

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1988

H. P. 1936

House of Representatives, March 11, 1980

Reported from the Joint Standing Committee on Audit and Program Review pursuant to Joint Order H. P. 1928.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law.

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

PART A

Sec. 1. 3 MRSA § 507-B is enacted to read:

§ 507-B. Continuation of reviewed agencies

The following independent state agencies have been reviewed by the Joint Standing Committee on Audit and Program Review and are continued beyond the following termination dates, subject to section 506, subsection 1.

1. Agencies scheduled for termination on June 30, 1980. Pursuant to section 507, subsection 2, paragraph A, the following independent agencies, scheduled for termination on June 30, 1980, are continued without modification or are continued as modified by Act of the Legislature passed prior to June 30, 1980.

A. Agencies continued without modification are:

- (1) Maine Blueberry Commission;
- (2) Blueberry Industry Advisory Board;
- (3) Maine Agricultural Bargaining Board;
- (4) Board of Veterinary Medicine;

- (5) **Maine Dairy Promotion Board;**
- (6) **Maine Dairy and Nutrition Council Committee; and**
- (7) **State Lottery Commission.**

B. Agencies continued as modified by Act of Legislature are:

- (1) **Maine Milk Commission**
- (2) **Seed Potato Board;**
- (3) **State Harness Racing Commission;**
- (4) **Board of Pesticide Control; and**
- (5) **State Planning Office.**

Sec. 2. 5 MRSA § 1510-A, sub-§ 1, last ¶, as enacted by PL 1977, c. 624, § 2, is amended to read:

These claims shall include, but shall not be limited to, claims for damage or injury caused by patients, inmates, prisoners in the care or custody of the Department of Mental Health and Corrections or of any institution administered by a department, by children in the custody of the Department of Human Services and by for damage to sheep done by dogs or wild animals.

Sec. 3. 5 MRSA § 1510-B is enacted to read:

§ 1510-B. Limited liability for wild animal damage

The State is not liable for damage done by dogs or wild animals to beehives or livestock, other than sheep. Neither state agencies nor the State Claims Board may accept claims for such dog or wild animal damage.

Sec. 4. 5 MRSA § 3305, sub-§ 1, ¶ A, as enacted by PL 1967, c. 533, § 1, is repealed and the following enacted in its place:

A. Coordinate the preparation of goals and policies to guide and carry forward the wise and coordinated development of the State's economy and the conservation of the state's natural resources. These goals and policies and recommendations for implementation shall be submitted to the Governor and Legislature for their approval. They shall be developed in such areas as: Land use, housing, natural resource development and conservation and commerce and industrial development.

The State Planning Office shall give the public full opportunity to participate in the formulation of these goals and policies and these goals and policies shall not be in direct conflict with adopted local and regional plans;

Sec. 5. 5 MRSA § 3305, sub-§ 1, ¶ B, as amended by PL 1973, c. 721, is repealed and the following enacted in its place:

B. Provide technical assistance to the Governor and Legislature by

undertaking special studies and plans and preparing policy alternatives. The office shall prepare the plans and studies at the request of the Governor, the Legislature or interdepartmental committees, councils and task forces;

Sec. 6. 5 MRSA § 3305, sub-§ 1, ¶ G, sub-¶ (1), first sentence, as repealed and replaced by PL 1979, c. 127, § 37, is amended to read:

Act as the coordinating agency between the several officers, authorities, boards, commissions, departments and divisions of the State in matters relative to the physical development of the State, and review the proposals of said agencies in the light of their relationship to the ~~comprehensive plan~~ **adopted goals and policies** and incorporate such reviews in the reports of the office.

Sec. 7. 5 MRSA § 3311, as enacted by PL 1973, c. 778, § 1, is repealed and the following enacted in its place:

§ 3311. Findings; declaration of purpose

The Legislature finds that the State has an overriding interest in the optimum development and preservation of sites or areas of unusual natural, scenic or scientific significance. In order to facilitate their preservation for present and future generations, the Legislature finds that these areas should be inventoried. The Legislature directs that a statewide inventory and an official, authoritative listing of the natural, scenic and scientific areas of overriding state interest be made by the State Planning Office as part of its overall responsibility for the preparation of statewide goals and policies and coordination of the planning and conservation efforts of state and local agencies. The official listing shall be known as the "Register of Critical Areas" and may be referred to as the "register."

The Legislature also finds that the best ways to accomplish the objectives cited in this section are through continued implementation of the State's land use laws which guide and control development in all areas of the State, including those areas listed in the state-wide inventory and through voluntary conservation efforts by landowners. The Legislature authorizes the State Planning Office to work with interested landowners on voluntary conservation of these areas.

Sec. 8. 5 MRSA § 3312, sub-§ 2, as enacted by PL 1973, c. 778, § 1, is amended to read:

2. Critical areas. "Critical areas" mean areas containing or potentially containing plant and animal life or geological features worthy of preservation in their natural condition, or other natural features of significant scenic or scientific ~~or historical~~ value.

Sec. 9. 5 MRSA § 3314, sub-§ 1, first sentence, as enacted by PL 1973, c. 778, § 1, is amended to read:

The State Planning Office, with the advice and approval of the board, shall establish a Register of Critical Areas, which shall contain an inventory of sites and areas of significant natural, scenic or scientific ~~or historic~~ value duly classified as "critical areas" as defined in section 3312.

Sec. 10. 5 MRSA § 3314, sub-§ 4, as enacted by PL 1973, c. 778, § 1, is repealed.

Sec. 11. 5 MRSA c. 313, as enacted by PL 1975, c. 623, § 5, is repealed.

Sec. 12. 7 MRSA § 62, first sentence, as amended by PL 1965, c. 436, § 1, is repealed and the following enacted in its place:

There shall be appropriated annually from the State Treasury a sum of money equal to 5% of the amount contributed under Title 8, section 275, and additional sums of money as provided and limited by Title 8, sections 274 and 333, which shall be known as the state stipend for aid and encouragement to agricultural societies and hereafter designated as the "stipend."

