

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1954

S.P. 760

In Senate, June 19, 1991

Submitted by the Joint Standing Committee on Judiciary pursuant to Joint Rule 21.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

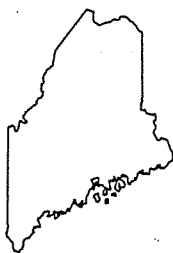
Presented by Senator GAUVREAU of Androscoggin
Cosponsored by Representative PARADIS of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Correcting Errors and Inconsistencies in the Laws of Maine.

(EMERGENCY)



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

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

Whereas, it is vitally necessary that these uncertainties and the confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

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

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

Sec. 1. 5 MRSA §13084, sub-§7, as enacted by PL 1989, c. 875, Pt. M, §7 and affected by §13, is amended to read:

7. Rule-making authority. If the Residential Conservation Service, as established by the United States Natural Energy Conservation Policy Act, Public Law 95-619, November 9, 1978, as amended by the United States Energy Security Act, Public Law 96-294, June 30, 1980, 42 United States Code, Section 8211 et seq., is repealed or amended so as to have the effect of removing requirements for providing energy conservation information and energy audits and arranging financing for energy conservation improvements for residential customers, the director may promulgate rules pursuant to the Maine Administrative Procedure Act to continue these services. In establishing these rules, the director shall simplify federal rules, insofar as possible, without preventing fulfillment of the program objectives and in no case may the director impose rules containing additional requirements for utilities.

Until the director promulgates new rules under this paragraph subsection, the previously existing federal regulations and any state rules implementing them are considered state rules with full force.

Sec. 2. 5 MRSA §15143, sub-§3, as enacted by PL 1989, c. 915, §8, is amended to read:

3. Transition plan. A detailed description of the programs, planning capabilities and staffing resources developed within the zone as a result of its designation as a zone and a detailed plan showing how the zone will maintain those programs,

2 capabilities and staff for at least one year beyond the end of
its authorization as a zone.

4 ~~The department shall cancel the authorization of a zone not in~~
~~compliance with this section.~~

6
8 **Sec. 3. 5 MRSA §15143**, as enacted by PL 1989, c. 915, §8, is
amended by adding at the end a new paragraph to read:

10 The department shall cancel the authorization of a zone not
in compliance with this section.

12
14 **Sec. 4. 5 MRSA §17812, sub-§2**, as enacted by PL 1987, c. 256,
§11, is amended to read:

16 2. **Election final.** Except as provided in section 17803,
18 subsection 4, and section ~~17957~~ 17953, subsection 8, if a
beneficiary elects a benefit after receiving reasonable
20 notification of available options from the retirement system, his
the beneficiary's election of benefit is final and may not be
22 changed or revoked at a later date.

24 **Sec. 5. 5 MRSA §18412, sub-§2**, as enacted by PL 1987, c. 256,
§34, is amended to read:

26 2. **Election final.** Except as provided in section 18403,
28 subsection 4, and section ~~18560~~ 18553, subsection 8, if a
beneficiary elects a benefit after receiving reasonable
30 notification of available options from the retirement system, his
the beneficiary's election of a benefit is final and may not be
32 changed or revoked at a later date.

34 **Sec. 6. 14 MRSA §3141, sub-§7**, as enacted by PL 1989, c. 875,
Pt. E, §18, is amended to read:

36 7. **Remedies.** Failure to pay by the date fixed by the
38 court's order or an amended order ~~shall subject~~ subjects the
defendant to the contempt procedures provided in section 3142,
40 suspensions under Title 29, section 2301-A, and all procedures
for collections provided for in ~~subsections~~ sections 3127-A,
42 3127-B, 3131, 3132, 3134, 3135 and 3136. An installment
agreement under this section must be considered ~~in an~~ an agreement
44 ~~of this title.~~ In addition to other penalties provided by law,
the court may impose on the defendant reasonable costs for any
46 failure to appear.

48 **Sec. 7. 15 MRSA §1025**, as amended by PL 1989, c. 704, §3, is
50 further amended to read:

52 **§1025. Law enforcement officers**

2 A law enforcement officer may, without fee, take the
personal recognizance of any defendant for appearance on a charge
4 of a Class D or Class E crime. If authorized, a law enforcement
officer may, without fee, take the personal recognizance with
6 deposit in accordance with Title 12, section 675, section 7053,
subsection 2, paragraph C and ~~Title-12~~, section 9707.

