

MAINE STATE LEGISLATURE

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(Emergency)
(New Draft of S.P. 459, L.D. 1406)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1743

S.P. 590

In Senate, June 5, 1987

Reported by Senator Bustin for the Committee on Audit and Program Review and printed under Joint Rule 2. Original Bill sponsored by Senator Bustin of Kennebec. Cosponsored by: Representative Rolde of York.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 **AN ACT Relating to Periodic Justification**
2 **of Departments and Agencies of State**
3 **Government under the Maine Sunset**
4 **Laws.**
5

6 **Emergency preamble.** Whereas, Acts of the Legis-
7 lature do not become effective until 90 days after
8 adjournment unless enacted as emergencies; and

9 Whereas, the 90-day period may not terminate un-
10 til after the beginning of the next fiscal year; and

11 Whereas, certain obligations and expenses inci-
12 dent to the operation of departments and agencies
13 will become due and payable on or immediately after
14 July 1, 1987; and

- 1 (4) Electricians' Examining Board;
- 2 (5) State Claims Board Commission;
- 3 (6) Board of Examiners on Speech Pathology
4 and Audiology;
- 5 (7) State Board of Social Worker
6 Registration Licensure;
- 7 (8) Board of Accountancy;
- 8 (9) Arborist Examining Board;
- 9 (10) Maine State Board for Registration
10 Licensure of Architects and Landscape Archi-
11 tects;
- 12 ~~(11) Board of Examiners for the Examination~~
13 ~~of Applicants for Admission to the Bar;~~
- 14 (12) State Board of Barbers;
- 15 (13) State Board of Cosmetology;
- 16 (14) Manufactured Housing Board;
- 17 ~~(15) State Running Horse Racing Commission;~~
- 18 (16) State Board of Registration of Sub-
19 stance Abuse Counselors;
- 20 (17) State Board of Registration Licensure
21 for Professional Foresters;
- 22 (18) State Board of Certification for
23 Geologists and Soil Scientists;
- 24 (19) Board of Examiners in Physical Thera-
25 py;
- 26 ~~(20) Maine Criminal Justice Planning and~~
27 ~~Assistance Agency;~~
- 28 (21) Maine Occupational Information Coordi-
29 nating Committee;

- 1 (22) Bryant Pond Conservation School;
- 2 (23) State Historian;
- 3 (24) Historic Preservation Commission;
- 4 ~~(25) --Maine Historical Society;~~
- 5 (26) Oil and Solid Fuel Board; and
- 6 (27) State Board of Examiners of Psycholo-
- 7 gists.

8 Sec. 3. 3 MRSA §507, sub-§8-A, ¶A, as enacted by
9 PL 1985, c. 763, Pt. A, §5, is repealed.

10 Sec. 4. 3 MRSA §507, sub-§8-A, ¶B, as enacted by
11 PL 1985, c. 763, Pt. A, §5, is amended to read:

12 B. The evaluations and analyses of the justifi-
13 cation reports for the programs of the following
14 Group E-2 independent agencies shall be reviewed
15 by the Legislature no later than June 30, 1988:

16 (1) Board of Trustees of the University of
17 Maine;

18 (2) Board of Trustees of the Maine Maritime
19 Academy;

20 (3) State Government Internship Advisory
21 Committee;

22 ~~(4) --Maine--Vocational--Development--Commis-~~
23 ~~sion;--and~~

24 ~~(5) --Post-secondary-Education-Commission--of~~
25 ~~Maine-~~

26 (6) Electricians' Examining Board;

27 (7) Arborist Examining Board;

28 (8) Maine Occupational Information Coordi-
29 inating Committee;

30 (9) Bryant Pond Conservation School;

1 (10) Advisory Committee on Maine Public
2 Broadcasting;

3 (11) Board of Examiners of Psychologists;

4 (12) Board of Commissioners of the Profes-
5 sion of Pharmacy;

6 (13) Alcohol and Drug Abuse Planning Com-
7 mittee; and

8 (14) State Board of Social Worker Licen-
9 sure.

10 Sec. 5. 3 MRSA §507, sub-§9, ¶A, as amended by
11 PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt.
12 B, §5, is repealed and the following enacted in its
13 place:

14 A. The evaluations and analyses of the justifi-
15 cation reports for the programs of the following
16 Group E-1 departments shall be reviewed by the
17 Legislature no later than June 30, 1989:

18 (1) Maine State Retirement System;

19 (2) Department of Labor; and

20 (3) Department of Administration, but lim-
21 ited to the Bureau of Human Resources, Bu-
22 reau of Employee Relations and Bureau of
23 Public Improvements.

24 Sec. 6. 3 MRSA §507, sub-§9, ¶B, as amended by
25 PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt.
26 A, §3, is repealed and the following enacted in its
27 place:

28 B. The evaluations and analyses of the justifi-
29 cation reports for the programs of the following
30 Group F-2 departments shall be reviewed by the
31 Legislature no later than June 30, 1990:

32 (1) Department of Finance;

33 (2) (Office of) Treasurer of State;

1 (3) Department of Audit;

2 (4) Department of Administration, except
3 for the Bureau of Human Resources, Bureau of
4 Employee Relations and Bureau of Public Im-
5 provements; and

6 (5) Department of the Attorney General.

7 **Sec. 7. 3 MRSA §507, sub-§10, ¶A, as amended by**
8 **PL 1985, c. 763, Pt. A, §7 and PL 1985, c. 785, Pt.**
9 **B, §6, is repealed and the following enacted in its**
10 **place:**

11 A. Unless continued or modified by law, the fol-
12 lowing Group E-1, independent agencies shall ter-
13 minate, not including the grace period, no later
14 than June 30, 1989.

15 (1) Board of Trustees, Group Accident and
16 Sickness or Health Insurance;

17 (2) Maine Labor Relations Board;

18 (3) State Civil Service Appeals Board;

19 (4) Educational Leave Advisory Board;

20 (5) Workers' Compensation Commission; and

21 (6) Board of Accountancy.

22 **Sec. 8. 3 MRSA §507, sub-§10, ¶B, as amended by**
23 **PL 1985, c. 695, §3; PL 1985, c. 763, Pt. A, §7; and**
24 **PL 1985, c. 764, §1, is repealed and the following**
25 **enacted in its place:**

26 B. Unless continued or modified by law, the fol-
27 lowing Group G-2 independent agencies shall termi-
28 nate, not including the grace period, no later than
29 June 30, 1990. The Board of Emergency Municipal Fi-
30 nance, the Finance Authority of Maine and the Maine
31 Municipal Bond Bank shall not terminate, but shall be
32 reviewed by the Legislature no later than June 30,
33 1990:

34 (1) Board of Emergency Municipal Finance;

- 1 (2) Finance Authority of Maine;
- 2 (3) Maine Municipal Bond Bank;
- 3 (4) State Liquor Commission;
- 4 (5) Capitol Planning Commission;
- 5 (6) State Board of Property Tax Review;
- 6 (7) Maine Health Care Finance Commission;
- 7 (8) Maine Vocational-Technical Institute
- 8 System;
- 9 (9) Maine Commission for Women; and
- 10 (10) Maine Human Rights Commission.

11 Sec. 9. 3 MRSA §507-B, sub-§10 is enacted to
12 read:

13 10. Agencies scheduled for termination on June
14 30, 1987; continued. Pursuant to section 507, subsec-
15 tion 8, paragraph B, the following agencies scheduled
16 for termination on June 30, 1987, are continued.

- 17 A. Real Estate Commission;
- 18 B. Maine Athletic Commission;
- 19 C. State Claims Board;
- 20 D. Board of Examiners on Speech Pathology and
- 21 Audiology;
- 22 E. Maine State Board for Licensure of Architects
- 23 and Landscape Architects;
- 24 F. State Board of Barbers;
- 25 G. State Board of Cosmetology;
- 26 H. Manufactured Housing Board;
- 27 I. State Board of Substance Abuse Counselors;

1 J. State Board of Licensure for Professional
2 Foresters;

3 K. State Board of Certification for Geologists
4 and Soil Scientists;

5 L. Board of Examiners in Physical Therapy;

6 J. State Historian;

7 N. Historic Preservation Commission; and

8 O. Oil and Solid Fuel Board.

9 **Sec. 10. 4 MRSA §801**, as amended by PL 1985, c.
10 124, §1, is repealed and the following enacted in its
11 place:

12 §801. Board of bar examiners; purpose; appointment

13 The Supreme Judicial Court shall create a board
14 of bar examiners for the purposes of designing, ad-
15 ministering and passing judgment on examinations
16 taken by those individuals seeking admission to the
17 bar. The board shall make recommendations to the Su-
18 preme Judicial Court as to which individuals have
19 successfully passed this examination process and ful-
20 filled the other requirements of this chapter for ad-
21 mission to the bar. All procedural, administrative
22 and budgetary actions of a board of bar examiners
23 shall be subject to rules established by the Supreme
24 Judicial Court and are deemed to be actions of the
25 Supreme Judicial Court. The board shall be composed
26 of 9 members, 7 of whom shall be licensed to practice
27 law in the State and shall be appointed by the Gover-
28 nor on the recommendation of the Supreme Judicial
29 Court. The remaining 2 members shall be public mem-
30 bers and shall be appointed by the Governor.

31 **Sec. 11. 4 MRSA §801-A**, as enacted by PL 1977,
32 c. 604, §1, is repealed.

33 **Sec. 12. 4 MRSA §803**, as repealed and replaced
34 by PL 1985, c. 124, §3, is amended to read:

35 §803. Qualifications for taking bar examination

1 1. Evidence of graduation. Before taking the ex-
2 amination for admission to the bar of the State, each
3 applicant shall produce to the a board of bar
4 examiners satisfactory evidence that he graduated
5 with a bachelor's degree from an accredited college
6 or university or that he successfully completed at
7 least 2 years' work as a candidate for that degree at
8 an accredited college or university.

9 2. Further qualifications. Each applicant shall
10 produce to the a board of bar examiners satisfactory
11 evidence that he:

12 A. Graduated from a law school accredited by the
13 American Bar Association;

14 B. Graduated from a law school accredited by the
15 United States jurisdiction in which it is lo-
16 cated, that he has been admitted to practice by
17 examination in one or more jurisdictions within
18 the United States and has been in active practice
19 there for at least 3 years;

20 C. Graduated from a foreign law school with a
21 legal education which, in the board's opinion, is
22 equivalent to that provided in those law schools
23 accredited by the American Bar Association; or

24 D. Successfully completed 2/3 of the require-
25 ments for graduation from a law school accredited
26 by the American Bar Association and then pursued
27 the study of law in the office of an attorney
28 within the State for at least one year.

29 3. Eligibility for examination. When an appli-
30 cant has satisfied the a board of bar examiners that
31 these requirements have been fulfilled and has paid a
32 fee fixed ~~by--the-board-and-approved~~ by the Supreme
33 Judicial Court, he is eligible to take the examina-
34 tions prepared or adopted by the board to determine
35 if he has the qualifications required by this chapter
36 for admission to the bar.

37 **Sec. 13. 4 MRSA §805, as repealed and replaced**
38 by PL 1985, c. 124, §5, is repealed.

39 **Sec. 14. 4 MRSA §805-A, sub-§2, as enacted by PL**
40 1985, c. 124, §6, is amended to read:

1 2. Issuance of certificate of qualification. The
2 A board of bar examiners shall issue a certificate of
3 qualification stating that the applicant is a person
4 of good moral character and possesses sufficient
5 learning in the law to practice as an attorney in the
6 courts of this State to each applicant who:

7 A. Produces satisfactory evidence of good moral
8 character;

9 B. Attains the passing grades established by the
10 board on those examinations required by the
11 board; and

12 C. Establishes that he attended and observed any
13 legal proceedings required by the board.

14 Sec. 15. 4 MRSA §1151, sub-§2, as amended by PL
15 1985, c. 748, §1 and c. 771, §1, is repealed and the
16 following enacted in its place:

17 2. Licensing jurisdiction. Except as provided in
18 Title 5, section 10004; Title 10, section 8003-A; Ti-
19 tle 32, chapter 113; and Title 35, section 13-A, the
20 Administrative Court shall have exclusive jurisdic-
21 tion upon complaint of an agency or, if the licensing
22 agency fails or refuses to act within a reasonable
23 time, upon complaint of the Attorney General, to re-
24 voke or suspend licenses issued by the agency, and
25 shall have original jurisdiction upon complaint of a
26 licensing agency to determine whether renewal or re-
27 issuance of a license of that agency may be refused.
28 The Administrative Court shall have original concu-
29 rent jurisdiction to grant equitable relief in pro-
30 ceedings initiated by an agency or the Department of
31 the Attorney General alleging any violation of a li-
32 cence of licensing laws or rules.

33 Notwithstanding any other provisions of law, no li-
34 censing agency may reinstate or otherwise affect a
35 license suspended, revoked or modified by the Admin-
36 istrative Court pursuant to a complaint filed by the
37 Attorney General, without the approval of the Attor-
38 ney General.

39 Sec. 16. 5 MRSA §151, as amended by PL 1979, c.
40 606, §1, is repealed and the following enacted in its
41 place:

1 §151. Funds of professional licensing boards

2 All money received by the Treasurer of State from
3 the Board of Registration in Medicine, the Board of
4 Examiners in Physical Therapy, the Board of Examiners
5 of Psychologists, the State Board of Nursing, the
6 Board of Accountancy, the Board of Veterinary Medi-
7 cine, the Board of Osteopathic Examination and Regis-
8 tration, the State Board of Funeral Service, the
9 State Board of Optometry, the Board of Dental Examin-
10 ers, the State Board of Registration for Professional
11 Engineers, the State Board of Certification for
12 Geologists and Soil Scientists, the Nursing Home Ad-
13 ministrators Licensing Board, the State Board of Li-
14 cence for Architects and Landscape Architects, the
15 Electricians' Examining Board, the Oil and Solid Fuel
16 Board, Maine State Pilotage Commission, the State
17 Board of Barbers, State Board of Cosmetology, State
18 Board of Registration for Land Surveyors, State Board
19 of Social Worker Registration, the Examiners of Podi-
20 atrists, the Board of Chiropractic Examination and
21 Registration, the Board of Examiners on Speech Pa-
22 thology and Audiology, the Maine Real Estate Commis-
23 sion, the Board of Commercial Driver Education, the
24 Board of Registration of Dietetic Practice, the State
25 Board of Registration for Professional Foresters, the
26 Board of Hearing Aid Dealers and Fitters, the Manu-
27 factured Housing Board, the Board of Occupational
28 Therapists, Radiologic Technology Board of Examiners,
29 Board of Registration of Substance Abuse Counselors,
30 Maine Athletic Commission, Board of Underground Oil
31 Storage Tank Installers and the Board of Commission-
32 ers of the Profession of Pharmacy shall constitute a
33 fund, which shall be a continuous carrying account
34 for the payment of the compensation and expenses of
35 the members, the expenses of the board and for exe-
36 cuting the law relating to each board respectively
37 and as much thereof as may be required is appropri-
38 ated for these purposes. The secretary of each board
39 shall be reimbursed for all expenditures for books,
40 stationery, printing and other necessary expenses in-
41 curring in the discharge of his duties. All such pay-
42 ments shall be made from the respective funds held in
43 the State Treasury, after the approval of the State
44 Controller. In no event may these payments exceed the
45 amounts received by the Treasurer of State from the
46 treasurer of each respective board. Any balance re-

1 maining to the credit of any board at the end of any
2 year shall be carried forward to the next year.

3 Whenever there shall accumulate in the State
4 Treasury to the account of any board or commission
5 charged with the duty of issuing licenses for the
6 conduct of any profession, trade or business, sums of
7 money in excess of the amount required properly to
8 cover the expense of performing the duties imposed
9 upon the board or commission in connection with the
10 granting of licenses and the supervision of persons
11 licensed, the board or commission, with the approval
12 of the Governor, may suspend the payment or reduce
13 the amount of any license fees fixed by law for any
14 renewal until, in the opinion of the board or commis-
15 sion, it shall be necessary to collect the full
16 amount established by law.

17 **Sec. 17. 5 MRS** §282, sub-§6, as enacted by PL
18 1983, c. 553, §1, is amended to read:

19 6. Supervise. To supervise and direct the ad-
20 ministration of the State Claims Board Commission.

21 **Sec. 18. 5 MRS** §1507, sub-§6, as enacted by PL
22 1975, c. 771, §67, is amended to read:

23 6. Claims. The Governor shall allocate funds
24 from the account for the payment of claims approved
25 or partially approved by the State Claims Board
26 Commission under section 1510.

27 **Sec. 19. 5 MRS** §1510-A, as amended by PL 1983,
28 c. 553, §2, is further amended to read:

29 §1510-A. Certain claims against the State

30 1. Claims against state agency. A state agency
31 may hear and decide any claim of \$2,000 or less
32 against it, or any of its agents, except a claim that
33 may be submitted under the Maine Tort Claims Act, Ti-
34 tle 14, chapter 741, or under another specific statu-
35 tory provision. Any agency paying all or part of a
36 claim heard under this subsection shall make payment
37 as soon as practicable from currently available agen-
38 cy funds and, if no funds are then available, from
39 agency funds from the following fiscal year. An agen-

1 cy deciding a claim under this subsection shall make
2 its final decision, and reasons for the decision, in
3 writing and shall, as soon as practicable, send a
4 copy of that decision to the claimant by certified
5 mail.

6 These claims shall include, but shall not be limited
7 to, claims for damage or injury caused by patients,
8 inmates, prisoners in the care or custody of the De-
9 partment of Mental Health and Mental Retardation or
10 of any institution administered by a department, by
11 children in the custody of the Department of Human
12 Services and for damage to sheep done by dogs or wild
13 animals.

14 2. Claims against the State decided by the State
15 Claims Commission. A claim under this section may be
16 submitted to the State Claims Board Commission and
17 heard and decided by it, if:

18 A. The claim was submitted under subsection 1 to
19 a state agency which refused to hear it;

20 B. The claim was submitted under subsection 1 to
21 a state agency and no final decision was made
22 within 90 days of submission; or

23 C. The claim cannot be submitted under a specif-
24 ic statutory provision other than subsection 1
25 because the claimant, as a result of an action or
26 omission of a state agency or state agent, has
27 not complied with time limits contained in that
28 specific statutory provision.

29 Any payment resulting from a decision of the State
30 Claims Board Commission on a claim submitted to it
31 under this subsection shall be paid as soon as prac-
32 ticable by the state agency or agencies found respon-
33 sible by the State Claims Board Commission or, if
34 there is no clearly identifiable responsible state
35 agency, the payment shall be paid from the state con-
36 tingent fund.

37 3. Appeal from departmental decisions. Any claim
38 disapproved in whole or part by a state agency hear-
39 ing that claim under subsection 1 may be appealed to
40 the State Claims Board Commission within 30 days from

1 the disapproval or partial disapproval. The State
2 Claims Beard Commission shall hear de novo any claim
3 so appealed.

4 Any payment resulting from a decision of the State
5 Claims Beard Commission on a claim submitted to it
6 under this subsection shall be paid by the state
7 agency or agencies found responsible by the State
8 Claims Beard Commission or, if there is no clearly
9 identifiable responsible state agency, the payment
10 shall be paid from the state contingent fund.

11 4. Appeal from State Claims Commission decision.
12 Any party aggrieved by an award of the State Claims
13 Beard Commission may appeal therefrom to the Superior
14 Court within 30 days after the date of the receipt of
15 the notice of the award. The appeal shall be taken
16 by filing a complaint setting forth, as in other civil
17 matters, substantially the facts upon which the
18 case shall be tried. Service shall be made on the
19 opposing party and the State Claims Beard Commission
20 by sending a true copy of the complaint by registered
21 or certified mail within the time limit set out in
22 this subsection. The complaint shall be filed in the
23 Superior Court for the county where one or more of
24 the parties reside or have their principal place of
25 business or where the activity or property which is
26 the subject of the proceeding is located. The
27 court's determination shall be de novo and without a
28 jury or, if all parties agree, by a referee or refer-
29 ees.

30 5. Jurisdiction over claims prior to January 4,
31 1977. The jurisdiction of the State Claims Beard
32 Commission over claims subject to this section in-
33 cludes those claims which have arisen prior to Janu-
34 ary 4, 1977, unless they have been ruled upon by the
35 Governor and Executive Council or by the Legislature
36 prior to January 4, 1977.

37 6. Hearings. Hearings on claims submitted under
38 subsection 2 or appeals made under subsection 3 shall
39 be held at a time and place which the State Claims
40 Beard Commission shall determine. The chairman shall
41 assign either one or 3 members to hear and determine
42 each claim. Hearings on claims under this section
43 which are properly submitted to the State Claims

1 Board Commission shall be held in accordance with the
2 Maine Administrative Procedure Act, chapter 375. The
3 decision of the board commission shall include the
4 reasons for the findings.

5 7. Different procedures. A claim submitted under
6 this section shall not be disapproved solely because
7 a claim based on the same facts was submitted under
8 a different statutory procedure and was disallowed.

9 8. Rules; report. The board commission may adopt
10 rules and regulations to implement this section. The
11 board commission shall, on or before January 30th of
12 each year, report to the Legislature on all claims
13 filed pursuant to this section.

14 **Sec. 20. 5 MRSA §1510-B**, as amended by PL 1981,
15 c. 368, §1, is further amended to read:

16 §1510-B. No liability for wild animal damage

17 The State is not liable for damage done by wild
18 animals to beehives or livestock. Neither state agen-
19 cies nor the State Claims Board Commission may accept
20 claims for such wild animal damage.

21 **Sec. 21. 5 MRSA §1813, sub-§6**, as amended by PL
22 1985, c. 158, §2, is further amended to read:

23 6. Surplus property. Providing for transfer of
24 supplies, materials and equipment which are surplus
25 from one state department or agency to another which
26 may need them, and for the disposal by private and
27 public sale of supplies, materials and equipment
28 which are obsolete and unusable; provided, however,
29 that if any political subdivision in the State or any
30 educational institution enumerated in section 1813-A
31 requests to purchase any such obsolete and unusable
32 items, then the disposal shall be by private sale to
33 that political subdivision or educational institu-
34 tion, ~~except that other state departments or agencies~~
35 ~~having an interest in that equipment shall have the~~
36 ~~option of first refusal~~; that equipment to be re-
37 tained for a period of at least one year in a current
38 ongoing program. Any item purchased by a political
39 subdivision or educational institution under this
40 section shall not be sold or transferred by that po-

1 litical subdivision or educational institution for a
2 period of 6 months from the date of the private sale
3 and the State reserves the right to refuse to sell
4 additional equipment to a political subdivision or
5 educational institution if it is determined that the
6 political subdivision or educational institution has
7 not retained the equipment for the required period of
8 6 months;

9 **Sec. 22.** 5 MRSA c. 315, as amended, is repealed.

10 **Sec. 23.** 5 MRSA §7038, sub-§5 is enacted to
11 read:

12 5. Schedules. The Department of Human Services
13 shall be the first state agency scheduled for review
14 by the Bureau of Human Resources. Findings of this
15 process shall be reported to the joint standing com-
16 mittees of the Legislature having jurisdiction over
17 audit and program review and human resources prior to
18 June 1, 1988.

19 **Sec. 24.** 5 MRSA §12004, sub-§1, ¶A, sub-¶(3) is
20 amended to read:

21 (3) Maine State Board \$35/Day. 32 MRSA §211
22 for Registration.
23 Licensure of
24 Architects and
25 Landscape Architects

26 **Sec. 25.** 5 MRSA §12004, sub-§1, ¶A, sub-¶(4) is
27 repealed.

28 **Sec. 26.** 5 MRSA §12004, sub-§1, ¶A, sub-¶(14) is
29 amended to read:

30 (14) State Board of Expenses 32 MRSA §5004
31 Registration Only
32 Licensure for \$30/Day
33 Professional
34 Foresters

35 **Sec. 27.** 5 MRSA §12004, sub-§1, ¶A, sub-¶¶(16),
36 (35) and (36) are amended to read:

37 (16) State Board of Expenses 32 MRSA §4907

1 Certification for Only
2 Geologists and \$30/Day
3 Soil Scientists

4 (35) Real Estate \$35/Day 32 MRSA \$4051-A
5 Commission \$13062

6 (36) State Board of Expenses 32 MRSA \$7026
7 Social Worker Only
8 Registration
9 Licensure

10 Sec. 28. 5 MRSA §12004, sub-§1, ¶A, sub-¶(38),
11 as repealed and replaced by PL 1985, c. 295, §14, is
12 amended to read:

13 (38) State Board of Not 32 MRSA §6201
14 Registration-of Authorized
15 Substance Abuse
16 Counselors

17 Sec. 29. 5 MRSA §12004, sub-§1, ¶A, sub-¶(42) is
18 amended to read:

19 (42) Maine Athletic 8-MRSA-§141
20 Commission 32 MRSA §13501

21 Sec. 30. 5 MRSA §12004, sub-§2, ¶A, sub-¶(4) is
22 amended to read:

23 (4) State Claims Board \$100/Day 23 MRSA §152
24 Commission

25 Sec. 31. 7 MRSA §62, first ¶, as amended by PL
26 1979, c. 672, §14, is further amended to read:

27 There shall be appropriated annually from the
28 State Treasury a sum of money equal to 5% of the
29 amount contributed under Title 8, section 275, and
30 additional sums of money as provided and limited by
31 Title 8, sections section 274 and-333, which shall be
32 known as the state stipend for aid and encouragement
33 to agricultural societies and hereafter designated as
34 the "stipend." Forty-four percent of the amounts con-
35 tributed under Title 8, sections section 274 and-333,
36 shall be divided for reimbursements in equal amounts
37 to each recipient of the Stipend Fund which conducts

1 ~~pari-mutuel~~ parimutuel racing in conjunction with its
2 annual fair if the recipient has improved its racing
3 facilities and has met the standards for facility im-
4 provements set by the commissioner for the recipi-
5 ents. If a recipient has not complied with the indi-
6 vidual standards set by the commissioner ~~said~~ yearly
7 reimbursements shall be paid in equal amounts to
8 those recipients which have met such standards. A
9 sum equal to 8% of the amount collected under Title
10 8, ~~sections section 274 and-333~~ shall be divided for
11 reimbursement in amounts in proportion to the sums
12 expended for premiums in the current year to each re-
13 cipient of the Stipend Fund which does not conduct
14 ~~pari-mutuel~~ parimutuel racing, if the recipient has
15 improved its facilities and has met the standards for
16 facility improvements set by the commissioner for the
17 recipients. From the state stipend the commissioner
18 may expend annually a sum not to exceed 2% for admin-
19 istrative and inspection services. The balance of
20 this stipend shall be divided among the legally in-
21 corporated agricultural clubs, societies, counties
22 and fair associations of the State, hereafter in this
23 Title designated as "societies," according to the
24 following schedule and method. ~~Said~~ The stipend
25 shall be divided pro rata among the legally incorpo-
26 rated societies according to the amount of premiums
27 and gratuities actually paid in full and in cash or
28 valuable equivalent by ~~said~~ those societies upon
29 horses, cattle, sheep, swine, poultry and agricultur-
30 al and domestic product, provided that each of the
31 qualifying societies which do not conduct ~~pari-mutuel~~
32 parimutuel racing shall receive shares which, consid-
33 ering the amount of premiums and gratuities actually
34 paid during the fair season in question, are not less
35 than the equivalent amount received by such societies
36 during the 1976 fair season, and provided further,
37 that no such society whether specifically mentioned
38 in this Title or otherwise ~~shall-be~~ is entitled to
39 any share of the stipend unless it shall have com-
40 plied with the following requirements, which shall be
41 considered by the commissioner as the basis upon
42 which his apportionment of the stipend shall be made
43 as provided in this section. No premiums or gratui-
44 ties ~~shall~~ may be considered by the ~~said~~ commissioner
45 in apportioning the amount of stipend to which any
46 society is entitled except those offered and paid
47 upon horses, cattle, sheep, swine, poultry, vegeta-

1 bles, grain, fruit, flowers, products derived from
2 horses, cattle, sheep, swine, home canned foods,
3 grange exhibits, farm exhibits, boys' and girls' club
4 exhibits, exhibits of the mechanical arts, domestic
5 and fancy articles produced in the farm home and
6 pulling contests by horses and oxen. No society
7 ~~shall--be~~ is entitled to any share of the stipend un-
8 less it ~~shall-have~~ has first obtained a license is-
9 sued pursuant to section 65. No society, the Maine
10 State Pomological Society excepted, ~~shall may~~ receive
11 from the State a sum greater than that actually
12 raised and paid by the society as premiums and gratu-
13 ities in the classes provided and in no case ~~shall~~
14 ~~may~~ any society be entitled to any share of the sti-
15 pend unless it ~~shall-have~~ has raised and paid in pre-
16 miums in the classes set forth at least \$200. No so-
17 ciety ~~shall may~~ receive any portion of the stipend in
18 excess of \$10,000, except that such limitation shall
19 not apply to any additional stipend provided for by
20 Title 8, section 274 or 333. No society ~~shall may~~ re-
21 ceive any portion of such stipend unless it ~~shall~~
22 ~~have~~ has regularly entered and displayed in an at-
23 tractive manner upon its exhibition grounds distinct
24 exhibits or entries of vegetables, fruits, grains or
25 dairy products, or of subordinate and other granges
26 and 4-H clubs, of a quality acceptable to the commis-
27 sioner or his regularly authorized agent and of vari-
28 eties known to be common or standard to the county in
29 which such exhibition is held.

30 Sec. 32. 8 MRSA c. 6-A, as amended, is repealed.

31 Sec. 33. 8 MRSA c. 13, as amended, is repealed.

32 Sec. 34. 10 MRSA §8001, as repealed and replaced
33 by PL 1985, c. 737, Pt. A, §21 and as amended by PL
34 1985, c. 819, Pt. A, §15, is repealed and the follow-
35 ing enacted in its place:

36 §8001. Department; organization

37 There is created and established the Department
38 of Professional and Financial Regulation, in this
39 chapter referred to as the "department," to regulate
40 financial institutions, insurance companies, commer-
41 cial sports, grantors of consumer credit and to li-
42 cence and regulate professions and occupations. The

1 department shall be composed of the following bu-
2 reaus, boards and commissions:

3 Banking, Bureau of;

4 Consumer Credit Protection, Bureau of;

5 Insurance, Bureau of;

6 Athletic Commission, Maine;

7 Pilotage Commission, Maine State;

8 Real Estate Commission;

9 Arborist Examining Board;

10 Auctioneers, Board of Licensing of;

11 Barbers, State Board of;

12 Commercial Driver Education, Board of;

13 Dietetic Practice, Board of Registration of

14 Electricians' Examining Board;

15 Foresters, State Board of Licensure for Profes-
16 sional;

17 Funeral Service, State Board of;

18 Geologists and Soil Scientists, State Board of
19 Certification for;

20 Hearing Aid Dealers and Fitters, Board of;

21 Manufactured Housing Board;

22 Nursing Home Administrators Licensing Board;

23 Occupational Therapy Practice, Board of;

24 Oil and Solid Fuel Board;

25 Physical Therapy, Board of Examiners in;

1 Plumbers' Examining Board;
2 Psychologists, State Board of Examiners of;
3 Radiologic Technology, Board of Examiners;
4 Respiratory Care Practitioners, Board of;
5 Social Worker Licensure, State Board of;
6 Speech Pathology and Audiology, Board of Examin-
7 ers on;
8 Substance Abuse Counselors, State Board of; and
9 Veterinary Medicine; State Board of.

10 **Sec. 35. 10 MRSA §9003, sub-§1, as amended by PL**
11 **1983, c. 812, §69, is further amended to read:**

12 1. Established. The Manufactured Housing Board,
13 established by Title 5, section 12004, subsection 1
14 and located in the Department of Business,--Occupational--and Professional and Financial Regulation
15 shall have the responsibility of administering and
16 enforcing this chapter. The board shall consist of 5
17 7 members appointed by the Governor.

19 **Sec. 36. 10 MRSA §9003, sub-§§2 and 8, as en-**
20 **acted by PL 1977, c. 550, §1, are amended to read:**

21 2. Composition and terms of the members. The
22 members of the board shall include a representative
23 who is a manufactured housing owner; a representative
24 who is a professional engineer with demonstrated ex-
25 perience in construction and building technology; a
26 representative who is a dealer or mechanic; a repre-
27 sentative who is a general representative of the man-
28 ufactured-housing industry an owner or operator of a
29 mobile home park with 15 or fewer lots; a representa-
30 tive who is an owner or operator of a mobile home
31 park with more than 15 lots; a representative who is
32 a builder of manufactured housing; and a representa-
33 tive with a minimum of 2 years of practical experi-
34 ence in building code administration and enforcement
35 and is currently employed as a code enforcement
36 officer. The term of office of the appointed members

1 is for 4 years, except that initially one member
2 shall be appointed for one year; one member for 2
3 years; one member for 3 years; and 2 members for 4
4 years. Members may be appointed to successive terms.
5 Members shall serve for their appointed term and un-
6 til their successor is appointed and duly qualified,
7 except that any member of the board may be removed
8 for cause by the Governor. No board member may serve
9 more than 2 consecutive terms.

10 8. Administration. Not later than August 1st of
11 each year, the board shall submit to the Commissioner
12 of Business Professional and Financial Regulation for
13 the preceding fiscal year ending June 30th an annual
14 report of its operations and financial position, to-
15 gether with such comments and recommendations as the
16 board deems essential.

17 **Sec. 37.** 10 MRSA §9004, sub-§2, as amended by PL
18 1985, c. 785, Pt. B, §56, is further amended to
19 read:

20 2. Employees. The executive director, with the
21 advice of the board and the commissioner, may employ,
22 subject to the Civil Service Law, persons necessary
23 to carry out this chapter. Any person so employed
24 shall be an employee of the Department of Business,
25 ~~Occupational~~ and Professional and Financial Regula-
26 tion, except that they shall be under the direction
27 and supervision of the executive director of the
28 board.

29 **Sec. 38.** 10 MRSA §9061, sub-§§2 and 4, as en-
30 acted by PL 1981, c. 152, §16, are amended to read:

31 2. Commissioner. "Commissioner" means the Com-
32 missioner of Business Professional and Financial Reg-
33 ulation.

34 4. Department. "Department" means the Department
35 of Business Professional and Financial Regulation or
36 its employees.

37 **Sec. 39.** 10 MRSA §9062, as enacted by PL 1981,
38 c. 152, §16, is amended to read:

39 §9062. Duties

1 The board shall delegate the responsibility for
2 administering the state administrative agency program
3 to the Commissioner of Business Professional and
4 Financial Regulation. The board is vested with the
5 authority upon appropriate notice to discontinue par-
6 ticipation in the federal enforcement program as a
7 state administrative agency for this State.

8 **Sec. 40. 10 MRSA §9064**, as enacted by PL 1981,
9 c. 152, §16, is amended to read:

10 §9064. Standards

11 1. Adoption, administration and enforcement of
12 standards. The Department of Business Professional
13 and Financial Regulation is charged with the adop-
14 tion, administration and enforcement of manufactured
15 home construction and safety standards. The standards
16 adopted shall be identical to the standards promul-
17 gated pursuant to the National Manufactured Housing
18 Construction and Safety Standards Act of 1974, 42
19 United States Code Section 5401 et seq. The Depart-
20 ment of Business Professional and Financial Regula-
21 tion shall discharge this duty consistent with rules
22 and regulations promulgated by the United States De-
23 partment of Housing and Urban Development.

24 2. Rules. The Department of Business Profession-
25 al and Financial Regulation may adopt such rules and
26 regulations as are necessary to enforce the standards
27 promulgated under subsection 1.

28 **Sec. 41. 10 MRSA §9072**, as enacted by PL 1981,
29 c. 152, §16, is amended to read:

30 §9072. Hearings

31 The Department of Business Professional and
32 Financial Regulation may file a complaint with the
33 Administrative Court which is authorized to conduct
34 hearings and presentations of views consistent with
35 Title 5, chapter 375.

36 **Sec. 42. 14 MRSA §2602, sub-§10**, as enacted by
37 PL 1971, c. 468, §1, is amended to read:

1 10. Money deposited. By reason of any money de-
2 posited with him in a broker's trust account under
3 Title 32, section 4004-A 13178, except to the extent
4 provided in that section.

5 Sec. 43. 20-A MRSAs §202, sub-§15, as amended by
6 PL 1985, c. 797, §8, is further amended to read:

7 15. Educational bureaus. The Bureau of Adult and
8 Secondary Vocational Education, the Bureau of In-
9 struction and the Bureau of School Management;

10 Sec. 44. 20-A MRSAs §203, sub-§1, ¶E, as enacted
11 by PL 1983, c. 489, §10, is amended to read:

12 E. Associate Commissioner, Bureau of Adult and
13 Secondary Vocational Education;

14 Sec. 45. 20-A MRSAs §251-A is enacted to read:

15 §251-A. Responsibilities of the commissioner

16 The commissioner is the chief executive officer
17 of the department. In that capacity, the commissioner
18 has primary responsibility for the following:

19 1. Enforcing regulatory requirements. Enforcing
20 applicable regulatory requirements for school admin-
21 istrative units;

22 2. Providing technical assistance. Providing
23 technical assistance to school administrative units;
24 and

25 3. Providing educational leadership. Providing
26 educational public leadership for the State.

27 Sec. 46. 20-A MRSAs §256, sub-§1, as amended by
28 PL 1985, c. 505, §1, is further amended to read:

29 1. Report to Governor and Legislature. The com-
30 missioner shall prepare and deliver to the Governor
31 and Legislature an annual report on the status of
32 public education in the State, including any sugges-
33 tions and recommendations to improve public education
34 and including the reporting requirements of section
35 13506, subsection 3-A. This annual report shall also

1 include a description of the activities and accom-
2 plishments of the state board.

3 The commissioner may be invited by the Speaker of the
4 House of Representatives and the President of the
5 Senate annually, in January, to appear before a joint
6 session of the Legislature to address the Legislature
7 on the status of public education in the State and
8 such related matters as the commissioner desires to
9 bring to the Legislature's attention.

10 **Sec. 47.** 20-A MRSA §401-A is enacted to read:

11 §401-A. Responsibilities of the State Board of Edu-
12 cation

13 The State Board of Education is intended to act
14 as a body with certain policy-making, administrative
15 and advisory functions. In those capacities, the
16 board has the primary responsibility for the follow-
17 ing:

18 1. Formulating policy. Formulating policy by
19 which the commissioner shall administer certain regu-
20 latory tasks;

21 2. Advising commissioner. Advising the commis-
22 sioner in the administration of all the mandated re-
23 sponsibilities of that position; and

24 3. Enforcing regulatory requirements. Enforcing
25 regulatory requirements for school administrative
26 units.

27 **Sec. 48.** 20-A MRSA §402, sub-§2, as enacted by
28 PL 1981, c. 693, §§5 and 8, is amended to read:

29 2. Meetings. Meetings of the state board shall
30 be held at least quarterly ~~in the offices of the~~
31 ~~department~~ on call of the chairman or the commissioner
32 on 5 days' written notice to members. If both the
33 chairman and commissioner are absent, or refuse to
34 call a meeting, any 3 members of the state board may
35 call a meeting by similar notices in writing.

36 **Sec. 49.** 20-A MRSA §404, as enacted by PL 1981,
37 c. 693, §§5 and 8, is amended to read:

1 §404. Records

2 The state board shall be responsible for the fol-
3 lowing records and reports.

4 1. Records. The state board shall keep in the
5 office of the commissioner a complete record of the
6 minutes of its meetings and other procedures.

7 ~~2. Report. Biennially, on the first Monday of~~
8 ~~January, the state board shall make a report to the~~
9 ~~Governor which shall contain the report of the com-~~
10 ~~missioner to the state board. The state board shall~~
11 ~~print this report and distribute it to the members of~~
12 ~~the legislature and to school officers. The cost of~~
13 ~~printing the report shall be paid from the appropria-~~
14 ~~tion of the department.~~

15 Sec. 50. 20-A MRSA §405, sub-§3, ¶D, as enacted
16 by PL 1981, c. 693, §§5 and 8, is amended to read:

17 D. Act Review, when necessary, decisions made by
18 the commissioner on applications for additions
19 to, dissolution of, transfers among, withdrawals
20 from and closing of schools in school administra-
21 tive districts and community school districts;

22 Sec. 51. 20-A MRSA §405, sub-§4, as amended by
23 PL 1983, c. 806, §7, is repealed.

24 Sec. 52. 20-A MRSA §405, sub-§5, as amended by
25 PL 1985, c. 785, Pt. B, §79, is repealed.

26 Sec. 53. 20-A MRSA §1255, first ¶, as enacted by
27 PL 1981, c. 693, §§5 and 8, is amended to read:

28 The state board commissioner shall determine the
29 necessity for reapportionment.

30 Sec. 54. 20-A MRSA §1255, sub-§§1, 2, 3, 8 and
31 9, as enacted by PL 1981, c. 693, §§5 and 8, are
32 amended to read:

33 1. Duties of the commissioner. The state board
34 commissioner shall determine if a district is appor-

1 tioned in accordance with the principles of one man,
2 one vote, if:

3 A. ~~It~~ He receives a request by the board of di-
4 rectors;

5 B. ~~It~~ He receives a petition signed by district
6 voters equal to at least 10% of the voters who
7 voted in the last gubernatorial election in the
8 district; or

9 C. ~~It~~ He determines a district is not appor-
10 tioned according to the principles of one man,
11 one vote.

12 2. Awaiting census results. If the ~~state-board~~
13 ~~commissioner~~ receives a request within 12 months be-
14 fore a Federal Decennial Census or Federal Estimated
15 Census, ~~the-board~~ he may wait until after the new
16 census figures are available to make a determination.