Sec. 13. 7 MRSA § 62, 2nd sentence which starts "One-half of the amounts contributed," as repealed and replaced by PL 1971, c. 91, § 1, is repealed and the following enacted in its place:

Forty-four percent of the amounts contributed under Title 8, sections 274 and 333, shall be divided for reimbursements in equal amounts to each recipient of the Stipend Fund which conducts pari-mutuel racing in conjunction with its annual fair if the recipient has improved its racing facilities and has met the standards for facility improvements set by the commissioner for the recipients.

Sec. 14. 7 MRSA § 62, 4th sentence which starts "A sum equal to 2¢ per inhabitant," as amended by PL 1979, c. 541, Pt. B, § 5, is repealed and the following enacted in its place:

A sum equal to 8% of the amount collected under Title 8, sections 274 and 333 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 the recipient has improved its facilities and has met the standards for facility improvements set by the commissioner for the recipients.

Sec. 15. 7 MRSA § 402, as last amended by PL 1977, c. 694, § 45, is repealed and the following enacted in its place:

§ 402. Advertising of products

The commissioner may enter into agreements or cooperative arrangements with any person, firm or corporation for the purpose of advertising and increasing the sale and consumption of Maine farm products or disseminating information concerning Maine farm products. He may receive, administer and disburse any funds or contributions from these persons, firms or corporations, either independently or in conjunction with state funds allocated to the purpose, provided that funds so contributed shall be used only for the purposes set forth. He may employ such agents and assistants, subject to the Personnel Law, and make such purchases as may be necessary in the proper performance of his duties.

Sec. 16. 7 MRSA § 441, as amended by PL 1977, c. 694, § 46, is repealed and the following enacted in its place:

§ 441. Rules and regulations

The commissioner may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out this subchapter, including the fixing of fees to be charged any individual, firm or organization requesting an inspection pursuant to section 446. These fees shall, as nearly as possible, cover the costs of the inspection services for the commodity inspected. All fees collected shall be paid by the commissioner to the Treasurer of State and are appropriated for the purposes of this subchapter. Any unexpended balance from the funds thus appropriated shall not lapse, but shall be carried forward to the same fund for the next fiscal year.

Sec. 17. 7 MRSA § 446 is repealed and the following enacted in its place:

§ 446. Inspections

The commissioner or his duly authorized agents may inspect any fruits, vegetables, poultry, eggs, farm products, sardines or other commodities that are marked, branded or labeled in accordance with official grades or standards established and promulgated by the commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of that inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the fruits, vegetables, poultry, eggs, farm products, sardines or other commodities inspected and such other pertinent facts as the commissioner may require. Such a certificate relative to the condition or quality of the farm products and sardines shall be prima facie evidence in all courts of the State of the facts required to be stated in the certificate.

Sec. 18. 7 MRSA § 486, first sentence is amended to read:

The commissioner shall may have all analyses of commodities, except milk and cream, examined under the inspection laws of which he is the executive, made at the Maine Agricultural Experiment Station.

Sec. 19. 7 MRSA § 714, sub-§ 2, as enacted by PL 1971, c. 77, § 1, is repealed and the following enacted in its place:

2. Fees. The fees so collected by the commissioner shall be deposited in the General Fund.

Sec. 20. 7 MRSA c. 103, sub-cc. VI and VIII, as amended, are repealed.

Sec. 21. 7 MRSA c. 103, sub-cc. IX and XII, as amended, are repealed.

Sec. 22. 7 MRSA § 743, 2nd sentence is amended to read:

The application for registration shall be submitted to the commissioner on ~~form~~ forms furnished by the commissioner and shall be accompanied by a fee of ~~\$9~~ \$12 per plant food element guaranteed.

Sec. 23. 7 MRSA § 743, 3rd ¶ from the end is repealed and the following enacted in its place:

The fees so collected by the commissioner shall be deposited in the General Fund.

Sec. 24. 7 MRSA § 1015, 4th ¶, as enacted by PL 1971, c. 366, is amended to read:

In order to insure the licensee's financial responsibility and to protect potato producers, the commissioner shall require the licensee to file a bond in a form and amount satisfactory to the commissioner, but in no event not less than ~~\$5,000~~ **\$10,000** nor more than ~~\$50,000~~ **\$100,000**, payable to the commissioner in his official capacity and conditioned on the full and prompt payment for all potatoes received or purchased from producers or other licensees during the effective period of the license.

Sec. 25. 7 MRSA § 104-A is enacted to read:

§ 1044-A. Licensing requirements

For the purpose of providing revenues to defray the expense of the inspection and analysis prescribed in this subchapter, the commissioner shall license retail seed dealers and seed labelers. The commissioner shall prescribe the license application form. License fees established under this subchapter may be collected on other than an annual basis if the licenses required in this section are issued in conjunction with a nurserymen's license issued under Title 32, section 1901.

1. Retail dealer's license. No person, firm or corporation may sell, offer or expose for sale to the consumer agricultural, vegetable and tree and shrub seeds for planting purposes, except seed potatoes, without having obtained a retail dealer's license. Persons, firms or corporations operating more than one store, branch, plant or warehouse where seeds are sold, offered or exposed for sale secure a separate license for each store, branch, plant or warehouse. The license fee is \$5 annually.

2. Seed labeling license. No person, firm or corporation may label agricultural, vegetable and tree and shrub seeds, except seed potatoes, for planting purposes for distribution or sale in this State without having obtained a seed labeling license. The seed labeling licensee shall be responsible for the accuracy of the seed contents of all packages, boxes and bags of seeds labeled by him. The fee for a seed labeling license is \$30 annually.

3. Disposition of fees. Fees received for licenses established under this section shall be paid to the Treasurer of State for deposit in the General Fund.

Sec. 26. 7 MRSA § 2501, first sentence, as amended by PL 1977, c. 157, § 1, is further amended to read:

All persons owning bees within the State shall annually notify the commissioner of the keeping of bees and the location thereof and shall forward to the commissioner for deposit with the Treasurer of State an annual license fee of ~~10¢~~ **25¢** per colony for all bees in the hive on June 15th of each year.