8 **Sec. 8. 17 MRSA §2701-B, first ¶**, as enacted by PL 1989, c.
836, §2, is amended to read:

10
12 The Commissioner of Agriculture, Food and Rural Resources
shall investigate complaints of improper manure handling,
14 including, but not limited to, complaints of improper storage or
spreading of manure. The commissioner may investigate or take
16 other action under this section only after notice and hearing and
utilizing the requirements of Title 5, chapter 375, subchapter
18 IV. If the commissioner is able to identify the source or
sources of the manure and has reason to believe that the manure
20 is a nuisance and the nuisance is caused by the use of other than
generally accepted manure handling practices, the commissioner
shall:

22
24 **Sec. 9. 17 MRSA §2701-B, sub-§4**, as enacted by PL 1989, c.
836, §2, is repealed.

26 **Sec. 10. 17-A MRSA §362, sub-§3**, as amended by PL 1989, c.
239, §1, is further amended to read:

28 3. Theft is a Class C crime if:

30
32 A. The value of the property or services is more than
\$1,000 but not more than \$5,000; or

34 B. The theft is a violation under section 355~~+-e#~~.

36 **Sec. 11. 17-A MRSA §907, sub-§2**, as enacted by PL 1979, c.
512, §32, is amended to read:

38
40 2. Possession or transfer of theft of services devices in
violation of ~~section~~ subsection 1, paragraph B is a Class D
42 crime; otherwise it is a Class E crime.

44 **Sec. 12. 17-A MRSA §1103, sub-§3, ¶D**, as enacted by PL 1989,
c. 924, §8, is amended to read:

46 D. Lysergic acid diethylamide in any of the following
48 quantities, states or concentrations:

50 (1) Any compound, mixture, substance or solution in a
liquid state that contains a detectable quantity of
52 lysergic acid diethylamide;

2 (2) Fifty or more squares, stamps, tablets or units of
any compound, mixture or substance containing a
4 detectable quantity of lysergic acid diethylamide; or

6 (3) Any quantity of any compound, mixture or substance
that, in the aggregate, contains 2,500 micrograms or
8 more of lysergic acid diethylamide.

10 **Sec. 13. 17-A MRSA §1106, sub-§3, ¶D**, as enacted by PL 1989, c.
924, §12, is amended to read:

12 D. Lysergic acid diethylamide in any of the following
quantities or concentrations:

14 (1) Not less than 25 squares, stamps, tablets or units
16 of any compound, mixture or substance containing a
detectable quantity of lysergic acid diethylamide; or

18 (2) Any quantity of any compound, mixture or substance
20 that, in the aggregate, contains not less than 1,250
micrograms of lysergic acid diethylamide.

22 **Sec. 14. 20-A MRSA §6501, sub-§5**, as enacted by PL 1981, c.
24 693, §§5 and 8, is amended to read:

26 **5. Penalty.** Failure to comply with this section shall be
is subject to penalties under section 6801 ~~6801~~-A.

28 **Sec. 15. 20-A MRSA §8451, sub-§5, ¶C**, as amended by PL 1989,
30 c. 700, Pt. A, §57, is further amended to read:

32 C. In the event that School Administrative District No. 27,
34 School Administrative District No. 33 and Madawaska School
Department enter into a cooperative agreement pursuant to
36 section 8401, not later than June 30, 1989, the school
boards of the 3 participating units shall, in conjunction
38 with the advisory committee, develop and submit a plan to
the Commissioner of Education for delivery of secondary
40 vocational services within the 3 participating units. The
plan shall must include:

42 (1) A proposal for the construction of a new
44 vocational center in School Administrative District No.
33;

46 (2) Provisions for assignment without loss of salary
48 of all continuing contract vocational teachers employed
by School Administrative District No. 27 and Madawaska
50 School Department to School Administrative District No.
33 if a new vocational center in School Administrative
52 District No. 33 becomes operational; and

2 (3) Assurances that all 3 participating administrative
4 units and School Administrative District No. 10 on a
6 tuition basis, shall have access to programs at the new
vocational center in proportion to the number of high
school juniors and seniors in each administrative unit.