17 3. Findings and order. If the ~~state--board~~
18 ~~commissioner~~ finds the district's representation is
19 not apportioned in accordance with the principle of
20 one man, one vote, ~~it~~ he shall, within 7 days of that
21 decision, notify the municipal officers in each mu-
22 nicipality in the district and the school board to
23 create a reapportionment committee. The notification
24 shall include the time and place for the first meet-
25 ing of the committee which shall be held not later
26 than 20 days after the ~~notificaton~~ notification.

27 8. Commissioner approval. The ~~state---board~~
28 ~~commissioner~~ shall approve or disapprove the commit-
29 tee plan within 30 days of receiving it.

30 9. Failure to gain commissioner approval. If a
31 plan has not been adopted by the committee or ap-
32 proved by the ~~board~~ commissioner within the time lim-
33 its, ~~the-commissioner~~ he shall prepare a suitable
34 plan ~~and--submit-it-to-the-state-board-for-approval.~~

35 Sec. 55. 20-A MRSa §1255, sub-§10, as amended by
36 PL 1983, c. 806, §17, is further amended to read:

37 10. Putting the approved plan into effect. On
38 approval of a plan ~~by-the-state-board,~~ the commis-

1 sioner shall send a certified copy to the municipal
2 officers and school directors. The original plan
3 shall be retained in the ~~state--board~~ department
4 files.

5 A. The approved plan shall be effective immedi-
6 ately. The committee shall determine the terms
7 of the directors who shall be elected at the next
8 annual municipal elections so as to comply with
9 section 1253.

10 B. If the approved plan requires a reduction of
11 the number of directors to be elected in a munic-
12 ipality, all of the existing directors represent-
13 ing the municipality shall, within 7 days after
14 the date of approval and under the supervision of
15 the board of directors, choose by lot which di-
16 rectors' terms shall terminate.

17 C. If the approved plan requires that additional
18 directors be elected in a municipality, the mu-
19 nicipal officers shall fill the vacancies by ap-
20 pointment. A new director shall serve until a
21 successor is elected and qualified at the next
22 annual municipal election.

23 D. Except as provided in paragraph B, the cur-
24 rent board of directors shall serve until the
25 next annual municipal elections or until a date
26 established in accordance with section 1003, sub-
27 section 2.

28 E. The reapportionment committee shall thereupon
29 be dissolved.

30 **Sec. 56. 20-A MRSA §1255, sub-§§12 and 13 are**
31 **enacted to read:**

32 12. State board review of commissioner's deci-
33 sions. A school administrative district or interested
34 parties may request that the state board reconsider
35 decisions made by the commissioner in this section.
36 The state board shall have the authority to overturn
37 a decision made by the commissioner. In exercising
38 this power, the state board is limited by this sec-
39 tion.

1 13. Rules. The state board may adopt rules to
2 carry out this section.

3 Sec. 57. 20-A MRSA §1401, as enacted by PL 1981,
4 c. 693, §§5 and 8, is amended to read:

5 §1401. Additions

6 A municipality not originally in a school admin-
7 istrative district may be included as follows.

8 1. Application. The board of directors of the
9 municipality wishing to join with an existing school
10 administrative district may file an application with
11 the state-board commissioner on a form to be provided
12 by the state-board him.

13 A. The state-board commissioner shall study the
14 need for the municipality to join the school ad-
15 ministrative district and recommend an agreement
16 by which the municipality may become a member.

17 B. The agreement may contain a new method of
18 sharing costs among the member municipalities of
19 the district in accordance with section 1301.
20 The article set out in section 1203, subsection
21 6, paragraph D, authorizing units to vote on al-
22 ternate methods of sharing costs shall be used if
23 the agreement recommended by the state--board
24 commissioner contains a provision for using one
25 of the alternate methods of sharing costs.

26 C. This agreement shall be forwarded to the sec-
27 retary of the school administrative district and
28 to the clerk of the municipality desiring to join
29 the district.

30 2. First meeting. Within 45 days after receipt
31 of the agreement by the municipal clerk, a regular or
32 special town meeting or city election in the joining
33 municipality, shall vote on the agreement. The vote
34 shall conform to the following procedure.

35 A. The article voted on shall be:

36 "Article : Shall the municipality vote to
37 join School Administrative District No..... as a

1 participating municipality of the district sub-
2 ject to the terms and conditions of the agreement
3 prepared by the ~~State--Board--of--Education~~
4 commissioner dated 19..?

5 Yes No "

6 (A copy of the agreement shall be posted with
7 each warrant.)

8 B. The election of the directors and the vote on
9 the agreement shall be conducted on the same day.
10 This election shall follow the procedures used
11 for the election of municipal officials by the
12 municipality.

13 C. The vote on the agreement shall be called
14 using the same methods as the municipality uses
15 in conducting its business at regular or special
16 town meetings or city elections.

17 D. If the municipality is organized under a spe-
18 cial legislative charter, it shall call a refer-
19 endum following the procedures outlined in its
20 charter.

21 E. The municipal clerk shall send a certified
22 copy of the results of the vote to the secretary
23 of the school administrative district.

24 3. Second meeting. If the board of directors
25 finds that the vote was in the affirmative, the board
26 shall call a district referendum within 45 days in
27 accordance with sections 1351 to 1354 to vote on the
28 following article.

29 "Article : Shall the district vote to admit
30 the municipality of.....
31 (name the municipality)
32 into School Administrative District No..... as
33 a participating municipality of the district sub-
34 ject to the terms and conditions of the agreement
35 prepared by the ~~State--Board--of--Education~~
36 commissioner dated 19.....?

37 Yes No "

1 (A copy of the agreement shall be posted with
2 each warrant.)

3 A. The municipal clerks within the district
4 shall forward to the state-board commissioner a
5 certified report of the total number of affirma-
6 tive and negative votes cast on the article.

7 B. On receipt of the results of the voting from
8 all municipalities, the state-board commissioner
9 shall ~~meet~~, compute and record the result of the
10 voting.

11 4. Commissioner finding. If the state-board
12 commissioner finds that a majority of the voters of
13 the district and a majority of the voters of the mu-
14 nicipality favor admission of the municipality into
15 the district, ~~the-state-board he~~ shall make a finding
16 to that effect ~~and-record-it-on-its-records.~~

17 A. The state-board commissioner shall notify by
18 registered mail the clerk of the municipality
19 seeking to join the school administrative dis-
20 trict and the secretary of the school administra-
21 tive district of the results of the vote.

22 B. If the state-board commissioner's finding is
23 that a majority is for joining, ~~it~~ he shall issue
24 an amended certificate for the school administra-
25 tive district, which shall be filed in the same
26 manner as the original certificate.

27 5. Certificate. The issuance of an amended cer-
28 tificate shall be conclusive evidence of the admis-
29 sion of that municipality to the school administra-
30 tive district.

31 **Sec. 58. 20-A MRSa §1402, as enacted by PL 1981,**
32 **c. 693, §§5 and 8, is amended to read:**

33 §1402. Combining of districts

34 If one school administrative district wishes to
35 join with another school administrative district, the
36 following procedure shall be used.

1 1. Application. Each district's board of direc-
2 tors shall file an application with the ~~state-board~~
3 commissioner on a form to be prepared by the--state
4 board him.

5 A. The ~~state--board~~ commissioner shall receive
6 the applications, make a study of the necessity
7 for combining the districts and recommend an
8 agreement by which the districts may combine.

9 B. This agreement shall be forwarded to the sec-
10 retary of each school administrative district.

11 2. Meeting. Within 45 days after receipt of the
12 agreement each district's board of directors shall
13 call a district meeting in accordance with sections
14 1351 to 1354 to vote on the following article.

15 "Article : To see if School Administrative
16 District No.... will vote to join School Adminis-
17 trative District No.... in a merger to form a
18 larger district subject to the terms and condi-
19 tions of the agreement prepared by the State
20 Board----of----Education commissioner dated
21 19.....

22 Yes No "

23 (A copy of the agreement shall be posted with
24 each warrant.)

25 3. Return. The secretary of each school admin-
26 istrative district shall file a return with the ~~state~~
27 board commissioner immediately following the votes in
28 the district on the question of merger.

29 4. Commissioner's finding. If the ~~state-board~~
30 commissioner finds that a majority of the voters in
31 each district have voted in favor of the merger, the
32 ~~state-board~~ he shall make a finding to the effect and
33 ~~record-the-same-on-its-records.~~

34 5. Notice. The ~~state-board~~ commissioner shall
35 notify by registered mail the secretary of each dis-
36 trict of the results of the vote.

1 6. Certificate. If the ~~state~~-----board
2 commissioner's finding is that a majority is for
3 merging, it shall issue a new certificate for the
4 enlarged school administrative district and assign a
5 number. The certificate shall be filed in the same
6 manner as the original certificate.

7 7. Evidence. The issuance of the certificate by
8 the ~~state-board~~ commissioner shall be conclusive evi-
9 dence of the merger of the school administrative dis-
10 tricts.

11 **Sec. 59.** 20-A MRSA §1403, as amended by PL 1983,
12 c. 364, §1, is further amended to read:

13 §1403. Dissolution of a district

14 1. Ten percent petition. Upon receipt of a pe-
15 tition which seeks to dissolve a school administra-
16 tive district and establishes a maximum figure for
17 the cost of preparing a dissolution agreement signed
18 by 10% of the number of voters in a municipality who
19 voted at the last gubernatorial election, the municip-
20 al officers shall call and hold a special election,
21 in the manner provided for the calling and holding of
22 town meetings or city elections to vote on the disso-
23 lution of the school administrative district.

24 A. At least 10 days before the election, a
25 posted or otherwise advertised public hearing on
26 the petition shall be held by the municipal offi-
27 cers.

28 B. The petition must be approved by secret bal-
29 lot by a 2/3 vote of the voters present and vot-
30 ing before it may be presented to the board of
31 directors and the ~~state-board~~ commissioner. Vot-
32 ing in towns shall be conducted in accordance
33 with Title 30, sections 2061 and 2062, even if
34 the towns have not accepted the provisions of Ti-
35 tle 30, section 2061, and voting in cities shall
36 be conducted in accordance with Title 21.

37 2. Form. The question to be voted upon shall be
38 in substantially the following form:

1 "Article : Be it resolved by the residents of
2 the Town of that a petition
3 for dissolution be filed with the directors of
4 School Administrative District No. and
5 with the ~~State-Board-of-Education~~ commissioner,
6 that the dissolution committee be authorized to
7 expend \$ and that the (municipal officers;
8 i.e. selectmen, town council, etc.) be authorized
9 to issue notes in the name of the Town of
10 or otherwise pledge the credit of the Town
11 of in an amount not to exceed \$
12 for this purpose?

13 Yes No "

14 3. Notice of vote; finding by commissioner. If
15 residents of a participating municipality vote favor-
16 ably on a petition for dissolution, the clerk shall
17 immediately give written notices, by registered mail,
18 to the secretary of the school administrative dis-
19 trict, ~~the state board~~ and the commissioner which
20 shall include:

21 A. The petition adopted by the voters, including
22 the positive and negative votes cast; and

23 B. An explanation by the municipal officers,
24 stating to the best of their knowledge, the rea-
25 son or reasons why the municipality seeks to dis-
26 solve the district.

27 4. Agreement for dissolution; notice; changes in
28 agreement; final agreement. The agreement for disso-
29 lution shall comply with the following.

30 A. The commissioner, after consultation with the
31 district board of directors, municipal officers
32 of the participating municipalities, and repre-
33 sentatives of the group which filed the petition
34 with the municipality, shall direct the municipal
35 officers of each municipality to select represen-
36 tatives to a committee as follows: One member
37 from the municipal officers, the group filing the
38 petition; and one member from the general public;
39 and one member from the group filing the petition
40 if the group is represented in the municipality,
41 otherwise an additional one member of the general

1 public. The commissioner shall also direct the
2 directors representing each municipality to se-
3 lect one member of the board of directors who
4 represents that municipality to serve on the com-
5 mittee. The municipal officer and the member of
6 the board of directors shall serve on the commit-
7 tee only so long as they hold their respective
8 offices. Vacancies will be filled by the municip-
9 al officers and board of directors. The chair-
10 man of the board of directors shall call a meet-
11 ing of the committee within 30 days of the filing
12 of the notice of the vote in subsection 3. The
13 chairman of the board shall open the meeting by
14 presiding over the election of a chairman of the
15 committee. The responsibility for the prepara-
16 tion of the agreement shall rest with the commit-
17 tee, subject to the approval of the State-Board
18 of-Education commissioner. The committee may
19 draw upon the resources of the department for in-
20 formation not readily available at the local lev-
21 el and employ competent advisors within the fis-
22 cal limit authorized by the voters. The agree-
23 ment shall be submitted to the ~~state-board-and~~
24 ~~the~~ commissioner within 90 days after the commit-
25 tee is formed. Extensions of time may be granted
26 by the commissioner upon the request of the com-
27 mittee.

28 (1) The agreement shall contain provisions
29 to provide educational services for all stu-
30 dents in the district. The agreement shall
31 provide that during the first year following
32 the dissolution, students may attend the
33 school they would have attended if the dis-
34 trict had not dissolved. The allowable tui-
35 tion rate for students sent from one municipi-
36 pality to another in the former school ad-
37 ministrative district shall be determined
38 under section 5805, subsection 1, except
39 that it shall not be subject to the state
40 per pupil average limitation in section
41 5805, subsection 2.

42 (2) The agreement shall establish the dis-
43 solution to take effect at the end of the
44 district's fiscal year.

1 (3) The agreement shall establish that the
2 dissolution will not cause a need within 5
3 years from the effective date of dissolution
4 for school construction projects which would
5 be eligible for state funds. This limita-
6 tion does not apply where a need for school
7 construction existed prior to the effective
8 date of the dissolution or where a need for
9 school construction would have arisen even
10 if the district had not dissolved.

11 (4) The agreement shall establish how
12 transportation services will be provided.

13 (5) The agreement shall provide for admin-
14 istration of the new administrative units,
15 which should not include the creation of new
16 supervisory units if at all possible.

17 (6) The agreement shall make provision for
18 the distribution of financial commitments
19 arising from outstanding bonds, notes and
20 any other contractual obligations that ex-
21 tend beyond the proposed date of dissolu-
22 tion.

23 (7) The agreement shall make appropriate
24 provision for the distribution of any out-
25 standing financial commitments to the super-
26 intendent of the school administrative dis-
27 trict.

28 (8) The agreement shall provide for the
29 continuation and assignment of collective
30 bargaining agreements as they apply to the
31 new or reorganized school administrative
32 unit for the duration of those agreements
33 and shall provide for the continuation of
34 representational rights.

35 (9) The agreement shall provide for the
36 continuation of continuing contract rights
37 under section 13201, subsection 2.

38 (10) The agreement shall provide for the
39 disposition of all real and personal proper-
40 ty and other monetary assets.

1 (11) The agreement shall provide for the
2 transition of administration and governance
3 of the schools to properly elected governing
4 bodies of the newly created administrative
5 units and shall provide that the governing
6 bodies shall not be elected simultaneously
7 with the vote on the article to dissolve un-
8 less the ~~state--board~~ commissioner finds
9 there are extenuating circumstances which
10 necessitate simultaneous elections.

11 B. Within 60 days of the receipt of the agree-
12 ment, the ~~state-board~~ commissioner shall either
13 give it conditional approval or recommend changes
14 ~~with-the-advice-of-the-commissioner~~. The changes
15 shall be based upon the standards set forth in
16 paragraph A and the ~~board's~~ commissioner's find-
17 ings of whether the contents of the plan will
18 provide for appropriate educational and related
19 services to the students of the district and for
20 the orderly transition of assets, governance, and
21 other matters related to the district.

22 C. If the ~~state-board~~ commissioner gives condi-
23 tional approval of the agreement, the
24 ~~commissioner~~ he shall notify the directors and
25 the municipal officers by registered mail of the
26 time and place of a public hearing at least 20
27 days prior to the date set for the hearing, to
28 discuss the merits of the proposed agreement of
29 dissolution. The chairman of the board of direc-
30 tors will conduct the hearing.

31 (1) The directors shall post a public no-
32 tice in each municipality of the time and
33 location of the hearing at least 10 days be-
34 fore the hearing.

35 (2) Within 30 days following the hearing,
36 the committee shall forward the final agree-
37 ment to the commissioner ~~and--the--state~~
38 ~~board~~.

39 D. If the ~~state--board~~ commissioner recommends
40 changes it he shall:

41 (1) Send the agreement back to the commit-
42 tee for necessary corrections ;

1 (1-A) Establish a maximum time within which
2 to make the corrections; and

3 (2) Indicate that the corrected agreement
4 shall be returned to the ~~state--board~~
5 commissioner for conditional approval before
6 it goes to public hearing as set forth in
7 paragraph C.

8 5. Date of vote; notice; warrant; polling hours.
9 The date and time for voting shall be established as
10 follows.

11 A. The ~~state-board~~ commissioner shall determine
12 the date upon which all municipalities shall vote
13 upon the dissolution agreement submitted to them.
14 The election shall be held as soon as practicable
15 and the ~~state-board~~ commissioner shall attempt to
16 set the date of the vote to coincide with a
17 statewide election.

18 B. At least 35 days before the date set in para-
19 graph A, the board of directors shall give writ-
20 ten notice by registered or certified mail to the
21 town or city clerk of each municipality having a
22 right to vote on the dissolution agreement.

23 C. The town or city clerk shall immediately no-
24 tify the municipal officers upon receipt of the
25 notice, and the municipal officers shall meet and
26 immediately issue a warrant for a special town
27 meeting or city election, as the case may be, to
28 be held on the date designated by the ~~state-board~~
29 commissioner. No other date may be used.

30 D. In the respective warrants, the municipal of-
31 ficers shall direct that the polls shall be open
32 at 10 o'clock in the forenoon and shall remain
33 open until 8 o'clock in the afternoon.

34 6. Public hearing; voting procedures. The fol-
35 lowing requirements apply to the voting procedures.

36 A. At least 10 days before the election, a
37 posted or otherwise advertised public hearing on
38 the dissolution question shall be held by the mu-
39 nicipal officers.

1 B. Except as otherwise provided in this section,
2 the voting at the meetings held in towns shall be
3 conducted in accordance with Title 30, sections
4 2061 and 2062, even if the towns have not ac-
5 cepted the provisions of Title 30, section 2061.

6 C. The voting at the meeting held in cities
7 shall be conducted in accordance with Title 21.

8 7. Article. The article shall be in the follow-
9 ing form.

10 "Article : Shall School Administrative Dis-
11 trict No. be dissolved subject to the
12 terms and conditions of the dissolution agreement
13 dated 19 ?

14 Yes No "

15 8. Ballots; posting of agreement. The dissolu-
16 tion agreement need not be printed on the ballot.
17 Copies of the agreement shall be posted in each par-
18 ticipating municipality in the same manner as speci-
19 men ballots are posted under Title 30, chapter 207.

20 9. Restriction on dissolution petitions. No
21 participating municipality within a district may pe-
22 tition for dissolution within 2 years after the date
23 of:

24 A. A municipal vote on a petition for dissolu-
25 tion if the petition received less than 60% of
26 the votes cast; or

27 B. B- A district vote on a dissolution agreement
28 if the agreement received less than 45% of the
29 votes cast.

30 10. Costs of dissolution agreements. If the
31 school administrative district votes to permit disso-
32 lution, then the district shall reimburse the peti-
33 tioning municipality for the authorized expenses in-
34 curred by the dissolution committee. If the district
35 votes not to permit dissolution, then the district
36 will not be required to reimburse the petitioning mu-
37 nicipality for those expenses.

1 11. Determination of vote. The town and city
2 clerks shall, within 24 hours of determination of the
3 result of the vote in their respective municipali-
4 ties, certify the total number of votes cast in the
5 affirmative and the total number of votes cast in the
6 negative on the article to the board of directors.

7 12. Determination of results; notification of
8 commissioner; execution of agreement. Determination
9 of results shall comply with the following.

10 A. Upon receipt of the results of the voting
11 from all municipalities, the board of directors
12 shall meet and shall compute and record the total
13 number of votes cast in the municipalities in the
14 affirmative and in the negative on the dissolu-
15 tion article.

16 B. The board of directors shall notify the ~~state~~
17 ~~board~~ commissioner by registered mail or by hand
18 delivery of the results of the vote.

19 C. If the ~~state-board~~ commissioner finds that a
20 majority of the voters voting on the article have
21 voted in the affirmative, ~~it~~ he shall notify the
22 directors of the district to take steps to dis-
23 solve the district in accordance with the terms
24 of the agreement for dissolution.

25 13. Recount; checklists and ballots; disputed
26 ballots. The following provisions apply to recounts,
27 checklists, ballots and disputed ballots.

28 A. If, within 7 days of the computation and re-
29 cording of the results of the voting from all mu-
30 nicipalities, the municipal officers of any par-
31 ticipating municipality request to the commis-
32 sioner in writing a recount of the votes in the
33 district, the commissioner shall immediately
34 cause the checklists and all the ballots cast in
35 all of the participating municipalities to be
36 collected and kept at the commissioner's office
37 so they may be recounted by interested municipali-
38 ties.

39 B. The town clerks of the participating municipi-
40 palities are authorized to deliver the checklists

1 and ballots to the commissioner, notwithstanding
2 any other provision of law to the contrary.

3 C. The commissioner shall resolve any question
4 with regard to disputed ballots.

5 14. Execution of agreement; certified record;
6 certificate of withdrawal. When the agreement for
7 dissolution has been put in effect by the directors
8 of the school administrative district, the directors
9 shall notify the state-board commissioner by certi-
10 fied mail that the agreement of dissolution has been
11 executed.

12 A. A complete certified record of the transac-
13 tion involved in the dissolution shall be filed
14 with the state-board commissioner.

15 B. The state-board commissioner shall immedi-
16 ately issue a certificate of dissolution to be sent
17 by certified mail for filing with the directors
18 of the school administrative district and shall
19 file a copy in the office of the Secretary of
20 State.

21 15. Indebtedness; indebtedness defined; indebt-
22 edness after dissolution. The following provisions
23 apply to outstanding indebtedness.

24 A. Whenever a district having outstanding in-
25 debtedness dissolves, the district shall remain
26 intact for the purpose of securing and retiring
27 the indebtedness; the dissolution agreement may
28 provide for alternate means for retiring out-
29 standing indebtedness.

30 B. "Outstanding indebtedness" means bonds or
31 notes for school construction projects issued by
32 the board of directors pursuant to the authoriza-
33 tion established under chapter 609 or Title 20,
34 sections 3457 to 3460 or obligations to the Maine
35 School Building Authority pursuant to any con-
36 tract, lease or agreement made by the board of
37 directors pursuant to approval thereof in a dis-
38 trict meeting of the school administrative dis-
39 trict, but does not include any indebtedness of
40 any municipality assumed by the school adminis-

1 trative district at the time of formation nor any
2 contract, lease or agreement of the Maine School
3 Building Authority to which by operation of law
4 the school administrative district has become the
5 assignee.

6 16. General purpose aid. When a school adminis-
7 trative district dissolves the general purpose aid
8 for the individual municipalities shall be computed
9 in accordance with chapter 605.

10 17. Committee recall. If the state---board
11 commissioner determines that the dissolution commit-
12 tee has failed to comply with the requirements of
13 this section, ~~it~~ he may authorize the municipal offi-
14 cers and the district's board of directors to recall
15 their representatives and to appoint new representa-
16 tives to the committee.

17 **Sec. 60.** 20-A MRSa §1404, sub-§2, as enacted by
18 PL 1981, c. 693, §§5 and 8, is amended to read:

19 2. Vote required. If the state----board
20 commissioner is petitioned pursuant to the authority
21 of subsection 1, the board of directors of the school
22 administrative district shall require the member mu-
23 nicipalities of the district to vote on an article
24 which shall be substantially as follows.

25 "Article : Shall School Administrative Dis-
26 trict No. be dissolved subject to the terms
27 and conditions of the dissolution agreement
28 dated 19 ,
29 and the towns of
30 form a community school district which shall be
31 responsible for the operation of
32 grades ?

33 Yes No "

34 **Sec. 61.** 20-A MRSa §1404, sub-§4, as amended by
35 PL 1983, c. 485, §16, is further amended to read:

36 4. Commissioner. The state-board commissioner
37 shall carry out ~~its~~ his duties under sections 1403
38 and 1602 regarding the dissolution of a school admin-

1 istrative district and the creation of a new communi-
2 ty school district, except that the municipal offi-
3 cers and the board of directors shall be responsible
4 for developing a plan to provide for the continuity
5 of the educational program for each municipality to
6 be included within the dissolution agreement.

7 **Sec. 62. 20-A MRSA §1405, sub-§1, as enacted by**
8 **PL 1983, c. 364, §3, is amended to read:**

9 1. Petition. The residents of a participating
10 municipality within a school administrative district
11 composed of 3 or more municipalities may petition to
12 withdraw from the district in the same manner as they
13 would petition for the dissolution of a school admin-
14 istrative district in accordance with section 1403,
15 except that only a simple majority vote of those
16 casting valid ballots in the municipality is required
17 before the petition may be presented to the board of
18 directors and to the state-board commissioner.

19 **Sec. 63. 20-A MRSA §1405, sub-§4, as enacted by**
20 **PL 1983, c. 364, §3, is amended to read:**

21 4. Commissioner recommended dissolution. The
22 state-board's commissioner's responsibilities to ini-
23 tiate dissolution proceedings are as follows.

24 A. If a member town representing more than 50%
25 of the total population in a district votes to
26 withdraw from the district, then the state--board
27 commissioner shall analyze the educational impact
28 of the town's withdrawal upon the district. ~~The~~
29 ~~board-shall-utilize-departmental-staff-in--carry-~~
30 ~~ing-out-its-responsibility-under-this-subsection.~~
31 The district's board of directors and the municipi-
32 pal officers from the remaining towns shall be
33 consulted.

34 B. If the state-board commissioner finds that it
35 is impractical for the remaining towns to contin-
36 ue as a district, then ~~it~~ he shall initiate the
37 dissolution process set out in section 1403 by
38 having the district submit the following article
39 to the voters at a district meeting called in ac-
40 cordance with sections 1351 to 1354.

1 "Article : Be it resolved by the voters of
2 School Administrative District No. that a
3 dissolution committee be appointed and authorized
4 to expend \$, and the directors of School
5 Administrative District No. be authorized to
6 issue notes or otherwise pledge the credit of
7 School Administrative District No. in an
8 amount not to exceed \$ for this purpose?

9 Yes No "

10 C. If the voters approve the article by a major-
11 ity vote of those voting and present, then the
12 rest of the dissolution process set forth in sec-
13 tion 1403 shall apply except:

14 (1) A 2nd member from the general public
15 shall be selected by the municipal officers
16 to fill the position on the dissolution com-
17 mittee normally held by a representative of
18 the group which would have filed the disso-
19 lution petition; and

20 (2) Costs of preparing a dissolution agree-
21 ment shall be borne solely by the district.

22 **Sec. 64. 20-A MRSA §1406, sub-§2, ¶¶C and E, as**
23 **enacted by PL 1981, c. 693, §§5 and 8, are amended to**
24 **read:**

25 C. The following question shall appear on the
26 ballot when the transfer of a municipality is
27 considered.

28 "Article : Shall School Administrative Dis-
29 trict No. vote to permit the municipality of
30 to transfer into School Ad-
31 ministrative District No. as a participa-
32 ting municipality of that district subject to the
33 terms and conditions of the agreement of transfer
34 approved by the ~~State---Board---of---Education~~
35 commissioner dated 19 ?

36 Yes No "

37 (A copy of the agreement shall be posted with
38 each warrant which directs the citizens to vote
39 upon the question.)

1 E. A complete certified record of the transac-
2 tion involved in the transfer shall be filed with
3 the state-board commissioner. The-state-board He
4 shall issue immediately a certificate of transfer
5 to the secretary of each school administrative
6 district by registered mail to be filed with the
7 directors of the districts involved and shall
8 file a copy of the certificate of transfer in the
9 office of the Secretary of State.

10 Sec. 65. 20-A M RSA §§1408 and 1409 are enacted
11 to read:

12 §1408. State board review of commissioner's deci-
13 sions

14 A school administrative unit or other interested
15 parties may request that the state board reconsider
16 decisions made by the commissioner under this sub-
17 chapter. The state board may have the authority to
18 overturn decisions made by the commissioner. In ex-
19 ercising this power, the state board is limited by
20 this subchapter.

21 §1409. Rules

22 The state board may adopt rules to carry out this
23 subchapter.

24 Sec. 66. 20-A M RSA §4511, sub-§3, as enacted by
25 PL 1983, c. 859, Pt. A, §§20 and 25, is repealed and
26 the following enacted in its place:

27 3. Specific requirements. In addition to stan-
28 dards that are adopted in subsection 1, accreditation
29 standards shall include, but not be limited to, the
30 following.

31 A. The school has a clearly written statement
32 reflective of the needs, beliefs and values of
33 the school community. It is supported by stated
34 goals and objectives and is consistent with the
35 district's philosophy.

36 B. The school is effectively managed and pro-
37 vides leadership that promotes the achievement of
38 educational excellence.

1 C. The school demonstrates evidence of a well
2 planned and periodically evaluated curriculum
3 which has consistently resulted in exemplary edu-
4 cational programming.

5 D. The school demonstrates a carefully coordi-
6 nated effort to provide instructional processes
7 which have consistently resulted in a learning
8 environment which promotes excellence. A variety
9 of instructional techniques is used by a majority
10 of the teachers.

11 E. The school has a carefully planned staff de-
12 velopment program guided by sound educational
13 theory that promotes exemplary practices.

14 F. The school has a climate which promotes indi-
15 vidual self-esteem, high expectations for
16 achievement and a positive attitude toward learn-
17 ing.

18 G. The school has a collaboratively planned com-
19 munity relations program which promotes close co-
20 operation between the school and the community
21 toward the achievement of the school's goals and
22 objectives.

23 H. The school facility offers an effective set-
24 ting for the delivery of high quality programs
25 and services.

26 **Sec. 67. 20-A MRS** §4512, sub-§5, as enacted by
27 PL 1983, c. 859, Pt. A, §§20 and 25, is amended to
28 read:

29 5. Accreditation process. All school administra-
30 tive units operating a secondary school shall undergo
31 the state accreditation process on a 5-year cycle as
32 established by the commissioner starting in the
33 1989-90 school year. Upon request from a secondary
34 school, the commissioner shall have the authority to
35 grant a waiver from the accreditation process. The
36 commissioner shall grant a waiver on the basis of ex-
37 tenuating circumstances as defined by rule.

38 **Sec. 68. 20-A MRS** §6602, sub-§8, as amended by
39 PL 1983, c. 422, §18, is further amended to read:

1 8. Application for postponement. An administra-
2 tive unit, which had been authorized by the commis-
3 sioner to postpone the establishment of a National
4 School Lunch Program, may apply to the commissioner
5 for a renewal of the postponement. The commissioner
6 ~~er, with the approval of the state board,~~ may grant
7 the requested postponement provided that:

8 A. The school board has held a public hearing on
9 its proposed application; and

10 B. One of the following conditions is met:

11 (1) It has been documented to the commis-
12 sioner's satisfaction that the administra-
13 tive unit lacks space for the program and
14 there is no appropriate alternative source
15 of meals for the students;

16 (2) It is impossible for the administrative
17 unit to contract for or to otherwise procure
18 Type A meals for its students; or

19 (3) The lack of need for the program, as
20 determined by the school board is documented
21 to the commissioner's satisfaction and was
22 evident at the public hearing.

23 If the postponement is granted for the conditions in
24 paragraph B, subparagraphs (1) and (2), it shall be
25 for 3 years. If the postponement is granted for the
26 condition in paragraph B, subparagraph (3), it shall be
27 for 4 years.

28 **Sec. 69.** 20-A MRSA §6602, sub-§8-A is enacted to
29 read:

30 8-A. State board review of commissioner's deci-
31 sions. A school administrative unit or interested
32 parties may request that the state board reconsider
33 decisions made by the commissioner in subsection 8.
34 The state board shall have the authority to overturn
35 decisions made by the commissioner. In exercising
36 this power, the state board is limited by this sec-
37 tion.

38 **Sec. 70.** 20-A MRSA §§6604 and 6605 are enacted
39 to read:

1 §6604. Substance abuse programs

2 1. Definitions. As used in this chapter, unless
3 the context otherwise indicates, the following terms
4 have the following meanings:

5 A. "Chemical health coordinator" means a person
6 who serves as the coordinator of a local school
7 administrative unit's chemical primary and sec-
8 ondary prevention and education program.

9 2. Local programs. School units may institute
10 special programs to address health and related prob-
11 lems.

12 To further these objectives, school units may em-
13 ploy specialized personnel such as chemical health
14 coordinators and others knowledgeable in the field of
15 substance abuse and may cooperate with public and
16 private agencies in substance abuse education, pre-
17 vention, early intervention, rehabilitation referral
18 and related programs.

19 §6605. Department role

20 1. Personnel. The commissioner shall appoint,
21 subject to the Civil Service Law, supervisors and
22 consultants knowledgeable in the area of substance
23 abuse.

24 2. Technical assistance. The department, through
25 its supervisors and consultants, shall offer techni-
26 cal assistance to public and approved private schools
27 and cooperating community-based organizations to aid
28 in the establishment and implementation of
29 school-based substance abuse programs and health edu-
30 cation curricula.

31 3. Cooperation; coordination. The department
32 shall carry out its planning activities related to
33 alcohol and drug education and prevention subject to
34 coordination with the Alcohol and Drug Abuse Planning
35 Committee.

36 4. Information collection and sharing. The De-
37 partment of Educational and Cultural Services shall
38 be authorized to gather information about substance

1 abuse prevention and intervention programs initiated
2 by state or federal agencies whose efforts are di-
3 rected toward private and public schools of the
4 State, for the purpose of sharing that information
5 with school administrative units.

6 **Sec. 71.** 20-A MRSa §7001, sub-§§9 and 10 are en-
7 acted to read:

8 9. Special education program. A "special educa-
9 tion program" is a full-time or part-time educational
10 program designed to provide an equal educational op-
11 portunity to exceptional students through the deliv-
12 ery of special education services by qualified indi-
13 viduals.

14 10. Special education services. "Special educa-
15 tion services" are educational services provided by
16 qualified individuals as defined by the commissioner.
17 Special education services shall be provided by qual-
18 ified individuals employed or contracted by the
19 school administrative unit.

20 **Sec. 72.** 20-A MRSa §7205, as enacted by PL 1981,
21 c. 693, §§5 and 8, is amended to read:

22 §7205. Review and assistance

23 It is the intent of the Legislature that a repre-
24 sentative of the commissioner visit each special edu-
25 cation program each-year at least once every 5 years
26 for the purpose of review and assistance. Nothing in
27 this section prohibits a school administrative unit
28 from requesting that a representative of the commis-
29 sioner visit a particular special education program
30 for the purpose of review and assistance whenever
31 necessary. The commissioner shall comply with each
32 request in a timely fashion.

33 **Sec. 73.** 20-A MRSa §7251, as enacted by PL 1981,
34 c. 693, §§5 and 8, is amended to read:

35 §7251. Local special education programs

36 A school administrative unit may establish an ap-
37 propriate program-of special education program.

1 Sec. 74. 20-A MRSA §7251-A is enacted to read:
2 §7251-A. Local special education services

3 A school administrative unit may offer or con-
4 tract for special education services.

5 Sec. 75. 20-A MRSA §7252, as enacted by PL 1981,
6 c. 693, §§5 and 8, is repealed.

7 Sec. 76. 20-A MRSA §§7252-A and 7252-B are en-
8 acted to read:

9 §7252-A. Special education programs; approval

10 Special education programs may be established for
11 the delivery of special education services to excep-
12 tional students in accordance with section 7204, sub-
13 section 4. A special education program may be offered
14 by a school administrative unit, an approved private
15 school or a state licensed agency. All special educa-
16 tion programs offered by approved private schools or
17 state licensed agencies shall:

18 1. Supervision. Be provided under the supervi-
19 sion of the school administrative unit responsible
20 for the education of the exceptional student enrolled
21 in the program;

22 2. Description. Be described in a master con-
23 tractual agreement between the agency or private
24 school and the commissioner; and

25 3. Approval. Be approved in advance of the en-
26 rollment of any exceptional student.

27 §7252-B. Special education services; approval

28 The commissioner shall adopt or amend rules to
29 define allowable special education services and the
30 qualifications of individuals who provide special ed-
31 ucation services. Each school administrative unit,
32 approved private school or licensed state agency pro-
33 viding special education services shall submit a re-
34 port at such time and in such form as the commis-
35 sioner may require.

1 **Sec. 77. 20-A MRSA §7503, sub-§8, ¶E, as enacted**
2 **by PL 1983, c. 316, §2, is amended to read:**

3 **E. The board members shall be representative of**
4 **a broad range of professionals, parents and citi-**
5 **zens interested in the education of deaf and**
6 **hearing impaired students. They shall include the**
7 **parents of a current Governor Baxter School for**
8 **the Deaf student and the parents of a deaf and**
9 **hearing-impaired student in a school administra-**
10 **tive unit. In addition, they may include:**

11 (1) Professionals not employed by the Gov-
12 ernor Baxter School for the Deaf who serve
13 deaf and hearing impaired students;

14 ~~(2) Parents of deaf and hearing impaired~~
15 ~~students at the Governor Baxter School for~~
16 ~~the Deaf and in school administrative unit~~
17 ~~programs;~~

18 (3) Representatives of handicap advocacy
19 groups;

20 (4) School administrative unit administra-
21 tors or special education directors;

22 (5) Members of the deaf and hearing im-
23 paired community; and

24 (6) Interested citizens.

25 **Sec. 78. 20-A MRSA §7805, as enacted by PL 1985,**
26 **c. 768, §1, is amended to read:**

27 **§7805. Transitional services coordinator**

28 The position of transitional services coordinator
29 to the Department of Educational and Cultural Ser-
30 vices, Division of Special Education shall be estab-
31 lished to coordinate the department's activities and
32 involving **both** the Bureau of Adult and Secondary Vo-
33 cational Education and the Division of Adult Educa-
34 tion, regarding the coordinated delivery system for
35 handicapped youths in transition from school to com-
36 munity. This coordinator will also serve as staff to
37 the committee as established in section 7803.

1 Sec. 79. 20-A MRSA §8606, as enacted by PL 1981,
2 c. 693, §§5 and 8, is repealed.

3 Sec. 80. 20-A MRSA §8606-A is enacted to read:
4 §8606-A. Reimbursement procedures

5 1. Definitions. As used in this chapter, unless
6 the context otherwise indicates, the following terms
7 have the following meanings.

8 A. "Adult education program costs" includes ex-
9 penditures for salaries and supplies as identi-
10 fied in section 8607.

11 B. "Foundation year" means the 2nd school year
12 prior to the year of allocation of funds.

13 C. "Maximum allowable expenditures," for state
14 subsidy purposes, means an amount not to exceed
15 the sum of funds raised through taxation and ex-
16 pended in accordance with section 8607 in the
17 foundation year, plus the amount of subsidy paid
18 by the State during the foundation year.

19 2. Commissioner certification. Prior to December
20 15th of each year, the commissioner shall prepare and
21 certify to the Legislature and to the Bureau of the
22 Budget a recommendation for the funding level for the
23 various program categories in adult education for
24 payment in the next fiscal year.

25 A. The requested funding level shall be for the
26 authorized reimbursement rates established in
27 section 8607 and may not exceed the maximum al-
28 lowable expenditures in the foundation year.

29 B. A school administrative unit shall provide
30 the commissioner with information which the com-
31 missioner shall request to carry out the purpose
32 of this chapter according to time schedules which
33 the commissioner shall establish. The commission-
34 er may withhold subsidy payment or a portion of
35 the subsidy payment from a school administrative
36 unit when information is not filed in specified
37 format and content and within the specified time
38 schedule.

1 C. The recommendation in this certificate shall
2 include local program cost adjustment to the
3 equivalent of the year prior to the year of allo-
4 cation.

5 3. State reimbursement. State reimbursement for
6 expenditures on adult education programs shall be
7 based on each administrative unit's actual adult edu-
8 cation program costs in the foundation year.

9 A. The reimbursement shall be based on the
10 unit's expenditures for the foundation year in
11 accordance with the maximum allowable expendi-
12 tures and the cost adjustment as in subsection 2.

13 B. State reimbursement will be paid to each eli-
14 gible school administrative unit during the 2nd
15 quarter of the State's fiscal year.

16 4. Action by the Legislature. The Legislature
17 shall appropriate the necessary funds to meet the
18 state obligation as defined in subsections 1 and 2.

19 5. Rule-making authority. The commissioner shall
20 have the authority to promulgate rules to administer
21 this section. Upon the effective date of this provi-
22 sion, the commissioner shall begin to promulgate
23 rules which ensure that the maximum allowable expendi-
24 tures for the initial foundation year accurately re-
25 fect the total costs of adult education for that
26 year.