Sec. 27. 7 MRSA § 2501, 2nd sentence is amended to read:

No license fee returned shall be less than ~~\$1~~ \$2 per beekeeper.

Sec. 28. 7 MRSA § 2552, 2nd sentence, as enacted by PL 1977, c. 157, § 7, is repealed as follows:

~~A minimum of \$5 per hour and the current state mileage rate shall be used~~

Sec. 29. 7 MRSA § 2603 is enacted to read:

§ 2603. Import notification

Before any bees are shipped or moved from any other state or country into this State, the nonresident owner of the bees shall notify the department on forms provided by the commissioner. A fee of 25¢ per colony for all bees to be shipped or moved into the State shall be forwarded to the commissioner at the time of notification. The fees shall accrue to the General Fund. Failure to register bees as prescribed in this section shall be a civil violation for which a forfeiture of not less than \$10 nor more than \$50 shall be adjudged for each violation.

Sec. 30. 7 MRSA § 2901, sub-§§ 10-B - 10-D are enacted to read:

10-B. Frozen dairy product mix. "Frozen dairy product mix" means any unfrozen mixture to be used in the manufacture of frozen dairy products for sale or resale and shall contain in whole or in part the ingredients enumerated under the definition of frozen dairy products.

10-C. Frozen dairy products. "Frozen dairy products" means the frozen products made from cream or a mixture of milk and cream or a combination of dairy products of equivalent composition, sweetened with sugar or other suitable sweetening agent and containing natural or imitation flavoring. Frozen dairy products include ice cream, frozen custard, ice milk, sherbet, ices and related food products, and frozen dairy product mix. They may or may not contain egg-yolk solids and may be frozen with or without agitation. They shall contain no fats or oils other than butter fat, except those necessarily contained in the flavoring.

10-D. Frozen dairy products plant. "Frozen dairy products' plant" means any place, premises or establishment and any part thereof where frozen dairy products, such as ice cream, frozen custard, ice milk, sherbet, ices and related food products are assembled, processed, manufactured or converted into form for distribution or sale, and rooms or premises where such frozen dairy products' manufacturing equipment is washed, sterilized or kept.

Sec. 31. 7 MRSA § 2901, sub-§ 13-A is enacted to read:

13-A. Home made or home maid. "Home made" or "home maid", or similar terminology applied to these frozen dairy products, means frozen dairy products manufactured and frozen under conditions normally found in the home.

Sec. 32. 7 MRSA § 2901, sub-§ 22, first sentence, as repealed and replaced by PL 1971, c. 164, § 8, is amended to read:

Milk products means cream, sour cream, milk, butter, evaporated milk, sweetened condensed milk, nonfat dry milk solids, half and half, reconstituted half and half, concentrated milk, skim milk, nonfat or fat-free milk, reconstituted milk and milk products, vitamin D milk and milk products, low-fat milk, fortified milk and milk products, homogenized milk, flavored milk, flavored dairy drink, eggnog, imitation eggnog, eggnog flavored milk, cultured buttermilk, cottage cheese, creamed cottage cheese, acidified milk and milk products, **frozen dairy products and frozen dairy product mix**, and any other products designated as milk products by the commissioner.

Sec. 33. 7 MRSA § 2901, sub-§ 33 is enacted to read:

33. **Wholesale manufacturer.** "Wholesale manufacturer" means any person, firm, corporation, association or society which manufactures frozen dairy products, any of which are sold to another for resale, or which manufactures frozen dairy product mix within the State, or for sale within the State.

Sec. 34. 7 MRSA § 2902, 2nd ¶, 2nd sentence is repealed as follows:

~~Each vehicle from which sales or distribution of milk or cream are made, shall be covered by a license~~

Sec. 35. 7 MRSA § 2902, as last amended by PL 1977, c. 694, § 138, is further amended by inserting after the 2nd paragraph the following:

Each wholesale manufacturer of frozen dairy products not licensed under this section as a milk dealer shall, during the month of June in each year, file with the commissioner an application for a license, upon a form prescribed by the commissioner.

The application shall show the location of the plant at which frozen dairy products or frozen dairy product mix is to be manufactured and the name of the brand or brands, if any, under which the product or product mix is to be sold. The license shall expire on June 30th or in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, whichever date is later. Each license shall cover one group of buildings constituting a frozen dairy products' plant in one location.

Sec. 36. 7 MRSA § 2902, 3rd ¶ is repealed and the following enacted in its place:

The commissioner, if satisfied after inspection or investigation that the applicant has complied with sections 2901 to 2904 and 3101 to 3103 and the rules and regulations issued thereunder, shall issue a license.

The fee for each license to sell milk or cream as a producer dealer shall be based on the annual volume of milk sold to other than a licensed dealer or subdealer, but shall not be less than \$10 nor greater than \$25. The fee for each license to sell or distribute milk or cream from a milk plant shall be based on the annual volume of milk sold or distributed by the milk plant, but shall not be less than \$25 nor more than \$50. The commissioner shall promulgate and establish a

fee schedule in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375.

The fee for each wholesale license to sell or distribute frozen dairy products shall be \$25.

All money received by the commissioner shall be deposited in the General Fund.

Sec. 37. 7 MRSA § 2903, as last amended by PL 1971, c. 164, § 16, is further amended by inserting after the first paragraph the following:

No person may sell, advertise or offer or expose for sale any frozen dairy product or frozen dairy product mix unless the manufacturer of the product or mix is licensed under this chapter. No person may sell, offer for sale or advertise for sale any frozen dairy product or frozen dairy product mix if the label upon it or the advertising accompanying it gives a false indication of the origin, character, composition or place of manufacture, or is otherwise false or misleading in any particular. No person may sell, advertise or offer or expose for sale any frozen dairy product for which a standard has not been established by the commissioner, regardless of trade name, brand or coined name. No person may sell or offer, advertise or expose for sale any frozen dairy product or frozen dairy product mix which does not conform to the standards of strength, quality, purity and identity now or hereafter fixed by the commissioner.

