle on a public highway or on a turnpike owned and maintained by the Maine Turnpike Authority, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, interest or penalty as required by this chapter and chapter 7, shall constitute a separate violation within the meaning of this section.

Sec. 42. 36 MRSA §4693, last ¶, as last amended by PL 1979, c. 127, §200, is repealed and the following enacted in its place:

The members of the council shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties. They are authorized to select and employ an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program, in concurrence with the Commissioner of Marine Resources, and fix his salary. The executive director, with the consent of the council, is authorized, subject to the Personnel Law, to engage sufficient clerical personnel and other employees for the efficient performance of his duties.

Sec. 43. 36 MRSA §5220, sub-§5, as enacted by P&SL 1969, c. 154, Section F, is amended by adding at the end a new sentence to read:

Corporations which are affiliated or are directly or indirectly controlled by the same interests shall file a consolidated return only if the State Tax Assessor deems a consolidated return necessary to fairly determine net income. R

Permission to file consolidated returns will not be granted for the purpose of effecting a tax savings.

OF R. :

Sec. 44. 36 MRSA §5313, first sentence, as enacted by P&SL 1969, c. 154, Sec. F, is amended to read:

If any tax imposed by this ~~part~~ Part is not paid when due, the assessor may file in the office of the registry of deeds of the county where such property is located with respect to real property or fixtures and in the office in which a security or financing statement or notice with respect to personal property would be filed a notice of lien specifying the amount of the tax, addition to tax, penalty and interest due, the name and last known address of the taxpayer liable for the amount and the fact that the assessor has complied with ~~all-the-provisions~~ of this ~~part~~ Part in the assessment of the tax.

Sec. 45, 36 MRSA §5317, as enacted by P&SL 1969, c. 154, Sec. F, is amended to read:

§5317. Action for recovery of taxes

The Attorney General within 6 years after the assessment of any tax may bring an action in any court of competent jurisdiction within or without this State in the name of the State of Maine to recover the amount of any taxes, additions to tax, penalties and interest due and unpaid under this ~~part~~ Part. In such action, the certificate of the assessor showing the amount of the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency, and of the compliance by the assessor with ~~all-the-provisions-of~~ this ~~part~~ Part in relation to the assessment of the tax. Claims of the State for sums under this ~~part~~ Part shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment shall be paid to the assessor.

R:

Sec. 46. 36 MRSA §6101, as amended by PL 1973, c. 634, §1, is further amended to read:

§6101. Short title

This ~~Part~~ chapter may be cited as the "Elderly Householders Tax and Rent Refund Act."

Sec. 47. 36 MRSA §6102, as enacted by PL 1971, c. 503, §1, is amended to read:

§6102. Purpose

The purpose of this ~~Part~~ chapter is to provide relief, through a system of grants, to certain elderly persons who own or rent their homestead.

Sec. 48. 36 MRSA §6103, first ¶, as enacted by PL 1971, c. 503, §1, is amended to read:

As used in this Part, unless the context otherwise indicates, the following terms shall have the following meanings.

Sec. 49. 36 MRSA §6103, sub-§1, first sentence, as enacted by PL 1971, c. 503, §1, is amended to read:

"Claimant" means a person who has filed a claim under this ~~Part~~ chapter and was domiciled in this State and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this ~~Part~~ chapter.

OF R.

Sec. 50. 36 MRSA §6103, sub-§3, as enacted by PL 1971, c. 503, §1, is amended to read:

3. Household. "Household" means a claimant and spouse and members of the household for whom the claimant under this Part chapter is entitled to claim an exemption as a dependent under Part 8 for the year for which relief is requested.

Sec. 51. 36 MRSA §6103, sub-§5, first sentence, as enacted by PL 1971, c. 503, §1, is amended to read:

"Income" means the sum of Maine adjusted gross income determined in accordance with Part 8, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, the gross amount of any pension or annuity including railroad retirement benefits, all payments received under the Federal Social Security Act, state unemployment insurance laws, and veterans disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, workmen's compensation and the gross amount of "loss of time" insurance, cash public assistance and relief, but not including relief granted under this Part chapter.

Sec. 52. 36 MRSA §6104, first sentence, as enacted by PL 1971, c. 503, §1, is amended to read:

The right to file claim under this Part chapter shall be personal to the claimant and shall not survive his death, but such right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact.

R:

Sec. 53. 36 MRSA §6105, last sentence, as enacted by PL 1971, c. 503, §1, is amended to read:

No interest shall be allowed on any payment made to a claimant pursuant to this Part chapter.