27 Sec. 81. 20-A MRSA §10702, sub-§2, as enacted by
28 PL 1981, c. 693, §§5 and 8, is amended to read:

29 2. Authorization. Has legislative authorization
30 to confer degrees in accordance with ~~section~~ sections
31 10704 and 10704-A.

32 Sec. 82. 20-A MRSA §10704, as enacted by PL
33 1981, c. 693, §§5 and 8, is amended to read:

34 §10704. Initial authority to confer certain degrees

35 An educational institution may confer certain de-
36 grees if it has been granted initial authority under
37 an Act of the Legislature.

1 Sec. 83. 20-A MRSA §10704-A is enacted to read:
2 §10704-A. Authority to confer additional degrees

3 An educational institution initially authorized
4 by the Legislature to offer certain degrees under
5 section 10704 may offer additional degrees with the
6 approval of the state board.

7 Sec. 84. 20-A MRSA §10705, sub-§1, as enacted by
8 PL 1981, c. 693, §§5 and 8, is amended to read:

9 1. Authority. It has been authorized by--the
10 Legislature under sections 10704 and 10704-A to grant
11 degrees;

12 Sec. 85. 20-A MRSA §10707, sub-§1, as enacted by
13 PL 1981, c. 693, §§5 and 8, is amended to read:

14 1. Degree-granting authority. Applications for
15 ~~legislative~~ authority to grant degrees shall be made
16 on application to the state board on forms provided
17 by the commissioner.

18 Sec. 86. 20-A MRSA §13004, sub-§2-B is enacted
19 to read:

20 2-B. Teacher addresses. Home addresses held by
21 the department of teachers certified to teach in the
22 State may be made available in response to the fol-
23 lowing:

24 A. Formal request from a commissioner or chief
25 executive officer of other state agencies, in-
26 cluding the judicial branch when access to that
27 information may be necessary in carrying out an
28 official function; and

29 B. Formal request by majority vote of any joint
30 standing committee of the Legislature when access
31 to that information may be necessary in carrying
32 out an official function.

33 The use of these addresses by any other agency or de-
34 partment of government to which they may be furnished
35 shall be limited to the purposes for which they are
36 furnished and by the law under which they may be fur-

1 nished. It shall be unlawful for any person to solici-
2 it, disclose, receive, make use of or authorize,
3 knowingly permit, participate in or acquiesce in the
4 use of, any list of or names of, or any information
5 concerning, persons applying for or receiving assist-
6 ance, directly or indirectly, derived from the
7 records, papers, files or communications of the State
8 or subdivisions or agencies, or acquired in the
9 course of the performance of official duties. Any
10 person violating this subsection shall be punished by
11 a fine of not more than \$500 or by imprisonment for
12 not more than 11 months, or by both.

13 Sec. 87. 20-A MRSa §15905-A is enacted to read:

14 §15905-A. Approval of nonstate funded projects

15 1. Approval authority. The commissioner must ap-
16 prove each nonstate funded project.

17 2. Rules. The commissioner may adopt or amend
18 rules relating to the approval of nonstate funded
19 projects.

20 Sec. 88. 22 MRSa §1607, as amended by PL 1977,
21 c. 347, §7, is further amended to read:

22 §1607. Application

23 This chapter does not apply to fairs, exhibitions
24 and similar events held by agricultural societies and
25 associations, pomological societies or poultry asso-
26 ciations as defined and regulated under Title 7,
27 chapter 3, or military activities. It shall not apply
28 to persons, associations, corporations, trusts or
29 partnerships licensed under Title 8, chapters 117-13
30 and 19.

31 Sec. 89. 22 MRSa §4014, sub-§1, as amended by PL
32 1983, c. 783, §5, is further amended to read:

33 1. Reporting and proceedings. A person ~~partici-~~
34 ~~pating--in--good--faith--in,~~ including an agent of the
35 department, reporting under this subchapter, or par-
36 ticipating in a related child protection investiga-
37 tion or proceeding, including, but not limited to, a
38 multidisciplinary team, out-of-home abuse investigat-

1 ing team or other investigating or treatment team, is
2 immune from any criminal or civil liability for the
3 act of reporting or participating in the investiga-
4 tion or proceeding, unless it can be proven that a
5 false report was made and the person knew that the
6 report was false. Nothing in this section may be
7 construed to bar criminal or civil action regarding
8 perjury or regarding the abuse or neglect which led
9 to a report, investigation or proceeding.

10 Sec. 90. 22 MRSA §4033, sub-§3-A is enacted to
11 read:

12 3-A. Information provided to parents. When the
13 court makes a preliminary protection order on a child
14 who is physically removed from his parents or custo-
15 dians, the following information shall be provided to
16 the parents or custodians in written form by the pe-
17 tioner at the time of removal of the child:

18 A. The assigned caseworker's name and work tele-
19 phone number;

20 B. The location where the child will be taken;
21 and

22 C. A copy of the complete preliminary protection
23 order.

24 This information is not required if the petitioner
25 includes in the petition a sworn statement of his be-
26 lieve that providing the information would cause the
27 threat of serious harm to the child, the substitute
28 care giver, the petitioner or any other person.

29 Sec. 91. 23 MRSA c. 3, sub-c. III, first 2 lines
30 are repealed and the following enacted in their
31 place:

32 SUBCHAPTER III

33 STATE CLAIMS COMMISSION

34 Sec. 92. 23 MRSA §152, as amended by PL 1985, c.
35 785, Pt. A, §§96 and 97 and PL 1985, c. 785, Pt. B,
36 §§101 and 102, is repealed and the following enacted
37 in its place:

1 §152. Composition; appointment; powers

2 The State Claims Commission, established by Title
3 5, section 12004, subsection 2, shall consist of 5
4 members. Four of the members shall be appointed by
5 the Governor, 2 of whom shall be qualified appraisers
6 and 2 of whom shall be attorneys-at-law. The Governor
7 shall designate one of the attorneys-at-law to be
8 chairman. The members of the commission appointed by
9 the Governor shall serve for terms of 4 years. They
10 shall be sworn, and for inefficiency, willful neglect
11 of duty or for malfeasance in office may, after no-
12 tice and hearing, be removed by the Governor on the
13 address of both branches of the Legislature or by im-
14 peachment. In case of a vacancy occurring through
15 death, resignation or removal, the Governor shall ap-
16 point a successor for the whole term of the member
17 whose place he takes, subject to removal as provided
18 in this section.

19 Members of the State Claims Commission shall be
20 compensated according to the provisions of Title 5,
21 chapter 379.

22 In carrying out its duties, the commission shall
23 not be bound by common law or statutory rules of evi-
24 dence, or by technical or formal rules of procedure.
25 It shall admit all testimony having reasonable proba-
26 tive value, but shall exclude immaterial, irrelevant
27 and unduly repetitious testimony. A majority of the
28 commission, being present, may determine all matters,
29 but the chairman shall resolve all questions of ad-
30 missibility.

31 The commission shall have authority to make rules
32 and prescribe forms to secure a speedy, efficient and
33 inexpensive disposition of all proceedings. Each mem-
34 ber of the commission, for its official purposes, may
35 administer oaths, certify to official acts and issue
36 all process necessary to the performance of the du-
37 ties of the commission. A reporter shall record
38 hearings when required by the commission.

39 The commission shall maintain an office in Kenne-
40 bec County. The Commissioner of Finance shall ap-
41 point, subject to the Civil Service Law, a clerk of
42 the commission to keep its records and to perform

1 such other duties as the commission shall prescribe.
2 The clerk shall have authority to certify to all of-
3 ficial acts of the commission, administer oaths, is-
4 sue subpoenas, and issue all processes, notices, or-
5 ders or other documents necessary to the performance
6 of the duties of the commission.

7 The Commissioner of Finance shall appoint and fix
8 the compensation of a reporter to the commission, and
9 shall review and approve all charges made by such re-
10 porter for transcripts of the record of hearings be-
11 fore the commission. The Commissioner of Finance may
12 appoint, subject to the Civil Service Law, such cler-
13 ical assistants for the commission as he may deem
14 necessary.

15 The 5th member of the commission shall be ap-
16 pointed for each hearing or series of hearings within
17 the county where the land taken lies. He shall be a
18 member of the board of county commissioners of the
19 county wherein the land taken is situated and shall
20 be appointed by the chairman of the State Claims Com-
21 mission upon recommendation which shall be made, upon
22 request, by the board of county commissioners of that
23 particular county. In the event that any board of
24 county commissioners should fail to make the required
25 recommendation, then the chairman of the State Claims
26 Commission may appoint a member of such board to
27 serve. He shall be sworn by the chairman of the State
28 Claims Commission and shall serve as a member of that
29 commission only for the particular hearing or hear-
30 ings for which he is appointed. He shall participate
31 fully in such hearings and the awards made as a re-
32 sult thereof. Each such member shall be paid at the
33 same per diem rate as that fixed for other members of
34 the commission. Any member of the board of county
35 commissioners thus designated shall serve only for
36 the particular hearing or hearings set forth in his
37 appointment and such service shall be as a member of
38 the State Claims Commission and not in his capacity
39 as a member of the board of county commissioners.

40 **Sec. 93. 23 MRSA §153, as amended by PL 1981, c.**
41 **470, Pt. A, §§122 and 123, is further amended by add-**
42 **ing at the end a new paragraph to read:**

1 If, at any time after being notified by the de-
2 partment that it is planning to purchase or take over
3 the owner's property and the owner then decides to
4 sell that property, or some portion of the property,
5 the owner or owners or designated representative is
6 responsible for informing any potential purchaser
7 that the department intends to purchase or take the
8 property. The department, as early in its property
9 owner notification process as possible, shall remind
10 the property owner of this responsibility.

11 **Sec. 94. 23 MRSA §154, sub-§2, ¶H, as amended by**
12 **PL 1981, c. 470, Pt. A, §127, is further amended to**
13 **read:**

14 H. If the offer is not acceptable and the State
15 cannot negotiate an agreement on the amount of
16 just compensation within 60 days from the date of
17 taking, the owner may apply to the department
18 within said 60 days and have the matter referred
19 to the State Claims Board Commission for assess-
20 ment of the damage. Acceptance and cashing this
21 check will not jeopardize negotiation and will
22 not be construed as acceptance of the offer; and

23 **Sec. 95. 23 MRSA §154, sub-§3, ¶F, as amended by**
24 **PL 1981, c. 470, Pt. A, §128, is further amended to**
25 **read:**

26 F. If the offer is not acceptable and the State
27 cannot negotiate an agreement on the amount of
28 just compensation within 60 days from the date of
29 taking, the owner may apply to the department
30 within said the 60 days and have the matter re-
31 ferred to the State Claims Board Commission for
32 assessment of the damage. Acceptance and cashing
33 this check will not jeopardize negotiation and
34 will not be construed as acceptance of the offer;
35 and

36 **Sec. 96. 23 MRSA §154-D, last ¶, as enacted by**
37 **PL 1983, c. 272, is amended to read:**

38 Any person displaced by a taking or acquisition
39 who remains in occupancy after the date of acquisi-
40 tion shall pay rent from the date of the acquisition.
41 The consideration paid by the tenant or displaced

1 person shall not exceed fair rental value of the
2 property based on short-term occupancy. If the ten-
3 ants or displaced person and the department cannot
4 reach agreement as to fair rental value for the ini-
5 tial 90-day period after acquisition, each may apply
6 to the State Claims Board Commission in writing for a
7 determination as to the fair rental value. The State
8 Claims Board's Commission's jurisdiction to determine
9 the fair rental value shall be limited solely to the
10 initial 90-day period. Any consideration to be paid
11 by the tenant or displaced person after the initial
12 90-day period shall be determined solely by the de-
13 partment.

14 **Sec. 97.** 23 MRSA §155, as amended by PL 1975, c.
15 771, §239, is further amended to read:

16 §155. Negotiation

17 The department shall have 60 days from the date
18 of taking within which to negotiate with the owner or
19 owners of record for an agreement as to the amount of
20 just compensation. If within that time the owner re-
21 jects the state's State's offer of just compensation,
22 such owner may apply to the department and have the
23 matter referred to the State Claims Board Commission
24 for assessment of the damage. If, at the expiration
25 of that time, no such agreement for just compensation
26 has been made, the department shall immediately file
27 a petition with the State Claims Board Commission
28 setting forth the pertinent facts including the names
29 and addresses of the owner or owners of record and
30 the holders of any mortgages, tax liens or other en-
31 cumbrances, a copy of the notice of condemnation, the
32 statement of the department and a plan of the proper-
33 ty involved as served upon the owner or owners of
34 record in accordance with section 154 and requesting
35 a hearing and an award of just compensation.

36 **Sec. 98.** 23 MRSA §156, as amended by PL 1981, c.
37 470, Pt. A, §130, is further amended to read:

38 §156. Hearing before board

39 The State Claims Board Commission shall immedi-
40 ately enter the petition of the department upon its
41 docket and assign a date for hearing at the earliest

1 possible date. The chairman of the board shall as-
2 sign no more than 3 members of the board for hear-
3 ings, one of whom shall be an appraiser and one an
4 attorney at law. Notice of the time and place for
5 the hearing shall be mailed by registered or certi-
6 fied mail to the department and to the owner or own-
7 ers of record and to the holders of any mortgage, tax
8 lien or any other encumbrance on the property in-
9 volved at least 14 days before the date of the hear-
10 ing. In the event the notice required is returned to
11 the State Claims Board Commission marked "refused" or
12 "unclaimed" by the United States post office, the
13 State Claims Board Commission may, at its option,
14 reschedule the hearing by giving the notice required
15 in this paragraph, or it may cause the matter to be
16 heard on the day originally scheduled by causing ser-
17 vice to be made upon the party not served by certi-
18 fied or registered mail in a manner allowed for ser-
19 vice of a summons on a complaint in the Superior
20 Court, which notice shall be served at least 5 days
21 before the originally scheduled hearing. The hearing
22 shall be held in quarters suitable for a full presen-
23 tation of all evidence and located as conveniently as
24 possible for all interested parties in the county
25 where the land is situated. Before making an award,
26 the State Claims Board Commission shall view the
27 property involved with or without the presence of the
28 interested parties, but it shall first notify the in-
29 terested parties of the time when it will view the
30 property. The department shall be represented at the
31 hearing and may present in open hearing evidence as
32 to title, engineering maps and data, and its opinion,
33 evidence and appraisal or appraisals as to the fair
34 market value of the property involved before and af-
35 ter the taking. In all matters where a verbatim
36 record of the proceedings is made by an official
37 board reporter, a transcript of the same shall be
38 furnished to the interested parties, upon request,
39 and upon payment of a reasonable charge for tran-
40 scribing and preparing such record. In making its
41 award, the State Claims Board Commission shall not be
42 limited by the range of testimony produced before it
43 but may reach its decision on the basis of the view,
44 the testimony and its own judgment. The State Claims
45 Board Commission may continue a hearing from time to
46 time for cause shown or by agreement of parties; and
47 where such continuance is made at the request of the

1 landowner, may require that interest be waived for
2 the period of the continuance.

3 As promptly as possible after the conclusion of
4 the hearing, the State Claims Board Commission shall
5 make an award in writing specifying:

6 1. Owners and encumbrances. The owner or owners
7 of record and the holder of any mortgage, tax lien or
8 other encumbrance of record;

9 2. Nature of interest taken. The nature of the
10 interest taken;

11 3. Commission's decision on elements of damage.
12 The State Claims Board's Commission's decision as to
13 each of the elements of damage listed in section 154,
14 subsection 2 or 3, or the elements of damage as set
15 forth in section 154, subsection 4, and such other
16 elements of damage as are legally compensable;

17 4. Gross damage. The gross damage which shall be
18 the net damage not including interest;

19 5. Net amount of award. The net amount of the
20 award which shall be the net damage less the amount
21 paid the owner or owners at the date of taking;

22 6. Interest on award. The interest, if any, due
23 on the net amount of the award from the date of tak-
24 ing to the date of the award;

25 7. Award. The award which shall be the net dam-
26 age, less the amount paid the owner or owners at the
27 date of taking plus interest on the net amount of the
28 award; and

29 8. Withholding. The withholding, if any, autho-
30 rized pursuant to section 244-A, subsection 4.

31 No interest shall may be allowed on so much of
32 the net damage as has been paid to the owner or own-
33 ers. An attested copy of each award shall be sent
34 forthwith to the department and to the party or par-
35 ties named in the award. The department shall, with-
36 in 30 days, designate to the State Claims Board
37 Commission the award or awards from which it intends

1 to appeal and forward to the State Claims Board
2 Commission a check payable to the clerk of courts for
3 the county where said land is situated for the use of
4 the party or parties designated in the award. The
5 State Claims Board Commission shall forthwith serve
6 upon the party or parties named in the award an at-
7 tested copy of the award together with a notice that
8 the department has expressed its intention to appeal
9 the award and that the amount of the award will be
10 paid in to the clerk of courts for the county in
11 which the land is situated subject to withdrawal as
12 provided in section 158, and shall forward such check
13 together with an attested copy of the award to the
14 clerk of courts aforesaid.

15 In all other cases, the department shall, within
16 said the 30 days, forward to the State Claims Board
17 Commission a check payable to the party or parties
18 named in the award and the State Claims Board
19 Commission shall forthwith serve upon the party or
20 parties named therein an attested copy of the award,
21 the check aforesaid and a notice clearly outlining
22 the rights of appeal. If the party or parties named
23 in the award refuse to accept it and appeal therefrom
24 to the Superior Court, the department, upon notice
25 from the State Claims Board Commission, shall forward
26 to the State Claims Board Commission a check in the
27 amount of the award payable to the clerk of courts
28 for the county where the land is situated for the use
29 of the party or parties named in the award which the
30 State Claims Board Commission shall forthwith file
31 with that clerk together with an attested copy of its
32 award.

33 Service as required in this section shall be made
34 by registered or certified mail or by personal ser-
35 vice as required for service of a summons on a com-
36 plaint in the Superior Court.

37 Upon certification by the Department of Transpor-
38 tation that after due diligence the address of owners
39 of record cannot be determined or where the board's
40 commission's notice by registered or certified mail
41 is returned to the board commission unclaimed or un-
42 known or where personal service cannot be made, the
43 chairman of the board commission may order service by
44 publication. The chairman of the board commission may

1 appoint a guardian ad litem to protect the interests
2 and rights of any minor or incompetent persons noti-
3 fied under this section and determine and set reason-
4 able compensation to be paid to that guardian ad li-
5 tem. This compensation shall be paid by the Depart-
6 ment of Transportation. Notice of the time and place
7 of the review and hearing shall be published once a
8 week for 3 successive weeks in a newspaper of general
9 circulation in the county in which the subject prop-
10 erty is located. The last of these notices shall be
11 published no later than 7 days prior to the hearing.
12 The board commission shall then proceed with the
13 hearing as in other cases and the appeal provisions
14 shall be available to the Department of Transporta-
15 tion and the record owner or owners, or any one of
16 them, who appears and makes application for appeal
17 pursuant to section 157.

18 After the appeal period from the decree of the
19 State Claims Board Commission or a judgment of any
20 court has expired, any sum of money directed by a de-
21 cree of the board commission or by a judgment of any
22 court to be paid over, which remains unclaimed for 60
23 days, shall be disposed of consistent with Title 33,
24 chapter 27.

25 Notwithstanding Title 1, section 302, this sec-
26 tion shall apply to all actions and proceedings pend-
27 ing on the effective date of this Act.

28 **Sec. 99. 23 MRSA §157, as amended by Pl 1975, c.**
29 **771, §246, is further amended to read:**

30 §157. Appeals

31 The department or any party or parties aggrieved
32 by an award of the State Claims Board Commission may
33 appeal therefrom to the Superior Court in the county
34 where the land is situated within 30 days after the
35 date of the receipt by the appellant of the notice of
36 award. Such appeal shall be taken by filing a com-
37 plaint setting forth substantially the facts upon
38 which the case shall be tried like other cases. The
39 appellant shall serve notice of such appeal on the
40 opposing party and on the State Claims Board
41 Commission by sending by registered or certified mail
42 within the time above limited a true copy of said the

1 complaint and returning therewith to the State Claims
2 Board Commission whatever check or checks that may
3 have been forwarded to him with the notice of award.

4 The court shall determine the same by a verdict
5 of its jury or, if all parties agree, by the court
6 without a jury or by a referee or referees and shall
7 render judgment for just compensation, with interest
8 where such is due, and for costs in favor of the party
9 entitled thereto; except that if the department
10 appeals and if the department does not prevail, interest
11 where such is due and costs shall be paid by
12 the department and the owner or owners shall be reimbursed
13 by the department for a reasonable attorney's
14 fee.

15 If either the owner or owners of record or the
16 department appeal and the just compensation finally
17 awarded, exclusive of interest, is less than the
18 gross damage determined by the State Claims Board
19 Commission, exclusive of any interest allowed, then
20 the court shall give judgment in favor of the department
21 for the excess of the gross damage determined by
22 the State Claims Board Commission, inclusive of interest,
23 over the final award and for its costs from
24 the time of appeal. Execution may be issued on such
25 judgment.

26 If either the owner or owners of record or the
27 department appeal and the just compensation finally
28 awarded, exclusive of interest, is not less than the
29 gross damage determined by the State Claims Board
30 Commission, exclusive of any interest allowed, then
31 the court shall give judgment to the owner or owners
32 for the amount in which the final award is in excess
33 of the money deposited in court, plus the amount paid
34 the owner or owners, exclusive of any interest
35 awarded by the State Claims Board Commission, and for
36 interest on such excess from the date of taking and
37 for costs from the time of appeal. No interest ~~shall~~
38 may be allowed on so much of any award as has been
39 paid into court or on any amount paid to the owner or
40 owners. The clerk shall certify the final judgment of
41 the court to the department which shall enter the
42 same of record, and order the same to be paid by the
43 Treasurer of State. The judgment and certificate of
44 judgment shall specify the withholding, if any, authorized
45 pursuant to section 244-A, subsection 4.

1 In case of the decease of any person entitled to
2 claim damages under this subchapter, the heirs, execu-
3 tors, administrators or assigns of such person shall
4 have the right to prosecute the appeal provided for
5 in this section under the same conditions and limita-
6 tions as the original owner had, and may be substi-
7 tuted for the appellant in any proceedings commenced
8 by said appellant. In case any landowner assigns,
9 transfers or sells his right to claim damages, his
10 assignee, transferee or vendee shall have the same
11 rights as above set forth.

12 **Sec. 100. 23 MRSA §158, as repealed and replaced**
13 **by PL 1983, c. 266, is amended to read:**

14 §158. Withdrawal of money deposited

15 If the department or any party named in an award
16 has duly taken an appeal from an award of the State
17 Claims Board Commission in accordance with section
18 157 and the amount of the award has been paid in to
19 the clerk of courts for the county in which the land
20 is situated, the department or any party named in the
21 award may petition the Superior Court in that county
22 for investment in a certificate of deposit or other
23 secure high interest fund of all or any part of the
24 funds thus deposited. Upon that petition, the court
25 may order all or any part of the funds thus deposited
26 to be invested forthwith in the name of the clerk of
27 courts or his successor or authorized representative
28 without prejudice to the petitioner's right to have
29 the amount of compensation adjudicated in the appeal
30 pending.

31 **Sec. 101. 23 MRSA §159, as amended by PL 1975,**
32 **c. 771, §248, is further amended to read:**

33 §159. Interpleader

34 If difficulty questions of law should arise be-
35 fore the State Claims Board Commission as to
36 entitlement to or apportionment of just compensation,
37 then it is authorized to make a blanket award to all
38 parties interested. If no appeal is taken and no
39 agreement is reached by the parties named in the
40 award within 60 days from the date of such award, the
41 State Claims Board Commission shall certify the facts

1 and legal questions to the department. The depart-
2 ment shall then interplead the parties named in the
3 award by a complaint filed in the Superior Court in
4 the county wherein the land is situated and shall pay
5 in the amount of ~~said~~ the award to the clerk of
6 courts of ~~said~~ the county to be paid in accordance
7 with the court's order. For purposes of this section,
8 the department shall be acting to prevent double or
9 multiple liability.

10 **Sec. 102.** 23 MRSA §161, sub-§2, as amended by PL
11 1981, c. 470, Pt. A, §132, is further amended to
12 read:

13 2. Determination. Any determination by the de-
14 partment in the administration of this section shall
15 be final and nothing herein shall be construed to
16 give any person a cause of action in the State Claims
17 Board Commission or the Superior Court.

18 **Sec. 103.** 23 MRSA §244-A, sub-§4, as amended by
19 PL 1981, c. 470, Pt. A, §135, is further amended to
20 read:

21 4. Advance payments. The additional payment au-
22 thorized by subsection 1 may be made to the displaced
23 person while determination of the acquisition cost of
24 the dwelling is either unsettled or is pending before
25 the State Claims Board Commission or the Superior
26 Court. Such a payment is not authorized until and un-
27 less an agreement between the Department of Transpor-
28 tation and the displaced person is signed which shall
29 authorize withholding from any subsequent award by
30 the State Claims Board Commission or judgment of the
31 court any amount determined from the agreement to be
32 refunded by the displacee to the department by reason
33 of the award or judgment being in excess of the de-
34 termined net damage and offering price paid pursuant
35 to section 154. A copy of the agreement shall be
36 filed with the State Claims Board Commission with the
37 petition or within 10 days after it is signed if the
38 petition is already filed and a copy shall be filed
39 in any subsequent case appealed to the Superior Court
40 with the complaint or answer, or both. The State
41 Claims Board Commission and court shall take judicial
42 notice of the facts set forth in such agreement.

1 **Sec. 104.** 23 MRSA §246, as amended by PL 1981,
2 c. 470, Pt. A, §136, is further amended to read:

3 §246. Appeal

4 1. State Claims Commission. If the department is
5 unable to negotiate any payment authorized under sec-
6 tion 244, subsection 1, paragraph A, or section
7 244-A, subsection 1, at what it deems to be a reason-
8 able amount, either the department or the displaced
9 person, or both, may apply to the State Claims Board
10 Commission in writing for a determination and assess-
11 ment. The proceedings shall then be the same as in
12 condemnation proceedings under subchapter III.

13 2. Commissioner of Transportation. Any person
14 aggrieved by a determination as to eligibility for
15 any payment, except those enumerated in subsection 1,
16 authorized by this subchapter may have his applica-
17 tion reviewed by the Commissioner of Transportation
18 or his delegate whose determination shall be final
19 and nothing herein shall be construed to give any
20 person a cause of action in the State Claims Board
21 Commission or the Superior Court.

22 **Sec. 105.** 23 MRSA §652, sub-§1, as amended by PL
23 1971, c. 593, §22, is further amended to read:

24 1. Change of grade. Whenever the department
25 shall change the grade of any state or state aid
26 highway as provided in chapters 1 to 19 to the injury
27 of an owner of adjoining land, such owner may within
28 24 months after completion of the work according to
29 the records of the department apply to the department
30 in writing for a determination and assessment of his
31 damages. If the department is unable to settle such
32 damages at what it deems a reasonable amount, the de-
33 partment or interested parties may apply to the ~~and~~
34 Damage-Board State Claims Commission in writing for a
35 determination and assessment of the damages. The
36 proceedings shall then be the same as in condemnation
37 cases.

38 **Sec. 106.** 23 MRSA §652, sub-§2, ¶E, as amended
39 by PL 1971, c. 593, §22, is further amended to read:

1 E. If the department is unable to settle at what
2 it deems a reasonable settlement, the department
3 or owner may apply to the Land-Damage-Board State
4 Claims Commission in writing for a determination
5 of the alleged cause and assessment of the dam-
6 age. The proceedings shall then be the same as in
7 condemnation cases.

8 Sec. 107. 32 MRSA c. 3-A, sub-c. I, first 2
9 lines are repealed and the following enacted in their
10 place:

11 SUBCHAPTER I

12 BOARD OF LICENSURE

13 Sec. 108. 32 MRSA §211, first ¶, as amended by
14 PL 1983, c. 812, §192, is further amended to read:

15 The Maine State Board for Registration Licensure
16 of Architects and Landscape Architects, as estab-
17 lished by Title 5, section 12004, subsection 1, shall
18 administer this chapter. The board shall consist of
19 8 members appointed by the Governor, of which 5 shall
20 be registered licensed and practicing architects, one
21 of whom may be a professor of architecture; 2 shall
22 be registered and practicing landscape architects;
23 and one shall be a representative of the public.

24 Sec. 109. 32 MRSA §213, last ¶, as repealed and
25 replaced by PL 1983, c. 413, §4, is amended to read:

26 The board shall annually elect a chairman and a
27 secretary. Five members of the board shall consti-
28 tute a quorum for all purposes. No certificate-of
29 registration license may be issued, except in an af-
30 firmative vote of at least 5 members of the board.

31 Sec. 110. 32 MRSA §214, sub-§2, as enacted by PL
32 1983, c. 413, §6, is amended to read:

33 2. Hearings. Hearings may be conducted by the
34 board to assist with investigations, to determine
35 whether grounds exist for suspension, revocation or
36 denial of a license, or as otherwise deemed necessary
37 to the fulfillment of its responsibilities under this
38 chapter.

1 The board shall not refuse to renew a certificate
2 license for any reason other than failure to pay a
3 required fee, unless it has afforded the licensee an
4 opportunity for an adjudicatory hearing. The board
5 shall hold an adjudicatory hearing at the written re-
6 quest of any person who is denied a certificate
7 license without a hearing for any reason other than
8 failure to pay a required fee, provided that the re-
9 quest for hearing is received by the board within 30
10 days of the applicant's receipt of written notice of
11 the denial of his application, the reasons therefor
12 and his right to request a hearing. Hearings shall
13 be conducted in conformity with the Maine Administra-
14 tive Procedure Act, Title 5, chapter 375, subchapter
15 IV, to the extent applicable. The board may subpoena
16 witnesses, records and documents in any hearing it
17 conducts.

18 **Sec. 111.** 32 MRSA §216, as repealed and replaced
19 by PL 1983, c. 413, §8, is amended to read:

20 §216. Records

21 The board shall keep such records and minutes as
22 are necessary to the ordinary dispatch of its func-
23 tions. The board shall keep a register of all appli-
24 cants for registration licensure and a register of
25 all registrants licensees.

26 **Sec. 112.** 32 MRSA §217, as amended by PL 1977,
27 c. 604, §7, is further amended to read:

28 §217. Reports

29 Not later than August 1st of each year, the board
30 shall submit to the Commissioner of Business Profes-
31 sional and Financial Regulation a report of its
32 transactions of the preceding fiscal year ending June
33 30th, and shall transmit to him a complete statement
34 of all receipts and expenditures of the board, at-
35 tested by affidavits of its chairman and its secre-
36 tary.

37 **Sec. 113.** 32 MRSA §217-B, as amended by PL 1983,
38 c. 758, §3, is further amended to read:

39 §217-B. Budget

1 The board shall submit to the Commissioner of
2 ~~Business, Occupational and Professional and Financial~~
3 Regulation its budgetary requirements in the same
4 manner as is provided in Title 5, section 1665.

5 Sec. 114. 32 MRSA §218, last ¶, as repealed and
6 replaced by PL 1983, c. 413, §9, is amended to read:

7 The board may suspend or revoke a certificate
8 license pursuant to Title 5, section 10004. The
9 board may refuse to renew or the Administrative Court
10 may revoke, suspend or refuse to renew any
11 certificate license issued under this chapter if the
12 holders of the license have violated any provision of
13 this chapter or any rule or order of the board.

14 Sec. 115. 32 MRSA §220, as amended by PL 1977,
15 c. 564, §§118-I and 118-J, is further amended to
16 read:

17 §220. Practice forbidden unless registered; qualifi-
18 cations

19 1. Architects.

20 A. No person ~~shall~~ may practice architecture or
21 hold himself out to practice architecture within
22 the State or use the title "architect" or call
23 himself an architect or sign drawings or specifi-
24 cations as an architect, unless he shall be duly
25 registered licensed by the board.

26 As used in this chapter, the practice of archi-
27 tecture shall consist of rendering or offering to
28 render service to clients by consultations, in-
29 vestigations, preliminary studies, plans, speci-
30 fications, contract documents and a coordination
31 of structural factors concerning the aesthetic or
32 structural design and inspection of construction
33 of buildings or any other service in connection
34 with the designing or inspection of construction
35 of buildings located within the State, regardless
36 of whether such persons are performing one or all
37 of these duties, or whether they are performed in
38 person or as the directing head of an office or
39 organization performing them.

1 The practice of architecture shall not include
2 the practice of landscape architecture as defined
3 in this chapter. A registered licensed architect
4 may do such landscape architectural work as is
5 incidental to his work.

6 B. Qualifications.

7 (1) To be qualified for admission to the
8 examination to practice architecture in this
9 State an applicant must submit evidence to
10 the board that:

11 (a) He has completed a course of study
12 in a school or college of architecture
13 approved by the board, with graduation
14 therefrom as evidenced by a diploma
15 setting forth a satisfactory degree,
16 and 3 years of practical experience in
17 the office of an experienced architect
18 or architects engaged in the practice
19 of architecture as a profession; or

20 (b) Training or practical experience,
21 or a combination of both, which in the
22 opinion of the board, is fully equiva-
23 lent to that required in division (a).

24 (2) No corporation as such shall may be
25 registered licensed to practice architecture
26 in this State, but it shall be lawful for a
27 corporation to practice architecture provid-
28 ing at least 1/3 of the directors, if a cor-
29 poration, or 1/3 of the partners, if a part-
30 nership, are licensed under the laws of any
31 state to practice architecture and the per-
32 son having the practice of architecture in
33 his charge is himself a director, if a cor-
34 poration, or a partner, if a partnership,
35 and licensed to practice architecture under
36 this chapter and all drawings, plans, speci-
37 fications and administration of construction
38 or alterations of buildings or projects by
39 such corporation are under the personal di-
40 rection of such registered architect. One-
41 third of the directors or partners shall be
42 licensed under the laws of any state to

1 practice engineering, architecture, land-
2 scape architecture or planning. In cases
3 where the number of directors or partners is
4 not divisible by 3 the number of directors
5 or partners shall be the number that results
6 from rounding up or rounding down to the
7 nearest number.

8 2. Landscape architects.

9 A. No person ~~shall use the title "Maine regis-~~
10 ~~tered landscape architect"~~ may practice landscape
11 architecture or use the title "landscape archi-
12 tect" or call himself a ~~Maine-registered land-~~
13 ~~scape architect~~ or sign drawings or specifica-
14 tions as a ~~Maine-registered landscape architect~~
15 unless he shall be duly registered licensed by
16 the board.

17 As used in this chapter, the practice of land-
18 scape architecture shall consist of rendering or
19 offering to render services to clients by consul-
20 tations, investigations, preliminary studies,
21 plans, specifications, contract documents involv-
22 ing the development of land and incidental water
23 areas where and to the extent that the dominant
24 purpose of such services is the preservation, en-
25 hancement or determination of proper land uses,
26 natural land features, naturalistic and aesthetic
27 values, the settings and approaches to buildings,
28 structures, facilities or other improvements, and
29 natural drainage and the consideration, determi-
30 nation and solution of inherent problems of the
31 land relating to erosion, wear and tear, blight
32 or other hazards. Also the practice of landscape
33 architecture shall include the location and ar-
34 rangement of such tangible objects and features
35 as are incidental and necessary to the purposes
36 outlined herein.

37 The practice of landscape architecture shall not
38 include the practice of architecture as defined
39 in this chapter. A registered licensed landscape
40 architect may do such architectural work as is
41 incidental to his work.

42 B. Qualifications.

1 (1) To be qualified for admission to the
2 examination to practice landscape architec-
3 ture in this State an applicant must submit
4 evidence that:

5 (a) He has completed a course of study
6 in a school or college of landscape ar-
7 chitecture approved to the board, with
8 graduation therefrom as evidenced by a
9 diploma setting a satisfactory degree,
10 and 2 years of practical experience in
11 landscape architectural work of a grade
12 and character satisfactory to the
13 board; or

14 (b) Training or practical experience,
15 or a combination of both, which in the
16 opinion of the board, is fully equiva-
17 lent to that required in division (a).

18 (2) No corporation as such shall may be
19 registered licensed to practice landscape
20 architecture in this State, but it shall be
21 lawful for a corporation to practice land-
22 scape architecture providing at least 1/3 of
23 the directors, if a corporation, or 1/3 of
24 the partners, if a partnership, are licensed
25 under the laws of any state to practice
26 landscape architecture and the person having
27 the practice of landscape architecture in
28 his charge is himself a director, if a cor-
29 poration, or a partner if a partnership, and
30 licensed to practice landscape architecture
31 under this chapter and all drawings, plans,
32 specifications and administration of con-
33 struction or alterations of buildings or
34 projects by such corporation are under the
35 personal direction of such registered archi-
36 tect. One-third of the directors of partners
37 shall be licensed under the laws of any
38 state to practice engineering, architecture,
39 landscape architecture or planning. In cases
40 where the number of directors or partners is
41 not divisible by 3, the number of directors
42 or partners shall be the number that results
43 from rounding up or rounding down to the
44 nearest number.

1 **Sec. 116.** 32 MRSA §220-A is enacted to read:

2 §220-A. Application

3 Any person registered by the board as a Maine
4 registered landscape architect prior to the effective
5 date of this section shall automatically be licensed
6 as a landscape architect.

7 Any person who is practicing the profession of
8 landscape architecture, but is not licensed with the
9 board prior to the effective date of this section,
10 shall comply with the requirements of section 220 by
11 January 1, 1990.

12 **Sec. 117.** 32 MRSA §221, as amended by PL 1977,
13 c. 694, §§545 and 546, is further amended to read:

14 §221. Examinations

15 Examinations for registration licensure as an ar-
16 chitect or landscape architect shall be held by the
17 board at least once each year, provided that applica-
18 tions have been received during the time announced.
19 The board shall make all necessary rules and regula-
20 tions, in accordance with the Maine Administrative
21 Procedure Act, Title 5, section 8051, et seq., gov-
22 erning the time, place and method of giving and grad-
23 ing examinations, shall publish appropriate announce-
24 ments and shall conduct examinations at the time des-
25 ignated for all applicants who desire to be
26 registered licensed as an "architect" or "landscape
27 architect" and to engage in performing the functions
28 of an architect or landscape architect. The board
29 shall have the power to provide a reasonable division
30 into classes of the various applicants and the exami-
31 nation to be taken in each class. Examinations shall
32 consist of such technical and professional subjects
33 and oral questioning as the board may from time to
34 time prescribe. The rules for the manner in which
35 examinations are conducted and the content of the ex-
36 amination shall be adopted in accordance with the
37 Maine Administrative Procedures Act, Title 5, section
38 8051 et seq.

39 **Sec. 118.** 32 MRSA §222, sub-§§3, 4, 5 and 6, as
40 enacted by PL 1977, c. 463, §3, are amended to read:

1 3. License; resident. For a ~~certificate--of~~
2 registration license for a resident by transfer of
3 registration license from another state or country,
4 an amount shall be fixed by the board.

5 4. License; nonresident. For a ~~certificate--of~~
6 registration license for a nonresident an amount
7 shall be fixed by the board which shall not exceed
8 the sum of \$200.

9 5. Renewal. For the annual renewal of a
10 registration license certificate an amount shall be
11 fixed by the board which shall not exceed the sum of
12 \$25.

13 6. Reissuance. For the reissuance of a lapsed or
14 suspended certificate license, an amount shall be
15 fixed by the board which shall not exceed the sum of
16 \$50.

17 **Sec. 119.** 32 MRSa §223, as enacted by PL 1977,
18 c. 463, §3, is amended to read:

19 §223. Licensure without examination

20 1. Resident licensure from other states. ~~Certif-~~
21 icates-of-registration Licenses may be issued to res-
22 idents who hold or ~~have--held--certificates--of~~
23 registration unexpired licenses from other states,
24 provided the requirements of such ~~certificates-of~~
25 registration licenses are deemed equivalent to re-
26 quirements for registration licensure in this State
27 by examination, and provided the applicants submit
28 such other evidence of his ability as may be required
29 by the board.

30 2. Nonresident licensure. ~~Certificates--of~~
31 registration Licenses may be issued to nonresidents
32 who hold an unexpired certificate-of-registration
33 license issued to him by any state or territory or
34 possession of the United States or any country, pro-
35 vided the requirements of the registration licensure
36 under which ~~certificates--of--registration licenses~~
37 were issued do not contravene this chapter and are
38 deemed the equivalent of requirements for
39 registration licensure in this State by examination,
40 and provided the applicant submit such other evidence
41 of his ability as may be required by the board.

1 3. Certification by National Council of Archi-
2 tectural Registration. Certificates--of--registration
3 Licenses may be issued to persons who have passed a
4 standard National Council of Architectural Registra-
5 tion Boards' examination and have received certifica-
6 tion thereof by the National Council of Architectural
7 Registration Boards, and the further evidence of contin-
8 ued honorable professional conduct after the pass-
9 ing of such examination.

10 4. Certification by the Council of Landscape Ar-
11 chitectural Registration Board. Certificates--of
12 registration Licenses may be issued to persons who
13 have passed a standard Council of Landscape Architec-
14 tural Registration's examination and have received
15 certification thereof, and the further evidence of
16 continued honorable professional conduct after the
17 passing of such examination.