Sec. 38. 7 MRSA § 2903, 3rd ¶ is amended to read:

It shall be unlawful for any milk dealer to sell any milk, or milk products as defined in sections 2901 to 2904 and 3101 to 3103, **except frozen dairy products**, the container of which is not plainly marked or labelled with the name of the contents, the word "pasteurized" or the word "natural" in accordance with the quality therein contained and the name and address of the licensed dealer and sufficient information to identify the milk plant where packaged.

Sec. 39. 7 MRSA § 2953-B is enacted to read:

§ 2953-B. Hearings in a new or expanded market area

At least 14 days and not more than 21 days prior to designating a new or expanded natural market area, the commission shall hold a public hearing in the proposed area to determine whether to designate that area as a market. As a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony in addition to the data received through the implementation of the information gathering procedures of its rules and regulations. Due notice of the public hearing shall be given by publishing the notice as provided in the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 40. 7 MRSA § 3451, 5th ¶, is amended to read:

All license blanks and tags shall be furnished by the commissioner. The representatives of the Department of Agriculture in charge of animal husbandry shall be known as the animal husbandry specialist and the assistant animal

husbandry specialist, who shall carry out the dog licensing laws and the adjustment of claims for damages to ~~livestock and poultry~~ **sheep** by dogs and wild animals, and to the promotion of animal husbandry within the State. The expense of furnishing the blanks and tags, and the necessary clerk hire and travel, **approved claims for damages done to sheep by dogs**, and the salary of the animal husbandry specialist and the assistant animal husbandry specialist shall be paid from the funds received from the licensing of dogs. ~~Money is appropriated out of the dog license receipts for the purposes of this section~~

Sec. 41. 7 MRSA § 3652, as last amended by PL 1977, c. 696, § 108, is repealed.

Sec. 42. 7 MRSA § 3653 is repealed.

Sec. 43. 7 MRSA § 3654, as amended by PL 1977, c. 157, § 15, is repealed.

Sec. 44. 7 MRSA c. 715 is enacted to read:

CHAPTER 715

DAMAGE TO SHEEP

§ 3801. Purpose

In order to encourage development of a viable sheep industry in the State and to offset major financial losses which might be incurred by individual sheep producers, as a result of damage done by dogs or wild animals, a limited sheep damage compensation program is established in the Department of Agriculture.

§ 3802. Definitions

As used in this chapter, unless the context otherwise indicates, "commissioner" means the Commissioner of Agriculture or his duly authorized agent.

§ 3803. Registration of participating sheep producers

A sheep producer participating in the limited sheep damage compensation program provided for in this chapter is required to register annually with the commissioner. There is an annual registration fee of 75¢ for each sheep one year of age or older owned by the producer at the time of registration. All fees so collected shall be deposited with the Treasurer of State and appropriated for carrying out this chapter.

§ 3804. Filing of claims

Whenever a sheep, properly enclosed, owned by a sheep producer registered under section 3803 is killed or injured by dogs or wild animals, the owner, after locating the animal or a sufficient part of it to identify it, may make complaint thereof to the mayor of a city or to one of the municipal officers of a town or plantation where the damage was done within 24 hours after he has knowledge of the damage. Thereupon, the municipal officers shall investigate the complaint and, if satisfied that the damage was committed by dogs or wild animals within the limit of their municipality, after viewing the evidence, estimate the actual

value of the sheep according to the purposes for which it was kept, whether as a breeder or for another purpose, together with the damage to any other sheep being bitten, torn, chased or exhausted, and make returns on blanks furnished by the Department of Agriculture. The returns shall be made in triplicate, the original and duplicate copies, together with a bill from the claimant, shall be mailed to the commissioner or his duly authorized agent within 15 days from the date of investigation, and the triplicate shall be kept by the municipal clerk as his record.

A full description of all evidence seen by the investigator shall be plainly printed or written in triplicate on all reports and recommendations giving the number of sheep, properly enclosed, with the estimated value and the number of each, giving their ages, average life weight and any other information that will assist in making a fair adjustment.

When sheep, properly enclosed, are kept in an unincorporated place, the owner may make complaint to the municipal officers of the nearest municipality adjoining, or the nearest municipality when there is none adjoining, who shall investigate the complaint.

Each report and recommendation must be signed by the investigator in the place provided for his signature. The signature shall be construed to mean that the investigator has seen evidence legally establishing the liability of the State. All reports and recommendations must be signed by a majority of the municipal officials.

If the claimant is duly registered under section 3803, the commissioner shall approve the bill or, if it seems advisable, investigate and adjust the claim.

When the claim is approved by the commissioner, the State shall accept liability and adjust the damage, and the claim shall be paid by the State to the person sustaining the damage.

§ 3805. Limits on reimbursements

1. Reimbursements. Reimbursements shall be paid only to registered producers. Payments made under this chapter shall be made only to sheep producers who have registered with the commissioner under section 3803 at least 4 months prior to the date of loss, unless the registration occurred prior to August 1, 1980. Producers who are otherwise eligible for dog or wild animal damage reimbursements under this subsection shall not receive such payments if they are insured for the losses with a private insurance company.

2. Maximum reimbursements. Sheep killed or injured by dogs or wild animals and reported under this chapter shall not be valued for reimbursement purposes at more than \$50 for grade sheep or \$100 for registered sheep.

3. Denial of claims. The commissioner may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, deny payment of a damage claim if it is determined that the claimant has willfully misrepresented the size of his flock when registering under section 3803.

§ 3806. Funding

1. **Dog damage.** If damages claimed under this chapter are caused by dogs, the claims shall be paid from dedicated revenues from dog licenses.

2. **All other damage.** All other claims filed under this chapter shall be paid from fees collected under section 3803. If these fees are insufficient, the claims shall be paid from funds otherwise appropriated to the department.