8 **Sec. 16. 20-A MRSA §10709**, as enacted by PL 1981, c. 693, §§5
and 8, is amended to read:

10 **§10709. Penalties**

12 Any educational institution conferring degrees within the
14 State or offering courses or programs within the State which that
16 carry academic credit without being authorized or approved to do
so in accordance with this chapter is subject to a civil penalty
of not more than \$5,000, payable to the State, to be recovered in
a civil ~~act~~ action.

18 **Sec. 17. 20-A MRSA c. 431**, first 2 lines are repealed and the
20 following enacted in their place:

22 CHAPTER 431

24 MAINE TECHNICAL COLLEGE SYSTEM

26 **Sec. 18. 22 MRSA §42, sub-§3**, as repealed and replaced by PL
1989, c. 878, Pt. A, §53, is amended to read:

28 **3. Plumbing and subsurface waste water disposal.** The
30 department, with the advice and consent of the Plumbers'
32 Examining Board, shall adopt by reference a nationally recognized
plumbing code. The department, with the advice and consent of
34 the Plumbers' Examining Board, may adopt, as necessary,
amendments to that code. The department shall adopt minimum
36 rules relating to subsurface sewage disposal systems. All rules,
including installation and inspection rules, must be consistent
38 with Title 30-A, chapter 185, subchapter III, and Title 32,
chapter 49, but this does not preempt the authority of
40 municipalities under Title 30-A, section 3001, to adopt more
restrictive ordinances, ~~and~~ . The department shall hold hearings
42 on the first Tuesday of February of each year for the purpose of
44 considering changes in the rules pertaining to plumbing and
subsurface sewage disposal systems and the installation and
inspection thereof. These rules may regulate the location of
46 water supply wells to provide minimum separation distances from
subsurface sewage disposal systems. The department may require a
deed covenant or deed restriction when determined necessary.

48 Any person who violates the rules adopted under this subsection,
50 or who violates a municipal ordinance adopted pursuant to Title
30-A, sections 4201 and 4211 or uses a subsurface waste water
52 disposal system not in compliance with rules applicable at the

2 time of installation or modification shall must be penalized in
accordance with Title 30-A, section 4452. Enforcement of the
4 rules shall-be is the responsibility of the municipalities rather
than the department. The department or a municipality may seek
6 to enjoin violations of the rules or municipal ordinances. In
the prosecution of a violation by a municipality, the court shall
award reasonable attorney's fees to a municipality if that
8 municipality is the prevailing party, unless the court finds that
special circumstances make the award of these fees unjust.

10 Sec. 19. 22 MRSA §1829, as enacted by PL 1989, c. 767, §1 and
12 c. 823, is repealed and the following enacted in its place:

14 §1829. Notice to medical utilization review entity

16 1. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
18 following meanings.

20 A. "Medical utilization review entity" means a person,
22 corporation, organization or other entity that provides
medical utilization review services as defined in Title
24 24-A, section 2773.

26 B. "Emergency treatment" means treatment of a case
involving accidental bodily injury or the sudden and
28 unexpected onset of a critical condition requiring medical
or surgical care for which a person seeks immediate medical
30 attention within 24 hours of the onset.

32 2. Notification requirement. If a hospital provides
emergency treatment to a person who is insured or otherwise
covered under a policy or contract that requires review of
34 hospitalization by a medical utilization review entity, the
hospital must notify the medical utilization review entity
36 covering that person, unless the person is:

38 A. Released from the hospital no more than 48 hours after
40 admission; or

42 B. Covered under an insurance policy or contract that is
44 not subject to Title 24, section 2302-B, Title 24-A, section
2749-A or Title 24-A, section 2848.

46 The notification must include the name of the person admitted,
48 the general medical nature of the admission and the telephone
number of the admitting physician or other health care provider
treating the person.

50 3. Timing of notification. Notification must be made
52 within 2 business days after the hospital determines the identity
of the utilization review entity and receives written

2 authorization to release the information by the patient or other
3 person authorized to permit release of the information.

4 4. Exemption. The hospital is exempt from this requirement
5 if:

6 A. The hospital receives a written confirmation from the
7 admitting physician, the patient or a representative of the
8 patient that the medical utilization review entity has been
9 notified; or

10 B. The hospital is not able to obtain written authorization
11 to release the information, following a good faith effort by
12 the hospital to obtain that authorization.