18 5. ~~Prior practice. Certificates of registration~~
19 ~~may be issued to a resident of the State who has been~~
20 ~~actively engaged in the practice of landscape archi-~~
21 ~~tecture as defined in this chapter and has used the~~
22 ~~title "landscape architect" for a minimum of one full~~
23 ~~year preceding the enactment of this legislation,~~
24 ~~provided that proof of the applicant's practice of~~
25 ~~landscape architecture and use of the title "land-~~
26 ~~scape architect" is presented to the satisfaction of~~
27 ~~the board, and provided such application is made on~~
28 ~~or before December 31, 1978.~~

29 Sec. 120. 32 MRSA §224, as amended by PL 1983,
30 c. 224, §11, is further amended to read:

31 §224. License

32 The board shall issue a certificate--of
33 registration license, upon payment of the fee pro-
34 vided for in this chapter, to any applicant who, in
35 the opinion of the board, has satisfactorily met all
36 the requirements of this chapter. Certificates
37 Licenses shall bear a serial number and the full name
38 of the registrant, and shall bear the signatures of
39 the chairman and secretary, and the seal of the
40 board.

1 Issuance of a certificate-of-registration license
2 by the board shall be evidence that the person named
3 therein is entitled to all the rights and privileges
4 of a registered licensed architect or registered
5 licensed landscape architect while the certificate
6 license remains unexpired and unrevoked. The
7 certificate license shall be synonymous with
8 registration licensure, with the full meaning and ef-
9 fect of a license to practice architecture or land-
10 scape architecture.

11 Certificates--of--registration Licenses shall ex-
12 pire on the last day of June of each year. Renewal
13 may be effected at any time during the month of June
14 by payment of the renewal fee. A certificate license
15 may be renewed up to 90 days after the date of its
16 expiration upon payment of a late fee of \$10 in addi-
17 tion to the renewal fee. Any person who submits an
18 application for renewal more than 90 days after the
19 license expiration date shall be subject to all re-
20 quirements governing new applicants under this chap-
21 ter, except that the board may in its discretion,
22 giving due consideration to the protection of the
23 public, waive examination if the renewal application
24 is made within 2 years from the date of the expira-
25 tion.

26 Sec. 121. 32 MRSA §225, as enacted by PL 1977,
27 c. 463, §3, is amended to read:

28 §225. Seal

29 Each registrant licensee shall upon registration
30 licensure obtain a seal of such design as the board
31 shall authorize and direct. Plans and specifications,
32 prepared by or under the direct supervision of a
33 registered licensed architect in the case of an ar-
34 chitect registrant, and under the direct supervision
35 of a registered licensed landscape architect in the
36 case of a landscape architect registrant, shall be
37 stamped with the seal during the life of the
38 registrant's-certificate licensee's license, and it
39 shall be unlawful for anyone to stamp or seal any
40 documents with the seal after the certificate-of--the
41 registrant license named thereon has expired or has
42 been revoked, unless the certificate license shall
43 have been renewed or reissued.

1 **Sec. 122. 32 MRSA §301, sub-§1, ¶D,** is amended
2 to read:

3 D. Removing superfluous hair from the face, neck
4 or upper part of body; or

5 **Sec. 123. 32 MRSA §302, sub-§2,** as amended by PL
6 1983, c. 339, §§1 and 2, is further amended to read:

7 2. Exceptions. The practice of barbering shall
8 be carried on only by persons duly registered
9 licensed to practice barbering in this State and only
10 in a licensed barber shop, except as provided in this
11 subsection. A duly registered licensed barber may
12 practice barbering:

13 A. Upon patients in hospitals or nursing homes;

14 B. Upon residents of summer camps;

15 C. Upon inmates or residents of institutions of
16 the Department of Mental Health and Mental Retar-
17 dation;

18 D. Upon an invalid or handicapped person in that
19 person's place of residence;

20 E. Upon a resident of a nursing home;

21 F. Upon a hotel or motel occupant in that
22 person's hotel or motel room; and

23 G. Upon a person in the person's residence, if
24 the barber maintains or is employed in a licensed
25 barber shop.

26 **Sec. 124. 32 MRSA §303-A,** as amended by PL 1985,
27 c. 797, §67, is further amended to read:

28 §303-A. Instructors of barbering

29 No person may be engaged to instruct in any of
30 the branches of barbering unless that person has a
31 certificate license to practice barbering issued un-
32 der this chapter and a certificate-of-registration
33 license as instructor of barbering issued under the
34 this chapter.

1 The board and the Department of Educational and
2 Cultural Services shall make rules for the examina-
3 tion of applicants for ~~certificates-of-registration~~
4 licenses as instructors of barbering, in accordance
5 with the Maine Administrative Procedure Act, Title 5,
6 chapter 375, subchapter II. Examination applications
7 shall be furnished by the board. The application
8 shall be filed with the secretary of the board and
9 shall be accompanied by an examination fee of ~~\$35~~.
10 If examination is satisfactory, the applicant shall
11 pay a fee of ~~\$15~~ to receive the initial instructor
12 ~~certificate-of-registration~~ license, which shall be
13 valid until the next renewal period. The renewal fee
14 for instructor ~~certificate-of-registration~~ licensure
15 shall be ~~\$15~~ biennially collected by the board.

16 Sec. 125. 32 MRSA §304, first ¶, as repealed and
17 replaced by PL 1977, c. 398, §5, is amended to read:

18 Any person engaged in the practice of barbering
19 in this State without having obtained a ~~certificate~~
20 ~~of--registration~~ license as provided by this chapter
21 or employing a person to practice barbering who does
22 not have such a ~~certificate~~ license, unless the per-
23 son is an apprentice within the meaning of this chap-
24 ter, or falsely pretending to be qualified to prac-
25 tice barbering under this chapter or violating any of
26 the provisions of this chapter shall be deemed guilty
27 of a Class E crime. Every such person shall be deemed
28 guilty of a separate and distinct offense for each
29 month or part thereof during which such practice or
30 employment shall be repeated or continued after pros-
31 ecution has been begun against any such person for
32 the violation of any of the provisions of this chap-
33 ter.

34 Sec. 126. 32 MRSA §305, as enacted by PL 1977,
35 c. 398, §6, is repealed and the following enacted in
36 its place:

37 §305. Practicing in same shops

38 In any shop licensed with the Board of Barbers
39 and the State Board of Cosmetology, both of the bar-
40 ber and cosmetology professions may be practiced by
41 licensed individuals in that shop. These individuals
42 are not required to be licensed by both boards. Par-

1 titions between or separate rooms for the 2 practices
2 shall not be required in any such shop.

3 Sec. 127. 32 MRSA §351, as amended by PL 1985,
4 c. 785, Pt. B, §130, is further amended to read:

5 §351. Board

6 1. Membership. The State Board of Barbers, as
7 established by Title 5, section 12004, subsection 1,
8 and in this chapter designated as the "board," shall
9 consist of 5 4 members who shall be citizens of this
10 State, 3 of whom shall have been engaged in the prac-
11 tice of barbering for at least 3 years immediately
12 prior to their appointment and one of whom shall be a
13 representative of the public. ~~The 5th member of the~~
14 ~~board shall be the Director of Health who shall have~~
15 ~~no board vote.~~

16 The 4 voting members of the board shall be appointed
17 by the Governor and their terms shall be for 3 years.
18 None of them shall be eligible to serve more than 3
19 consecutive 3-year terms. The barber members shall at
20 all times be registered licensed barbers.

21 Any vacancy in the board shall be filled by the ap-
22 pointment by the Governor of a person to hold office
23 during the unexpired term. The person appointed shall
24 be qualified in the same manner as the board member
25 being replaced. No person operating or employed by a
26 school of barbering ~~shall~~ may be appointed as a mem-
27 ber of the board. If any member of the board, after
28 appointment, shall become affiliated in any way with
29 any such school, that person's membership on the
30 board shall immediately terminate and the unexpired
31 term of that member shall be filled by the Governor.

32 2. Meetings; chairman; quorum. The board shall
33 meet at least once a year to conduct its business and
34 to elect a chairman. Additional meetings shall be
35 held as necessary to conduct the business of the
36 board, and may be convened at the call of the chair-
37 man or a majority of the board members. The chairman
38 shall serve for a term of one year or until a succes-
39 sor is elected. All meetings of the board shall be
40 open to the public, except that the board may hold
41 closed sessions to prepare, approve, grade or admin-

1 ister examinations, or to prepare or provide a re-
2 sponse upon request of an applicant for review of his
3 examination. Three ~~voting~~ members of the board shall
4 constitute a quorum for all purposes.

5 3. Employees. The board shall employ, subject to
6 the Civil Service Law, an executive secretary. The
7 salary of the executive secretary shall be determined
8 by the Bureau of Human Resources and shall be paid
9 from funds received under this chapter. The execu-
10 tive secretary of the board shall keep a record of
11 all proceedings, certificates of registration and li-
12 censes; issue all notices, except those required to
13 be issued by the Administrative Court Judge under Ti-
14 tle 4, chapter 25; attest all such papers and orders
15 as the board shall direct; make sanitary inspections
16 at least ~~twice~~ once a year of shops and other estab-
17 lishments subject to license under this chapter as
18 directed by the board, and shall, on or before August
19 1st of each year, submit a report to the Commissioner
20 of ~~Business, Occupational and Professional and~~ Business, Occupational and Professional and
21 Financial Regulation, for the preceding fiscal year
22 ending June 30th, giving a full statement of all re-
23 cepts and expenditures and a statement of the work
24 performed by the board during the year, together with
25 such recommendations as deemed necessary. The board
26 shall employ, subject to the Civil Service Law, in-
27 spectors who may be registered barbers and who shall,
28 under the direction of the executive secretary, make
29 inspections of shops and other establishments subject
30 to license. Whenever necessary, the inspectors em-
31 ployed by the board shall consult with the Department
32 of Human Services for technical information and prop-
33 er procedure regarding sanitary shop inspections. The
34 salary of such inspectors shall be determined by the
35 Bureau of Human Resources and shall be paid from
36 funds received under this chapter. The board shall
37 have the right to dismiss, for cause, the executive
38 secretary or the inspectors.

39 4. Compensation. The members of the board shall
40 be compensated according to the provisions of Title
41 5, chapter 379, for no more than 18 meetings per cal-
42 endar year or, in the case of the chairman for no
43 more than 25 days per calendar year. Expenses as re-
44 lated to duties out of the State shall be reimburs-
45 able for no more than 5 calendar days per calendar
46 year unless approved in advance by the Governor.

1 Sec. 128. 32 MRSA §352, sub-§1, as amended by PL
2 1985, c. 748, §35, is further amended to read:

3 1. Board to administer, coordinate and enforce.
4 The board shall administer, coordinate and enforce
5 this chapter, evaluate the qualifications and super-
6 vise the examinations of applicants for registration
7 licensure under this chapter and shall, at its dis-
8 cretion, investigate allegations of violations of
9 this chapter. The board shall keep such records and
10 minutes as are necessary to the ordinary dispatch of
11 its functions.

12 Any member or employee of the board may enter and
13 make reasonable examination of any barber shop during
14 business hours for the purpose of ascertaining wheth-
15 er or not the rules are being observed.

16 The board shall submit to the Commissioner of Profes-
17 sional and Financial Regulation its budgetary re-
18 quirements in the same manner as is provided in Title
19 5, section 1665.

20 The commissioner may require the board to be accessi-
21 ble to the public for complaints and questions during
22 regular business hours, to maintain copies of all ap-
23 plication materials with the department and to pro-
24 vide any information the commissioner requires in or-
25 der to assure that the board is operating administra-
26 tively within the requirements of this chapter.

27 Sec. 129. 32 MRSA §352, sub-§2, ¶C is amended to
28 read:

29 C. Requirements for licenses and ~~certificates-of~~
30 ~~registration~~ registrations consistent with this
31 chapter.

32 Sec. 130. 32 MRSA §352, sub-§4, as amended by PL
33 1983, c. 841, §10, is further amended to read:

34 4. Diseases. No person who has a communicable
35 disease may give service in any barber shop or
36 school. The board shall have the right to require the
37 physical examination of any person who, while em-
38 ployed in any such barber shop or school, is sus-
39 pected of having any communicable disease. Failure to

1 submit to such an examination shall be grounds for
2 suspension or revocation of the person's certificate
3 of registration, license or permit.

4 Sec. 131. 32 MRSa c. 7, sub-c. III, first 2
5 lines are repealed and the following enacted in their
6 place:

7 SUBCHAPTER III

8 LICENSURE

9 Sec. 132. 32 MRSa §401, as amended by PL 1985,
10 c. 748, §37, is further amended to read:

11 §401. Registration and licenses

12 No person ~~shall~~ may practice barbering in this
13 State unless that person shall first have obtained a
14 ~~certificate of registration~~ license as provided in
15 this chapter or unless that person shall be acting
16 within the scope of employment as an apprentice.

17 An apprentice barber may not independently prac-
18 tice barbering but may, as an apprentice, do any or
19 all acts constituting the practice of barbering under
20 the immediate personal supervision of a registered
21 licensed barber. Only one such apprentice shall be
22 employed in any licensed shop.

23 No barber technician may independently practice
24 barbering but may, as a barber technician, do only
25 the following acts constituting the practice of bar-
26 bering: Shampooing and drying of hair, and manicuring
27 provided the barber technician has taken a course of
28 instruction prescribed by the board.

29 No person, firm or corporation may operate or
30 cause to be operated a shop where barbering is prac-
31 ticed unless that shop or establishment has been duly
32 licensed. ~~The fee for a license to operate a barber~~
33 ~~shop and the annual renewal thereof shall be \$25.~~
34 Shop licenses that require a special inspection, such
35 as new barber shops, change of barber shop location
36 and change of barber shop ownership, shall be \$30
37 charged a separate fee in the first instance includ-
38 ing the license, and \$25 for each annual renewal

1 thereof. ~~The license~~ All shop licenses shall run from
2 the first day of January in every year and the fee
3 fees shall be payable to the board.

4 Upon the death of any person in whose name a shop
5 is licensed, that shop license shall continue to be
6 valid for 60 days following the death of that person.

7 Booths, attached to or within a barber shop, that
8 are operated independently thereof, shall be subject
9 to license fees in the same manner as an independent
10 shop.

11 Each student upon enrollment in a school of bar-
12 bering licensed by the Commissioner of Educational
13 and Cultural Services shall make written application
14 for a student permit therefor on a form prescribed
15 and supplied by the board. The application shall con-
16 tain satisfactory evidence of the qualifications re-
17 quired of the applicant under this chapter and shall
18 be notarized. The applicant shall pay to the secre-
19 tary of the board a fee ~~of~~-\$5 and the permit shall
20 expire with termination or completion of the school
21 course for which the permit was obtained. No permit
22 may be issued to a person who has not attained 17
23 years of age.

24 A student permit shall not be required of an ap-
25 prentice who obtains a ~~certificate~~--of registration
26 pursuant to section 405.

27 **Sec. 133.** 32 MRSa §402, first ¶, as repealed and
28 replaced by PL 1977, c. 398, §9, is amended to read:

29 Any person shall be eligible to obtain a ~~certifi-~~
30 ~~cate of registration~~ license under this chapter for
31 the practice of barbering:

32 **Sec. 134.** 32 MRSa §402, sub-§4, as repealed and
33 replaced by PL 1977, c. 398, §9, is amended to read:

34 4. Examination. Who has satisfactorily passed an
35 examination conducted by the board to determine his
36 fitness to receive such a certificate license.

37 **Sec. 135.** 32 MRSa §402, next to last ¶, as
38 amended by PL 1979, c. 694, §3, is further amended to
39 read:

1 The applications shall be filed with the secre-
2 tary of the board and shall be accompanied by an ex-
3 amination fee of-\$20. If the examination is satisfac-
4 tory, the applicant shall pay a fee of-\$25 to receive
5 a first license, which shall be valid until the next
6 renewal period. ~~The board shall determine the exact~~
7 ~~amount of this fee.~~ If not successful, the applicant
8 shall have the privilege of taking a 2nd examination
9 by payment of a fee of-\$20 at any subsequent examina-
10 tion held by the board within a period of one year.
11 Any applicant, who has failed a 2nd examination, may
12 take a further examination at a time to be determined
13 by the board upon payment of a \$20 fee for each sub-
14 sequent examination.

15 **Sec. 136. 32 MRSA §403**, as repealed and replaced
16 by PL 1977, c. 398, §9, is amended to read:

17 §403. Temporary permit

18 If any applicant to practice barbering qualifies
19 for examination, the board may issue to such an ap-
20 plicant, until the results of the applicant's exami-
21 nation have been given, a permit to practice barber-
22 ing under the supervision of a person registered
23 licensed to practice barbering. The permit shall ter-
24 minate with the examination following applicant's
25 qualification. If the applicant fails the first exam-
26 ination following qualification, the applicant may
27 renew his permit to practice barbering under supervi-
28 sion of a person registered licensed to practice bar-
29 bering until the results of the next consecutive ex-
30 amination have been given, at which time the permit
31 expires and shall not be renewable. The applicant
32 shall not be considered an apprentice. The applicant
33 shall pay to the board a fee of-\$5.

34 **Sec. 137. 32 MRSA §404**, as amended by PL 1983,
35 c. 413, §28, is further amended to read:

36 §404. Reciprocity with other states

37 The board may waive the examination and grant
38 registration licensure to any applicant who shall
39 present proof of current ~~registration or~~ licensure in
40 another state, other jurisdiction of the United
41 States or another country which grants similar privi-

1 leges to persons registered under this chapter and
2 maintains professional standards deemed by the board
3 to be equivalent to those set forth in this chapter,
4 provided that no cause exists for denial of a license
5 under section 408. Such an applicant shall pay the
6 same fee as provided in section ~~407~~ 407-A.

7 The board may allow an applicant to take the ex-
8 amination who presents proof of training or experi-
9 ence, of an amount at least equal to that required
10 under section 402, subsection 3, in another state,
11 other jurisdiction of the United States or another
12 country which maintains professional standards deemed
13 by the board to be equivalent to those set forth in
14 this chapter, provided that no cause exists for deni-
15 al of a license under section 408. Such an applicant
16 shall pay the examination fee as provided in section
17 ~~402~~ 407-A.

18 Sec. 138. 32 MRSA §405, first and 3rd para-
19 graphs, as repealed and replaced by PL 1977, c. 398,
20 §9, are amended to read:

21 The board shall furnish to each registered ap-
22 prentice a ~~certificate-of~~ registration of apprentice-
23 ship.

24 Each apprentice shall make application on a form
25 supplied by the board for ~~certificates---of~~
26 ~~registration~~ registrations. The application shall be
27 filed with the secretary of the board and shall be
28 accompanied by a registration fee of ~~of-\$10~~. The ~~certif-~~
29 ~~icate-of~~ registration shall expire 18 months from
30 date of issue and shall be renewable. The ~~certificate~~
31 ~~registration~~ shall be displayed as provided for bar-
32 bers' ~~certificates~~ licenses in section 407. The term
33 "apprentice" shall appear in conspicuous print upon
34 the ~~certificate~~ registration.

35 Sec. 139. 32 MRSA §406, as repealed and replaced
36 by PL 1977, c. 398, §9, is amended to read:

37 §406. Technicians

38 Every barber technician, in order to avail him-
39 self of this chapter, shall, before entering employ-
40 ment as a barber technician, file with the secretary

1 of the board, on forms which shall be provided by the
2 board, the name and place of business of the employ-
3 er, the date on which employment will be commenced
4 and the barber technician's full name and age. That
5 age shall not be less than 17 years. The forms shall
6 be accompanied by a registration fee of \$5. Any bar-
7 ber technician who shall change his place of employ-
8 ment shall promptly notify the board and furnish it
9 with the name and place of business of the new em-
10 ployer and the date of the change.

11 The board shall furnish to each barber technician
12 a ~~certificate of~~ registration in the form prescribed
13 by the board, bearing the seal of the board, certifi-
14 ing that the holder is a barber technician. It shall
15 be the duty of the holder of such a ~~certificate of~~
16 registration to post it in a conspicuous place where
17 it may readily be seen by all persons, on or before
18 the first day of January in each year. ~~The fee for~~
19 ~~such a certificate shall be \$10 in the first instance~~
20 ~~and \$10 for each biennial renewal thereof.~~ The
21 certificate registration shall run from the first day
22 of January ~~of each biennium.~~

23 A barber technician shall not be considered an
24 apprentice nor shall any time which he has been reg-
25 istered and been employed as a barber technician
26 count toward training for eligibility to obtain a
27 certificate of registration license as a barber.

28 Sec. 140. 32 MRSA §407, as amended by PL 1985,
29 c. 748, §§38 and 39, is further amended to read:

30 §407. Licenses; renewal;

31 The board shall furnish to each registered
32 licensed barber a ~~certificate of registration~~
33 license. It shall be the duty of the holder of such
34 certificate of registration license to post it in a
35 conspicuous place where it may be readily seen by all
36 persons served.

37 The certificate of registration license shall be
38 renewed on or before the first day of January annual-
39 ly, and the holder of the certificate of registration
40 shall pay ~~the sum of \$35~~ a fee for each annual renew-
41 al.

1 A license may be renewed up to 90 days after the
2 date of its expiration upon payment of a late fee of
3 \$10 in addition to the renewal fee. Any person who
4 submits an application for renewal more than 90 days
5 after the license expiration date shall be subject to
6 all requirements governing new applicants under this
7 chapter, except that the board may in its discretion,
8 giving due consideration to the protection of the
9 public, waive examination if the renewal application
10 is made within 2 years from the date of the expira-
11 tion.

12 **Sec. 141. 32 MRSA §407-A is enacted to read:**

13 §407-A. Fees

14 Fees may be established by the board in amounts
15 which are reasonable and necessary for their respec-
16 tive purposes. With the exception of the various ex-
17 amination fees which are to be collected upon the ad-
18 ministration of such examinations, all fees are to be
19 collected by the board on an annual basis. The fees
20 may not exceed the following amounts:

21 A. For an instructor's examination, \$45;

22 B. For an instructor's license, \$25;

23 C. For a shop license, \$35;

24 D. For a barber's examination, \$25;

25 E. For a barber's license, \$40;

26 F. For a student permit, \$10;

27 G. For a temporary permit, \$10;

28 H. For an apprentice's registration, \$10; and

29 I. For a technician's registration, \$10.

30 **Sec. 142. 32 MRSA §408, sub-§5, as enacted by PL**
31 **1977, c. 398, §9, is amended to read:**

32 5. Certain conduct. Repeated-acts--or--continued
33 Acts or conduct while serving customers which is dan-

1 gerous or injurious, or potentially so, to customers.

2 Sec. 143. 32 MRSA §1105, last ¶, as amended by
3 PL 1983, c. 413, §33, is further amended to read:

4 Nothing in this chapter may prevent a person from
5 making electrical installations in a single--family
6 single-family residence occupied by him or to be oc-
7 cupied by him as his bona fide personal abode, pro-
8 viding that the installation conforms with the stan-
9 dards of the National Electric Code. Any electrical
10 installations made under the authority of this para-
11 graph, after July 1, 1987, in a newly constructed
12 residence, shall require certification by a state or
13 local inspector, master electrician or limited elec-
14 trician in house wiring prior to the activation of
15 electricity by the utility company.

16 Sec. 144. 32 MRSA §1551, sub-§4, ¶A, as enacted
17 by PL 1977, c. 398, §10, is amended to read:

18 A. Applying the hands or mechanical or electri-
19 cal apparatus with or without cosmetic prepara-
20 tions, tonics, lotions, creams, antiseptics or
21 clays to massage, cleanse, stimulate, manipulate,
22 exercise or otherwise to improve or to beautify
23 the scalp, face, neck, shoulders, arms, hands or
24 to manicure the fingernails or toenails of any
25 person;

26 Sec. 145. 32 MRSA §1551, sub-§5-A is enacted to
27 read:

28 5-A. Apprentice manicurist. "Apprentice manicur-
29 ist" means any person who is engaged in learning and
30 acquiring a knowledge of the practice of nail care
31 under the direction and supervision of a person li-
32 icensed under this chapter to practice cosmetology or
33 manicuring in accordance with the rules of the board
34 relating to apprentices.

35 Sec. 146. 32 MRSA §1552, sub-§2, as amended by
36 PL 1985, c. 506, Pt. A, §67, is further amended to
37 read:

38 2. Exceptions. The practice of cosmetology shall
39 be carried on only by persons duly registered

1 licensed to practice in this State and only in a li-
2 censed beauty shop, except as provided in this sub-
3 section. A duly registered licensed cosmetologist may
4 practice cosmetology:

- 5 A. Upon patients in hospitals or nursing homes;
6 B. Upon residents of summer camps;
7 C. Upon inmates or residents of institutions of
8 the Department of Mental Health and Mental Retar-
9 dation and the Department of Corrections;
10 D. Upon an invalid or handicapped person in that
11 person's place of residence;
12 E. Upon a resident of a nursing home;
13 F. Upon a hotel or motel occupant in that
14 person's hotel or motel room; and
15 G. Upon a person in the person's residence, when
16 done for the usual fees.

17 **Sec. 147. 32 MRSA §1553-A**, as enacted by PL
18 1983, c. 841, §18, is amended to read:

19 §1553-A. Instructors of cosmetology

20 No person may be engaged to instruct in any of
21 the branches of cosmetology unless that person has a
22 certificate license to practice cosmetology under
23 this chapter, except physicians as specified.

24 The board and the Department of Educational and
25 Cultural Services shall make rules for the examina-
26 tion of applicants for ~~certificates-of-registration~~
27 licensure as instructors of cosmetology, in accord-
28 ance with the Maine Administrative Procedure Act, Ti-
29 tle 5, chapter 375, subchapter II. Examination ap-
30 plications shall be furnished by the board. The ap-
31 plication shall be filed with the secretary of the
32 board and shall be accompanied by an examination fee
33 ~~of-\$50~~ which shall include ~~registration~~ licensure, if
34 examination is satisfactory. All ~~certificates-of~~
35 registration licenses as instructors shall expire
36 June 30th ~~biennially~~. ~~The-renewal-fee-for-instruc-~~
37 ~~tors-shall-be-\$16-biennially.~~

1 **Sec. 148.** 32 MRSA §1555, first ¶, as repealed
2 and replaced by PL 1977, c. 398, §10, is amended to
3 read:

4 Any person engaged in the practice of cosmetology
5 in this State without having obtained a certificate
6 of--registration license as provided by this chapter
7 or employing a person to practice cosmetology who
8 does not have such a certificate license, unless the
9 person is an apprentice within the meaning of this
10 chapter, or falsely pretending to be qualified to
11 practice cosmetology under this chapter or violating
12 any of the provisions of this chapter shall be deemed
13 guilty of a Class E crime. Every such person shall be
14 deemed guilty of a separate and distinct offense for
15 each month or part thereof during which such practice
16 or employment shall be repeated or continued after
17 prosecution has been begun against any such person
18 for the violation of any of the provisions of this
19 chapter.

20 **Sec. 149.** 32 MRSA §1556, as enacted by PL 1977,
21 c. 398, §10, is repealed and the following enacted in
22 its place:

23 §1556. Practicing in same shops

24 In any shop licensed with the Board of Barbers
25 and the State Board of Cosmetology, both of the bar-
26 ber and cosmetology professions may be practiced by
27 licensed individuals in that shop. Those individuals
28 are not required to be licensed by both boards. Par-
29 titions between or separate rooms for the 2 practices
30 shall not be required in any such shop.

31 **Sec. 150.** 32 MRSA §1601, as amended by PL 1985,
32 c. 785, Pt. B, §132, is further amended to read:

33 §1601. Board

34 1. Membership. The State Board of Cosmetology,
35 as established by Title 5, section 12004, subsection
36 1, and in this chapter designated as the "board,"
37 shall consist of 7 members who shall be citizens of
38 this State, 5 of whom shall have been engaged in the
39 practice of cosmetology for at least 3 years immedi-
40 ately prior to their appointment and one of whom

1 shall be a representative of the public. ~~The 7th mem-~~
2 ~~ber of the board shall be the Director of Health who~~
3 ~~shall have no board vote.~~

4 The ~~6~~ voting members of the board shall be appointed
5 by the Governor and their terms shall be for 3 years.
6 None of them may be eligible to serve more than 3
7 consecutive 3-year terms or to serve more than 9
8 years consecutively, provided that for this purpose
9 only a period actually served which exceeds 1/2 of
10 the 3-year term shall be deemed a full term. Upon
11 expiration of a member's term, he shall serve until
12 his successor is qualified and appointed. The
13 successor's term shall be 3 years from the date of
14 the expiration, regardless of the date of his ap-
15 pointment. The cosmetologist members shall at all
16 times be registered cosmetologists and shall be ac-
17 tively engaged in the practice during their member-
18 ship on the board. A board member may be removed by
19 the Governor for cause.

20 Any vacancy in the board shall be filled by the ap-
21 pointment by the Governor of a person, qualified as
22 was the board member being replaced, to hold office
23 during the unexpired term of the member whose place
24 is thus filled.

25 No person operating or employed by a school of cosme-
26 tology may be appointed as a member of the board. If
27 any member of the board, after appointment, shall be-
28 come affiliated in any way with any such school, that
29 person's membership on the board shall immediately
30 terminate and the unexpired term of that member shall
31 be filled by the Governor.

32 2. Meetings; chairman; quorum. The board shall
33 meet at least once a year to conduct its business and
34 to elect a chairman. Additional meetings shall be
35 held as necessary to conduct the business of the
36 board, and may be convened at the call of the chair-
37 man or a majority of the board members. All meetings
38 of the board shall be open to the public, except that
39 the board may hold closed sessions to prepare, ap-
40 prove, grade or administer examinations, or to pre-
41 pare or provide a response upon request of an appli-
42 cant for review of his examination. Four voting mem-
43 bers of the board shall constitute a quorum for all
44 purposes.

1 3. Employees. The board shall employ, subject to
2 the Civil Service Law, an executive secretary. The
3 salary of the executive secretary shall be determined
4 by the Bureau of Human Resources and shall be paid
5 from funds received under this chapter. The execu-
6 tive secretary of the board shall keep a record of
7 all proceedings, certificates of registration and li-
8 censes; issue all notices, except those required to
9 be issued by the Administrative Court Judge under Ti-
10 tle 4, chapter 25; attest all papers and orders as
11 the board shall direct; make sanitary inspections at
12 least twice a year of shops and other establishments
13 subject to a license under this chapter as directed
14 by the board, and shall report annually on or before
15 August 1st of each year to the Commissioner of Busi-
16 ~~ness, Occupational--and~~ Professional and Financial
17 Regulation, for the preceding fiscal year ending June
18 30th, giving a full statement of all receipts and ex-
19 penditures and a statement of the work performed by
20 the board during the year, together with recommenda-
21 tions as deemed necessary. The board shall employ,
22 subject to the Civil Service Law, inspectors who may
23 be registered cosmetologists and who shall, under the
24 direction of the executive secretary, make inspec-
25 tions of shops and other establishments subject to
26 license. Whenever necessary, the inspectors employed
27 by the board shall consult with the Department of Hu-
28 man Services for technical information and proper
29 procedure regarding sanitary shop inspections. The
30 salary of such inspectors shall be determined by the
31 Bureau of Human Resources and shall be paid from
32 funds received under this chapter. The board shall
33 have the right to dismiss, for cause, the executive
34 secretary or the inspectors.

35 4. Compensation. The members of the board shall
36 be compensated according to the provisions of Title
37 5, chapter 379 for no more than 18 meetings per cal-
38 endar year, or, in the case of the chairman, for no
39 more than 25 days per calendar year. Expenses as re-
40 lated to duties out of the State shall be reimburs-
41 able for no more than 5 calendar days per calendar
42 year unless approved in advance by the Governor.

43 **Sec. 151. 32 MRSA §1602, sub-§1, as amended by**
44 **PL 1983, c. 413, §68, is further amended to read:**

1 1. Board to administer, coordinate and enforce.
2 The board shall administer, coordinate and enforce
3 this chapter, evaluate the qualifications and super-
4 vise the examinations of applicants for registration
5 licensure under this chapter and shall, at its dis-
6 cretion, investigate allegations of violations of
7 this chapter. The board shall keep such records and
8 minutes as are necessary to the ordinary dispatch of
9 its functions. Any member or employee of the board
10 may enter and make reasonable examination of any
11 beauty shop during business hours for the purpose of
12 ascertaining whether or not the rules are being ob-
13 served.

14 Sec. 152. 32 MRSa §1602, 2nd ¶, as enacted by PL
15 1977, c. 604, §18, is amended to read:

16 On or before August 1st of each year, the board
17 shall submit to the Commissioner of Business Profes-
18 sional and Financial Regulation, for the preceding
19 fiscal year ending June 30th, its annual report of
20 its operations and financial position, together with
21 such comments and recommendations as the commissioner
22 deems essential.

23 Sec. 153. 32 MRSa §1602, last ¶, as amended by
24 PL 1983, c. 758, §8, is further amended to read:

25 The board shall submit to the Commissioner of
26 ~~Business, Occupational and~~ Professional and Financial
27 Regulation its budgetary requirements in the same
28 manner as is provided in Title 5, section 1665.

29 Sec. 154. 32 MRSa §1603, as amended by PL 1983,
30 c. 841, §20, is further amended to read:

31 §1603. Register of names

32 The board shall keep a register in which shall be
33 entered the names of all persons to whom ~~certificates~~
34 registrations, licenses and permits are issued under
35 this chapter and that register shall be at all times
36 open to public inspection.

37 Sec. 155. 32 MRSa c. 23, sub-c. III, first 2
38 lines are repealed and the following enacted in their
39 place:

1 Sec. 157. 32 MRSA §1652, first ¶, as repealed
2 and replaced by PL 1977, c. 398, §10, is amended to
3 read:

4 Any person shall be eligible to obtain a certifi-
5 cate-of-registration license under this chapter for
6 the practice of cosmetology:

7 Sec. 158. 32 MRSA §1652, sub-§4, as repealed and
8 replaced by PL 1977, c. 398, §10, is amended to read:

9 4. Examination. Who has satisfactorily passed an
10 examination conducted by the board to determine his
11 fitness to receive such certificate license.

12 Sec. 159. 32 MRSA §1652, next to the last ¶, as
13 repealed and replaced by PL 1977, c. 398, §10, is
14 amended to read:

15 The applications shall be filed with the secre-
16 tary of the board and shall be accompanied by an ex-
17 amination fee of \$15. If the examination is satisfac-
18 tory, the applicant shall pay a fee of ~~from \$10 to~~
19 \$15 within 90 days to receive a first license, which
20 shall be valid until the next renewal period. The
21 board shall ~~determine the exact amount of this fee~~
22 have the authority to waive the 90-day time period
23 for extenuating circumstances. If not successful, the
24 applicant shall have the privilege of taking a 2nd
25 examination ~~by payment of a fee of \$10~~ at any subse-
26 quent examination held by the board within a period
27 of one year. Any applicant, who has failed a 2nd ex-
28 amination, may take a further examination at a time
29 to be determined by the board upon payment of a \$10
30 fee for each subsequent examination.

31 Sec. 160. 32 MRSA §1653, as repealed and re-
32 placed by PL 1977, c. 398, §10, is amended to read:

33 §1653. Temporary permit

34 If any applicant to practice cosmetology quali-
35 fies for examination, the board may issue to such an
36 applicant, until the results of the applicant's exam-
37 ination have been given, a permit to practice cosme-
38 tology under the supervision of a person registered
39 licensed to practice cosmetology. The permit shall

1 terminate with the issuance of the results of the ex-
2 amination following the applicant's qualification. If
3 the applicant fails the first examination following
4 qualification, the applicant may renew his permit to
5 practice cosmetology, until the results of the next
6 consecutive examination have been given, at which
7 time the permit expires and shall not be renewable.
8 The applicant shall not be considered an apprentice.
9 ~~The applicant shall pay to the board a fee of \$5.~~

10 **Sec. 161. 32 MRSA §1654**, as amended by PL 1983,
11 c. 841, §23, is further amended to read:

12 §1654. Reciprocity with other states

13 The board may waive the examination and grant
14 registration licensure to any applicant who shall
15 present proof of current ~~registration or~~ licensure in
16 another state, other jurisdiction of the United
17 States or another country which grants similar privi-
18 leges to persons registered under this chapter and
19 maintains professional standards deemed by the board
20 to be equivalent to those set forth in this chapter,
21 provided that no cause exists for denial of a license
22 under section 1657-A. Such an applicant shall pay the
23 ~~same~~ fee as provided in section ~~1657~~ 1657-B.

24 The board may allow an applicant to take the ex-
25 amination who presents proof of training or experi-
26 ence, of an amount at least equal to that required
27 under section 1652, subsection 3, in another state,
28 other jurisdiction of the United States or another
29 country which maintains professional standards deemed
30 by the board to be equivalent to those set forth in
31 this chapter, provided that no cause exists for deni-
32 al of a license under section ~~1658~~ 1657-A. Such an
33 applicant shall pay the ~~same~~ fee as provided in sec-
34 tion ~~1652~~ 1657-B.

35 **Sec. 162. 32 MRSA §1655**, first and 3rd para-
36 **graphs**, as repealed and replaced by PL 1977, c. 398,
37 §10, are amended to read:

38 The board shall furnish to each registered ap-
39 prentice a ~~certificate of~~ registration of apprentice-
40 ship.

1 Each apprentice shall make application on a form
2 supplied by the board for ~~certificates~~ of registra-
3 tion. The application shall be filed with the secre-
4 tary of the board and shall be accompanied by a reg-
5 istration fee of ~~\$10~~. The ~~certificate~~ of registration
6 shall expire 18 months from date of issue and shall
7 be renewable. The ~~certificate~~ registration shall be
8 displayed as provided for ~~certificates~~ licenses in
9 section ~~1652~~ 1657. The term "apprentice" shall appear
10 in conspicuous print upon the ~~certificate~~
11 registration.

12 Sec. 163. 32 MRSA §1655-A, 2nd ¶, as enacted by
13 PL 1983, c. 841, §24, is amended to read:

14 To be eligible for a student permit, a student
15 cosmetologist must be at least 16 years of age and
16 have completed the 10th grade in a secondary school.
17 The application shall include evidence of the student
18 cosmetologist's enrollment in a school of cosmetology
19 licensed by the Commissioner of Educational and Cul-
20 tural Services. ~~The student shall pay a registration~~
21 ~~fee of \$5.~~

22 Sec. 164. 32 MRSA §1656, as amended by PL 1981,
23 c. 501, §60, is further amended to read:

24 §1656. Demonstrations; manicuring

25 1. Demonstrators. Any person registered licensed
26 to practice cosmetology may apply to the board of
27 registration as a demonstrator. A certificate of
28 registration license limited to demonstrations only
29 may be issued upon complying with such requirements
30 as may be determined by the board ~~and upon payment of~~
31 ~~the fee of \$25 for an initial license~~, which is valid
32 until the next renewal date. Certificates shall be
33 renewed biennially on or before July 1st by ~~paying a~~
34 ~~renewal fee of \$30.~~

35 2. Manicuring. A ~~certificate of registration~~
36 license limited to manicuring only may be issued upon
37 complying with such examination requirements as may
38 be determined by the board and upon payment of the
39 fees as provided by this chapter.

40 Sec. 165. 32 MRSA §1657, as amended by PL 1983,
41 c. 413, §73, is further amended to read:

1 §1657. Licenses; renewal

2 The board shall furnish to each registered
3 licensed cosmetologist a ~~certificate of registration~~
4 license bearing the seal of the board and the names
5 of all of its members, certifying that the holder
6 thereof is entitled to practice cosmetology in this
7 State. It shall be the duty of the holder of such
8 ~~certificate of registration license~~ to post it in a
9 conspicuous place where it may be readily seen by all
10 persons served.

11 The ~~certificate of registration license~~ shall be
12 renewed on or before the first day of July biennial-
13 ly. ~~The holder of the certificate of registration~~
14 ~~shall pay the board for the biennial renewal a sum~~
15 ~~between \$20 and \$35, as determined by the board.~~

16 A license may be renewed up to 90 days after the
17 date of its expiration upon payment of a late fee of
18 \$10 in addition to the renewal fee. Any person who
19 submits an application for renewal more than 90 days
20 after the license expiration date shall be subject to
21 all requirements governing new applicants under this
22 chapter, except that the board may in its discretion,
23 giving due consideration to the protection of the
24 public, waive examination if the renewal application
25 is made within 2 years from the date of the expira-
26 tion. The board shall have the authority to waive the
27 90-day time period for extenuating circumstances.

28 **Sec. 166. 32 MRSA §1657-A**, as repealed and re-
29 placed by PL 1983, c. 413, §74, is amended to read:

30 §1657-A. Suspension, revocation and refusal to issue
31 or to renew license

32 The board shall investigate or cause to be inves-
33 tigated all complaints made to it and all cases of
34 noncompliance with or violation of this chapter. The
35 board may suspend or revoke a license pursuant to Ti-
36 tle 5, section 10004. The board may refuse to issue
37 or renew a license or the Administrative Court may
38 revoke, suspend or refuse to renew a license of any
39 person registered licensed under this chapter for any
40 of the following reasons:

- 1 1. Obtaining registration or license by fraud.
2 Obtaining registration or license by means of fraud,
3 misrepresentation or concealment of material facts;
- 4 2. Violation of any lawful order, rule. Violat-
5 ing any lawful order or rule adopted by the board;
- 6 3. Violations. Violating any provision of this
7 chapter;
- 8 4. Conviction of a crime. Being convicted of a
9 crime in any court of the United States, if the acts
10 for which the person is convicted are found by the
11 board to have a direct bearing on whether the person
12 should be entrusted to serve the public in a capacity
13 which is subject to license or registration under
14 this chapter, subject to the limitations of Title 5,
15 chapter 341; or
- 16 5. Certain conduct. ~~Repeated--acts~~ Acts or
17 continued conduct while serving customers which is
18 are dangerous or injurious, or potentially so, to
19 customers.