§ 3807. Recovery of damage done by dogs

The State may maintain a civil action against the owner or keeper of a dog or dogs causing damage for which a claim was filed under this chapter to recover the amount paid, unless before the final disposition of the case the owner or keeper of the dog produces satisfactory evidence that the dog has been killed. Any person who keeps a dog that kills or injures a sheep commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged, in addition to costs, unless, before the final disposition of the case, the owner or keeper of the dog produces satisfactory evidence that the dog has been killed.

If any sheep is killed or injured by 2 or more dogs at the same time, kept by 2 or more owners or keepers, the owners or keepers of the dogs shall be jointly and severally liable for the damage.

§ 3808. Rules and regulations

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules and regulations for the efficient enforcement of this chapter.

Sec. 45. 8 MRSA § 265 is repealed and the following enacted in its place:

§ 265. Compensation

Members of the commission shall receive a per diem compensation in the amount of \$50 for each meeting attended and, in addition, each member shall receive his actual and reasonable expenses incurred in the performance of his duties.

Sec. 46. 8 MRSA § 274, next to last sentence is amended to read:

A sum equal to ~~1%~~ 1.13% of such total contributions shall be paid to the Treasurer of State to be credited to the "Stipend Fund" provided by Title 7, section 62.

Sec. 47. 8 MRSA § 275, first ¶, first sentence, as last amended by PL 1977, c. 96, § 5 is further amended to read:

Each person, association or corporation licensed to conduct a race or race meet under this chapter shall pay to the Treasurer of State, to be credited to the General Fund of the State, a sum equal to ~~1%~~ .87% of the total contributions of regular wagers and ~~5½%~~ 5.37% of the total contributions of exotic wagers to all pari-mutuel pools conducted or made at any race or race meet licensed under this chapter.

Sec. 48. 10 MRSA § 2701, last ¶ is repealed and the following enacted in its place:

All fees and expenses collected under this chapter by the state sealer shall be deposited in the General Fund.

Sec. 49. 12 MRSA § 4814, as last amended by PL 1973, c. 681, § 3, is further amended by inserting before the last sentence the following new sentence:

The district attorney may enforce the provisions of a local shoreland zoning ordinance upon the request of an authorized municipal official.

Sec. 50. 12 MRSA § 6102, 3rd and 4th sentences, as enacted by PL 1977, c. 661, § 5, are amended to read:

The program may include provisions similar to those of section 6856, shellfish sanitation and certificate, and section 6101, voluntary fish products inspection program, including any additional inspection, licensing and certification requirements that are necessary to insure proper ~~sanitation and~~ quality control. The commissioner may adopt or amend regulations prescribing the minimum standards for establishments and for ~~sanitation and~~ quality control of the processing of any marine organism or its products.

Sec. 51. 22 MRSA § 2152, sub-§ 1-A is enacted to read:

1-A. Commissioner. "Commissioner" means the Commissioner of Agriculture or his duly authorized agents.

Sec. 52. 22 MRSA § 2152, sub-§ 4-A is enacted to read:

4-A. Food establishment. "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. Eating establishments, as defined in section 2491, subsection 7, storage facilities for one kind of native produce, such as apple warehouses, potato warehouses or carrot warehouses, and establishments, such as farm stands primarily selling fresh produce, not including dairy and meat products, are not considered food establishments required to be licensed under section 2167.

Sec. 53. 22 MRSA § 2152, sub-§ 7-A is enacted to read:

7-A. Retail food establishment. "Retail food establishment" means a food establishment where food and food products are offered for sale to the consumer and intended for off-premise consumption.

Sec. 54. 22 MRSA § 2167 is enacted to read:

§ 2167. License required

No person, firm or corporation may operate a food establishment unless licensed by the commissioner. In the case of retail food establishments, licenses issued shall be displayed in a place visible to customers or other persons using a licensed establishment.

Sec. 55. 22 MRSA § 2168 is enacted to read:

§ 2168. Fees

Each application for, or renewal of, a license to operate a food establishment within the meaning of this chapter shall be accompanied by a fee, appropriate to the size of the establishment of the licensee, determined by the commissioner and not to exceed \$30. The fee may not be refunded. No license may be assignable or transferable. The fees so collected by the commissioner shall be deposited in the General Fund.

Sec. 56. 22 MRSA § 2169 is enacted to read:

§ 2169. Issuance of licenses

The commissioner shall, within 30 days following receipt of application, issue a license to operate any food establishment which is found to comply with this chapter and any rules and regulations adopted by the commissioner. When any such applicant, upon inspection by the commissioner, is found not to meet the requirements of this chapter or regulations adopted hereunder, the commissioner is authorized to issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the commissioner shall be made by the applicant for compliance, or a conditional license setting forth conditions which shall be met by the applicant to the satisfaction of the commissioner.

A full-year license shall be issued for one year from date of issuance and the prescribed fee shall accompany the application for license. Licenses may be renewed upon application therefor and payment of the annual fee, subject to the commissioner's rules and regulations. Licenses erroneously issued by the commissioner shall be considered void and shall be returned to the commissioner on demand.

The commissioner shall, during the 2-year period following the effective date of this section, redistribute the expiration dates of the existing licenses so that an equal number expire in each month of the year, thus allowing for distributing the work of relicensure evenly throughout the year.

The commissioner shall notify license holders not less than 30 days prior to the expiration of their licenses and provide them with any necessary relicensure forms.

Sec. 57. 22 MRSA § 2170 is enacted to read:

§ 2170. Exception

Any establishment subject to this chapter and chapter 562 shall be required to have only one license and that license shall be issued on the predominate portion of the establishment's business.

Sec. 58. 22 MRSA § 2171 is enacted to read:

§ 2171. Licensing conditions

Notwithstanding any other provisions of this chapter, the commissioner may issue a license required under section 2167 on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which the establishment is located, but only if the following conditions have been met.

1. **Adopted rules, regulations; code of standards.** The municipality involved has adopted a set of rules and regulations, ordinances or other code of standards for the establishments, which has been approved by the commissioner and which is consistent with the regulations used by the commissioner for the issuance of the licenses in effect at the time of inspection.