Sec. 54. 36 MRSA §6107, as enacted by PL 1971, c. 503, §1, is amended to read:

§6107. One claim per household

Only one claimant per household or homestead per year shall be entitled to relief under this Part chapter.

Sec. 55, 36 MRSA §6111, first ¶, as repealed and replaced by PL 1977, c. 552, §1, is amended to read:

No claim shall be granted which is otherwise allowable under this Part chapter, unless at least one member of the household shall:

Sec. 56, 36 MRSA §6112, as repealed and replaced by PL 1977, c. 686, §17, is amended to read:

§6112. Amount of claim

The claim shall be limited to the amount ~~by-which~~ of property taxes accrued or rent constituting property taxes accrued in such tax year on the claimant's homestead.

Sec. 57. 36 MRSA §6114, first sentence, as enacted by PL 1971, c. 503, §1, is amended to read:

If on the audit of any claim filed under this Part chapter the State Tax Assessor determines the amount to have been incorrectly determined, he shall redetermine the claim and notify the claimant of the redetermination and his reasons for it.

D OF R.

Sec. 58. 36 MRSA §6116, as repealed and replaced by PL 1977, c. 694, §735-A, is amended to read:

§6116. Appeal

A denial in whole or in part of relief claimed under this Part chapter may be appealed in accordance with the Administrative Procedure Act, Title 5, chapter 375.

Sec. 59. 36 MRSA §6117, as enacted by PL 1971, c. 503, §1, is amended to read:

§6117. Disallowance of certain claims

A claim shall be disallowed, if the State Tax Assessor finds that the claimant received title to his homestead primarily for the purpose of receiving benefits under this Part chapter.

Sec. 60. 36 MRSA §6144, sub-§4, as reallocated by PL 1979, c. 127, §207, is amended to read:

4. Maximum benefits for owners. The benefit awarded by section ~~6148~~ 6143 to an eligible claimant who owned his homestead on April 1, 1978 shall not exceed the amount of property tax assessed as of that date upon that homestead and the parcel of land not to exceed one acre owned by the eligible claimant upon which the homestead is located.

Sec. 61. 36 MRSA §6144, sub-§8, as reallocated by PL 1979, c. 127, §203, is amended to read:

8. Certification of sufficient surplus. The State Budget Officer shall document and certify to the Legislature on January 20, 1979 whether or not a sufficient surplus for fiscal year 1978-79 will be available to provide the benefits described in section ~~6148~~ 6143. In his certification process he shall take into account all outstanding contingencies.

R. Sec. 62. 38 MRSA §413, sub-§2-A, as repealed by PL 1979, c. 281, §3, is reenacted to read:

2-A. Exemptions; pesticide permits. The Board of Environmental Protection may by rule exempt holders of a pesticide permit, issued by the Board of Pesticides Control, from the need to obtain a license under this section for the activity covered by the regulation, when it finds that the exempted activity would leave no significant adverse effect on the quality of the waters of the State.

Sec. 63. 38 MRSA §413, sub-§2-B is enacted to read:

2-B. Exemptions; snow dumps. The Board of Environmental Protection may by rule exempt categories of snow dumps from the need to obtain a license under this section when it finds that the exempted activity would not have a significant adverse effect on the quality or classifications of the waters of the State.

Sec. 64 P&SL 1865, c. 532, §4-C, last ¶, first sentence, as repealed and replaced by P&SL 1973, c. 84, is amended to read:

Ownership of any real property formerly held by Aroostook State College, Farmington State College, Fort Kent State College, Gorham State College or Washington State College, which is removed from educational use by the University of Maine, may be sold by the University of Maine subject to the approval of the Governor ~~and Council~~ or may be conveyed by gift by the University of Maine to any entity in whose ownership and use it will be exempt from real estate taxation.

D OF R.

Sec. 65, P&SL 1865, c. 532, §8-A, first ¶, as enacted by PL 1971, c. 544, §142, is amended to read:

The trustees of the University of Maine, or such administrators of the University of Maine as the trustees may designate for this purpose, may appoint persons to act as policemen who shall, within the limits of the property owned by or under the control of the university possess all of the powers of policemen in criminal cases.'

Statement of Fact

This amendment corrects further errors and inconsistencies, deletes certain sections of the bill and makes needed revisions in the laws, including statutes enacted at this session. These changes have been reviewed and approved by the Joint Standing Committee on Judiciary and ^{are} included in amendment form in order to expedite the technical requirements for printing and processing.

(Collins)
NAME:

Samuel W. Collins, Jr.

COUNTY: Knox

Reproduced and distributed pursuant to Senate Rule 11-A.

June 7, 1979

(Filing No. S-328)