20 The board may reissue a license ~~or--registration~~
21 to any person whose license ~~or--registration~~ has been
22 revoked, if 4 or more members of the board vote in
23 favor of reissuance.

24 Sec. 167. 32 MRSA §1657-B is enacted to read:

25 §1657-B. Fees

26 1. Fees. Fees may be established by the board in
27 amounts that are reasonable and necessary for their
28 respective purposes. With the exception of the vari-
29 ous examination fees which are to be collected upon
30 the administration of the examinations and appren-
31 ticeship registrations, all fees are to be collected
32 by the board on a biennial basis. The fees may not
33 exceed the following amounts:

34 A. For an instructor's examination, \$50;

35 B. For original and biennial renewal of
36 instructor's license, \$16;

1 C. For original and biennial renewal of shop li-
2 cence, \$35;

3 D. For a hairdresser's examination, \$15;

4 E. For original and biennial renewal of a
5 hairdresser license, \$35;

6 F. For a student permit, \$5;

7 G. For a temporary permit, \$5;

8 H. For original and renewal of an apprentice's
9 registration, \$10;

10 I. For original and biennial renewal of a demon-
11 strator's license, \$30; and

12 J. For original and renewal of a manicurist's
13 license, \$35.

14 **Sec. 168. 32 MRSA §2315, as amended by PL 1979,**
15 **c. 606, §10, is further amended to read:**

16 §2315. State oil and solid fuel compliance officers

17 State oil and solid fuel compliance officers,
18 upon written complaint of any owner, lessee or tenant
19 of a building, state fire inspector, fire chief, fire
20 department inspector, personnel of an electric utili-
21 ty or local electrical inspector, or whenever they
22 shall deem it necessary, for purposes of examination
23 of the burner installation, may at all reasonable
24 hours enter into and upon all buildings or premises
25 within their jurisdiction and inspect the buildings
26 or premises. The inspectors may enter any building
27 only with the permission of the person having control
28 thereof or, after hearing, upon order of the court.
29 Whenever any such compliance officer shall find any
30 burner installation in any building or structure
31 which does not comply with the requirements of this
32 chapter, he shall order the burner to be removed or
33 remedied, and the order shall forthwith be complied
34 with by the owner or occupant of that building or
35 structure. The owner or occupant may, within 7 days,
36 appeal to the Oil and Solid Fuel Board, which shall,
37 within 10 days, review the order and file its deci-

1 sion thereon, which decision shall be complied with
2 within such time as may be fixed in the decision of
3 the board. In the event any person, firm or corpora-
4 tion fails or refuses to carry out any such order of
5 any oil or solid fuel burner compliance officer or
6 decision of the board, a court may order appropriate
7 injunctive relief. State oil and solid fuel compli-
8 ance officers shall have the authority to review the
9 burner installation records of any person licensed
10 under this chapter.

11 **Sec. 169.** 32 MRSA §2351, first ¶, as repealed
12 and replaced by PL 1985, c. 506, Pt. A, §68, is
13 amended to read:

14 An Oil and Solid Fuel Board, as established by
15 Title 5, section 12004, subsection 1, and in this
16 chapter called the "board," shall consist of the Com-
17 missioner of Business, Occupational and Professional
18 and Financial Regulation or a representative ap-
19 pointed by the commissioner, the Commissioner of Pub-
20 lic Safety or a representative and 5 other members,
21 called in this chapter the "appointive members," who
22 shall be appointed by the Governor.

23 **Sec. 170.** 32 MRSA §2352, first ¶, as amended by
24 PL 1985, c. 785, Pt. B, §135, is further amended to
25 read:

26 The Commissioner of Business, Occupational and
27 Professional and Financial Regulation, with the ad-
28 vice and consent of the board, shall be empowered to
29 appoint, subject to the Civil Service Law, such em-
30 ployees as may be necessary to carry out this chap-
31 ter. Any persons so employed shall be located in the
32 Department of Business, Occupational and Professional
33 and Financial Regulation and under the administrative
34 and supervisory direction of the Commissioner of
35 Business, Occupational and Professional and Financial
36 Regulation. In addition, the board may enter into
37 contracts to carry out its responsibilities under
38 this chapter.

39 **Sec. 171.** 32 MRSA §2357, as enacted by PL 1975,
40 c. 767, §10, is amended to read:

41 §2357. Reports

1 Not later than August 1st of each year, the board
2 shall submit to the Commissioner of Business Profes-
3 sional and Financial Regulation for the preceding
4 fiscal year ending June 30th an annual report of its
5 operations and financial position, together with such
6 comments and recommendations as the board deems es-
7 sential.

8 **Sec. 172. 32 MRSA §2402, sub-§2, as amended by**
9 **PL 1983, c. 413, §123; is further amended to read:**

10 2. Fees. An application fee and an examination
11 fee may be established by the board in amounts which
12 are reasonable and necessary for their respective
13 purposes. ~~Original and renewal license fees shall be~~
14 ~~as follows~~ may be established by the board in amounts
15 which are reasonable and necessary for their respec-
16 tive purposes. The fees may not exceed the following
17 amounts:

18 A. Master, original license, \$50 \$100; biennial
19 renewal fee, ~~\$100~~ \$200;

20 B. Journeyman, original license, \$25 \$50; bien-
21 nial renewal fee, \$50 \$100; and

22 C. Apprentice, original license, ~~\$10~~ \$20; bien-
23 nial renewal fee, ~~\$20~~ \$40.

24 When the unexpired term of license of an applicant is
25 or will be more than one year at time of licensure,
26 the board may require the applicant to pay an addi-
27 tional fee not to exceed 1/2 the biennial renewal
28 fee.

29 A person holding a license as a master oil burner
30 technician is not required to pay a fee to be li-
31 censed as a master solid fuel burner technician, as
32 long as he meets all other requirements and pays the
33 examination fee required by section 2403. A person
34 holding a license as a master solid fuel burner tech-
35 nician is not required to pay a fee to be licensed as
36 a master oil burner technician, as long as he meets
37 all other requirements and pays the examination fee
38 required by section 2403. Any person who has paid a
39 fee for both master licenses held simultaneously
40 shall be given a credit for one license fee less the

1 examination fee, which shall be applied to the next
2 renewal.

3 Sec. 173. 32 MRSA §3821-A is enacted to read:

4 §3821-A. Consultant

5 The board shall contract with a psychologist fa-
6 miliar with the board's purpose and operation who
7 shall be available as needed to respond to inquiries
8 from applicants for licensure, primarily inquiries
9 regarding the component of the licensure process
10 dealing with credentials review. The psychologist
11 consultant shall advise, consult and assist the board
12 with the credentials review process, as well as other
13 matters as needed.

14 Sec. 174. 32 MRSA c. 59, as amended, is re-
15 pealed.

16 Sec. 175. 32 MRSA §4907, first ¶, as amended by
17 PL 1983, c. 812, §243, is further amended to read:

18 The State Board of Certification for Geologists
19 and Soil Scientists as established by Title 5, sec-
20 tion 12004, subsection 1, shall administer this chap-
21 ter and its office shall be within the Department of
22 ~~Business, Occupational and Professional and Financial~~
23 Regulation. The board shall consist of 7 members, 5
24 of whom shall be appointed by the Governor from the
25 following categories: One academic geologist; one in-
26 dependent consultant or salaried geologist; one inde-
27 pendent consultant or salaried soil scientist; one
28 other soil scientist and a representative of the pub-
29 lic. The 6th and 7th members shall be the State Soil
30 Scientist with the Maine Soil and Water Conservation
31 Commission, ex officio, and the State Geologist or
32 his designee, who shall be a geologist employed in
33 State Government, ex officio. No person, except the
34 representative of the public, ~~shall~~ may be eligible
35 for appointment to the board unless certified under
36 this chapter.

37 Sec. 176. 32 MRSA §4908, sub-§§1 and 2, as
38 amended by PL 1983, c. 553, §46, are further amended
39 to read:

1 1. Register. The Central-Licensing Division of
2 Licensing and Enforcement of the Department of Busi-
3 ness, Occupational--and Professional and Financial
4 Regulation shall compile and maintain a complete and
5 up-to-date list of all licenses. The list shall be
6 made available to any person upon request.

7 2. Reports. On or before August 1st of each
8 year, the board shall submit to the Commissioner of
9 Business, Occupational--and Professional and Financial
10 Regulation for the preceding fiscal year ending June
11 30th, its annual report of its operations and finan-
12 cial position, together with such comments and recom-
13 mendations as the commissioner deems essential.

14 The board shall submit to the Commissioner of Busi-
15 ness, Occupational--and Professional and Financial
16 Regulation its budgetary requirements in the same
17 manner as is provided in Title 5, section 1665, and
18 the commissioner shall in turn transmit these re-
19 quirements to the Bureau of the Budget.

20 Sec. 177. 32 MRSA §4908, sub-§3, as amended by
21 PL 1985, c. 785, Pt. B, §143, is further amended to
22 read:

23 3. Employees. The Commissioner of Business,--Oc-
24 cupational--and Professional and Financial Regulation,
25 with the advice and consent of the board, shall be
26 empowered to appoint, subject to the Civil Service
27 Law, such employees as may be necessary to carry out
28 this chapter. Any person employed shall be located in
29 the Department of Business, Occupational--and Profes-
30 sional and Financial Regulation and under the admin-
31 istrative and supervisory direction of the Commis-
32 sioner of Business, Occupational--and Professional and
33 Financial Regulation.

34 Sec. 178. 32 MRSA §4911, first ¶, as amended by
35 PL 1983, c. 413, §182, is further amended to read:

36 Certificates shall expire on December 31st bienn-
37 nially and shall become invalid on that date unless
38 renewed. It shall be the duty of the Central
39 Licensing Division of Licensing and Enforcement of
40 the Department of Business Professional and Financial

1 Regulation to notify, at his last known address, ev-
2 ery person registered under this chapter of the date
3 of the expiration of his license and the amount of
4 the fee that shall be required for its renewal for a
5 2-year period. The notice shall be mailed at least
6 one month in advance of the expiration date.

7 Sec. 179. 32 MRSA c. 75, first 2 lines are re-
8 pealed and the following enacted in their place:

9 CHAPTER 75

10 FORESTER LICENSING

11 Sec. 180. 32 MRSA §5002, as amended by PL 1979,
12 c. 118, §1, is further amended to read:

13 §5002. Use of title

14 Except as specifically authorized, no person
15 shall may engage in the practice of forestry as de-
16 fined in this chapter or in any manner advertise or
17 hold himself out as engaged in such practice, without
18 first being licensed as a registered licensed profes-
19 sional forester under this chapter. Nothing in this
20 chapter shall may be construed as preventing or pro-
21 hibiting any person from managing or otherwise con-
22 ducting forestry practices on land owned, leased,
23 rented or held under any contractual arrangement by
24 such person; nor shall may anything herein prohibit
25 any person from practicing forestry under the super-
26 vision of a registered licensed forester; nor shall
27 may anything herein prohibit employees of a federal
28 governmental agency from practicing for said the fed-
29 eral governmental agency.

30 Sec. 181. 32 MRSA §5003, sub-§§1 and 3, as en-
31 acted by PL 1975, c. 490, are amended to read:

32 1. Board. "Board" shall mean the Maine State
33 Board of Registration Licensure for Professional For-
34 esters.

35 3. Licensed professional forester. "Registered
36 Licensed professional forester" shall mean a person
37 who ~~has--registered-and~~ is licensed under the provi-
38 sions of this chapter.

1 **Sec. 182. 32 MRSA §5004**, as amended by PL 1983,
2 c. 812, §245, is further amended to read:

3 §5004. State Board of Licensure

4 A State Board of Registration Licensure for Pro-
5 fessional Foresters within the Department of Business
6 ~~7-Occupational and Professional and Financial Regula-~~
7 tion, as established by Title 5, section 12004, sub-
8 section 1, shall administer the provisions of this
9 chapter. The board shall consist of 5 professional
10 foresters and one public member who shall be selected
11 and appointed by the Governor, and the forester mem-
12 bers shall be qualified as required by section 5005.
13 Appointments shall be for 5-year terms, except that
14 no more than one forester member's term may expire in
15 any one calendar year and appointments for terms of
16 less than 5 years may be made in order to comply with
17 this limitation. Upon expiration of a member's term,
18 he shall serve until his successor is qualified and
19 appointed. The successor's term shall be 4 years
20 from the date of the expiration, regardless of the
21 date of his appointment. No person may be eligible
22 to serve more than 2 full consecutive terms, provided
23 that for this purpose only a period actually served
24 which exceeds 1/2 of the 5-year term shall be deemed
25 a full term.

26 **Sec. 183. 32 MRSA §5009, sub-§3**, as enacted by
27 PL 1983, c. 413, §189, is amended to read:

28 3. Hearings. Hearings may be conducted by the
29 board to assist with investigations, to determine
30 whether grounds exist for suspension, revocation or
31 denial of a license, or as otherwise deemed necessary
32 to the fulfillment of its responsibilities under this
33 chapter.

34 The board shall not refuse to renew a license for any
35 reason other than failure to pay a required fee, un-
36 less it has afforded the licensee as an opportunity
37 for an adjudicatory hearing. The board shall hold an
38 adjudicatory hearing at the written request of any
39 person who is denied a license without a hearing for
40 any reason other than failure to pay a required fee,
41 provided that the request for hearing is received by

1 the board within 30 days of the applicant's receipt
2 of written notice of the denial of his application,
3 the reasons for the denial of his application and his
4 right to request a hearing. Hearings shall be con-
5 ducted in conformity with the Maine Administrative
6 Procedure Act, Title 5, chapter 375, subchapter IV,
7 to the extent applicable. The board may subpoena wit-
8 nesses, records and documents in any hearing it con-
9 ducts.

10 **Sec. 184. 32 MRSA §5012, as repealed and re-**
11 **placed by PL 1981, c. 470, Pt. A, §154, is amended to**
12 **read:**

13 §5012. General requirements for licensure

14 The minimum qualifications and requirements for
15 registration licensure as a registered licensed pro-
16 fessional forester shall be as follows: Graduation
17 from a curriculum in forestry of 4 years or more in a
18 school or college approved by the board or graduation
19 from a post-graduate curriculum in forestry leading
20 to a degree higher than a bachelor's degree in a
21 school or college approved by the board. Applicants
22 who have not graduated from such a curriculum may
23 substitute 2 years' experience in forestry work of a
24 character satisfactory to the board for each year of
25 the undergraduate requirement of this section.

26 **Sec. 185. 32 MRSA §5013, as amended by PL 1983,**
27 **c. 413, §191, is further amended to read:**

28 §5013. Applications; fees

29 Applications for registration licensure shall be
30 made on forms prescribed and furnished by the board,
31 and shall contain statements made under oath as to
32 residence, the applicant's education, a detailed sum-
33 mary of his technical experience, and shall contain
34 the names of not less than 5 references, 3 or more of
35 whom shall be foresters having personal or profes-
36 sional knowledge of his forestry experience. Not-
37 withstanding any other provision of law, any communi-
38 cations solicited or received by the board as refer-
39 ences may be kept confidential by the board and any
40 discussion of these references may be conducted in

1 executive session. An application fee may be estab-
2 lished by the board in an amount which is reasonable
3 and necessary for its purpose. The registration fee
4 for a license as a registered licensed professional
5 forester shall be fixed by the board, but shall not
6 exceed \$25 for 2 years and shall be paid before the
7 issuance of the license. Should the applicant fail
8 to remit the registration licensure fee within 30
9 days after being notified by certified mail that his
10 application has been accepted, he shall forfeit the
11 right to have a license so issued and the applicant
12 may be required to again submit an original applica-
13 tion.

14 **Sec. 186. 32 MRSA §5014**, as amended by PL 1983,
15 c. 413, §192, are further amended to read:

16 §5014. Issuance of license; endorsement of documents

17 The board shall issue a license upon payment of
18 the registration licensure fee as provided in this
19 section to any applicant who, in the opinion of the
20 board, has satisfactorily met all the requirements of
21 this chapter. Licenses shall show the full name of
22 the registrant licensee. The issuance of a license
23 by the board shall be evidence that the person named
24 therein is entitled to all the rights and privileges
25 of a registered licensed professional forester while
26 the license remains unrevoked or unexpired. Plans,
27 maps and reports issued by the registrant licensee
28 shall be endorsed with his name and license number
29 during the life of the registrant's licensee's li-
30 cense, but it shall be a Class E crime for anyone to
31 endorse any document with that name and license num-
32 ber after the license of the registrant licensee
33 named thereon has expired or has been revoked or sus-
34 pended, unless the license has been renewed or reis-
35 sued. It is a Class E crime for any registered
36 licensed professional forester to endorse any plan,
37 map or report unless he shall have actually prepared
38 such plan, map or report, or shall have been in the
39 actual charge of the preparation thereof.

40 **Sec. 187. 32 MRSA §5015**, as amended by PL 1983,
41 c. 413, §193, is further amended to read:

1 §5015. Expiration and renewal of license

2 The ~~Central--Licensing~~ Division of Licensing and
3 Enforcement of the Department of Business Profession-
4 al and Financial Regulation shall compile and main-
5 tain a complete and up-to-date list of all licensed
6 foresters in the State. The list shall be made avail-
7 able to any person upon request at cost.

8 Licenses shall expire on December 31st 2 years
9 following their issuance or renewal and shall become
10 invalid on that date unless renewed. It shall be the
11 duty of the ~~Central-Licensing~~ Division of Licensing
12 and Enforcement to notify, at his last registered ad-
13 dress, every person registered licensed under this
14 chapter of the date of the expiration of his license
15 and the amount of the fee that shall be required for
16 its renewal for 2 years, that notice to be mailed at
17 least one month in advance of the date of the expira-
18 tion of that license. The board shall fix the renew-
19 al fee for licenses, which fee shall not exceed the
20 sum of \$25 for 2 years. Renewal of licenses for the
21 following 2 years may be effected at any time during
22 the month of December of the year in which the li-
23 cense is due for renewal by payment of the renewal
24 fee fixed by the board. A license may be renewed up
25 to 90 days after the date of expiration upon payment
26 of a late fee of \$10 in addition to the renewal fee.
27 Any person who submits an application for renewal
28 more than 90 days after the license renewal date
29 shall be subject to all requirements governing new
30 applicants under this chapter. The board shall make
31 an exception to the foregoing renewal provision in
32 the case of a person who is in the Armed Services of
33 the United States.

34 **Sec. 188.** 32 MRSA §5016, as enacted by PL 1975,
35 c. 490, is amended to read:

36 §5016. Firms; partnerships and corporations

37 Registration Licensure shall be determined upon a
38 basis of individual and personal qualifications. No
39 firms, companies, partnerships or corporations ~~shall~~
40 may be registered licensed under this chapter.

41 **Sec. 189.** 32 MRSA §5017, as enacted by PL 1975,
42 c. 490, is amended to read:

1 §5017. Reciprocity

2 A person not a resident of and having no estab-
3 lished place of business in Maine, or who has recent-
4 ly become a resident thereof, may not practice or of-
5 fer to practice forestry nor use the title,
6 "registered licensed professional forester," unless
7 such person is legally registered licensed as a for-
8 ester in his own state or country and has submitted
9 evidence to the board that he is so registered
10 licensed, and the state or country in which he is
11 registered licensed observes the same rules of reci-
12 procity in regards to persons registered licensed un-
13 der the provisions of this chapter, and the state or
14 country in which he is so registered licensed has
15 substantially equivalent requirements for
16 registration licensure as set forth in this chapter.
17 It shall be the judgment of the board that these re-
18 quirements for registration licensure are of a sub-
19 stantially equivalent nature.

20 A person practicing as a registered licensed pro-
21 fessional forester under the provisions of this sec-
22 tion must show proof to the board each calendar year
23 of his continued registration licensure as a
24 registered licensed forester in another state.

25 Sec. 190. 32 MRSA §5018, as amended by PL 1983,
26 c. 413, §§194 and 195, is further amended to read:

27 §5018. Revocation; suspension; refusal to renew and
28 reissuance of licenses

29 The board may, pursuant to Title 5, section
30 10004, revoke or suspend the license of a profession-
31 al forester. In addition, the board may refuse to is-
32 sue or renew the license, or the Administrative Court
33 may, pursuant to Title 4, chapter 25, revoke, suspend
34 or refuse to renew the license, of a professional
35 forester who has been found guilty of any deceit,
36 misconduct, misrepresentation, fraud, incompetence or
37 gross negligence in his practice, or has been guilty
38 of any fraud or deceit in obtaining his registration
39 or-certification license, or aids or abets any person
40 alleged to have been defrauded in the violation of
41 any provisions of this chapter or fails in any mate-
42 rial respect to comply with the provisions of this
43 chapter.

1 Any person may register a complaint of fraud, de-
2 ceit, gross negligence, incompetency or misconduct
3 against any registrant licensee. These complaints
4 shall be in writing, shall be sworn to by the person
5 making them and shall be filed with the board.

6 The board is empowered to designate a person or
7 persons to investigate and report to it upon said the
8 charge. Such person or persons so designated shall be
9 reimbursed for expenses in the same manner as pre-
10 scribed for the board in section 5010.

11 Any person aggrieved by final board action shall
12 be entitled to judicial review thereof in the Superi-
13 or Court in the manner provided in Title 5, chapter
14 375, subchapter VII.

15 The board, for reasons it may deem sufficient,
16 may reissue a license to a registrant licensee whose
17 license has been revoked, provided 4 or more members
18 of the board vote in favor of such reissuance. A new
19 license to replace any license revoked, lost, de-
20 stroyed or mutilated may be reissued, subject to the
21 rules of the board, and a charge set by the board
22 shall be made for such reissuance.

23 **Sec. 191. 32 MRSA §5019, first ¶, as amended by**
24 **PL 1983, c. 413, §196, is further amended to read:**

25 It shall be unlawful for any person to practice
26 forestry or offer to practice forestry or to use in
27 connection with his name, or otherwise assume, use or
28 advertise any title or description that directly or
29 indirectly conveys the impression that he is a
30 registered licensed professional forester in this
31 State unless he is registered licensed or exempt in
32 accordance with the provisions of this chapter. Any
33 person who shall present, or attempt to use as his
34 own, the license of another, or any person who shall
35 give any false or forged evidence to the board or any
36 member thereof in obtaining a license, or any person
37 who shall attempt to use an expired, suspended or re-
38 voked license, or any person, firm, partnership or
39 corporation who shall violate any provision of this
40 chapter is guilty of a Class E crime for each of-
41 fense. The board, or any person or persons designated
42 by the board to act on its behalf, is empowered to

1 prefer charges for any violation of this chapter in
2 any court of competent jurisdiction in any county in
3 the State in which the violation shall have occurred.
4 It shall be the duty of all duly constituted officers
5 of the law of the State, or of any political subdivi-
6 sions thereof, to enforce the provisions of this
7 chapter and to prosecute any persons, firms, partner-
8 ships or corporations violating the same. The Attor-
9 ney General shall act as legal advisor to the board
10 and shall render such legal assistance as may be nec-
11 essary in carrying out the provisions of this chap-
12 ter.

13 **Sec. 192.** 32 MRSA §6201, as amended by PL 1983,
14 c. 812, §249, is further amended to read:

15 §6201. State Board of Substance Abuse Counselors

16 The State Board of Registration--of Substance
17 Abuse Counselors within the Department of Business,
18 Occupational and Professional and Financial Regula-
19 tion as established by Title 5, section 12004, sub-
20 section 1, shall carry out the purposes of this chap-
21 ter.

22 **Sec. 193.** 32 MRSA §6202, as enacted by PL 1977,
23 c. 466, §2, is amended to read:

24 §6202. Objective

25 The objective of this legislation is to establish
26 a State Board of--Registration of Substance Abuse
27 Counselors, which will establish and ensure high pro-
28 fessional standards among substance abuse counselors
29 and which will encourage and promote quality treat-
30 ment and rehabilitation services for substance abus-
31 ers.

32 **Sec. 194.** 32 MRSA §6203, as enacted by PL 1977,
33 c. 466, §2, is amended to read:

34 §6203. Definitions

35 As used in this chapter, unless a different mean-
36 ing clearly appears from the context, the following
37 terms shall have the following meanings.

1 1. Board. "Board" means the State Board of Reg-
2 istration-of Substance Abuse Counselors.

3 2. Consumer of substance abuse services. A "con-
4 sumer of substance abuse services" is a nonprovider
5 who--has-received-substance-abuse-counseling-services
6 within-the-State-of-Maine person affected by or re-
7 covered from alcoholism, chronic intoxication, drug
8 abuse or drug dependency having evidenced a minimum
9 of 2 years of sobriety or abstention from drug abuse.

10 3. Nonprovider. A "nonprovider" means an indi-
11 vidual who neither is presently nor has been any of
12 the following:

13 A. A substance abuse counselor;

14 B. An administrator or board member of a facili-
15 ty or program which provides substance abuse ser-
16 vices; or

17 C. The spouse of any of those persons listed in
18 paragraphs A and B.

19 4.--~~Provisionally--registered---substance---abuse~~
20 ~~counselor.--"Provisionally-substance-abuse-counselor"~~
21 ~~means-a-substance-abuse--counselor--as--provisionally~~
22 ~~registered-under-this-chapter.~~

23 4-A. Associate substance abuse counselor. "As-
24 sociate Substance Abuse Counselor" means a practi-
25 tioner who provides the primary service of profes-
26 sional substance abuse counseling to the public, who
27 demonstrates a competency in substance abuse counsel-
28 ing to particular settings, client populations or who
29 are lacking in some areas of counseling skills to be
30 capable of working independently.

31 5. Licensed substance abuse counselor.
32 "Registered Licensed substance abuse counselor" means
33 a--substance-abuse-counselor-as-registered-under-this
34 chapter an individual who is providing the primary
35 service of professional substance abuse counseling to
36 the public, who has demonstrated a broad range of
37 clinical skills in the field of substance abuse coun-
38 seling and is capable of working with a wide range of
39 clients, in a wide range of treatment settings, and

1 has demonstrated a competency to work independently.

2 5-A. Inactive substance abuse counselor. "Inactive
3 substance abuse counselor" means a licensed,
4 certified or registered substance abuse counselor who
5 registers with the board for a leave from the field
6 for a period not to exceed 2 years. Inactive sub-
7 stance abuse counselors are not required to take the
8 written or oral examinations nor provide documenta-
9 tion of continuing education during the period they
10 have abstained from practice. Inactive substance
11 abuse counselors must notify the board for license
12 renewal prior to resuming their practice.

13 6. Substance abuse counseling services. "Sub-
14 stance abuse counseling services" are those counsel-
15 ing services offered as part of the treatment and re-
16 habilitation of persons abusing chemical substances.
17 The purpose of substance abuse counseling services is
18 to help individuals, families and groups confront and
19 resolve problems caused by the abuse of chemical sub-
20 stances.

21 7. Registered substance abuse counselor. A
22 "registered substance abuse counselor" is a person
23 who presents himself to the public or gives or offers
24 substance abuse counseling services as the primary
25 service provided to any public or private individual,
26 corporation or agency in the State.

27 **Sec. 195. 32 MRSA §6204**, as enacted by PL 1977,
28 c. 466, §2, is amended to read:

29 §6204. Reporting

30 No later than August 1st of each year, the board
31 shall submit to the Commissioner of Business Profes-
32 sional and Financial Regulation, for the preceding
33 fiscal year ending June 30th, an annual report of its
34 operations and financial position, together with such
35 comments and recommendations as the board deems es-
36 sential.

37 **Sec. 196. 32 MRSA §6205**, as enacted by PL 1977,
38 c. 466, §2, is repealed and the following enacted in
39 its place:

1 §6205. Unlawful use of title "inactive substance
2 abuse counselor" or "licensed substance abuse
3 counselor," "associate substance abuse coun-
4 selor" or "registered substance abuse coun-
5 selor"

6 No person may represent himself to the public, or
7 assume or use the title or designation "inactive sub-
8 stance abuse counselor," "licensed substance abuse
9 counselor," "associate substance abuse counselor,"
10 "registered substance abuse counselor" or the abbrevi-
11 ation "I.S.A.C.," "L.S.A.C.," "A.S.A.C." or
12 "R.S.A.C." or any other title, designation, words,
13 letters or device tending to indicate that such a
14 person is a "licensed," "associate" or "registered"
15 substance abuse counselor, unless such person is li-
16 censed or registered with and holds a current and
17 valid license or certificate of registration from the
18 board. Any person who offers or gives substance abuse
19 counseling services in violation of this section
20 shall be punished, upon conviction, by a fine of not
21 less than \$50 and not more than \$500 for each such
22 offense.

23 Sec. 197. 32 MRSA §6206, as enacted by PL 1977,
24 c. 466, §2, is amended to read:

25 §6206. Exemptions

26 Nothing in this chapter shall may prevent any
27 person from engaging in or offering substance abuse
28 counseling services provided that such person does
29 not represent himself as, ~~or use the title of,~~
30 ~~"provisionally-registered" substance abuse counselor~~
31 ~~or "registered"~~ providing the primary service of a
32 substance abuse counselor.

33 Sec. 198. 32 MRSA §6207, as enacted by PL 1977,
34 c. 466, §2, is repealed and the following enacted in
35 its place:

36 §6207. Registration required

37 1. Substance abuse counselor. In order to safe-
38 guard the health and safety of Maine's citizens, any
39 person who performs or offers to perform substance
40 abuse counseling services as the primary service pro-

1 vided and referring to himself as a substance abuse
2 counselor shall be required to submit evidence that
3 he is qualified to so practice and shall be regis-
4 tered, certified or licensed in accordance with this
5 chapter.

6 2. Evidence of qualifications. Any individual
7 who is providing the primary service of professional
8 substance abuse counseling to the public and who is
9 not employed in a program certified or licensed by
10 the State shall be required to submit evidence that
11 he is qualified to practice and shall be licensed as
12 a licensed substance abuse counselor as provided in
13 this subchapter.

14 3. Registration. Any individual who is providing
15 the primary service of professional substance abuse
16 counseling to the public, has demonstrated a compe-
17 tency in substance abuse counseling to particular
18 settings or client populations and is employed in a
19 program certified or licensed by the State must be
20 registered with the board or may be certified as an
21 associate substance abuse counselor as provided in
22 this subchapter.

23 Sec. 199. 32 MRSA c. 81, sub-c. II, first 3
24 lines are repealed and the following enacted in their
25 place:

26 SUBCHAPTER II

27 STATE BOARD OF SUBSTANCE ABUSE COUNSELORS

28 Sec. 200. 32 MRSA §6208-A, sub-§1, as amended by
29 PL 1983, c. 812, §250, is further amended to read:

30 1. Membership. The State Board of Registration
31 of Substance Abuse Counselors, as established by Ti-
32 tle 5, section 12004, subsection 1, shall consist of
33 9 members appointed by the Governor. Seven members
34 shall be licensed, certified or registered substance
35 abuse counselors. Two members shall be nonproviders,
36 one of whom shall be a consumer of substance abuse
37 services.

38 Sec. 201. 32 MRSA §6212, sub-§§1 and 3, as en-
39 acted by PL 1977, c. 466, §2, are amended to read:

1 1. Set standards. In addition to those standards
2 set forth in section 6213, the board in consultation
3 with the Office of Alcoholism and Drug Abuse Prevention
4 may set additional standards of eligibility for
5 persons desiring to become registered substance abuse
6 counselors.

7 3. Registration and standards. The board may
8 register and set standards of practice for
9 ~~provisionally-registered or licensed, certified and~~
10 registered substance abuse counselors working in
11 Maine.

12 Sec. 202. 32 MRSA c. 81, sub-c. III, first 2
13 lines are repealed and the following enacted in their
14 place:

15 SUBCHAPTER III

16 REGISTRATION AND LICENSURE

17 Sec. 203. 32 MRSA §6213, as amended by PL 1981,
18 c. 501, §80, is amended to read:

19 §6213. Eligibility requirements for associate or li-
20 icensed substance abuse counselor

21 To be eligible to apply for registration as a li-
22 icensed or associate substance abuse counselor, an ap-
23 plicant shall:

24 1. Age limit. Be at least 18 years of age;

25 2. Qualifications. Have been employed in the
26 profession of substance abuse counseling for a mini-
27 mum of 2 years or have the equivalent of 2 years of
28 paid employment as a substance abuse counselor. In
29 determining such equivalent, an applicant shall have
30 been employed at least one year in the profession of
31 substance abuse counseling and the board may substi-
32 tute work-based educational experience for the re-
33 maining period of required paid employment at a rate
34 of no less than 2 months of work-based educational
35 experience for each one-month period of required paid
36 employment. In determining such equivalent, an ap-
37 plicant shall have been employed at least 1 1/2 years
38 in the profession of substance abuse counseling and

1 the board may substitute volunteer work for the re-
2 maining period of required paid employment at a rate
3 of no less than 2 months of volunteer work for each
4 one-month period of required paid employment; and

5 3. Abstinence from drugs and alcohol. Have ab-
6 stained from the active abuse of alcohol or any other
7 drug which in the judgment of the board has been or
8 could have been detrimental to the applicant's per-
9 formance or competency as a substance abuse counsel-
10 or. It is strongly recommended that applicants have
11 abstained for at least the 2-year period immediately
12 preceding the date on which application is made. In
13 considering an applicant for registration, the board
14 shall not consider a history of previous alcoholism
15 or drug addiction as an essential qualification nor
16 disqualification for registration certification or
17 licensure.

18 Sec. 204. 32 MRSA §6213-A is enacted to read:

19 §6213-A. Eligibility requirements for registered
20 substance abuse counselor

21 To be eligible to apply for registration as a
22 registered substance abuse counselor, an applicant
23 shall notify the State Board of Substance Abuse Coun-
24 selors and provide their name, address and any other
25 information as deemed necessary by the board.

26 Sec. 205. 32 MRSA §6214, as enacted by PL 1977,
27 c. 466, §2, is repealed.

28 Sec. 206. 32 MRSA §§6214-A and 6214-B are en-
29 acted to read:

30 §6214-A. Qualifications

31 1. Licensed substance abuse counselor. The board
32 shall issue a license to practice substance abuse
33 counseling upon the affirmative vote of at least 5
34 members of the board to any applicant who has satis-
35 factorily met the following minimal requirements:

36 A. Met the eligibility requirements set forth in
37 section 6213;

1 B. Obtained a passing grade, as established by
2 the board, on any examinations the board may pre-
3 scribe by its rules;

4 C. Completed 30 semester hours of college-level
5 course work in appropriate social science fields
6 or its equivalent in appropriate substance abuse
7 training; and

8 D. Met any other criteria the board may pre-
9 scribe by its rules.

10 2. Associate substance abuse counselor. The
11 board may issue a certificate of registration as an
12 associate substance abuse counselor upon the affirma-
13 tive vote of 5 members of the board to any applicant
14 who has met the following minimal requirements:

15 A. Met the eligibility requirements set forth in
16 section 6213;

17 B. Obtained a passing grade on the written exam
18 and a provisionally passing grade on the oral ex-
19 am, as established by the board and prescribed by
20 its rules; and

21 C. Met any other criteria the board may pre-
22 scribe by its rules.

23 3. Reapplication for certificate. Any applicant
24 who is not issued a license or a certificate of reg-
25 istration may again apply for registration after a
26 period of not less than 6 months from the date of the
27 last denial.

28 §6214-B. Application

29 Any person registered by the board as a regis-
30 tered substance abuse counselor, R.S.A.C., prior to
31 the effective date of this section, shall automati-
32 cally be licensed as a licensed substance abuse coun-
33 selor, L.S.A.C.

34 Any person registered by the board as a regis-
35 tered substance abuse counselor, provisional,
36 R.S.A.C., provisional; or not registered by the
37 board, but who is providing the primary service of

1 professional substance abuse counseling to the public
2 and who is not employed in a program certified or li-
3 icensed by the State, prior to the effective date of
4 this section, shall comply with the requirements of
5 section 6207, subsection 2, by July 1, 1990.

6 Any person who is providing the primary service
7 of professional substance abuse counseling to the
8 public and who is employed in a program certified or
9 licensed by the State shall comply with the require-
10 ments of section 6207, subsection 3, by January 1,
11 1988.

12 **Sec. 207. 32 MRS** §6215, as repealed and re-
13 placed by PL 1983, c. 413, §217, is repealed and the
14 following enacted in its place:

15 §6215. Application; membership fees

16 Application for registration as a registered sub-
17 stance abuse counselor, licensure as a licensed sub-
18 stance abuse counselor or certification as an as-
19 sociate substance abuse counselor shall be on forms
20 prescribed and furnished by the board. Application
21 and examination fees may be established by the board
22 in amounts which are reasonable and necessary for
23 their respective purposes. A biennial registration
24 fee for registered substance abuse counselors shall
25 be established by the board in an amount not to ex-
26 ceed \$50 biennially. A biennial registration fee for
27 licensed substance abuse counselors and associate
28 substance abuse counselors shall be established by
29 the board in an amount not to exceed \$100 biennially.
30 The payment of fees shall be suspended during the
31 term of inactive status.

32 **Sec. 208. 32 MRS** §6217-A, first ¶, as repealed
33 and replaced by PL 1983, c. 413, §218, is amended to
34 read:

35 The board may suspend or revoke a license or cer-
36 tificate of registration pursuant to Title 5, section
37 10004. In addition, the board may refuse to issue or
38 renew or the Administrative Court may suspend, revoke
39 or refuse to renew a license or certificate of regis-
40 tration on any of the following grounds:

1 **Sec. 209.** 32 MRSA §6217-A, sub-§§1 and 4, as re-
2 pealed and replaced by PL 1983, c. 218, are amended
3 to read:

4 1. Fraud or deceit. The practice of fraud or
5 deceit in obtaining a ~~certificate--of-provisional~~
6 registration license or a certificate of registration
7 under this chapter or in connection with services
8 rendered as a substance abuse counselor;

9 4. Aiding and abetting misrepresentation. Aid-
10 ing or abetting a person, not duly ~~certified--as--a~~
11 ~~provisionally--registered~~ licensed or registered as a
12 substance abuse counselor, in representing oneself as
13 a ~~provisionally--registered~~ licensed substance abuse
14 counselor, associate substance abuse counselor or
15 registered substance abuse counselor in this State;

16 **Sec. 210.** 32 MRSA §6218, as repealed and re-
17 placed by PL 1983, c. 413, §219, is amended to read:

18 §6218. Issuance after denial, suspension or revoca-
19 tion

20 The board, for reasons it may deem sufficient,
21 may issue or reissue a ~~certificate-of-provisional~~
22 registration license or certificate of registration
23 to any person whose ~~certificate--of--provisional~~
24 registration license or certificate of registration
25 has been denied, suspended or revoked, provided that
26 at least 5 members of the board vote in favor of that
27 issuance.

28 **Sec. 211.** 32 MRSA §6219, as amended by PL 1983,
29 c. 413, §220, is further amended to read:

30 §6219. Expiration and renewal

31 ~~The--certificate--of--provisional-registration-is~~
32 ~~nonrenewable-and-shall-expire-3-years-from--the--date~~
33 ~~of--initial--issuance.~~ The license and certificate of
34 registration shall expire biennially on August 31st
35 or at such other time as the Commissioner of Business
36 Professional and Financial Regulation may designate.
37 Registration Licensure or registration may be renewed
38 for the succeeding 2-year period upon written appli-
39 cation of the registrant, the approval of the board

1 and the payment of the fee provided. A fee for renew-
2 al of license or certificate of registration shall be
3 set by the board in an amount not to exceed \$25 and
4 shall be due and payable on or before the expiration
5 date. Before a license or certificate of registration
6 may be renewed, the applicant shall present evidence
7 of continued professional learning and training of a
8 type which is acceptable to the board.

9 Registration Licensure, certification or
10 registration may be renewed up to 90 days after the
11 date of expiration upon payment of a late fee of \$10
12 in addition to the renewal fee. Any person who sub-
13 mits an application for renewal more than 90 days af-
14 ter the license renewal date shall be subject to all
15 requirements governing new applicants under this
16 chapter, except that the board may in its discretion,
17 giving due consideration to the protection of the
18 public, waive examination if that renewal application
19 is made within 2 years from the date of that expira-
20 tion or if the applicant is a registered inactive
21 substance abuse counselor. The board shall be re-
22 sponsible for mailing notification of the date of ex-
23 piration of a ~~certificate of provisional registration~~
24 license or a certificate of registration to any
25 provisionally--registered or registered licensed sub-
26 stance abuse counselor, associate substance abuse
27 counselor, inactive substance abuse counselor or reg-
28 istered substance abuse counselor not later than 30
29 days prior to the date of expiration.

30 **Sec. 212. 32 c.c. 113 and 115 are enacted to**
31 **read:**

32 CHAPTER 113

33 REAL ESTATE BROKERAGE LICENSE ACT

34 SUBCHAPTER I

35 GENERAL PROVISIONS

36 §13001. Definitions

37 As used in this chapter, unless the context oth-
38 erwise indicates, the following terms have the fol-
39 lowing meanings.

1 1. Real estate. "Real estate" means all estates
2 and lesser interests in land and an existing business
3 if real estate is a part of the business.