2. **Inspection to ascertain intent.** The commissioner may from time to time inspect the municipally-inspected establishments to ascertain that the intent of these statutes is being followed.

3. **Inspection reports.** The municipalities shall furnish the commissioner copies of its inspection reports relating to the inspection on a monthly basis.

4. **Charge.** Municipalities may not charge the commissioner for performing the inspections.

5. **License fee.** When a license is issued on the basis of a municipal inspection as specified in this section, the requirement for payment of a license fee to the commissioner as set forth in section 2168 shall be waived. The licensee shall be required to pay the commissioner a sum not to exceed \$5 to support the costs of mailing and handling.

6. **Licenses.** Licenses issued under this section shall be displayed, renewed and in every other way treated the same as licenses issued under this subchapter on the basis of inspection by the commissioner.

Sec. 59. 22 MRSA § 2491, sub-§ 7, as enacted by PL 1975, c. 496, § 3, is amended to read:

7. **Eating establishment.** "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, ~~stores~~ **retail frozen dairy product establishments**, airports, parks, theaters, vacation camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

Sec. 60. 22 MRSA § 2491, sub-§ 15 is enacted to read:

15. Retail frozen dairy product establishment. “Retail frozen dairy product establishment” means any place, premise or establishment and any part thereof where frozen dairy products, such as ice cream, frozen custard, ice milk, sherbert, ices and related food products are prepared for consumption on or off premises.

Sec. 61. 22 MRSA § 2497, as enacted by PL 1975, c. 496, § 3, is amended by adding at the end the following new sentence:

The department and any duly designated officer or employee thereof does not have the right to enter, for inspection under this chapter, upon and into the premises of any establishment that is licensed under chapter 551, subchapter I.

Sec. 62. 22 MRSA c. 564, as enacted by PL 1969, c. 464, § 1, and as amended, is repealed.

Sec. 63. 25 MRSA § 2108, as enacted by PL 1977, c. 622, is repealed.

Sec. 64. 30 MRSA § 4601-A, sub-§ 1, ¶ A, as repealed and replaced by PL 1975, c. 625, § 7, is repealed.

Sec. 65. 36 MRSA § 4441, 2nd sentence, as amended by PL 1971, c. 158, is further amended to read:

With the filing of said statement, each such person, firm or corporation shall pay to the State Tax Assessor a fee of ~~10¢~~ 12¢ a ton of 2,000 pounds for mixed fertilizer so sold.

Sec. 66. 36 MRSA § 4442 is repealed and the following enacted in its place:

§ 4442. Disposition of fees

The fees so collected by the State Tax Assessor shall be deposited in the General Fund.

Sec. 67. 36 MRSA § 4563, sub-§ 1, ¶¶ A and C as repealed and replaced by PL 1975, c. 554, § 1, are repealed and the following enacted in their place:

A. The commissioner shall, prior to September 1st of any year in which a grower member or members are to be appointed, appoint one grower member for each of the appropriate districts from nominations made in the following manner.

(1) Prior to July 1st of each year, the Maine Potato Commission shall hold or cause to be held in the affected district or districts a meeting of growers for the purpose of electing nominees for commission membership.

(2) In arranging for the meetings, the commission may, if it deems desirable, utilize the services and facilities of existing organizations and agencies.

(3) At the meetings, 3 nominees shall be elected for consideration by the commissioner, provided that at least 30% of the growers in the district are present.

(4) The commission shall establish procedures for holding the meetings and shall certify to the commissioner that the nominations have been made in compliance with this section and the procedures so established.

(5) The commission shall forward the nominations to the commissioner, in such manner and form as he may prescribe, not later than August 1st of each year.

(6) If nominations are not made within the time and manner specified by this section, the commissioner may, without regard to nomination, appoint any qualified grower to membership on the commission.

C. The commissioner shall, prior to September 1st of any year in which a shipper member is to be appointed, appoint the shipper member of the commission from nominations made in the following manner.

(1) Prior to July 1st of any year in which a shipper member is appointed, the Maine Potato Commission shall hold or cause to be held a meeting of agents, brokers and dealers licensed under Title 7, chapter 103, subchapter X, article 3, for the purpose of electing nominees for commission membership.

(2) In arranging for the meeting, the commission may, if it deems desirable, utilize the services and facilities of existing organizations and agencies.

(3) At the meeting, 3 licensed agents, brokers or dealers shall be elected for consideration by the commissioner, provided that at least 30% of the agents, brokers and dealers holding valid licenses in the State are present.

(4) The commission shall establish procedures for holding the meeting, and shall certify to the commissioner that the nominations have been made in compliance with this section and the procedures so established.

(5) The commission shall forward the nominations to the commissioner, in such manner and form as he may prescribe, not later than August 1st of the year in which elections are held.

(6) If nominations are not made within the time and manner specified by this section, the commissioner may, without regard to nominations, appoint any licensed agent, broker or dealer to membership on the commission.

Sec. 68. 36 MRSA § 4563, sub-§ 3, as repealed and replaced by PL 1975, c. 554, § 3, is amended by adding the following new paragraph:

In the case of a grower member, the vacancy shall be filled from the most recent list of nominees from the affected district. In the case of a shipper member, the vacancy shall be filled from the most recent list of nominees.

Sec. 69. 37-A MRSA § 23, as amended by PL 1977, c. 230, § 4, is repealed.

Sec. 70. 37-A MRSA § 24, as amended by PL 1977, c. 230, § 5, is repealed.

Sec. 71. 37-A MRSA § 25 as amended by PL 1977, c. 694, § 738, is repealed.

Sec. 72. 37-A MRSA § 26, as enacted by PL 1971, c. 580, § 1, is repealed.

Sec. 73. 37-A MRSA § 27, as amended by PL 1975, c. 293, § 4, is repealed.

Sec. 74. 37-A MRSA § 34, **first sentence**, as repealed and replaced by PL 1977, c. 694, § 740, is amended to read:

Any person who is denied ~~a pension under section 23 or 24 or who is denied~~ or is not satisfied with the amount of aid allotted to him by the bureau shall have the right of appeal to the director.

Sec. 75. 37-A MRSA § 50-K, as last amended by PL 1977, c. 694, § 741, is further amended by adding at the end the following new sentence:

Assistance under this section shall not be paid to any person eligible for free tuition in accordance with section 50-L.

Sec. 76. 37-A MRSA § 50-K-1 is enacted to read:

§ 50-K-1. Exception

Notwithstanding section 50-K, the bureau shall continue to pay benefits, in the same amount and under the same circumstances, to any eligible person receiving benefits under section 50-K as of June 30, 1980.

Sec. 77. 37-A MRSA § 56, as last amended by PL 1975, c. 771, § 408, is repealed.

Sec. 78. 37-A MRSA § 59, **sub-§ 9**, as last amended by PL 1979, c. 51, § 2, is further amended to read:

9. Preparation and implementation of plans. The Bureau of Civil Emergency Preparedness shall, **in conjunction with all municipalities and state agencies it requires to provide assistance**, prepare and implement those emergency plans, evacuation plans and other arrangements deemed necessary to protect the public and property in the State from hazards or dangers from radiation, radioactive materials, nuclear materials or the occurrence of a radiological incident as a result of the presence of, release of or emissions from radioactive materials, radioactivity or nuclear materials in this State. This subsection shall only apply to those hazards or dangers which arise from the peaceful use of nuclear or atomic materials.

Sec. 79. **Resolves, 1929, c. 153** is repealed.

Sec. 80. Exception; sections 69 and 70. Notwithstanding sections 69 and 70, the Treasurer of State shall continue to pay benefits, in the same amount and under the same circumstances, to any eligible person receiving benefits under the Revised Statutes, Title 37-A, section 23 or 24, as of August 13, 1979.

PART B

Adjustments to General Fund. In order to provide for necessary adjustments of the General Fund for the fiscal year ending June 30, 1981, and in order to implement the recommendations of the Joint Standing Committee on Audit and Program Review, the appropriations provided by the first regular session of the 109th Legislature are decreased by the amounts designated in the following tabulations.

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND 1980-81
AGRICULTURE, DEPARTMENT OF	
Departmental Administrative Services	
All Other	(\$ 33,500)
Eliminates the \$.03 per inhabitant appropriation for the stipend fund. General Fund revenues are reduced by an estimated \$30,000 to offset this deappropriation.	
Agricultural Marketing Services	
Positions	(-7)
Personal Services	(\$100,000)
All Other	(28,200)
Capital Expenditures	(10,300)
Provides for the transfer of 3 positions and funds to the Division of Inspections to enforce the branding law. Four positions are eliminated.	
Animal Industry Services	
Positions	(-3)
Personal Services	(43,000)
All Other	(30,900)
Eliminates the appropriation for the Production and Pullet Test farm. Reduces General Fund revenues by an estimated \$35,900	
Plant Industry Services	

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND 1980-81
All Other	(\$ 3,000)
Eliminates the appropriation for payment of claims for damage to beehives by wild animals.	
Consumer Services	
Positions	(-1)
Personal Services	(2,800)
All Other	(700)
Eliminates the appropriation for a seasonal Blueberry Inspector Supervisor.	
Positions	(-6)
Personal Services	(83,000)
All Other	(17,900)
Eliminates the appropriation for the State Meat Inspection Program.	
State Harness Racing Commission	
Personal Services	(2,100)
Reduces the salary of the members of the commission to \$50 per diem.	
Maine Agricultural Bargaining Board	
Personal Services	(1,000)
All Other	(2,000)
Eliminates the appropriation for the Agricultural Bargaining Board.	
EXECUTIVE DEPARTMENT	
State Planning Office	
Positions	(-2)
Personal Services	(28,900)
All Other	(21,900)

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND 1980-81
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Eliminates positions and funds from General Policy Activity area.

**DEFENSE AND VETERANS SERVICES,
DEPARTMENT OF**

Services to Veterans

All Other	(\$ 12,500)
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Begins implementation of the elimination of up to \$300 payment for veterans' dependents eligible for free tuition at state-supported institutions.

TOTAL PART B — GENERAL FUND	(\$421,700)
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PART C

Appropriations from General Fund. In order to provide for expenditures of State Government and other purposes for the fiscal year ending June 30, 1981, and in order to implement the recommendations of the Joint Standing Committee on Audit and Program Review, the sums designated in the following tabulations are appropriated out of moneys in the General Fund not otherwise appropriated.

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND 1980-81
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AGRICULTURE, DEPARTMENT OF

Consumer Services

Positions	(3)
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Personal Services	\$42,800
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All Other	12,070
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Provided for by the transfer of 3 positions and funds from Agricultural Marketing Services. These 3 positions shall be used primarily to provide for inspection of grocery stores, apple storage facilities and other food manufacturers to enforce various food laws, including the branding laws which are administered by the Department of Agriculture.

DEPARTMENT OR AGENCY	APPROPRIATION FROM GENERAL FUND 1980-81
Positions	(6)
Personal Services	88,300
All Other	87,900
<p>Provided for by transferring a number of dedicated accounts to General Fund accounts, increasing fees in some instances and establishing new fees in some instances. Total new revenues to General Fund from fees amount to \$230,750.</p>	
TOTAL PART C — GENERAL FUND	\$231,070

PART D

PL 1977, chapter 380, Part B, section 11 and PL 1977, chapter 579, Section B, section 5 are repealed.

This section forgives all remaining loans payable to the General Fund by the Seed Potato Board. The amount of these loans as of the effective date of this Act is \$60,000, payable at the rate of \$20,000 per year. Therefore, this section will reduce General Fund revenues in Fiscal Year 1981 by \$20,000.

Effective date. Parts B, C and D of this Act shall not take effect prior to July 1, 1980.