4 2. Real estate brokerage. "Real estate broker-
5 age" means a single instance of offering, attempting
6 to conduct or conducting services on behalf of another
7 for compensation, or with the expectation of re-
8 ceiving compensation, calculated to result in the
9 transfer of an interest in real estate. Real estate
10 brokerage includes, but is not limited to, the fol-
11 lowing activities conducted in behalf of another:

12 A. Listing real estate for sale or exchange;

13 B. Promoting the purchase, sale or exchange of
14 real estate;

15 C. Procuring of prospects calculated to result
16 in the purchase, sale or exchange of real estate;

17 D. Advertising or holding oneself out as offer-
18 ing any services described in this subsection;

19 E. Negotiating the purchase, sale or exchange of
20 real estate;

21 F. Buying options on real estate or selling real
22 estate options or the real estate under option;

23 G. Acting as a finder to facilitate the pur-
24 chase, sale or exchange of real estate; and

25 H. Buying, selling or exchanging real estate.

26 §13002. Exceptions to brokerage

27 Real estate brokerage shall not include the fol-
28 lowing:

29 1. Transactions by owner or lessor. Transactions
30 conducted by any person who is the owner or lessor of
31 the real estate, or to their regular employees with
32 regard to the employer's real estate, provided that
33 the real estate transaction services rendered by the
34 employee are performed as an incident to the usual
35 duties performed for the employer;

1 2. Attorney-at-law in the performance of duties
2 as an attorney-at-law. This exception does not apply
3 to attorneys who are regularly engaged in real estate
4 brokerage; and

5 3. Exception. Any person licensed as an auction-
6 eer under chapter 5, hired to call bids at an auc-
7 tion, if the person employed does not prepare con-
8 tracts or otherwise control the actual sale or take
9 custody of any part of the purchase price.

10 §13003. License required

11 It is unlawful for any person or entity to engage
12 in real estate brokerage without a current real es-
13 tate brokerage agency license issued under this chap-
14 ter or a license authorizing the person to engage in
15 brokerage activity on behalf of a brokerage agency.

16 §13004. Civil actions

17 No person or entity may bring or maintain any ac-
18 tion in the courts of this State for the collection
19 of compensation for real estate brokerage services,
20 without first proving that the person or entity was
21 properly licensed by the Real Estate Commission at
22 the time the cause of action arose.

23 §13005. Penalties

24 Any person or entity violating this chapter shall
25 be punished, upon conviction, by a fine of not more
26 than \$2,000 for each violation, plus the amount of
27 compensation received in the subject transaction, by
28 imprisonment for not more than 6 months, or by both.
29 Any officer or agent of an entity, who shall person-
30 ally participate in or be accessory to any violation
31 of this chapter, shall be subject to the penalties
32 prescribed under this section. Any court of competent
33 jurisdiction shall have full power to try any viola-
34 tion of this chapter and, upon conviction, the court
35 may at its discretion revoke or suspend the license
36 of the person or entity so convicted. All fines and
37 penalties over and above the cost of court proceed-
38 ings shall inure to the commission. A violation of
39 this chapter includes performing or attempting to
40 perform those acts which constitute prohibited prac-
41 tices.

1 The State may bring an action in Superior Court
2 to enjoin any person from violating this chapter, re-
3 gardless of whether proceedings have been or may be
4 instituted in Administrative Court or whether crimi-
5 nal proceedings may have been instituted.

6 SUBCHAPTER II

7 COMMISSION

8 §13061. Declaration of policy

9 It is declared to be the policy of the State that
10 licensees shall be supervised by the Real Estate Com-
11 mission in a manner to ensure that they meet stan-
12 dards which will promote public understanding and
13 confidence in the business of real estate brokerage.

14 §13062. Real Estate Commission; organization

15 1. Real Estate Commission composition. The Real
16 Estate Commission, established by Title 5, section
17 12004, subsection 1, shall be referred to in this
18 chapter as the "commission." The commission shall
19 consist of 4 industry members and one public member.

20 2. Qualifications. Each industry member of the
21 commission shall have been a real estate broker or
22 associate broker by vocation in this State for at
23 least 5 years prior to appointment. The public member
24 shall have had no professional or financial connec-
25 tion with the real estate business.

26 3. Geographic distribution. There shall be at no
27 time more than one member of the commission from any
28 one county.

29 4. Terms; removal. Terms of the members of the
30 commission shall be for 3 years. No person may be ap-
31 pointed for more than 2 consecutive 3-year terms.
32 Members may be removed by the Governor for cause.

33 5. Quorum; procedure. A majority of the members
34 of the commission constitutes a quorum for the trans-
35 action of business under this chapter.

1 6. Appointments. The members of the commission
2 shall be appointed by the Governor, subject to review
3 by the joint standing committee of the Legislature
4 having jurisdiction over business legislation and to
5 confirmation by the Senate. Appointments shall be
6 made for a 3-year term, except that at least one ap-
7 pointive member's term shall expire each calendar
8 year and appointments for terms of less than 3 years
9 may be made in order to comply with this limitation.
10 No person may be eligible to serve more than 2 full
11 consecutive terms, provided that for this purpose on-
12 ly a period actually served which exceeds 1/2 of the
13 3-year term shall be deemed a full term. Upon expira-
14 tion of a member's term, he shall serve until his
15 successor is qualified and appointed. The successor's
16 term shall be 3 years from the date of that expira-
17 tion, regardless of the date of his appointment.

18 7. Chairman. The commission shall annually elect
19 a chairman from its members.

20 §13063. Compensation

21 Each member of the commission appointed by the
22 Governor shall be compensated according to Title 5,
23 chapter 379.

24 §13064. Seal; evidence; inspection of records

25 The commission shall adopt a seal, with such de-
26 sign as the commission may prescribe engraved on the
27 seal, by which it shall authenticate its proceedings.
28 Copies of all records and papers in the office of the
29 commission, duly certified and authenticated by the
30 seal of the commission, shall be received in evidence
31 in all courts equally and with like effects as the
32 original. Records kept in the office of the commis-
33 sion under authority of this chapter shall be open to
34 public inspection as provided in Title 1, section
35 405, under such rules as shall be prescribed by the
36 commission. Copies of public records shall be made
37 available to the public at cost.

38 Access to records relating to the content of li-
39 cence examinations may be restricted or prohibited in
40 order to preserve the integrity of license examina-
41 tion.

1 §13065. Rules

2 The commission may establish guidelines and rules
3 by which this chapter shall be administered. Rules
4 shall be subject to the Maine Administrative Proce-
5 dure Act, Title 5, chapter 375, subchapter II and
6 consistent with the law to govern the following.

7 1. Adjudicatory hearings. The commission may
8 adopt rules governing the conduct of hearings, in-
9 cluding provisions governing communications among the
10 members of the commission and the staff in order to
11 assure that members are not prejudiced in a case
12 through ex parte communications. These rules shall
13 not be construed to prohibit communications with re-
14 gard to matters other than the merits of a case pend-
15 ing hearing before the commission.

16 2. Investigations. The commission may adopt
17 rules governing investigations and filing and pro-
18 cessing of complaints in order to assure prompt, ef-
19 fective investigations of alleged violations of this
20 chapter as necessary to protect and promote the in-
21 terests of the public and the industry.

22 3. Brokerage practice. The commission may adopt
23 rules consistent with the standards set forth in this
24 chapter governing real estate brokerage practices in
25 order to establish standards of practice which serve
26 the interests of both the public and the industry.

27 4. License qualifications. The commission may
28 adopt rules relating to the qualifications and appli-
29 cation for any license authorized under this chapter
30 as are deemed necessary to assure that applicants are
31 sufficiently trustworthy and competent to transact
32 the business for which they will be licensed.

33 5. Fees. The commission may establish by rule
34 fees in amounts which are reasonable and necessary
35 for their respective purposes. With the exception of
36 the fee specified in section 13225, the set fee for
37 any one purpose may not exceed \$100.

38 6. Education. The commission may adopt rules to
39 be applied in determining whether educational pro-
40 grams meet the license qualifications required under
41 this chapter.

1 7. Supervision of employees. The commission
2 shall adopt rules defining the authority and respon-
3 sibility of designated brokers in supervising sales
4 agents, as well as other brokerage related employees
5 and independent contractors.

6 8. Other. The commission may adopt and enforce
7 such other rules as are necessary for the performance
8 of its duties under this chapter.

9 §13066. Hearings

10 1. Petitions for hearings. The commission shall
11 conduct hearings on the following petitions.

12 A. Upon petition for hearing filed by the direc-
13 tor or his representative alleging violation of
14 this chapter by any person or entity, the commis-
15 sion shall conduct a hearing or refer the matter
16 to the Attorney General or the district attorney
17 requesting prosecution.

18 B. Upon petition by any person aggrieved by the
19 director's decision to dismiss a complaint or re-
20 fusal to pursue an investigation of alleged vio-
21 lations of this chapter, the commission shall
22 conduct a hearing, provided that the petition is
23 filed in compliance with commission rules.

24 C. Upon petition of any original or renewal li-
25 cence applicant who is aggrieved by the direc-
26 tor's decision to deny an examination or license,
27 provided that the petition is filed in compliance
28 with commission rules, the commission shall con-
29 duct a hearing.

30 D. Upon its own motion for purposes deemed ap-
31 propriate and consistent with the duties imposed
32 by this chapter, the commission may conduct hear-
33 ings.

34 2. Oaths, affirmations and subpoenas. In the
35 discharge of the duties imposed by this chapter, the
36 commission may administer oaths and affirmations,
37 certify to official acts and issue subpoenas to com-
38 pel the attendance of witnesses and the production of
39 documents deemed necessary as evidence in connection

1 with the administration of this chapter. Whenever a
2 person refuses to obey a subpoena duly issued by the
3 commission, the Superior Court for Kennebec County or
4 any court of this State, within the jurisdiction of
5 which the person resides or transacts business, shall
6 have jurisdiction to issue that person an order re-
7 quiring him to comply with the subpoena and any fail-
8 ure to obey that order may be punished by the court
9 as contempt. Refusal to obey a commission subpoena
10 also constitutes a violation of this chapter.

11 §13067. Causes for disciplinary action

12 1. Disciplinary sanctions. After the hearing,
13 the commission shall have the power to impose disci-
14 plinary sanctions at any time when a person or entity
15 is found guilty of one or more of the following:

16 A. Any act or conduct, whether the same or dif-
17 ferent character than specified in this chapter,
18 which constitutes or demonstrates bad faith, in-
19 competency, untrustworthiness or dishonest,
20 fraudulent or improper dealings;

21 B. The licensee performs or attempts to perform
22 any act or acts for which a license may lawfully
23 be denied to any applicant;

24 C. Subject to Title 5, chapter 341, the licensee
25 is convicted in any court of any Class A, B or C
26 crime or any other crime which bears directly on
27 the practice of real estate brokerage;

28 D. Making any substantial misrepresentation, by
29 omission or commission, but shall not include in-
30 nocent misrepresentation;

31 E. Engaging in any activity requiring a license
32 under this chapter which is beyond the scope of
33 acts authorized by the license held;

34 F. Violating any rule promulgated by the commis-
35 sion or any provision of this chapter;

36 G. Failing to act in a reasonably prudent manner
37 in order to protect and promote the interests of
38 the principal with absolute fidelity;

1 H. Failing to act in a reasonably prudent manner
2 in order to avoid error, exaggeration or conceal-
3 ment of pertinent information;

4 I. Violation of this chapter by a licensed or
5 unlicensed employee or independent contractor
6 shall be cause for disciplinary action against
7 the agency and designated broker if:

8 (1) The designated broker had prior knowl-
9 edge and did not take reasonable action to
10 prevent the violation;

11 (2) The designated broker permitted or au-
12 thorized a person to engage in activity for
13 which they were not properly licensed; or

14 (3) The designated broker failed to exer-
15 cise a reasonable degree of supervision over
16 employees and independent contractors com-
17 mensurate with their qualifications and ex-
18 perience;

19 J. Offering, promising, allowing, giving or pay-
20 ing, directly or indirectly, any part or share of
21 his compensation arising or accruing from a real
22 estate brokerage transaction to any person who is
23 not licensed to perform the service for which he
24 is or would be compensated, if a license is re-
25 quired under this chapter for performance of that
26 service. No licensee may be employed by or accept
27 brokerage compensation from any person other than
28 the agency under which he is at the time li-
29 censed. An agency may share compensation with a
30 nonresident licensee when the service by the non-
31 resident is performed outside this State;

32 K. Continuing to act in a capacity requiring a
33 license under this chapter after expiration, sus-
34 pension or revocation of that license; and

35 L. Failure to produce to the director any re-
36 quested documents in the licensee's possession or
37 under his control concerning any transaction un-
38 der investigation.

39 §13068. Decisions

1 1. Licensing. After hearing, the commission may
2 affirm, modify or reverse the director's decision to
3 deny an examination, license or renewal license, or
4 in its discretion, file a complaint in the Adminis-
5 trative Court pursuant to Title 4, chapter 25 and Ti-
6 tle 5, section 10051, to determine whether a license
7 may be denied.

8 2. Violation of chapter. If, after hearing, the
9 commission finds that a violation of this chapter has
10 occurred, it may:

11 A. Reprimand the person or entity;

12 B. Require the person or entity to comply with
13 such terms and conditions as it determines neces-
14 sary to correct the basis for the violation or
15 prevent further violations by issuing a cease and
16 desist order. Violation of a cease and desist or-
17 der shall constitute a violation of this chapter;

18 C. Assess the violator a fine of no more than
19 \$2,000 a violation;

20 D. Suspend or revoke any license issued under
21 this chapter; or

22 E. Report its findings and recommendations to
23 the Attorney General or the district attorney
24 recommending prosecution.

25 3. Appeals. Appeals from decisions of the com-
26 mission shall be to the Administrative Court. Appeals
27 shall be based on questions of law. The procedure for
28 appeals under this section shall be as provided in
29 the Maine Administrative Procedure Act, Title 5,
30 chapter 375, subchapter VII, except that for purposes
31 of this section, all references to the Superior Court
32 shall be construed as references to the Administra-
33 tive Court. Further appeal shall be directly to the
34 Law Court.

35 §13069. Director

36 1. Appointment. The Commissioner of Professional
37 and Financial Regulation, with the advice of the Real
38 Estate Commission and subject to the Civil Service
39 Law, shall appoint a director of the commission.

1 2. Duties. The director is responsible for the
2 management of the commission's affairs, within the
3 guidelines, policies and rules established by the
4 commission and for carrying out the duties allocated
5 to the director under this chapter. Duties of the di-
6 rector may be carried out by the director's designee,
7 other than a member of the commission.

8 3. Employees. The director may employ a deputy
9 and such clerical assistants, technical assistants
10 and investigators as deemed necessary by the director
11 to discharge the duties imposed by this chapter and
12 shall outline their duties and fix their compensa-
13 tion, subject to the Civil Service Law and available
14 commission funds.

15 4. Disposal of fees; expenses. The fees col-
16 lected under this chapter shall be paid forthwith by
17 the director to the Treasurer of State with a de-
18 tailed statement and shall constitute a fund to be
19 known as the Real Estate Fund. The fund shall be kept
20 as a separate account by the Treasurer of State and
21 he shall pay from it, upon vouchers signed by the di-
22 rector and approved by the Commissioner of Profes-
23 sional and Financial Regulation, the cost and ex-
24 penses of administering this chapter. All of the
25 costs and expenditures of the commission shall be
26 paid only from this fund and in no event may any pay-
27 ments of the expenses of the commission exceed the
28 amount received by the treasurer from the director.
29 Any money remaining in the Real Estate Fund at the
30 end of the fiscal year shall be carried forward to
31 the credit of that fund for the succeeding year. The
32 commission may, within the money available in the
33 Real Estate Fund, defray the cost of an educational
34 program for licensees or the public. This program may
35 include the dissemination of information pertinent to
36 the real estate business and material for school cur-
37 ricula.

38 5. Advocate. The director shall seek to protect
39 the interests of the public and the industry in the
40 administration of this chapter. In this capacity, the
41 director may serve as an advocate in any proceeding
42 before the commission, presenting evidence and argu-
43 ment in support of a recommended disposition.

1 6. Investigations. The director shall investi-
2 gate the actions of any licensee under this chapter,
3 or any person or entity who assumes to act in a ca-
4 capacity requiring a license under this chapter, upon
5 receipt of a verified written complaint or in accord-
6 ance with the guidelines prescribed by commission
7 rule. Upon completion of the investigation, the di-
8 rector shall take one of the following actions:

9 A. Dismiss the complaint;

10 B. With the consent of the parties and subject
11 to approval of the commission and commission
12 counsel, execute a consent agreement; or

13 C. Issue a staff petition for hearing before the
14 commission, which may include a recommended dis-
15 position.

16 7. Subpoenas. The director may issue subpoenas
17 to compel the attendance of witnesses at hearings and
18 to compel the production of documents and other
19 records deemed necessary in connection with the ad-
20 ministration of this chapter. Whenever a person re-
21 fuses to obey a subpoena duly issued by the director,
22 the Superior Court for Kennebec County or any court
23 of this State, within the jurisdiction of which the
24 person resides or transacts business, shall have ju-
25 risdiction to issue to that person an order requiring
26 him to comply with the subpoena and any failure to
27 obey that order may be punished by the court as con-
28 tempt. Refusal to obey the director's subpoena also
29 constitutes a violation of this chapter.

30 8. Denial of licenses. The director may only is-
31 ssue a license to persons or entities meeting the re-
32 quirements of this chapter. If it appears to the di-
33 rector that grounds for denial of a license or renew-
34 al exists, the director shall deny the license or re-
35 newal and notify the applicant in writing of the ba-
36 sis for denial together with notice of the appli-
37 cant's right to a hearing before the commission, if
38 requested in accordance with commission rules within
39 a 30-day period. The director shall not issue a li-
40 cence to any applicant for renewal if the license has
41 been expired for more than 90 days, unless the appli-
42 cant passes the license examination designated by
43 commission rule for this purpose.

1 county of this State in which a cause of action
2 may arise or in which the plaintiff may reside,
3 by the service of any process or pleading autho-
4 rized by the laws of the State on the director of
5 the commission. The consent shall stipulate and
6 agree that service of the process or pleading on
7 the director shall be taken and held in all
8 courts to be as valid and binding as if due ser-
9 vice had been made upon the applicant personally
10 within this State. The instrument containing the
11 consent shall be authenticated by the seal of the
12 corporation or by the acknowledged signature of
13 the member or officer of the corporation, if oth-
14 erwise. All applications, when applicable, shall
15 include a duly certified copy of the resolution
16 of proper officers or managing board authorizing
17 the proper officer to execute the resolution. In
18 case any process or pleadings mentioned in the
19 case are served upon the director, it shall be by
20 duplicate copies, one of which shall be filed in
21 the office of the commission and the other imme-
22 diately forwarded by certified mail to the main
23 office of the applicant against whom the process
24 or pleadings are directed.

25 5. Place of business. Every agency holding an
26 active license shall maintain a fixed and definite
27 place of business where its designated broker and em-
28 ployees may be personally contacted without unreason-
29 able delay.

30 6. Branch office. Other locations where real es-
31 tate brokerage business is regularly conducted or
32 which are advertised as locations where the public
33 may contact the agency or its employees concerning
34 brokerage services shall be licensed as a branch of-
35 fice, except that places of residence need not be li-
36 censed as a branch office. In order to qualify for a
37 branch office license, the agency designated broker
38 must designate himself or another broker to act as
39 branch manager, in which case the manager shall have
40 designated broker responsibilities for that office.
41 The designated broker may designate himself to act as
42 manager for all branch offices.

43 §13174. License denial

1 A license may be denied to any agency applicant:

2 1. Complete and accurate application. Who fails
3 to submit a complete and accurate application;

4 2. Proof of qualifications. Who fails to submit
5 satisfactory proof that it has met the qualifications
6 specified in this chapter and is sufficiently trust-
7 worthy and competent to transact real estate broker-
8 age services in such a manner as to safeguard the in-
9 terests of the public;

10 3. Conviction of crime. Subject to Title 5,
11 chapter 341, if the owner or principal entity offi-
12 cial has been convicted of any Class A, B or C
13 crime or any crime which bears directly on the prac-
14 tice of real estate brokerage; or

15 4. Revocation of license. If the agency and its
16 owner or its principal officers have had any profes-
17 sional or occupational license revoked for discipli-
18 nary reasons, or an application rejected for reasons
19 relating to untrustworthiness, within 3 years prior
20 to the date of application.

21 §13175. Agency changes

22 Any change of address, name or other material
23 changes in the conditions or qualifications set forth
24 in the original application shall be reported to the
25 director no later than 10 days after the change. Upon
26 proper application and payment of the prescribed fee,
27 the commission records shall be changed and a new li-
28 cence shall be issued for the unexpired term of the
29 current license, if appropriate.

30 §13176. Trade names

31 Agencies may conduct business under a trade name,
32 provided that their license is issued under the trade
33 name. If an agency is licensed with a trade name that
34 trade name shall be used by the agency, its employees
35 and independent contractors in all real estate broker-
36 age related advertising. The director may refuse
37 to issue a license under a specific trade name if the
38 name is deemed to be misleading, deceptive or will
39 likely result in confusion with other existing busi-
40 nesses.

1 §13177. Real estate brokerage contracts

2 All exclusive right-to-sell contracts, exclusive
3 agency contracts and any nonexclusive contract relat-
4 ing to one to 4 family residential properties shall
5 be in writing, signed by the person to be charged and
6 shall specifically identify the date upon which the
7 contract will expire. If the parties to the contract
8 desire to continue the contract, a new contract must
9 be executed.

10 Brokerage contracts may not be enforced against
11 any principal who in good faith subsequently engages
12 the services of another agency on an exclusive
13 right-to-sell basis following the expiration date of
14 the first contract. Any contract provisions extending
15 a licensee's right to a fee following expiration of
16 the contract shall not exceed 6 months.

17 §13178. Trust accounts

18 Every agency shall maintain a trust account or
19 accounts in a banking institution located in the
20 State for the sole purpose of depositing all earnest
21 money deposits and all other money held by it as an
22 agency in which its clients or other persons with
23 whom it is dealing have an interest. The trust ac-
24 count and withdrawal orders, including all checks
25 drawn on the account, shall name the subject agency
26 and be identified as a real estate trust account.
27 Real estate trust accounts shall be free from trustee
28 process, except by those persons for whom the broker-
29 age agency has made the deposits and then only to the
30 extent of the interest. The designated broker, except
31 for an amount necessary to maintain the accounts not
32 to exceed an amount prescribed by commission rule,
33 shall withdraw from the accounts all fees due within
34 30 days after, but not until consummation or termina-
35 tion of the transaction when the designated broker
36 makes or causes to be made a full accounting to his
37 principal. The designated broker shall maintain, at
38 the agency's place of business, contracts and other
39 necessary records to verify the adequacy and proper
40 use of the accounts. These accounts and records shall
41 be opened for inspection by the director or his au-
42 thorized representative at the agency's place of
43 business during generally recognized business hours.

1 Upon order of the director, the designated broker
2 shall authorize the director in writing to confirm
3 the balance of funds held in all agency trust ac-
4 counts.

5 §13179. Supervision of employees

6 The designated broker shall exercise a reasonable
7 level of supervision commensurate with the level of
8 qualification and experience of agency employees and
9 independent contractors supervised, in order to pro-
10 tect and promote the interests of its clients with
11 absolute fidelity. The designated broker shall not
12 permit or authorize any person to engage in any ac-
13 tivity for which they are not properly licensed.

14 §13180. Termination of employment

15 When any broker, associate broker or real estate
16 sales agent is discharged or terminates his employ-
17 ment with a brokerage agency, it shall be the duty of
18 the designated broker to immediately deliver the li-
19 cence of the broker, associate broker or real estate
20 sales agent to the commission. The designated broker
21 shall simultaneously address a communication to the
22 last known address advising the broker, associate
23 broker or sales agent that his license has been de-
24 livered or mailed to the commission. A copy of the
25 communication shall accompany the license when deliv-
26 ered to the commission.

27 Upon receipt of the notice of termination by the
28 licensee, the license shall become void and may only
29 be reinstated or placed on inactive status after
30 proper application and payment of the prescribed fee.
31 It is unlawful for any broker, associate broker or
32 real estate sales agent to perform any brokerage ser-
33 vices without first receiving a new active license.

34 §13181. Contents; display

35 The director shall issue to each agency a license
36 in the form and size prescribed by the commission.
37 The license of each broker, associate broker and
38 sales agent shall be delivered or mailed to the des-
39 ignated broker and be kept in the custody and control
40 of the designated broker. It is the duty of the des-

1 ignated broker to conspicuously display the agency
2 license in his place of business.

3 §13182. Agency license renewal

4 Agency licenses shall expire on December 31st, or
5 at such times as the Commissioner of Professional and
6 Financial Regulation may designate, of each biennial
7 period for which it was issued. Upon proper applica-
8 tion and payment of the prescribed fee, a renewal li-
9 cence shall be issued for each ensuing biennial peri-
10 od in the absence of any reason or condition which
11 might warrant denial of a license. The suspension,
12 revocation or expiration of an agency or designated
13 broker's license shall automatically suspend every
14 license granted to any person by virtue of his em-
15 ployment by the agency whose license has been sus-
16 sended, revoked or expired pending a change of em-
17 ployer and the issuance of a new license. The new li-
18 cence shall be issued without charge if granted dur-
19 ing the same biennial period in which the original
20 was granted.

21 §13183. Acts authorized

22 An agency, through its designated broker, may
23 perform all of the brokerage services contemplated by
24 this chapter and may employ or retain others to per-
25 form brokerage services on behalf of the agency. The
26 designated broker may also delegate any of his duties
27 and authority provided for under this chapter, but
28 when doing so shall not be relieved of any responsi-
29 bility imposed by this chapter.

30 SUBCHAPTER IV

31 BROKERS, ASSOCIATE BROKERS, SALES AGENTS

32 AND TIMESHARE AGENTS

33 §13191. General qualifications

34 1. Application. Applicants shall submit a prop-
35 erly completed application upon forms furnished by
36 the director, together with the prescribed fee.

37 2. Age. The applicant shall have reached his
38 18th birthday at the time of his application.

1 3. Residence. The applicant shall provide evi-
2 dence of his legal residence.

3 4. High school. The applicant shall be a high
4 school graduate or hold an equivalency certificate.

5 5. Reputation. The applicant shall have a good
6 reputation for honesty, truthfulness, fair dealing
7 and competency. A recommendation of at least 3 per-
8 sons, not related to the applicant who have acknowl-
9 edged before a notary public that they have known the
10 applicant for at least one year immediately preceding
11 the date of the application that the applicant has
12 such a reputation, shall be rebuttable presumption of
13 meeting that qualification.

14 6. Active license. Upon application for an ac-
15 tive license, the applicant shall provide a written
16 statement from the designated broker of the agency,
17 who will be employing the applicant, authorizing is-
18 ssuance of the applicant's license under the agency.

19 7. Single license. No more than one license may
20 be issued to any person for the same period of time.
21 In the event of a change in an employer, another li-
22 cence shall not be issued until the current license
23 has been returned or for which a satisfactory ac-
24 counting has been made.

25 §13192. License denial

26 A license may be denied to any applicant:

27 1. Complete application. Who fails to submit a
28 complete application within 30 days after being noti-
29 fied of the materials needed to complete the applica-
30 tion;

31 2. Proof that applicant is trustworthy. Who
32 fails to provide satisfactory proof that he is trust-
33 worthy and competent to transact real estate broker-
34 age services in such manner as to safeguard the in-
35 terests of the public;

36 3. Revocation of license. Who has had any pro-
37 fessional or occupational license revoked for disci-
38 plinary reasons or an application rejected for rea-

1 sons relating to untrustworthiness within 3 years
2 prior to the date of application; or

3 4. Conviction of crime. Subject to Title 5,
4 chapter 341, who has been convicted of any Class A, B
5 or C crime or any crime which bears directly on the
6 practice of real estate.

7 §13193. Nonresidents

8 All nonresident license applicants shall be re-
9 quired to file a properly completed irrevocable con-
10 sent to service, as described for agencies in section
11 13173, subsection 4, paragraph B. In lieu of educa-
12 tion and experience requirements, nonresident origi-
13 nal license applicants must hold a similar active li-
14 cence in good standing in their place of legal resi-
15 dence and shall appear at such time and place as the
16 director may designate for the purpose of written ex-
17 amination pertaining to Maine real estate laws.

18 §13194. License renewal

19 Licenses shall expire on December 31st, or at
20 such other times as the Commissioner of Professional
21 and Financial Regulation may designate, of each bien-
22 ennial period for which it was issued, except those li-
23 censes issued under section 13200. The director shall
24 issue a renewal license for each ensuing biennial pe-
25 riod in the absence of any reason or condition which
26 might warrant the refusal of granting a license, upon
27 receipt of the written request of the applicant, the
28 biennial fee for the license and upon the applicant
29 presenting evidence of compliance with the require-
30 ments of section 13197. The director shall deny a re-
31 newal license to any applicant whose license has
32 lapsed for more than 90 days, unless the renewal li-
33 cence applicant passes the license examination desig-
34 nated by commission rule for this purpose.

35 §13195. Changes

36 Any change of address, name or other material
37 change in the conditions or qualifications set forth
38 in the original application shall be reported to the
39 director no later than 10 days after the change. Upon
40 proper application and payment of the prescribed fee,

1 the commission records shall be changed and a new li-
2 license shall be issued for the unexpired term of the
3 current license, if appropriate.

4 §13196. Inactive licenses

5 Any resident licensee, who does not desire to
6 perform any of the activities described in section
7 13001, and who wants to preserve his license while
8 not engaged in any brokerage activity, may surrender
9 his license to the commission for placement on inac-
10 tive status. The commission may only place the li-
11 cence on inactive status upon proper application by
12 the licensee. During inactive status, the licensee
13 shall be required to renew his license biennially,
14 but shall not be required to maintain a place of
15 business or meet the educational provisions of sec-
16 tion 13197.

17 Licensees who have surrendered their licenses
18 pursuant to this section may have their licenses re-
19 instated to active status by demonstrating compli-
20 ance, within the previous biennium, with section
21 13197 and proper application for an active license,
22 except that any license placed on inactive status af-
23 ter the effective date of this section and remaining
24 inactive for 3 or more years may only be reactivated,
25 either by successfully passing a license examination
26 designated by commission rule for this purpose or by
27 successfully completing 12 course hours meeting com-
28 mission established guidelines.

29 §13197. Continuing education

30 1. Requirement. As a prerequisite to renewal of
31 a license, applicants shall have completed 12 clock
32 hours of continuing education within 2 years prior to
33 the date of application in programs or courses ap-
34 proved by the commission. This requirement shall not
35 apply to agency and company licenses.

36 2. Program approval. Each application for ap-
37 proval of a continuing education program shall be
38 submitted according to the guidelines prescribed by
39 the commission, together with the required applica-
40 tion fee. The fee shall be retained whether or not
41 the application is approved, except that the commis-

1 sion may waive the application fee for any program or
2 course for the purpose of promoting the intent of
3 this section and which meets the standards prescribed
4 by rule.

5 3. Core requirement. The commission may estab-
6 lish a core educational requirement for each license
7 type, not to exceed 6 clock hours, in which case the
8 remaining requirement shall be fulfilled from elec-
9 tive programs approved by the commission.

10 4. Voluntary certification program. The commis-
11 sion may establish a program for recognizing real es-
12 tate brokers who have advanced education, training
13 and experience in a specialized discipline related to
14 the field of real estate. Standards to be met in or-
15 der to be certified shall be prescribed by rules
16 adopted by the commission, subject to the Maine Ad-
17 ministrative Procedure Act, Title 5, chapter 375.

18 §13198. Real estate broker

19 1. Definition. "Real estate broker" or "broker"
20 means any person employed by or on behalf of an agen-
21 cy to perform brokerage and licensed by the commis-
22 sion as a broker.

23 2. Professional qualifications. Each applicant
24 for a broker license shall have met one of the fol-
25 lowing qualifications:

26 A. One-year full-time practice of real estate
27 brokerage as a licensed associate broker immedi-
28 ately preceding the date of application and com-
29 pletion of a course of study meeting commission
30 established guidelines; or

31 B. One year's experience as a sales agent within
32 the 3 years immediately preceding the date of ap-
33 plication and satisfactory completion of 2 years
34 in a degree program meeting commission estab-
35 lished guidelines.

36 3. Acts authorized. Each broker license granted
37 shall entitle the holder to perform all of the acts
38 contemplated under this chapter in behalf of an agen-
39 cy, including being designated by the agency to act
40 for it or as a branch office manager.

1 §13199. Associate real estate broker

2 1. Definition. "Associate real estate broker" or
3 "associate broker" means any person employed by or on
4 behalf of an agency to perform real estate brokerage
5 services and licensed by the commission as an as-
6 sociate broker.

7 2. Professional qualifications. Each applicant
8 for an associate broker license shall have met one of
9 the following qualifications.

10 A. The applicant shall have practiced as a real
11 estate sales agent for 2 years within the 5 years
12 immediately preceding the date of application,
13 satisfactorily completed a course of study meet-
14 ing commission established guidelines and shall
15 appear at such time and place as the director may
16 designate for the purpose of a written associate
17 broker examination. An applicant may sit for the
18 examination upon completion of the course of
19 study. Regardless of the results of the examina-
20 tion, the commission shall not issue a license
21 under this section until an individual has com-
22 pleted 2 years as a licensed real estate sales
23 agent. For the purposes of this paragraph,
24 "course of study" consists of 45 sessions of not
25 more than 2 1/2 hours of instruction for each
26 session.

27 B. The applicant shall have practiced as a real
28 estate sales agent for 2 years within the 5 years
29 immediately preceding the date of application and
30 shall have satisfactorily completed a course of
31 study in a degree program meeting commission es-
32 tablished guidelines.

33 C. The applicant shall have satisfactorily com-
34 pleted one year in a degree program meeting com-
35 mission established guidelines and shall appear
36 at such times and places as the director may des-
37 ignate for a written sales agent examination.

38 3. Acts authorized. Each associate broker li-
39 cence granted shall entitle the holder to perform all
40 of the acts contemplated by this chapter, in behalf
41 of an agency, except serving as a designated broker
42 or a branch office manager.

1 §13200. Real estate sales agent

2 1. Definition. "Real estate sales agent" or
3 "sales agent" means any person employed by or on be-
4 half of an agency to perform real estate brokerage
5 services in a training capacity and licensed by the
6 commission as a sales agent.

7 2. Professional qualification. Each applicant
8 for a sales agent license shall meet one of the fol-
9 lowing qualifications.

10 A. The applicant shall satisfactorily complete a
11 course of study meeting commission established
12 guidelines.

13 B. The applicant may appear at such time and
14 place as the director may designate for the pur-
15 pose of a written sales agent examination.

16 3. Acts authorized. Each sales agent license
17 granted shall entitle the holder to perform all bro-
18 kerage services contemplated by this chapter which
19 are specifically authorized by the designated broker
20 and which are within the guidelines established by
21 the commission for sales agents.

22 4. License term. Sales agent licenses shall be
23 issued for 2 years and may not be renewed. A new
24 sales agent license may not be reissued within 5
25 years following the date the previous sales agent li-
26 cence was issued.

27 5. Waiver. The commission may grant waivers to
28 allow individuals to remain licensed as sales agents
29 beyond the 2-year term specified in subsection 4.
30 Waivers shall be granted on the basis of extenuating
31 circumstances as defined by rules promulgated by the
32 commission.

33 §13201. Timeshare agent

34 1. Definition. "Timeshare agent" means a person
35 licensed by the commission to perform real estate
36 brokerage services limited to transactions involving
37 timeshare interests and vacation licenses.

1 E. "Home service contract sales agent" means any
2 person with whom the home service company has a
3 contract and who is utilized by that company for
4 the purpose of selling or issuing home service
5 contracts directly or through its employees or
6 agents.

7 F. "Home service contract sales associate" means
8 the employees or agents of the home service con-
9 tract sales agent utilized for selling or offer-
10 ing for sale home service contracts.

11 G. "Impaired" means the circumstance which ex-
12 ists when liabilities exceed assets.

13 H. "Insolvent" means the inability to pay debts
14 as they become due in the usual course of busi-
15 ness.

16 2. Exceptions. The following exceptions apply to
17 this subchapter.

18 A. Except as otherwise provided in this subchap-
19 ter, provisions of the insurance laws of this
20 State do not apply to any home service company
21 granted a license under this subchapter. This
22 provision does not apply to an insurance company
23 licensed and regulated pursuant to Title 24-A.

24 B. Provisions of this subchapter do not apply to
25 any person who issues any service or maintenance
26 contract or performance guarantee which provides
27 for maintenance, repair, service, replacement,
28 operation or performance of any product which is
29 or which is similar to that manufactured, sold or
30 leased by the issuer and no such person, his em-
31 ployees or agents may be required to be licensed
32 or regulated under this subchapter. This subchap-
33 ter does not apply to any contract of insurance,
34 as defined in Title 24-A, and does not apply to
35 any home repair contract regulated by Title 9,
36 chapter 360. This subchapter does not apply to
37 any program offering a warranty on a new home
38 which is underwritten by an insurer licensed to
39 do business in this State and the insurance poli-
40 cy underwriting the program has been filed with
41 and approved by the Bureau of Insurance.

1 §13222. Rules

2 The commission may adopt or promulgate rules nec-
3 essary and proper to effectuate provisions of this
4 subchapter pursuant to the Maine Administrative Pro-
5 cedure Act, Title 5, chapter 375.

6 §13223. Review of decisions

7 Any person aggrieved by any decision or order of
8 the director pursuant to this subchapter has the
9 right to request a review and determination by the
10 commission, provided that the request is made within
11 30 days of the date of the decision or order. The
12 commission may reverse, modify or affirm any such de-
13 cision or order.

14 §13224. License required

15 1. Restriction on activity. No home service com-
16 pany in this State may sell, offer to sell, arrange
17 or solicit the sale of or receive applications for
18 home service contracts unless authorized under an ex-
19 isting license issued by the director.

20 §13225. Application for license

21 1. Form; qualifications for license. Each appli-
22 cation for a license shall be on a form prescribed by
23 or acceptable to the commission and shall be verified
24 by the applicant, by an officer or other authorized
25 representative of the applicant. The director may not
26 issue a license to any home service company unless
27 the home service company is qualified therefor, as
28 follows:

29 A. Is a solvent natural person or other solvent
30 legal entity formed under the laws of this State
31 or of any other state, district, territory or
32 possession of the United States;

33 B. Furnishes the director with satisfactory evi-
34 dence that the management of the home service
35 company is competent and trustworthy;

36 C. Proposes to use, and uses in its business, a
37 name, together with a trademark or emblem, if

- 1 any, which is distinctive and not so similar to
2 the name or trademark of any association, corpo-
3 ration or organization already doing business in
4 this State as will tend to mislead or confuse the
5 public;
- 6 D. Files the bond required or otherwise complies
7 with section 4125;
- 8 E. Is otherwise in compliance with this subchap-
9 ter; and
- 10 F. Establishes, to the satisfaction of the di-
11 rector, that it employs or has contracted with
12 licensed or skilled tradesmen and is able to per-
13 form the services described by it in the home
14 service contract. This qualification does not ap-
15 ply if the home service contract provides for
16 payment or reimbursement for the cost of services
17 instead of providing or arranging for completion
18 of the service.
- 19 2. Additional information. In addition to infor-
20 mation relative to its qualifications as required un-
21 der subsection 1, the application shall show:
- 22 A. A list of the names, addresses and official
23 positions of the persons responsible for the af-
24 airs of the applicant, including all members of
25 the board of trustees, executive committee or
26 other governing body or committee and the princi-
27 pal officers in the case of a partnership or as-
28 sociation;
- 29 B. A copy of the home service contract made or
30 to be made between the applicants and any other
31 person;
- 32 C. The most recent financial statement of the
33 applicant prepared by an independent certified
34 public accountant, showing the applicant's as-
35 sets, liabilities, net worth and sources of fi-
36 nanacial support; and
- 37 D. A license application fee in the amount of
38 \$1,000.

1 §13226. Required deposit or bond

2 1. Amount of deposit. To assure the faithful
3 performance of its obligations to its holders in the
4 event of insolvency, every home service company, pri-
5 or to the issuance of its license by the director,
6 shall deposit and continuously maintain with the
7 Treasurer of State securities of the type eligible
8 for deposit by insurers under which securities shall
9 have at all times a market value of not less than
10 \$50,000.

11 2. Bond in lieu of deposit. In lieu of any de-
12 posit or securities required under subsection 1, the
13 home service company may file with the director a
14 surety bond in like amount. The bond shall be one is-
15 ssued by an insurer, duly authorized to transact sure-
16 ty insurance in this State, be for the same purpose
17 as the deposit in lieu of which it is filed and be
18 subject to the director's approval. No such bond may
19 be cancelled or subject to cancellation, unless at
20 least 30 days advance notice in writing is filed with
21 the director.

22 3. Purpose. Securities and bonds posted by a
23 home service company pursuant to this section shall
24 be for the benefit of and subject to action thereon
25 in the event of insolvency of the home service compa-
26 ny by any person or persons sustaining an actionable
27 injury due to the failure of the home service company
28 to faithfully perform its obligations to its holders.

29 4. Safekeeping of securities. The State is re-
30 sponsible for the safekeeping of all securities de-
31 posited with the Treasurer of State under this sub-
32 chapter at the expense of the depositor. The securi-
33 ties are not, on account of being in this State, sub-
34 ject to taxation, but shall be held exclusively and
35 solely to guarantee the home service company's faith-
36 ful performance of its obligations to its holders.

37 5. Substitution. The depositing home service
38 company, during its solvency, may exchange or substi-
39 tute other securities of like quality and value for
40 securities on deposit, receive the interest and other
41 income accruing to the securities and inspect the de-
42 posit at all reasonable times.

1 6. Release. The deposit or bond shall be main-
2 tained unimpaired as long as the home service company
3 continues in business in this State. Whenever the
4 home service company ceases to do business in this
5 State and furnishes the director proof satisfactory
6 to the director that it has discharged or otherwise
7 adequately provided for all its obligations to its
8 holders in this State, the director, with the advice
9 and consent of the commission, shall authorize re-
10 lease of the deposited securities to the parties en-
11 titled thereto, on presentation of the receipts for
12 the securities, or shall authorize release of any
13 bond filed in lieu of the deposit.

14 7. Exemption. Home service companies whose net
15 worth exceeds the capital and surplus requirements of
16 this State to obtain a license to write liability in-
17 surance as a domestic insurer are exempt from this
18 section.

19 §13227. Reserves

20 1. Amount. A home service company shall maintain
21 a single-funded reserve for its liability to furnish
22 repairs and replacement services under its issued and
23 outstanding contracts. The reserve shall be suffi-
24 cient to cover anticipated liability for repairs and
25 replacement services on outstanding contracts and
26 shall be based on sound actuarial principles, but the
27 reserve shall at all times not be less than 50% of
28 annual contract fees, net of reinsurance, received in
29 this State, less any amounts theretofore paid on ac-
30 count of the liability incurred during the applicable
31 years. The commission, with the advice of the Super-
32 intendent of Insurance, may establish higher reserve
33 standards if it determines that the reserves estab-
34 lished by a home service company are inadequate to
35 cover its liabilities under outstanding contracts.

36 2. Exclusion. For the purposes of this section,
37 the reserve shall not include contract fees on home
38 service contracts:

39 A. To the extent that provision is made for re-
40 insurance, whether in an insurer or home service
41 company, of the outstanding risk on these con-
42 tracts; or

1 B. When the home service company has insured,
2 with an insurer admitted in this State, all risk
3 or loss incurred under these contracts, provided
4 that the policy of insurance, including the cov-
5 erage further provides that, in the event of the
6 insolvency, bankruptcy or dissolution of the home
7 service company, the insurer shall pay losses un-
8 der the contracts directly to claimants and that
9 in the event of the home service company's in-
10 ability to administer claims, the insurer shall
11 assume full responsibility for administration of
12 claims.

13 §13228. License expiration; renewal

14 Each license as a home service company issued un-
15 der this subchapter expires 2 years from the date of
16 issuance or expires upon termination of the surety
17 bond required under section 4125, if not otherwise in
18 compliance with that section. In the absence of any
19 reason or condition warranting refusal of granting a
20 license, the home service company license may be re-
21 newed biennially upon its request and upon payment of
22 the license fee in the amount of \$1,000.

23 §13229. Grounds for suspension or revocation of li-
24 cence or denial of renewal

25 1. With notice. The license of a home service
26 company may be revoked, suspended or renewal denied,
27 subject to the Maine Administrative Procedure Act,
28 Title 5, chapter 375, if it is determined that the
29 home service company:

30 A. Has violated any lawful order of the director
31 or any provision of this subchapter;

32 B. Is in such condition or using such methods
33 and practices in the conduct of its business as
34 to render its further conduct of business in this
35 State hazardous or injurious to its holders or to
36 the general public;

37 C. Has refused to be examined or to produce its
38 accounts, records and files for examination or if
39 any of its officers have refused to give informa-

1 tion with respect to its affairs or have refused
2 to perform any other legal obligation as to that
3 examination when required by the director;

4 D. Has failed to pay any final judgment rendered
5 against it in this State within 60 days after the
6 judgment became final;

7 E. Has, with such frequency as to indicate its
8 general business practice in this State, and
9 without just cause, refused to pay proper claims
10 arising under its contract obligations, or, with-
11 out just cause, has compelled holders to accept
12 less than the amount due them or to employ attor-
13 neys or to bring suit against the service company
14 to secure full payment or settlement of these
15 claims; or

16 F. Has failed to maintain a single-funded re-
17 serve for its liability to furnish repairs and
18 replacement services under its issued and out-
19 standing contracts, as required under section
20 4126.

21 2. Suspension without notice. The commission may
22 immediately suspend, without advance notice or hear-
23 ing, notwithstanding the Maine Administrative Proce-
24 dure Act, Title 5, chapter 375, the license of any
25 home service company for up to 30 days if it finds
26 that one or more of the following circumstances ex-
27 ist.

28 A. The home service company is insolvent or im-
29 paired.

30 B. Proceedings for receivership, conservator-
31 ship, rehabilitation or other delinquency pro-
32 ceedings regarding the home service company have
33 been commenced in any state in either state court
34 or federal court.

35 C. The financial condition or business practice
36 of the home service company otherwise pose an im-
37 minent threat to the public health, safety or
38 welfare of the residents of this State.

1 3. Insurer; certificate of authority. Violation
2 of this subchapter by an insurer shall be grounds for
3 suspension or revocation of the insurer's certifica-
4 tion of authority in this State.

5 4. False or misleading statements. A license or
6 registration may be revoked or suspended or renewal
7 refused if it is determined that the home service
8 company or sales agent has engaged in making false or
9 misleading statements in either written or oral com-
10 munications with regard to the advertising, offering
11 or sale of home service contracts, to include, but
12 not be limited to, representations related to the
13 benefits and service available under the home service
14 contract.

15 §13230. Automatic termination of sales agent regis-
16 tration

17 Revocation, suspension or nonrenewal of a home
18 service company license shall serve to automatically
19 terminate the registration of its sales agents.

20 §13231. Order, notice of suspension or revocation of
21 license

22 1. Method. Suspension or revocation of a home
23 service company's license shall be by order mailed to
24 the home service company by registered or certified
25 mail, and upon receipt, the home service company
26 shall promptly relay notice of the suspension or rev-
27 ocation to the home service company's sales agents in
28 this State. The home service company may not solicit
29 or write any new home service contracts in this State
30 during the period of any such suspension or revoca-
31 tion.

32 2. Publication. In his discretion, the director
33 may cause notice of any such revocation or suspension
34 to be published in one or more newspaper of general
35 circulation published in this State.

36 §13232. Duration of suspension; obligation during
37 suspension period; reinstatement

38 1. Duration. Suspension of a home service compa-
39 ny's license shall be for such period, not to exceed

1 one year, as is fixed in the order of suspension, un-
2 less the suspension or the order upon which the sus-
3 pension is based is modified, rescinded or reserved.

4 2. Obligations. During the period of suspension,
5 the home service company shall file its annual state-
6 ment and pay fees and licenses, as required under
7 this subchapter, as if the license had continued in
8 full force.

9 3. Reinstatement. Upon expiration of the suspen-
10 sion period, if within that period the license has
11 not otherwise terminated, the home service company's
12 license shall automatically be reinstated, unless it
13 is determined by the director that the causes of sus-
14 pension have not been removed, or, after notice and
15 hearing, it is found that the home service company is
16 otherwise not in compliance with the requirements of
17 this subchapter.

18 4. Authority of company. Upon reinstatement of
19 the home service company's license or reinstatement
20 of the certificate of authority of an insurer follow-
21 ing suspension, the authority of the home service
22 company sales agents in this State to represent the
23 home service company or insurer shall likewise be re-
24 instated.

25 §13233. Filing of forms

26 1. Restrictions on activity. No home service
27 contract may be issued or used in this State unless
28 it has been filed with and approved by the director.

29 2. Filing in advance. Except as provided in sub-
30 section 1, every home service contract shall be filed
31 not less than 30 days in advance of its intended is-
32 suance or use. At the expiration of 30 days from the
33 date of filing, a home service contract so filed is
34 deemed approved unless, prior thereto, it has been
35 affirmatively approved or disapproved by written or-
36 der of the director.

37 3. Approval of contract. The director shall not
38 approve any home service contract unless it:

1 A. Is written in nontechnical, readily under-
2 stood language, using words with common meanings;

3 B. Clearly, conspicuously and plainly specifies:

4 (1) The services to be performed by the
5 service company and the terms and conditions
6 of the performance;

7 (2) The service fee or deductible amount
8 applicable per claim, per occurrence, if
9 any;

10 (3) Each of the items covered by the con-
11 tract;

12 (4) All exclusions and limitations respect-
13 ing the extent of coverage;

14 (5) The period during which the contract
15 will remain in effect and the cancellation
16 provision; and

17 (6) All limitations respecting the perform-
18 ance of services, including any restrictions
19 as to the time periods when services may be
20 requested or will be performed; and

21 C. Includes reasonable procedures for reporting
22 a claim and provides for the performance of ser-
23 vices without requiring the filing of claim forms
24 or applications prior to the rendering of ser-
25 vices.

26 §13234. Filing of fees

27 All contract fees and related inspection fees
28 shall be filed with the director not less than 30
29 days in advance of their intended use.

30 §13235. Annual statement; examination

31 1. Time of filing; financial statement. Each
32 home service company shall file with the director,
33 annually, within 90 days of the close of its fiscal
34 year, its annual statement in a form prescribed by or
35 acceptable to the director. The annual statement

1 shall include a current financial statement, includ-
2 ing a balance sheet and statement of operations pre-
3 pared in accordance with generally accepted account-
4 ing principles and certified by an independent certi-
5 fied public accountant.

6 2. Contracts. Each annual statement shall in-
7 clude the number of home service contracts issued
8 during the preceding fiscal year, the number can-
9 celled or expired during the year, the number in ef-
10 fect at year end and the amount of all contract fees
11 received for contract issuance during the year.

12 3. Reserve. Each annual statement shall include
13 necessary information to demonstrate that the reserve
14 requirement of section 4126 has been met.

15 4. Failure to file. Any home service company ne-
16 glecting to file the annual statement in the form and
17 within the time provided by this section shall forfeit
18 \$100 for each day during which the neglect contin-
19 ues and, upon notice by the director to that ef-
20 fect, its authority to do business in this State
21 shall cease while the default continues.

22 5. Additional reports. In addition to an annual
23 statement, the director may require of licensees, un-
24 der oath and in the form prescribed by him, such ad-
25 ditional regular or special reports as he may deem
26 necessary to the proper supervision of licensees un-
27 der this subchapter.

28 6. Examination. The director may make an exami-
29 nation of the affairs of any licensed home service
30 company as he deems necessary. Every home service
31 company shall make its books and records relating to
32 its home service contract operations available for
33 the examination. All expenses relating to such an ex-
34 amination shall be borne by the home service company
35 being examined.

36 §13236. Service of process; appointment of director
37 as process agent

38 1. Irrevocable appointment. Each home service
39 company applying for authority to transact business
40 in this State, whether domestic or foreign, shall ap-

1 point the director and his successors in office as
2 its attorney to receive service of all legal process
3 issued against it in any civil action or proceeding
4 in this State and shall agree that process so served
5 shall be valid and binding upon the home service com-
6 pany. The appointment shall be irrevocable, bind the
7 home service company and any successor in interest as
8 to the assets or liabilities of the home service com-
9 pany and remain in effect as long as there are out-
10 standing in this State any obligations or liability
11 of the home service company resulting from its home
12 service contract transactions.

13 2. Designation by company. At the time of ap-
14 pointment of the director as its process agent, the
15 home service company shall file with the director a
16 designation of the name and address of the person to
17 whom process against it, served upon the director, is
18 to be forwarded. The home service company may change
19 the designation at any time by a new filing.

20 3. Method of service. Service shall be made by
21 serving copies in triplicate of the process upon the
22 director or upon his assistant, deputy or other per-
23 son in charge of his office. Upon receiving the ser-
24 vice, the director shall file one copy, return one
25 copy with his admission of service and promptly for-
26 ward one copy of the process by registered or certi-
27 fied mail to the person last designated by the home
28 service company to receive the copy as provided in
29 subsection 2.

30 §13237. Home service company sales agent registra-
31 tion required

32 1. Time of registration; fee. No home service
33 company sales agent may solicit, negotiate, sell, ad-
34 vertise or effectuate home service contracts in this
35 State on behalf of a home service company, unless
36 registered with the director within 30 days of his
37 appointment. The agent shall pay a biennial registra-
38 tion fee of \$30.

39 2. Written examination. If the sales agent so
40 registered does not hold a current and valid real es-
41 tate broker license, the director may require the
42 same evidence of qualifications as is required of ap-

1 plicants under section 4106 and may require a written
2 examination as to his competency with regard to home
3 service contracts. Upon registration, the nonreal es-
4 tate broker sales agent shall be held to the same
5 standards of trustworthiness and competency required
6 of a licensed real estate broker or salesman.

7 3. Compliance with insurance law. No home ser-
8 vice company sales agent may directly or indirectly
9 solicit or negotiate insurance contracts or hold it-
10 self out to be an insurance agent, unless so quali-
11 fied and licensed under Title 24-A.

12 4. Penalties. If a person acts as a sales agent
13 without being registered with the director or after
14 his registration has been withdrawn or revoked, that
15 person shall be fined up to \$100 a day for each day
16 in which he has so acted, but any home service con-
17 tract issued pursuant to these acts shall bind the
18 home service company if otherwise valid. In these
19 cases, the Administrative Court may also, for good
20 cause shown, and after notice and hearing, suspend or
21 revoke the license of the home service company for
22 which the person was acting.

23 5. Trust funds. All funds belonging to home ser-
24 vice companies or insurers under this subchapter and
25 received by a sales agent in transactions shall be
26 trust funds received in a fiduciary capacity. The
27 sales agent shall account for and pay these funds to
28 the home service company or insurer entitled thereto
29 in the regular course of business. Any sales agent
30 who diverts or appropriates these funds, or any por-
31 tion of these funds, to his own or other use, upon
32 conviction, shall be guilty of a Class D crime, pun-
33 ishable as provided by law.

34 6. Associates. All home service contract sales
35 associates are subject to the same requirements and
36 penalties as are applicable to home service contract
37 sales agents, except that licensed real estate bro-
38 kers and salesmen are exempt from registration re-
39 quirements.

40 §13238. Penalty for violation

1 Any person who knowingly makes a false or other-
2 wise fraudulent application for license under this
3 subchapter or who knowingly violates any of its pro-
4 visions, in addition to any applicable denial, sus-
5 pension, revocation or refusal to renew or continue
6 any license, is guilty of a Class D crime. Each in-
7 stance of violation is a separate offense.

8 §13239. Transitional provisions

9 On the effective date of this chapter the commis-
10 sion shall change its records pertaining to licenses
11 in effect at that time to reflect the changes in li-
12 cence status of licensees affected by these provi-
13 sions and shall issue the appropriate licenses to im-
14 plement the following.

15 1. Designated broker. Every person holding a
16 real estate broker license recorded as an individual
17 proprietorship shall become a designated broker and a
18 real estate brokerage agency license shall be issued
19 in the name of the proprietorship without charge. The
20 license issued under this provision shall expire on
21 the same date as the designated broker's license.

22 2. Real estate broker license. Every person
23 holding an active real estate broker license recorded
24 as an associate broker shall be issued a real estate
25 broker license at the time their next license is is-
26 sued.

27 3. Associate real estate broker license. Every
28 person holding an inactive real estate broker license
29 or an inactive real estate salesman license on the
30 effective date of this chapter shall be issued an as-
31 sociate real estate broker license at the time of
32 their next renewal or at the time their license is
33 activated, if an application to activate the license
34 is received prior to their next renewal.

35 4. Associate real estate broker. Every person
36 holding an active real estate salesman license on the
37 effective date of this chapter shall become an as-
38 sociate real estate broker and shall be issued an as-
39 sociate broker license at the time their next license
40 is issued.

1 5. Applications processed. All license applica-
2 tions shall be processed according to the laws in ef-
3 fect on the date the application is received by the
4 commission. License applications shall be processed
5 according to former chapter 59 if the applicant has
6 satisfactorily completed all requirements of that
7 chapter by July 1, 1988.

8 CHAPTER 115

9 THE MAINE ATHLETIC COMMISSION

10 §13501. Commission

11 The Maine Athletic Commission, established by Ti-
12 tle 5, section 12004, subsection 1, and in this chap-
13 ter called "the commission," shall consist of 5 mem-
14 bers appointed by the Commissioner of Professional
15 and Financial Regulation, with the advice and consent
16 of the Governor. No member may receive any compensa-
17 tion or remuneration for promoting, competing or oth-
18 erwise engaging in boxing, wrestling or kick-boxing.
19 Each member of the commission shall be compensated as
20 provided in Title 5, chapter 379.

21 Appointments shall be for 3-year terms, except
22 that no more than 2 members' terms may expire in any
23 one calendar year. Appointments for terms of less
24 than 3 years may be made in order to comply with this
25 limitation. No person may be eligible to serve more
26 than 3 full consecutive terms, provided that for this
27 purpose only a period actually served which exceeds
28 1/2 of the 3-year term shall be deemed a full term.
29 Upon expiration of a member's term, he shall serve
30 until his successor is qualified and appointed. The
31 successor's term shall be 3 years from the date of
32 that expiration, regardless of the date of his ap-
33 pointment. Any vacancy shall be filled by appoint-
34 ment for the unexpired term. A member may be removed
35 by the Governor for cause.

36 §13502. Declaration of policy

37 It is declared to be the policy of the State,
38 that professional and amateur boxing, professional
39 and exhibition wrestling and professional and amateur
40 kick-boxing in this State shall be supervised by the

1 commission in a manner designed to promote these
2 sports in accordance with the public interest, insure
3 the safety of all participants and spectators and
4 achieve uniformity in the rules governing participa-
5 tion in these sports within the State.

6 §13503. Meetings; chairman; quorum

7 The commission shall meet at least once a year to
8 conduct its business and to elect a chairman and a
9 secretary. Additional meetings shall be held as nec-
10 essary to conduct the business of the commission, and
11 may be convened at the call of the chairman or a ma-
12 jority of the board members. Three members of the
13 commission shall constitute a quorum for all pur-
14 poses. The commission shall keep such records and
15 minutes as are necessary to the ordinary dispatch of
16 its functions.

17 §13504. Disposal of fees; expenses

18 All fees and taxes collected under this chapter
19 shall be paid forthwith by the commission to the
20 Treasurer of State with a detailed statement thereof
21 and shall constitute a fund to be known as the Ath-
22 letic Commission Fund. This fund shall be kept as a
23 separate account by the Treasurer of State and he
24 shall pay therefrom all costs and expenditures of the
25 commission, including, but not limited to, the com-
26 penensation of the commission, reasonable expenses of
27 the commissioners incurred in the performance of
28 their duties, administrative expenses and other costs
29 incurred in carrying out the duties of the commis-
30 sion. Any money remaining in the Athletic Commission
31 Fund at the end of the fiscal year shall be carried
32 forward to the credit of that fund for the succeeding
33 year.

34 The Commissioner of Professional and Financial
35 Regulation shall employ, subject to the Civil Service
36 Law, the personnel that he deems necessary to dis-
37 charge the duties of the commission, and, with the
38 advice of the commission, shall outline their duties
39 and fix their compensation, subject to the Civil Ser-
40 vice Law.

41 §13505. Annual reports

1 Not later than August 1st of each year, the com-
2 mission shall submit to the Commissioner of Profes-
3 sional and Financial Regulation, for the preceding
4 fiscal year ending June 30th, an annual report of its
5 operations and financial position, together with such
6 comments and recommendations as the commission deems
7 relevant.

8 §13506. Jurisdiction

9 1. Boxing. The commission shall have the sole
10 direction, control and jurisdiction over all boxing
11 contests and exhibitions, except that it shall have
12 no jurisdiction over any amateur intercollegiate, in-
13 terscholastic or intramural boxing contest or exhibi-
14 tion conducted under the direct auspices of a school,
15 college or university, except as provided in section
16 13508.

17 No boxing contests or exhibitions, except as provided
18 in this chapter, may be held or conducted within this
19 State, unless the contest or exhibition is properly
20 licensed by the commission and conducted in accord-
21 ance with this chapter and the rules adopted pursuant
22 to this chapter, nor shall any closed circuit televi-
23 sion showing of a boxing contest or exhibition be
24 conducted, except under a license issued by the com-
25 mission.

26 No boxing contests or exhibition under the jurisdic-
27 tion of the commission may take place unless a medi-
28 cal doctor, licensed under chapter 48 is in attend-
29 ance.

30 2. Wrestling. The commission shall have the
31 sole direction, control and jurisdiction over all
32 professional wrestling matches, shows or exhibitions.

33 No professional wrestling match, show or exhibition
34 may be held or conducted within this State unless the
35 match, show or exhibition is licensed by the commis-
36 sion and conducted in accordance with this chapter
37 and the rules adopted pursuant to this chapter, nor
38 may any closed circuit television showing of a pro-
39 fessional wrestling match, show or exhibition be con-
40 ducted, except under a license issued by the commis-
41 sion.

1 No professional wrestling match, show or exhibition
2 under the jurisdiction of the commission may take
3 place unless an emergency medical technician, as li-
4 censed under chapter 2-B, is in attendance for the
5 duration of the contest.

6 3. Kick-boxing. The commission shall have the
7 sole direction, control and jurisdiction over all
8 kick-boxing contests, exhibitions or performances.
9 For purposes of this chapter, kick-boxing means the
10 following.

11 A. "Kick-boxing" means any form of boxing in
12 which blows are delivered with the hand and any
13 part of the leg below the hip, including the
14 foot, with the intent to disable or cause injury
15 to an opponent in a contest, exhibition or per-
16 formance.

17 B. This subsection shall not apply with respect
18 to kick-boxing exhibitions, events, performances
19 or contests in which school pupils or instructors
20 are the only participants, except that this ex-
21 emption shall apply only to a performance or ex-
22 hibition conducted under the direct supervision
23 and control of the board of directors of a school
24 district, or the person in authority of a teach-
25 ers' training school or other institution under
26 the control of the Commissioner of Educational
27 and Cultural Services and the State Board of Edu-
28 cation or the board, bodies or persons in author-
29 ity of duly constituted private or parochial
30 schools, colleges or universities, or schools for
31 kick-boxing.

32 C. No kick-boxing contest, exhibition or per-
33 formance, except as provided in this chapter, may
34 be held or conducted within the State, unless the
35 contest, exhibition or performance is properly
36 licensed by the commission and conducted in ac-
37 cordance with this chapter and the rules adopted
38 pursuant to this chapter, nor may any closed cir-
39 cuit television showing of such a contest or ex-
40 hibition be conducted except under a license is-
41 sued by the commission.

1 D. No kick-boxing contest, exhibition or per-
2 formance under the jurisdiction of the commission
3 may take place unless a medical doctor, licensed
4 under chapter 48, is in attendance for the dura-
5 tion of the contest.

6 §13507. Powers and duties

7 The commission shall administer, coordinate and
8 enforce this chapter consistent with the declaration
9 of policy set forth in section 13502, and shall have
10 the following powers and duties in addition to those
11 otherwise set forth in this chapter.

12 1. Rules. The commission, in accordance with
13 procedures established by the Maine Administrative
14 Procedure Act, Title 5, chapter 375, subchapter II,
15 may adopt rules commensurate with the authority
16 vested in it by this chapter.

17 A. In the exercise of its jurisdiction over box-
18 ing as set forth in section 13506, subsection 1,
19 the commission may adopt rules governing, among
20 others, referees, judges, boxers, seconds, pro-
21 motors, managers, physicians, timekeepers and
22 knockdown timekeepers. These rules may include,
23 but not be limited to: Licensing requirements;
24 age limits and physical condition of partici-
25 pants; lengths of contests and rounds; specifica-
26 tions of the facilities and equipment used in
27 boxing contests and uniforms of contestants and
28 referees; scoring of decisions; standards of
29 weight and weighing of contestants; and the man-
30 ner of presentation of closed circuit events.
31 Rules governing amateur boxing contests shall
32 conform to tournament regulations of the Amateur
33 Athletic Union or its successor in interest.

34 B. In the exercise of its jurisdiction over
35 wrestling as set forth in section 13506, subsec-
36 tion 2, the commission may adopt rules governing,
37 among others, wrestlers, managers, seconds, ref-
38 erees, matchmakers, physicians, timekeepers,
39 trainers and promoters. These rules may include,
40 but not be limited to: Licensing and qualifica-
41 tions of participants; conduct of contests; spec-
42 ifications of equipment and facilities used in

1 wrestling contests or exhibitions; and scoring of
2 decisions.

3 C. In the exercise of its jurisdiction over
4 kick-boxing, as set forth in section 13506, sub-
5 section 3, the commission may adopt rules govern-
6 ing, among others, referees, judges, kick-boxers,
7 seconds, promoters, managers, physicians,
8 timekeepers and knockdown timekeepers. These
9 rules may include, but not be limited to, licens-
10 ing requirements, age limits and physical condi-
11 tion of participants, lengths of contests and
12 rounds, specifications of the facilities and
13 equipment used in contests and uniforms of con-
14 testants and referees, scoring of decisions,
15 standards of weight and weighing of contestants,
16 and the manner of presentation of closed circuit
17 events. Rules governing amateur kick-boxing con-
18 tests shall conform to tournament regulations of
19 the Amateur Athletic Union or its successor in
20 interest.

21 D. The commission may adopt rules requiring
22 health and accident insurance providing coverage
23 in the event of injury or death for persons com-
24 peting in boxing events, wrestling events or
25 kick-boxing events subject to this chapter, or
26 for any combination of those events. This insur-
27 ance, if required, shall comply with standards
28 prescribed by the Superintendent of Insurance.

29 2. Officials. The officials at all boxing or
30 kick-boxing contests or exhibitions shall be selected
31 or approved by the commission. For purposes of this
32 subsection, the term "officials" includes referees,
33 judges, physicians, timekeepers and knockdown
34 timekeepers.

35 3. Hearings. Hearings may be conducted by the
36 commission to assist with investigations, to deter-
37 mine whether grounds exist for suspension, revocation
38 or denial of a license, or as otherwise deemed neces-
39 sary to the fulfillment of its responsibilities under
40 this chapter.

41 The commission shall not refuse to renew a license
42 for any reason other than failure to pay a required

1 fee, unless it has afforded the licensee an opportunity
2 for an adjudicatory hearing. The commission
3 shall hold an adjudicatory hearing at the written re-
4 quest of any person who is denied a license without
5 a hearing for any reason other than failure to pay a
6 required fee, provided that the request for hearing
7 is received by the commission within 30 days of the
8 applicant's receipt of written notice of the denial
9 of his application, the reasons therefor and his
10 right to request a hearing. Hearings shall be con-
11 ducted in conformity with the Maine Administrative
12 Procedure Act, Title 5, chapter 375, subchapter IV,
13 to the extent applicable. The commission may subpoe-
14 na witnesses, records and documents in any hearing it
15 conducts.

16 4. Contracts. The commission may enter into
17 contracts to carry out its responsibilities under
18 this chapter.

19 §13508. Headgear required; safety equipment

20 1. Headgear. No amateur boxing contests, exhibi-
21 tions or sparring may take place in this State, un-
22 less the boxers wear protective headgear approved by
23 the commission.

24 2. Other safety equipment. No amateur or pro-
25 fessional boxing contests, exhibitions or sparring
26 may take place in this State, unless the following
27 safety equipment is used:

28 A. Plastic safety mats;

29 B. Padded corner posts; and

30 C. Such other safety equipment as the commission
31 may consider necessary for the protection of the
32 health and safety of boxers.

33 3. Penalty. Any person, club, association, cor-
34 poration or any member or officer of a club, associa-
35 tion or corporation who promotes, competes or other-
36 wise engages in a boxing contest, exhibition or in
37 sparring without complying with subsections 1 and 2,
38 commits a civil violation for which a forfeiture of
39 not more than \$500 may be adjudged. The imposition

1 of such a forfeiture shall in no way limit the com-
2 mission's right to impose disciplinary sanctions pur-
3 suant to section 13516 or the State's ability to im-
4 pose penalties under section 13517.

5 §13509. Head injuries

6 1. Examination. Any boxer who is rendered
7 unconscious or suffers serious head injury during any
8 boxing contest or exhibition, as determined by the
9 attending ring physician, shall:

10 A. Be examined immediately by the attending ring
11 physician;

12 B. Undergo neurological and neuropsychological
13 examinations by a neurologist or neurosurgeon,
14 including, but not limited to, a computed
15 tomography or medically equivalent procedure; and

16 C. Not participate in any boxing contest or ex-
17 hibition until the commission is presented with a
18 written certification of a licensed physician
19 that the boxer is fit to take part in competitive
20 boxing.

21 2. Results of examination. The results of any
22 examination conducted under subsection 1 and any sub-
23 sequent physician certification shall become part of
24 the boxer's permanent medical record, as maintained
25 by the commission and shall be used by the commission
26 to determine whether the boxer should be permitted to
27 participate in any future boxing contest or exhibi-
28 tion.

29 3. Responsibility for examination. The sole re-
30 sponsibility for any examination required by subsec-
31 tion 1, paragraph B, shall rest with the boxer. Nei-
32 ther the commission, any member of the commission,
33 nor the ringside physician shall be responsible fi-
34 nancially or otherwise for the examination.

35 §13510. Boxing and kick-boxing licenses

36 1. Persons to whom licenses may be issued. The
37 commission may issue, in its discretion, a license
38 for a term of one year from date of issuance to any

1 person, club, association or corporation, who or
2 which is properly qualified to promote and conduct
3 boxing or kick-boxing contests and exhibitions in ac-
4 cordance with this chapter and the rules adopted pur-
5 suant to this chapter. All persons engaged in such
6 contests and exhibitions as boxers, kick-boxers, sec-
7 onds, managers, timekeepers, knockdown timekeepers,
8 referees, judges and physicians shall be licensed by
9 the commission in a like manner. A closed circuit li-
10 cence may be issued by the commission to any person
11 who is properly qualified therefor, which will en-
12 title him to engage in the showing of boxing or
13 kick-boxing contests or exhibitions by closed circuit
14 television.

15 2. Application for license. Each applicant for
16 a promoter's license or a closed circuit boxing,
17 kick-boxing or wrestling license shall specify the
18 location for which the license is desired, and that
19 promoter's license, when issued, shall be limited to
20 that specified location. No license issued under
21 this section, other than a promoter's license or a
22 closed circuit event license, may be limited to a
23 specified location.

24 3. Fee for license. The commission may, in its
25 discretion, fix the fee for each promoter's license
26 at a figure between \$25 and \$50 for a license to pro-
27 mote amateur events and a figure between \$50 and \$100
28 for a license to promote professional events, depend-
29 ing upon the probable income of the licensee to be
30 derived from the conducting of the contests and exhi-
31 bitions. The fee for a license for closed circuit
32 events shall be \$50. The commission may, by rule,
33 fix the fees for all other licenses issued under this
34 section at a figure between \$5 and \$25. When appli-
35 cation by a fraternal, charitable or patriotic orga-
36 nization for a license to promote and conduct amateur
37 boxing or kick-boxing contests or exhibitions is made
38 to the commission, it may grant the license without
39 the requirement of the payment of a license fee.

40 4. Temporary license. Upon application being
41 made for any license under this section, any member
42 of the commission, in his discretion, may temporarily
43 issue or temporarily refuse to issue the license. In
44 the event that such a temporary license is issued,

1 the temporary license shall be valid only until the
2 next meeting of the commission at which a quorum is
3 present. No license, except such a temporary li-
4 cence, may be issued under this section, except by a
5 majority vote taken at a commission meeting at which
6 a quorum is present. All license applications shall
7 be considered in the first meeting of the commission
8 following the receipt of the application, at which a
9 quorum is present.

10 §13511. Wrestling licenses

11 The commission, in accordance with this chapter
12 and the rules adopted pursuant to this chapter, may
13 issue a license for a term of one year, to any per-
14 son, club, association or corporation who or which is
15 properly qualified, to conduct professional wrestling
16 matches, shows or exhibitions. The commission, in
17 its discretion, may fix the fee for the license at a
18 figure between \$50 and \$100, depending upon the prob-
19 able income of the licensee to be derived from the
20 conducting of professional wrestling matches, shows
21 or exhibitions. A closed circuit wrestling license
22 may be issued by the commission for a term of one
23 year to any person who is properly qualified therefor
24 which will entitle him to engage in the showing of
25 professional wrestling matches, shows or exhibitions
26 by closed circuit television. The fee for a closed
27 circuit wrestling license shall be \$50, and the li-
28 cence may be suspended or revoked by the Administra-
29 tive Court for any violation of this chapter or the
30 rules of the commission.

31 All persons engaging in professional wrestling
32 matches, shows or exhibitions as wrestlers shall be
33 licensed by the commission in a like manner. The
34 commission may by rule establish a fee for the li-
35 censes in an amount not to exceed \$25 a year. Upon
36 the application for a license as enumerated, the
37 chairman of the commission shall in his discretion
38 temporarily issue or refuse to issue the license.
39 The commission shall consider the matter at its regu-
40 lar meeting and rule upon the issuance or denial of
41 the license.

42 §13512. Permits for foreign copromoters

1 No foreign copromoter, meaning a promoter who has
2 no place of business within the State, may directly
3 or indirectly participate in the promotion of or re-
4 ceive any remuneration from or render any services in
5 connection with any boxing contest or exhibition, or
6 any professional wrestling match, show or exhibition
7 held within the State, unless he first has been
8 granted a permit by the commission. No promoter may
9 be associated with any foreign copromoter in promot-
10 ing any boxing contest or exhibition, unless the for-
11 foreign copromoter has first secured a permit. Permits
12 for foreign copromoters shall be issued in the same
13 manner as provided in section 13510, subsection 2,
14 and section 13511, for licenses to promote amateur or
15 professional boxing or wrestling, and the fees for
16 these permits shall be the same as those established
17 by the commission for these licenses.

18 A foreign copromoter, by accepting a permit,
19 agrees to be subject to all the provisions of this
20 chapter and the rules promulgated under this chapter.

21 Any foreign copromoter who violates any provision
22 of this chapter or any rule promulgated under this
23 chapter shall be guilty of a Class E crime.

24 §13513. Promoter's reports

25 The commission shall provide to each promoter a
26 printed report form, which shall be completed and re-
27 turned to the commission by registered letter mailed
28 within 48 hours of the conclusion of any boxing or
29 kick-boxing contest or exhibition or any wrestling
30 match, show or exhibition held under this chapter.
31 The completed form shall contain the following:

32 1. Names of contestants. A list of the names of
33 the contestants;

34 2. Physician's statement. The signed statement
35 of a physician that he examined each of the contes-
36 stants within 10 hours of the contest and found them
37 to be in good physical condition, and, in the case of
38 any boxing or kick-boxing contest, further stating
39 what he found each contestant's weight to be; and

1 3. Promoter's statement. The signed statement
2 of the promoter setting forth the results of the con-
3 test, the name of the referee, the names of the
4 judges in the case of a boxing or kick-boxing contest
5 or exhibition and the amount of the gross receipts.

6 §13514. Taxes

7 The promoter or promoters of all boxing or
8 kick-boxing contests or exhibitions and all profes-
9 sional wrestling matches, shows or exhibitions held
10 under this chapter shall pay to the Treasurer of
11 State, for credit to the Athletic Commission Fund, a
12 tax of 5% of the gross receipts from the contest or
13 exhibition up to a maximum tax of \$2,500. This sec-
14 tion shall apply to all boxing, kick-boxing and
15 wrestling contests or exhibitions which are shown
16 over closed circuit television.

17 On the day on which the contest or exhibition is
18 held, the promoter or promoters shall either tender
19 the tax to the commissioner in attendance, or provide
20 a surety bond acceptable to the commission in the
21 amount of \$5,000 payable to the Treasurer of State
22 and conditioned for payment of the tax and any penal-
23 ties imposed under this section. This tax shall have
24 been paid to the Treasurer of State within 15 days of
25 the date on which the contest or exhibition is held,
26 in the event a bond is provided. Upon failure to pay
27 the tax to the Treasurer of State, the promoter or
28 promoters shall be liable to pay a penalty of 25% of
29 the amount of the tax due, which penalty and the tax
30 due shall be recovered by a civil action upon the
31 bond brought in the name of the commission, and the
32 penalty and the tax due shall be paid to the Treasur-
33 er of State to be credited to the Athletic Commission
34 Fund.

35 §13515. Decisions

36 1. Boxing or kick-boxing. In all boxing or
37 kick-boxing contests or exhibitions conducted under
38 this chapter, there may be a decision as to the win-
39 ner by 2 judges and the referee, or by 3 judges, li-
40 censed under this chapter.

1 2. Wrestling. In all professional wrestling
2 matches, shows or exhibitions conducted under this
3 chapter, there may be a decision as to the winner by
4 the referee.

5 §13516. Disciplinary actions

6 The commission may suspend or revoke a license
7 pursuant to Title 5, section 10004. The commission
8 may refuse to renew or the Administrative Court may
9 revoke, suspend or refuse to renew any license issued
10 under this chapter if the holder of that license has
11 violated any provision of this chapter or any rule or
12 order of the commission.

13 §13517. Penalties; injunction

14 1. Penalties. Any person, club, association or
15 corporation, or any member or officer of a club, as-
16 sociation or corporation who promotes, competes or
17 otherwise engages in a boxing or kick-boxing contest
18 or exhibition or wrestling match, show or exhibition
19 without first obtaining a license as required by this
20 chapter, or after the license has expired or has been
21 suspended, revoked or temporarily suspended or re-
22 voked, is guilty of a Class E crime.

23 2. Injunction. The State may bring an action in
24 Superior Court to enjoin any person from violating
25 this chapter, regardless of whether proceedings have
26 been or may be instituted in the Administrative Court
27 or whether criminal proceedings have been or may be
28 instituted.

29 Sec. 213. P&SL 1975, c. 84, §6, last ¶, first
30 sentence is amended to read:

31 If any person sustaining damages by any taking as
32 aforesaid shall not agree with the trustees of said
33 the district upon the sum to be paid therefor, either
34 party, within 45 days of the filing of such the no-
35 tice in the registry of deeds, upon petition to the
36 Land-Damage-Board State Claims Commission, may have
37 said the damages assessed by them.

38 Sec. 214. Interdepartmental Task Force on Out-
39 of-state Placements.

1 1. Interdepartmental task force created. The In-
2 terdepartmental Task Force on Out-of-state Placements
3 is established to jointly identify and implement a
4 course of action to minimize placement of children in
5 out-of-state substitute care facilities, including,
6 but not limited to, a residential treatment center,
7 residential child care facility, group home, emergen-
8 cy shelter, hospital - medical facility, institution
9 for the mentally retarded, correctional institution,
10 school, nursing home, institution for the mentally
11 ill, institution for the physically handicapped,
12 boarding care facility, drug treatment center, chil-
13 dren's home or specialized children's home. The task
14 force shall be composed of the Commissioner of Human
15 Services, the Commissioner of Educational and Cultural
16 Services, the Commissioner of Mental Health and
17 Mental Retardation and the Commissioner of Correc-
18 tions, or their designees.

19 2. Duties. The Task Force on Out-of-state Place-
20 ments shall:

21 A. Develop an overall state policy to minimize
22 the placement of children in out-of-state substi-
23 tute care facilities;

24 B. Identify ways and means to provide a child in
25 the substitute care system with treatment within
26 the State appropriate to meet the child's indi-
27 vidual needs in order to promote the health and
28 well-being of the child, promote the wholesome
29 development of the child and achieve permanence
30 at the earliest possible time;

31 C. Develop procedures for the provision of these
32 services by nonstate agencies within the State;
33 and

34 D. Meet periodically with the Resident Treatment
35 Centers Advisory Group as established by the
36 Maine Revised Statutes, Title 5, section 12004,
37 subsection 10, to discuss the instate placement
38 policy and procedures.

39 3. Extraordinary circumstances. Out-of-state
40 placements may be made only in extraordinary circum-
41 stances such as when the individual needs of the

1 child cannot be met because appropriate services are
2 not offered by in-state facilities or parental visi-
3 tation would be facilitated by placement in an out-
4 of-state facility which is geographically closer than
5 a facility in this State.

6 4. Reporting provision. The task force shall re-
7 port to the Joint Standing Committee on Audit and
8 Program Review and the Joint Standing Committee on
9 Human Resources by January 1, 1988.

10 **Sec. 215. Transition provisions.**

11 1. Funds transferred. Notwithstanding the Maine
12 Revised Statutes, Title 5, sections 1585 and 1586,
13 all accrued expenditures, assets, liabilities, bal-
14 ances, appropriations or allocations, transfers, rev-
15 enues and other available funds in any account or
16 subdivision of any account of the Board of Examiners
17 for the Examination of Applicants for Admission to
18 the Bar or any subunit of that office affected by
19 this Act are transferred to the Supreme Judicial
20 Court, as required by the assignment of responsibili-
21 ties in this Act.

22 2. Personnel and employment benefits trans-
23 ferred. All employees of the Board of Examiners for
24 the Examination of Applicants for Admission to the
25 Bar or any subunit of that office are transferred to
26 the Supreme Judicial Court, as required by the as-
27 signment of responsibilities in this Act.