FISCAL NOTE

This bill makes a number of changes in appropriations and revenues that affect the Department of Agriculture, the Department of Defense and Veterans Services and 12 independent agencies. Total estimated decreases in General Fund appropriations for fiscal year 1981 are \$421,700. Total estimated increases in appropriations for fiscal year 1981 are \$231,070. Estimated decreases in revenue for the same year are \$85,900. Recommended increases in fees will generate an estimated \$230,750 in additional revenue to the General Fund. Therefore, the net fiscal impact of this bill is estimated to be \$335,480 in cost savings and additional revenues for fiscal year 1981.

STATEMENT OF FACT

This bill implements the recommendations of the Joint Standing Committee on

Audit and Program Review in accordance with the Maine Sunset Law. Part A makes statutory amendments to repeal, modify or leave intact the program reviewed. Parts B, C and D make necessary adjustments to current appropriations.

PART A

Section 1 continues, with or without legislative change, the independent agencies scheduled for termination on June 30, 1980.

Section 2 provides that the State may pay for damage done to sheep by dogs or wild animals.

Section 3 provides specifically that the State will not pay wild animal or dog damage claims except for sheep damage.

Sections 4 to 6 eliminate the State Planning Office mandate to develop a comprehensive plan, adds a mandate to develop coordinated goals and policies in specific areas and clarifies the mandate to provide technical assistance.

Section 7 clarifies the intent that the critical areas program is primarily an identification and voluntary conservation program.

Sections 8 to 10 eliminate "historic" as a criteria for inclusion on the Register of Critical Areas. Section 10, which cites the Revised Statutes, Title 5, section 3314, repeals the requirement that owners of critical areas notify the Critical Areas Advisory Board of potential changes.

Section 11 eliminates statutory reference to the Commission on Maine's Future.

Sections 12 to 14 eliminate the mandated 3¢ per inhabitant General Fund contribution to the Stipend Fund and modifies the stipend formula so that the additional funds provided to that fund in sections 46 and 47 are distributed with the same net effect as the current stipend including the 3¢ per inhabitant.

Sections 15 to 17 clarify that shipping point inspection programs are intended to be voluntary, self-financing activities.

Section 18 allows the Commissioner of Agriculture to choose where laboratory analyses may be conducted.

Section 19 eliminates dedicated funding of the feed inspection program.

Sections 20 and 21 repeal unenforced statutes regulating flour, bread and rolls, mineral oil and vinegar. Section 20 repeals the present frozen dairy product law, but it is reenacted under sections 30, 59 and 60.

Sections 22 and 23 increase the fertilizer registration fee and eliminate dedicated funding for this program. Section 65 of this bill increases the fertilizer tax.

Section 24 increases the amount of bond required for potato dealers.

Section 25 establishes a registration requirement for seed retailers and labelers in order to help offset the cost of seed inspections currently done by the Department of Agriculture.

Sections 26 and 27 increase the beehive license fees.

Section 28 eliminates restrictions on the compensation of the state bee inspector.

Section 29 provides for registration fee for beehives imported into the State.

Sections 30 to 38 provide for the licensing and inspection of wholesale frozen dairy product manufacturers under dairy regulation statutes and revise licensing fees and provisions for milk dealers, produce dealers and wholesale frozen dairy product manufacturers.

Section 39 provides that, prior to establishing a new or expanded market area under its jurisdiction, the Maine Milk Commission must hold a public hearing in that area.

Section 40 eliminates claims for livestock damage other than sheep damage done by dogs.

Sections 41 and 42 eliminate state payments of wild animal and dog damage to livestock.

Section 43 eliminates state payments of wild animal damage to beehives.

Section 44 establishes a voluntary sheep damage compensation program. Sheep producers who register their flocks are eligible to receive limited compensation for dog and wild animal damage. Dog damage will be paid from dog license revenues and wild animal damage will be paid from registration fees.

Section 45 replaces the fixed salary of harness racing commissioners with per diem compensation.

Sections 46 and 47 increase the percentage of harness racing wagers credited to the Stipend Fund and correspondingly decrease the percentage of harness racing wagers going to the General Fund.

Section 48 eliminates dedicated funding of the weights and measurers inspection program.

Section 49 allows municipalities to request the District Attorney to prosecute violators of local shoreland zoning ordinances.

Section 50 eliminates the potential for duplicate sanitation inspections by the Departments of Marine Resources and Agriculture.

Sections 51 to 56 provide for the licensing of food establishments inspected by the Department of Agriculture.

Section 57 prohibits duplicate licensing of food establishments by the Departments of Agriculture and Human Services.

Section 58 permits municipal inspections of food establishments in lieu of state inspections in some cases.

Sections 59 and 60 clarify that retail frozen dairy establishments shall be inspected by the Department of Human Services.

Section 61 prohibits inspections of eating establishments, licensed under the Department of Agriculture, by the Department of Human Services.

Section 62 repeals the Maine Meat Inspection Act.

Section 63 eliminates the Hazardous Materials Advisory Board.

Section 64 eliminates the Maine State Housing Authority mandate to collect housing data because it duplicates the State Planning Office mandate.

Section 65 increases the fertilizer tax rate.

Section 66 removes the dedicated funding of the fertilizer program.

Sections 67 and 68 modify the nomination procedure for membership on the Maine Potato Commission.

Sections 69 to 74 repeal pre-World War I pension laws. Section 74 of this bill protects current recipients.

Sections 75 and 76 eliminate the \$300 grant for students receiving free in-state tuition, but continues benefits until recipients are no longer eligible.

Section 77 eliminates the Civil Emergency Preparedness Council.

Section 78 modifies the Civil Emergency Preparedness mandate to prepare emergency plans by encouraging greater cooperation between state agencies and municipalities.

Section 79 eliminates the statutory basis for the Department of Agriculture's poultry test facility in Monmouth.

Section 80 allows present recipients of the state pension to continue to receive benefits until no longer eligible.

PART B

Part B makes adjustments to the General Fund by decreasing appropriations provided by the first regular session of the 109th Legislature.

PART C

Part C makes adjustments to the General Fund by appropriating funds for the year ending June 30, 1981.

PART D

Part D eliminates repayment of loans made by the Seed Potato Board from the General Fund.