28 All accrued fringe benefits, including vacation and
29 sick leave, health and life insurance and retirement
30 of these personnel shall remain with them. No
31 employee's pay or promotional rights and opportuni-
32 ties may be adversely affected due to this transfer.

33 3. Equipment and property transferred. All
34 equipment, records and property of the State used by
35 employees and officials of the Board of Examiners for
36 the Examination of Applicants for Admission to the
37 Bar are transferred to the Supreme Judicial Court, as
38 required by the assignment of responsibilities in
39 this Act.

1 the allowed increase exceed 5% and in no case may
2 the debt service limit be reduced.

3 B. Nonstate funded projects, such as school con-
4 struction projects or portions of projects fi-
5 nanced by proceeds from insured losses, money
6 from federal sources, other noneducational funds
7 or local funds which are not eligible for inclu-
8 sion in an administrative unit's state-local al-
9 location, shall be outside the total cost limita-
10 tions set by the Legislature.

11 **Sec. 2. 22 MRSA §3174-D is enacted to read:**

12 §3174-D. Medicaid coverage for services provided by
13 the Governor Baxter School for the Deaf

14 The Department of Human Services may administer a
15 program of Medicaid coverage for speech and hearing
16 services, psychological services, occupational thera-
17 py and any other services provided by the Governor
18 Baxter School for the Deaf which qualify for reim-
19 bursement under the United States Social Security
20 Act, Title XIX. The Department of Educational and
21 Cultural Services shall have fiscal responsibility
22 for providing the State's match for federal revenues
23 acquired under this section. An amount equal to the
24 Medicaid reimbursement shall be deposited into the
25 General Fund undedicated revenue from the Governor
26 Baxter School for the Deaf General Fund appropria-
27 tion.

28 **Sec. 3. 32 MRSA §1101, sub-§3-A is enacted to**
29 **read:**

30 3-A. Journeyman-in-training electrician. "Jour-
31 neyman - in - training electrician" means a person
32 doing work of installing electrical wires, conduits,
33 apparatus, fixtures and other electrical equipment
34 under the supervision of a journeyman or a master
35 electrician. The biennial renewal fee for a journey-
36 man - in - training electrician license is \$20.

37 **Sec. 4. 32 MRSA §1101, sub-§4-A, as enacted by**
38 **PL 1983, c. 413, §32, is amended to read:**

1 4-A. Supervision. Each master electrician, lim-
2 ited electrician or journeyman electrician may have
3 one apprentice electrician or one helper electrician
4 working with him and under his personal supervision.
5 A master electrician, who teaches an electrical
6 course at a Maine regional vocational-technical center,
7 a Maine vocational region or a Maine vocational-
8 technical institute, may have a maximum of 12 helper
9 electricians under his direct supervision while making
10 electrical installations which are a part of the
11 instructional program of the school, provided that
12 the total value of each installation does not exceed
13 \$1,000. No electrical installation may be commenced
14 pursuant to this subsection without the prior approval
15 of the director of the school at which the master
16 electrician is an instructor. These installations are
17 limited to those done in buildings or facilities
18 owned or controlled by:

19 A. School administrative units;

20 B. Nonprofit organizations; and

21 C. Households as defined in Title 36, section
22 6103, where the household income as defined in
23 that section is within the limits established for
24 one or 2 member households by Title 36, section
25 6108, except that if there are more than 2 mem-
26 bers in a household, an additional \$500 of house-
27 hold income shall be allowed for each additional
28 member of the household in computing the income
29 limitation and provided that the household is
30 owner-occupied.

31 The Electricians' Examining Board and the municipal
32 electrical inspector of the municipality in which the
33 installation is to be made, if the municipality has
34 an inspector, shall be notified of all installation
35 projects entered into pursuant to this subsection
36 prior to the commencement of the project. There shall
37 be an inspection by a state electrical inspector or
38 by the municipal electrical inspector of the municipi-
39 pality in which the installation has been made, if
40 the municipality has an inspector, before any wiring
41 on the project is concealed.

1 Sec. 5. 32 MRSA §1102, sub-§5, as repealed and
2 replaced by PL 1973, c. 363, is repealed and the fol-
3 lowing enacted in its place:

4 5. Oil burner technicians. Any person duly li-
5 icensed under chapter 33 subject to the restrictions
6 of the license as issued;

7 Sec. 6. 32 MRSA §1152, first ¶, as amended by PL
8 1985, c. 785, Pt. B, §131, is further amended to
9 read:

10 The Commissioner of ~~Business, Occupational and~~
11 ~~Professional and Financial~~ Regulation, with the ad-
12 vice and consent of the board, shall be empowered to
13 appoint, subject to the Civil Service Law, such em-
14 ployees as may be necessary to carry out this chap-
15 ter. Any person so employed shall be located in the
16 Department of ~~Business, Occupational and~~ Professional
17 ~~and Financial~~ Regulation and under the administrative
18 ~~and supervisory~~ direction of the Commissioner of
19 ~~Business, Occupational and~~ Professional and Financial
20 Regulation.

21 Sec. 7. 32 MRSA §1202, sub-§1, as amended by PL
22 1985, c. 695, §18 and as repealed and replaced by PL
23 1985, c. 734, is repealed and the following enacted
24 in its place:

25 1. Application; qualifications. The board shall
26 issue a license to any person who files a sworn ap-
27 plication, who passes an examination conducted by the
28 board as provided in section 1203 to determine his
29 fitness to receive that license and who meets the
30 following qualifications.

31 A. For a journeyman electrician's license, a
32 person must:

33 (1) Complete at least 8,000 hours of ser-
34 vice as an apprentice or helper electrician
35 or at least 8,000 hours of experience in
36 electrical installations, as defined in sec-
37 tion 1101, and satisfactorily complete a
38 program of study comprising 576 hours as ap-
39 proved by the Electricians' Examining Board
40 or from an accredited institution. The 576

1 hours shall consist of 225 hours of required
2 study, including an approved course of not
3 less than 45 hours in the current National
4 Electrical Code; and 351 hours of elective
5 study, comprised of all trade-related
6 electives or 225 hours of trade-related
7 courses and 135 hours of degree-related
8 courses;

9 (2) Be a graduate of an accredited regional
10 vocational high school 2-year electrical
11 program, have worked for 8,000 hours in the
12 field of electrical installations under the
13 supervision of a master electrician or the
14 equivalent and have completed a course of
15 not less than 45 hours in the current Na-
16 tional Electrical Code, the course to be ap-
17 proved by the board;

18 (3) Be a graduate of an accredited Maine
19 vocational-technical institute electrical
20 program, have worked for 4,000 hours in the
21 field of electrical installations under the
22 supervision of a master electrician or the
23 equivalent and have completed a course of
24 not less than 45 hours in the current Na-
25 tional Electrical Code, the course to be ap-
26 proved by the board. Persons qualifying un-
27 der this paragraph may write the
28 journeyman's examination upon graduation if
29 application is made within one year of grad-
30 uation; or

31 (4) Be an electrical apprentice registered
32 with the Maine State Apprenticeship and
33 Training Council and have completed 576
34 hours of related instruction, as defined in
35 this paragraph, prescribed in their appren-
36 ticeship program, the 8,000-hour approved
37 program and a course of not less than 45
38 hours in the current National Electrical
39 Code, the course to be approved by the
40 board. Persons qualifying under this para-
41 graph may write the journeyman's examination
42 after completion of the 576 hours of in-
43 struction, if application is made within one
44 year of the completion of the instruction.

1 B. For a master electrician's license, a person
2 must:

3 (1) Complete at least 4,000 hours of ser-
4 vice as a journeyman electrician or at least
5 12,000 hours of experience in electrical in-
6 stallations, as defined in section 1101,
7 and complete a program of study comprising
8 576 hours as approved by the Electricians'
9 Examining Board or from an accredited insti-
10 tution. The 576 hours shall consist of 450
11 hours of required study, including a course
12 of not less than 45 hours in an approved
13 course in the current National Electrical
14 Code and 126 hours of degree-related
15 courses;

16 Any person who holds a journeyman
17 electrician's or limited license under this
18 section or under former section 1202, sub-
19 section 1, prior to July 1987, shall be eli-
20 gible to take the examination for a master
21 electrician's license, provided that the ap-
22 plicant has completed the number of hours of
23 service or experience required by this sub-
24 section.

25 C. For a limited electrician's license, a person
26 must meet the following requirements.

27 (1) A limited electrician in water pumps
28 shall have 90 hours of electrical education
29 as approved by the Electricians' Examining
30 Board or from an accredited institution and
31 2,000 hours of experience. The privileges of
32 practice shall be restricted to electrical
33 work between the branch circuits and power
34 supplies.

35 (2) A limited electrician in outdoor signs,
36 including sign lighting, shall have 90 hours
37 of electrical education as approved by the
38 Electricians' Examining Board or from an ac-
39 credited institution and 2,000 hours of ex-
40 perience. The privileges of practice do not
41 include branch circuit wiring.

1 (3) A limited electrician in gasoline dis-
2 persing shall have 90 hours of electrical
3 education as approved by the Electricians'
4 Examining Board or from an accredited insti-
5 tution and 2,000 hours of experience. The
6 privileges of practice shall be restricted
7 to electrical work between the branch cir-
8 cuit and the power supply.

9 (4) A limited electrician in traffic sig-
10 nals, including outdoor lighting of traffic
11 signals, shall have 90 hours of electrical
12 education as approved by the Electricians'
13 Examining Board or from an accredited insti-
14 tution and 2,000 hours of experience.

15 (5) A limited electrician in house wiring
16 shall have 225 hours of electrical education
17 as approved by the Electricians' Examining
18 Board or from an accredited institution and
19 4,000 hours of experience. Privileges of
20 practice shall be restricted to one-family
21 and 2-family dwellings, including modular
22 and mobile homes. Any person having a lim-
23 ited license in mobile homes prior to the
24 effective date of this section shall auto-
25 matically be licensed as a limited electri-
26 cian in house wiring.

27 (6) A limited electrician in refrigeration
28 shall have 270 hours of electrical education
29 as approved by the Electricians' Examining
30 Board or from an accredited institution and
31 6,000 hours of experience. Privileges of
32 practice shall be restricted to all associ-
33 ated wire from the loadside of distribution.

34 (7) A limited electrician in low energy,
35 including fire alarms, shall have 270 hours
36 of electrical education as approved by the
37 Electricians' Examining Board or from an ac-
38 credited institution and 4,000 hours of ex-
39 perience. Any person having a limited li-
40 cence in fire alarms or experience in the
41 installation of low-energy electronics, as
42 defined by the National Electrical Code,
43 prior to the effective date of this section,

1 shall automatically be licensed as a limited
2 electrician in low energy.

3 D. For a journeyman-in-training electricians'
4 license, a person must be a graduate of an ac-
5 credited Maine vocational-technical institute
6 electrical program, receive a passing grade on
7 the journeyman examination and complete 2,000
8 hours of experience. This provision shall be re-
9 viewed by the joint standing committee of the
10 Legislature having jurisdiction over business
11 legislation by March 1, 1991, and, unless contin-
12 ued by law, shall terminate at this time.

13 The board may establish by rule standards in accord-
14 ance with the Maine Administrative Procedure Act, Ti-
15 tle 5, chapter 375, to exercise its discretion to de-
16 termine if a limited license holder applying for a
17 master electrician's license has adequate experience
18 in all phases of electrical installation to take the
19 examination.

20 **Sec. 8. 32 MRSA §1203, first ¶, as amended by PL**
21 **1983, c. 553, §29, is further amended to read:**

22 The following applicants for license shall
23 present to the board a written application for exami-
24 nation and license, containing such information as
25 the board may require, accompanied by the required
26 fee of \$50 for a master electrician's license, \$20
27 for a journeyman's license, \$10 for a
28 journeyman-in-training license and \$30 for a limited
29 electrician's license. Examinations shall be in whole
30 or in part in writing, shall be conducted by the
31 board and shall be of a thorough and practical char-
32 acter commensurate with the responsibilities of the
33 prospective license holder. They shall include such
34 provisions of the National Electrical Code as the
35 board may deem appropriate.

36 **Sec. 9. 32 MRSA §1204, first ¶, as repealed and**
37 **replaced by PL 1983, c. 413, §39, is amended to read:**

38 All licenses issued shall expire October 31st of
39 each biennial period as to master electricians and
40 April 30th of each biennial period as to other li-
41 censees and they may be renewed thereafter for 2-year

1 periods without further examination, upon the payment
2 of the proper renewal fee as set forth in section
3 1101 and documentation of 6 hours of a current elec-
4 trical code course every 4 years. The expiration
5 dates for licenses issued under this chapter may be
6 established at such other times as the Commissioner
7 of Business Regulation may designate. The board
8 shall notify everyone registered under this chapter
9 of the date of expiration of his license and the fee
10 required for its renewal for a 2-year period. The no-
11 tice shall be mailed to the person's last known ad-
12 dress at least 30 days in advance of the expiration
13 date of his license.

14 Sec. 10. 32 MRSA §7001-A, sub-§2, as enacted by
15 PL 1985, c. 736, §2, is amended to read:

16 2. Board. "Board" is the State Board of Social
17 Worker Registration Licensure.

18 Sec. 11. 32 MRSA c. 83, sub-c. II, first 2
19 lines, are repealed and the following enacted in
20 their place:

21 SUBCHAPTER II

22 STATE BOARD OF SOCIAL WORKER LICENSURE

23 Sec. 12. 32 MRSA §7026, as amended by PL 1985,
24 c. 736, §6, is further amended to read:

25 §7026. State Board of Social Worker Licensure

26 The State Board of Social Worker Registration
27 Licensure, as established by Title 5, section 12004,
28 subsection 1, and within the Department of Business,
29 Occupational and Professional and Financial Regula-
30 tion, shall administer this chapter. The board shall
31 consist of 7 members appointed by the Governor.
32 Three members of the board shall be licensed clinical
33 social workers, licensed master social workers or
34 certified social workers - independent practice, at
35 least one of whom must be practicing social work in a
36 nonclinical setting; 2 shall be licensed social work-
37 ers and there shall be 2 public members. Each level
38 of licensure shall be represented on the board. In

1 addition, board members shall meet the qualifications
2 required under section 7027.

3 Appointments shall be for 3-year terms, except
4 that no more than 3 members' terms may expire in any
5 one calendar year and appointments for terms of less
6 than 3 years may be made in order to comply with this
7 limitation. No person may be eligible to serve more
8 than 2 full consecutive terms, provided that for this
9 purpose only a period actually served which exceeds
10 1/2 of the 3-year term shall be deemed a full term.
11 Upon expiration of a member's term, he shall serve
12 until his successor is qualified and appointed. The
13 successor's term shall be 3 years from the date of
14 the expiration, regardless of the date of his ap-
15 pointment. Any vacancy occurring prior to the expi-
16 ration of the specified term shall be filled by ap-
17 pointment for the unexpired term.

18 **Sec. 13. 32 MRSA §7029, last ¶, as amended by PL**
19 **1985, c. 736, §8, is further amended to read:**

20 The board shall adopt a seal for its use. The
21 seal and records shall be kept at the Department of
22 ~~Business, Occupational and Professional~~ and Financial
23 Regulation.

24 **Sec. 14. 32 MRSA §7053, sub-§1, as amended by PL**
25 **1985, c. 736, §11, is repealed and the following en-**
26 **acted in its place:**

27 1. Licensed clinical social worker. To be quali-
28 fied as a licensed clinical social worker, an appli-
29 cant shall have demonstrated to the satisfaction of
30 the board adherence to the ethics of the social work
31 profession; shall have successfully completed the ex-
32 amination prescribed by the board; and shall have re-
33 ceived either:

34 A. A masters or doctoral degree in social work
35 or social welfare from an accredited educational
36 institution, in a clinical concentration:

37 (1) Shall have subsequently completed 2
38 years of social work experience with 96
39 hours of consultation in a clinical setting;
40 or

1 (2) Shall have demonstrated 2 years of
2 full-time clinical social work experience or
3 its equivalent and have completed the gradu-
4 ate degree prior to January 1, 1987, and
5 have completed 2 years of subsequent social
6 work experience with 96 hours of consulta-
7 tion in a private setting; or

8 B. A masters or doctoral degree in social work
9 in a nonclinical concentration from an accredited
10 educational institution:

11 (1) Shall have subsequently completed 4
12 years of social work experience with 192
13 hours of consultation in a clinical setting;
14 or

15 (2) Shall have demonstrated 2 years of
16 full-time clinical social work experience or
17 its equivalent and have completed the gradu-
18 ate degree prior to January 1, 1987, and
19 have completed 4 years of subsequent social
20 work experience with 192 hours of consulta-
21 tion in a private setting.

22 The board shall issue rules, in accordance with the
23 Maine Administrative Procedure Act, Title 5, chapter
24 375, defining the clinical experience required for
25 this level of licensure.

26 Sec. 15. 32 MRSA §7053-A, sub-§1, as enacted by
27 PL 1985, c. 736, §12, is amended to read:

28 1. Licensed master social worker. Any licensed
29 master social worker may:

30 A. Engage in administration, research, consulta-
31 tion, social planning and teaching related to the
32 functions in this section;

33 B. Perform all the functions of a licensed so-
34 cial worker; and

35 C. Engage in a nonclinical private practice.

36 In addition, a licensed master social worker having
37 met the requirements for licensure as a licensed

1 clinical social worker prior to January 1, 1987, ex-
2 cept for having completed the licensed clinical so-
3 cial worker examination, may engage in the clinical
4 consultation of licensed master social worker, condi-
5 tional for the purpose of preparing the licensed
6 master social worker, conditional for eventual li-
7 icensed clinical social workers' status or regular li-
8 icensure. This includes responsibility for ongoing
9 training and evaluation. The licensed master social
10 worker has an obligation to assess the licensed
11 master social worker, conditional's competence and
12 ethics and share this assessment with the Board of
13 Social Work Licensure at the time the licensed master
14 social worker applies for the licensed clinical lev-
15 el.

16 In addition to paragraphs A, B and C, a person hold-
17 ing a "licensed master social worker, conditional"
18 license may engage in psychosocial evaluation, in-
19 cluding diagnosis and treatment of mental illness and
20 emotional disorders, and provide clinical consulta-
21 tion to licensed social workers, social work stu-
22 dents, other professionals practicing related profes-
23 sions and paraprofessionals engaging in related ac-
24 tivities.

25 A "licensed master social worker, conditional" may
26 not engage in private clinical practice, unless per-
27 mitted under section 7053, subsection 1, and must re-
28 ceive individual consultation 4 hours a month while
29 practicing social work in a clinical setting.

30 **Sec. 16. 32 MRSA §7053-A, sub-§2, ¶E, as enacted**
31 **by PL 1985, c. 736, §12, is amended to read:**

32 E. Engage in the clinical consultation of li-
33 censed master social workers for the purpose of
34 preparing the licensed master social worker for
35 eventual licensed clinical social workers' status
36 or regular licensure. This includes responsibili-
37 ty for ongoing training and evaluation. The li-
38 censed clinical social worker has an obligation
39 to assess the licensed master social worker's
40 competence and ethics and share this assessment
41 with the Board of Social Work-Registration Worker
42 Licensure at the time the licensed master social

1 worker applies for the licensed clinical level.

2 **Sec. 17.** 32 MRSA §7053-A, sub-§3, ¶C, as enacted
3 by PL 1985, c. 736, §12, is amended to read:

4 C. Engage in clinical private practice of social
5 work.

6 In addition, a certified social worker - independ-
7 ent practice having met the requirements for li-
8 cence as a licensed clinical social worker pri-
9 or to January 1, 1987, except for having com-
10 pleted the licensed clinical social worker exami-
11 nation, may engage in the clinical consultation
12 of licensed master social worker, conditional for
13 the purpose of preparing the licensed master so-
14 cial worker, conditionals for eventual licensed
15 clinical social workers' status or regular licen-
16 sure. This includes responsibility for ongoing
17 training and evaluation. The certified social
18 worker - independent practice has an obligation
19 to assess the licensed master social worker,
20 conditional's competence and ethics and share
21 this assessment with the Board of Social Work Li-
22 cence at the time the licensed master social
23 worker applies for the licensed clinical level.

24 **Sec. 18.** 32 MRSA §7054-A, as enacted by PL 1985,
25 c. 736, §14, is amended by adding at the end a new
26 paragraph to read:

27 Any person having received a masters or doctoral
28 degree in social work or social welfare from an ac-
29 credited educational institution and having completed
30 5 years' experience prior to January 1, 1987, with 3
31 years or its equivalent having been gained within 5
32 years of the date of application for licensure, shall
33 be automatically licensed as a "licensed master so-
34 cial worker."

35 **Sec. 19.** 32 MRSA §7060, first ¶, as amended by
36 PL 1985, c. 736, §19, is further amended to read:

37 Licenses shall expire biennially on December 31st
38 or at such other times as the Commissioner of ~~Busi-~~
39 ~~ness, Occupational--and~~ Professional and Financial
40 Regulation may designate. Biennial fees for renewal

1 of license shall be set by the board in an amount not
2 to exceed \$50 and shall be due and payable biennially
3 on or before the first day of January. Every 2nd re-
4 newal shall be contingent upon evidence of participa-
5 tion in a continuing professional education course or
6 program as approved by the board. A license may be
7 renewed up to 90 days after the date of expiration
8 upon payment of a late fee of \$10 in addition to the
9 renewal fee. Any person who submits an application
10 for renewal more than 90 days after the renewal date
11 shall be subject to all requirements governing new
12 applicants under this chapter, except that the board
13 may in its discretion, giving due consideration to
14 the protection of the public, waive examination if
15 the renewal application is made within 2 years from
16 the date of the expiration.

17 **Sec. 20. 32 MRSA §7062**, as enacted by PL 1977,
18 c. 673, §3, is amended to read:

19 §7062. Reports.

20 No later than August 1st of each year, the board
21 shall submit to the Commissioner of Business Profes-
22 sional and Financial Regulation, for the preceding
23 fiscal year ending June 30th, an annual report of its
24 operations and financial position, together with
25 those comments and recommendations which the board
26 deems essential.

27 **PART C**

28 **Sec. 1. Appropriation.** The following funds are
29 appropriated from the General Fund to carry out the
30 purposes of this Act.

31 1987-88

32 EDUCATIONAL AND CULTURAL SERVICES,
33 DEPARTMENT OF

34 Division of Alcohol and Drug
35 Education Services

36 All Other \$35,000

1 This money will
2 fund a one-year
3 grant for reim-
4 bursing local
5 school districts
6 for educational
7 services pro-
8 vided to stu-
9 dents in long-
10 term drug treat-
11 ment centers.
12 This cost will
13 be offset by
14 savings derived
15 from the first
16 year of the Gov-
17 ernor Baxter
18 School for the
19 Deaf participa-
20 tion in the fed-
21 eral Medicaid
22 program.

23 **Emergency clause.** In view of the emergency cited
24 in the preamble, this Act shall take effect when ap-
25 proved, except for Part A, section 212, the Maine Re-
26 vised Statutes, Title 32, chapter 113, which shall
27 take effect on January 1, 1988; sections 10 to 14,
28 which will take effect on January 1, 1988; sections
29 36, 50, 53 to 65, 67, 71 to 77, 80, 87, 122 to 142,
30 144 to 167, 172 and 192 to 211, which shall take ef-
31 fect on September 1, 1987. The following sections of
32 Part B shall take effect on September 1, 1987: Sec-
33 tions 1, 3, 4, 7 to 9 and 14 to 18.

34 FISCAL NOTE

35 Part A, sections 26 and 27 provide a per diem for
36 2 professional regulatory boards which will be ab-
37 sorbed by current dedicated revenues requiring no ad-
38 ditional allocation or fee increase. Part A, sec-
39 tions 21, 46 to 65, 67 and 76 should result in over-
40 all savings to the Department of Educational and Cul-
41 tural Services which are unquantifiable at this time.
42 Part A, section 212, increases dedicated revenue to

1 cover additional administrative costs which will re-
2 sult in future allocation for the Real Estate Commis-
3 sion over a period of time.

4 Part A, sections 35 and 173 create an impact on 2
5 dedicated revenue accounts which will be absorbed by
6 current dedicated revenues requiring no additional
7 allocations or fee increases.

8 Part B, section 2, lapses an amount equal to the
9 federal Medicaid allocation back to the General Fund
10 which is anticipated to be a minimum of \$38,000 a
11 year.

12 Part C provides a one-year grant for reimbursing
13 educational services. Therefore, this bill will re-
14 sult in a minimum net increase to the General Fund
15 over the biennium of \$41,000.

16 STATEMENT OF FACT

17 PART A

18 Section 1 of the new draft clarifies that the
19 state appropriation received by the Maine Historical
20 Society is subject to legislative review and that the
21 society is not subject to the termination provision
22 of the sunset law.

23 Sections 2 and 9 update the sunset schedule by
24 updating the titles of 5 boards in the review list;
25 continuing the review of the Electricians' Examining
26 Board, the Board of Examiners of Psychologists, the
27 Arborist Examining Board, the Maine Occupational In-
28 formation Coordinating Committee, Bryant Pond Conser-
29 vation School, the Board of Social Worker Licensure
30 and the Advisory Committee on Maine Public Broadcast-
31 ing into the next year to be completed no later than
32 June 30, 1988; includes the Board of Commissioners of
33 the Profession of Pharmacy and the Alcohol and Drug
34 Abuse Planning Committee as agencies to be reviewed
35 by June 30, 1988; deleting names of agencies that had
36 been earlier repealed; clarifying the 1989 and 1990
37 review schedule of departments and independent agen-
38 cies; clarifying that the Maine Historical Society is

1 not subject to termination by deleting it from the
2 review list; continuing those independent agencies
3 scheduled for review this year; and terminating the
4 Board of Examiners for the Examination of Applicants
5 for Admission to the Bar, the State Running Horse
6 Racing Commission; and the Maine Criminal Justice
7 Planning and Assistance Agency by failing to continue
8 them.

9 Sections 10 to 14 and 215 change the status of
10 the current Board of Examiners for the Examination of
11 Applicants for Admission to the Bar from an agency
12 within the Executive Branch of State Government to an
13 organizational unit created under the rule-making au-
14 thority of the Supreme Judicial Court.

15 Section 15 updates references to the Maine Real
16 Estate Commission.

17 Section 16 updates references to professional li-
18 censing boards.

19 Sections 17 to 20, 91 to 106 and 213 change the
20 name of the State Claims Board to the State Claims
21 Commission.

22 Section 21 allows schools and various political
23 subdivisions of the State to have access to state
24 surplus property that is equal to state departments
25 and agencies.

26 Section 22 repeals the laws dealing with the
27 Maine Criminal Justice Planning and Assistance Agen-
28 cy.

29 Section 23 specifies that the Department of Human
30 Services shall be the first state agency scheduled
31 for a state agency management study by the Bureau of
32 Human Resources.

33 Sections 24 to 30 change the names of 5 boards,
34 provide a per diem for 2 boards and repeal the Board
35 of Examiners of Applicants for Admission to the Bar.

36 Section 31 deletes references to the State Run-
37 ning Horse Racing Commission.

1 Section 32 repeals the laws dealing with the
2 Maine Athletic Commission.

3 Section 33 repeals the laws dealing with the
4 State Running Horse Racing Commission.

5 Section 34 updates specific references to the De-
6 partment of Professional and Financial Regulation and
7 the various agencies contained within that depart-
8 ment.

9 Sections 37 to 41, 152 and 153, 169 and 170 and
10 195 update the name of the Department of Business,
11 Occupational and Professional Regulation to the De-
12 partment of Professional and Financial Regulation.

13 Sections 35 and 36 increase the number of members
14 of the Manufactured Housing Board from 5 to 7, speci-
15 fy that the representative with experience in build-
16 ing code administration and enforcement must be cur-
17 rently employed as a code enforcement officer and up-
18 date the name of the Department of Professional and
19 Financial Regulation.

20 Sections 43 and 44 and 78 rename the Bureau of
21 Vocational Education as the Bureau of Adult and Sec-
22 ondary Vocational Education.

23 Section 45 provides a concise statement of pur-
24 pose for the commissioner.

25 Section 46 amends the commissioner's annual re-
26 porting requirement by specifying that the report in-
27 clude a review of the State Board of Education.

28 Section 47 provides a concise statement of pur-
29 pose for the State Board of Education.

30 Section 48 amends the meeting requirements of the
31 State Board of Education by specifying that the board
32 is not restricted to 4 meetings a year in the Depart-
33 ment of Educational and Cultural Services' office
34 space.

35 Section 49 repeals a biennial reporting require-
36 ment from the State Board of Education to the Govern-
37 nor. This function is replaced by section 41.

1 Section 50 amends the responsibility of the State
2 Board of Education with regard to school administra-
3 tive district and community school district withdraw-
4 als, reorganizations and other changes.

5 Section 51 repeals an outdated state board re-
6 sponsibility to review certain Department of Educa-
7 tional and Cultural Services' decisions.

8 Section 52 repeals a set of outdated state board
9 responsibilities to oversee the establishment of
10 school administrative districts.

11 Sections 53 to 56 transfer the responsibility for
12 school administrative district reapportionment from
13 the State Board of Education to the commissioner and
14 authorize the state board to review any of the com-
15 missioner's decisions in this realm.

16 Sections 57 to 65 transfer the responsibility for
17 school administrative district reorganization from
18 the State Board of Education to the commissioner and
19 authorize the state board fo review any of the com-
20 missioner's decisions in this realm.

21 Section 66 clarifies requirements of the school
22 accreditation process.

23 Section 67 provides the commissioner with the au-
24 thority to issue waivers to secondary schools from
25 the accreditation process.

26 Sections 68 and 69 transfer the responsibility
27 for authorizing the postponement of school lunch pro-
28 grams from the State Board of Education to the com-
29 missioner and authorize the state board to review any
30 of the commissioner's decisions in this realm.

31 Section 70 provides authority for local school
32 administrative units to offer substance abuse pro-
33 grams and authorizes the Department of Educational
34 and Cultural Services to provide technical services
35 to aid in the implementation of this programming.

36 Section 71 provides a distinction between special
37 education "programs" and "services."

1 Section 72 reduces the mandated responsibility
2 for the Department of Educational and Cultural Ser-
3 vices to review each approved special education pro-
4 gram from once every year to at least once every 5
5 years and specifies that school administrative units
6 can request and receive departmental reviews whenever
7 necessary.

8 Section 73 clarifies the authority by which a
9 school administrative unit can offer a special educa-
10 tion program.

11 Section 74 authorizes a school administrative
12 unit to offer or contract for special education ser-
13 vices.

14 Sections 75 and 76 provide clarified authority
15 for the Department of Educational and Cultural Ser-
16 vices to approve special education programs and ser-
17 vices.

18 Section 77 revises the membership of the Policy
19 Advisory Board of the Governor Baxter School for the
20 Deaf.

21 Sections 79 and 80 provide a new reimbursement
22 procedure for adult education.

23 Sections 81 to 85 transfer the responsibility for
24 approving additional degrees for in-state institu-
25 tions of higher education from the Legislature to the
26 State Board of Education.

27 Section 86 authorizes a process by which state
28 agencies and other branches of State Government can
29 obtain a list of teacher addresses held by the De-
30 partment of Educational and Cultural Services.

31 Section 87 authorizes the commissioner to approve
32 or disapprove all nonstate funded school construction
33 projects.

34 Section 88 deletes a reference to the State Run-
35 ning Horse Racing Commission.

36 Section 89 clarifies that a person is not pro-
37 tected from criminal or civil liability and is sub-

1 ject to prosecution if that person makes a false re-
2 port of suspected child abuse and neglect.

3 Section 90 ensures that in nearly all cases, par-
4 ents will be provided with certain information when
5 their child is taken into state custody.

6 Section 93 requires that owners of property which
7 is to be taken over by the State must notify prospec-
8 tive purchasers of this status.

9 Sections 107 to 111 change the referred level of
10 regulation for architects and landscape architects
11 from "registration" to "licensure."

12 Sections 112 and 113 update references to the De-
13 partment of Professional and Financial Regulation.

14 Section 114 changes the referred level of regula-
15 tion for architects and landscape architects from
16 "registration" to "licensure."

17 Section 115 changes the referred level of regula-
18 tion for architects and landscape architects from
19 "registration" to "licensure" and increases the
20 State's regulation of landscape architects from a
21 "title" to a "practice" law.

22 Section 116 provides a limited grandfathering
23 provision for all currently "registered" and all
24 nonregistered practicing landscape architects.

25 Sections 117 and 118 change the referred level of
26 regulation for architects and landscape architects
27 from "registration" to "licensure."

28 Section 119 makes a number of changes. First,
29 this section changes the referred level of regulation
30 for architects and landscape architects from "regis-
31 tration" to "licensure." Second, this section re-
32 stricts resident licensure from other states to those
33 individuals who hold a valid, unexpired license is-
34 sued by another state. Finally, this section repeals
35 an outdated grandfathering provision.

36 Sections 120 and 121 change the referred level of
37 regulation for architect and landscape architect from
38 "registration" to "licensure."

1 Section 122 makes a minor grammatical change.

2 Sections 123 to 125 and 128 to 135 change the referred level of regulation for barbers from "certificate of registration" to "licensure."
3
4

5 Sections 126 and 149 clarify that individuals who work in shops licensed by both the Board of Barbers and the State Board of Cosmetology need not have licenses from both boards.
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8

9 Section 127 makes several changes. First, this section deletes the Director of the Bureau of Health as an ex officio member of the Board of Barbers. Second, this section changes the referred level of regulation for barbers from "certificate of registration" to "licensure." Next, this section updates a reference to the Department of Professional and Financial Regulation. This section also decreases the number of required shop inspections from 2 to one. Finally, this section establishes that, when necessary, the board shall consult with the Department of Human Services about the sanitary inspection process.
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21 Section 135 deletes all references to specific fee amounts.
22

23 Section 141 establishes a new fee structure for the Board of Barbers.
24

25 Section 142 deletes the requirement that the Board of Barbers must establish a pattern of misconduct before it can take disciplinary action.
26
27

28 Section 143 requires that wiring installed by owners of new homes must be certified before being activated.
29
30

31 Section 144 enlarges the scope of practice for cosmetologists to include pedicuring.
32

33 Section 145 creates the regulatory category of "apprentice manicurist."
34

35 Sections 146 to 148, 151, 154, 155, 157 and 158 and 161 change the referred level of regulation for cosmetologists from "certificates of registration" to "licensure."
36
37
38

1 Section 150 makes several changes. First, this
2 section deletes the Director of the Bureau of Health
3 as an ex officio member of the Board of Cosmetology.
4 Next, this section updates a reference to the Depart-
5 ment of Professional and Financial Regulation. Final-
6 ly, this section establishes that, when necessary,
7 the board shall consult with the Department of Human
8 Services about the sanitary inspection process.

9 Section 159 makes 2 changes. First, this section
10 deletes all references to specific fee amounts. Sec-
11 ond, this section establishes a 90-day time limit for
12 the payment of license fees and gives the Board of
13 Cosmetology the authority to waive this time limit in
14 extenuating circumstances.

15 Section 160 makes 2 changes. First, this section
16 changes for cosmetology all regulatory references
17 from "certificate of registration" to "licensure."
18 Second, this section deletes all references to spe-
19 cific fee amounts.

20 Sections 164 and 165 make 3 changes. First, all
21 regulatory references for cosmetology are changed
22 from "certificate of registration" to "licensure."
23 Second, these sections delete all references to spe-
24 cific fee amounts. Finally, section 165 gives the
25 Board of Cosmetology the authority to waive the ex-
26 isting 90-day time limit for license renewals in ex-
27 tenuating circumstances.

28 Section 166 makes 2 changes. First, this section
29 changes all regulatory references for cosmetologists
30 from "certificate of registration" to "licensure."
31 Second, this section deletes the current requirement
32 that the Board of Cosmetology must establish a pat-
33 tern of misconduct before it can take disciplinary
34 action.

35 Section 167 establishes a new fee structure for
36 the Board of Cosmetology.

37 Section 168 authorizes oil and solid fuel compli-
38 ance officers to review the burner installation
39 records of any licensee.

1 Section 172 replaces the current method of
2 statutorily set fees for the Oil and Solid Fuel Board
3 with a fee cap system to allow the board to set fees
4 within the cap.

5 Section 173 requires the Board of Examiners of
6 Psychologists to hire a psychologist consultant.

7 Section 174 repeals the current laws of the Maine
8 Real Estate Commission. These laws are replaced by
9 the contents of section 212.

10 Sections 175 to 178 and 187 update the name of
11 the Department of Business, Occupational and Profes-
12 sional Regulation to the Department of Professional
13 and Financial Regulation and the name of the Central
14 Licensing Division to the Division of Licensing and
15 Enforcement.

16 Sections 179 to 186 and 188 to 191 replace the
17 words registration, certification or their deriva-
18 tives with the word licensure or its derivatives to
19 clarify the extent of the Board of Forestry's regula-
20 tory authority. Section 183 corrects a spelling er-
21 ror.

22 Sections 192 and 193 change the title of the
23 Board of Registration of Substance Abuse Counselors
24 to the State Board of Substance Abuse Counselors and
25 amend the statutory references to the Department of
26 Professional and Financial Regulation.

27 Section 194 changes the title of the Board of
28 Registration of Substance Abuse Counselors; amends
29 the definition of the board's "consumer" member; re-
30 peals "registered substance abuse counselor, provi-
31 sional" license and replaces it with a voluntary "as-
32 sociate substance abuse counselor;" creates an "inac-
33 tive" status; and requires registration of all prac-
34 titioners who provide the primary service of sub-
35 stance abuse counseling.

36 Section 196 amends the title protection clause to
37 repeal the "registered substance abuse counselor,
38 provisional," and to include the "inactive" status,
39 the licensed substance abuse counselor and associate
40 substance abuse counselor.

1 Section 197 exempts from licensure any practi-
2 tioner not providing substance abuse counseling as
3 their primary service.

4 Section 198 requires that all practitioners pro-
5 viding the primary service of substance abuse coun-
6 seling must be registered, certified or licensed and
7 defines the level of licensure required to practice
8 in state-certified or private agencies.

9 Section 199 changes the title of the Board of
10 Registration of Substance Abuse Counselors.

11 Section 200 changes the title of the board and
12 amends the membership to include licensed, certified
13 and registered substance abuse counselors.

14 Sections 201 and 202 amend the registration terms
15 to reflect the new levels of licensure.

16 Section 203 applies the previous registration re-
17 quirements as the new requirements for licensure and
18 certification as a licensed substance abuse counselor
19 or an associate substance abuse counselor.

20 Section 204 defines the requirements for regis-
21 tration as a substance abuse counselor.

22 Sections 205 and 206 repeal and replace the li-
23 censure qualifications for substance abuse counsel-
24 ors. Further, it includes provisions to automatically
25 license currently registered substance abuse counsel-
26 ors; requires licensure by 1990 for those not prac-
27 ticing in state-licensed facilities and requires reg-
28 istration of all substance abuse counselors by 1988.

29 Section 207 amends the application and examina-
30 tion fee to include the newly created licensure lev-
31 els.

32 Section 208 amends the law to include licenses.

33 Sections 209 to 211 amend the laws to repeal ref-
34 erence to the "provisional" license and include ref-
35 erence to the newly created licensure levels.

36 Section 212 accomplishes 2 major tasks:

1 Section 5 replaces "oil burner men" with "oil
2 burner technicians" in conformance with current law.

3 Section 6 amends statutory references to the De-
4 partment of Professional and Financial Regulation.

5 Section 7 includes "accredited institutions" as
6 qualified educational programs; clarifies the educa-
7 tional requirement for electricians of 576 hours; re-
8 duces the requirements for limited licensure in ac-
9 cordance with the areas of specialty; defines the li-
10 censure requirements for the journeyman-in-training;
11 and specifies that the journeyman-in-training catego-
12 ry have a sunset review provision.

13 Section 8 amends the law to set a
14 journeyman-in-training examination fee for electri-
15 cians at \$10.

16 Section 9 requires electricians to update their
17 National Electrical Code course every 2 renewal peri-
18 ods.

19 Sections 10 to 13 change the title of the Social
20 Worker Board of Registration and amend the statutory
21 references to the Department of Professional and Fi-
22 nancial Regulation.

23 Section 14 allows a "licensed clinical social
24 worker" candidate with clinical experience and a
25 graduate degree completed prior to 1987 to complete
26 their post-graduate training requirements in a pri-
27 vate setting.

28 Section 15 authorizes "licensed master social
29 workers" who have the same educational and clinical
30 background as a "licensed clinical social worker" to
31 provide consultation to licensed master social work-
32 er, conditionals." In addition, it authorizes quali-
33 fying licensed master social worker, conditionals to
34 receive post-graduate experience in a private set-
35 ting.

36 Section 16 changes the title of the Social Worker
37 Board of Registration.

1 Section 17 authorizes certified social
2 workers-independent practice who have the same educa-
3 tional and clinical background as a "licensed clini-
4 cal social worker" to provide consultation to "li-
5 censed master social worker, conditionals."

6 Section 18 provides that master level social
7 workers with 5 years' experience prior to January 1,
8 1987, qualify as licensed master social workers.

9 Sections 19 and 20 amend the statutory references
10 to the Department of Professional and Financial Regu-
11 lation.

12 PART C

13 Part C provides a one-year grant for reimbursing
14 educational services provided to long-term drug
15 treatment facilities by local educational units.

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