13 5. Immunity from liability for notification. Neither the
14 hospital nor any of its employees or representatives may be held
15 liable for damages resulting from the notification required by
16 this section.

17 Sec. 20. 22 MRSA §1830 is enacted to read:

18 §1830. Pharmaceutical services in nursing homes

19 1. Notice. Each nursing home shall post a notice in a
20 place within the nursing home where notices for residents are
21 ordinarily posted stating that each resident has the right to
22 obtain medication from a pharmacy of the resident's choice as
23 provided in section 1826, subsection 1.

24 Sec. 21. 22 MRSA §4031, sub-§3, as enacted by PL 1979, c. 733,
25 §18, is amended to read:

26 3. Scope of authority. The court shall consider an and act
27 on child protection petitions regardless of other decrees
28 regarding a child's care and custody. The requirements and
29 provisions of Title 19, chapter 16, the Uniform Child Custody
30 Jurisdiction Act, shall do not apply to child protection
31 proceedings. If custody is an issue in another pending
32 proceeding, the proceedings may be consolidated in the District
33 Court, with respect to the custody issue. In any event, the court
34 shall make an order on the child protection petition in
35 accordance with this chapter. That order takes precedence over
36 any other prior order regarding the child's care and custody.

37 Sec. 22. 22 MRSA §5112, sub-§3, ¶B, as enacted by PL 1973, c.
38 793, §11, is repealed.

39 Sec. 23. 22 MRSA §5112, sub-§3, ¶B-1 is enacted to read:

40 B-1. The Maine Residents Property Tax Program;

2 Sec. 24. 24-A MRSA §1618, as enacted by PL 1969, c. 132, §1,
is repealed.

4 Sec. 25. 24-A MRSA §1679, as enacted by PL 1969, c. 132, §1,
is repealed.

6 Sec. 26. 25 MRSA §1542-A, sub-§1, ¶E, as enacted by PL 1987,
8 c. 512, §3, is amended to read:

10 E. Who dies under circumstances of death constituting a
12 medical examiner case under Title 22, section 3025, if
14 sought pursuant to Title 22, section ~~3025~~ 3028, subsection
3, or at the request of the Chief Medical Examiner or the
Attorney General; or

16 Sec. 27. 26 MRSA c. 5, first 5 lines are repealed and the
18 following enacted in their place:

20 CHAPTER 5

22 HEALTH AND SAFETY REGULATIONS

24 SUBCHAPTER I

26 BEDDING AND UPHOLSTERED FURNITURE

28 Sec. 28. 26 MRSA §1043, sub-§17, ¶B, as amended by PL 1979, c.
515, §5, is further amended to read:

30 B. An individual, including corporate officers, shall ~~be~~
32 ~~deemed~~ is considered "partially unemployed" in any week of
34 less than full-time work if his the individual's wages
36 payable from any source for such week are not \$5 or more in
38 excess of the weekly benefit amount he the individual would
40 be entitled to receive if totally unemployed and eligible,
42 except that remuneration payable or received as holiday pay
44 shall is not be--deemed considered wages for the purpose of
this subsection and except that any amounts received from
the Federal Government by members of the National Guard and
organized reserve, including base pay and allowances, or any
amounts received as a volunteer ~~fireman~~ firefighter, a
volunteer emergency medical services person or as an elected
member of the Legislature, shall are not ~~be--deemed~~
considered wages for the purpose of this subsection.

46 Sec. 29. 30-A MRSA §501, sub-§1, as amended by PL 1989, c.
48 104, Pt. C, §§8 and 10, is further amended to read:

50 1. **Employment.** All county officers or department heads
52 shall submit to the county commissioners or the County Personnel
Board, if one has been established under article 2, the name of
any person the county officer or department head proposes to

2 employ or the names of more than one person from which the county
commissioners or personnel board are to select a person for
4 employment. The county commissioners or the County Personnel
Board may approve the employment of ~~that~~ the person or select
6 ~~another~~ a person for employment. If approval is withheld or a
selection is not made, the county commissioners or the County
8 Personnel Board, within 14 days after the name or names have been
submitted, shall notify the county officer or department head of
the reasons for their disapproval or failure to make a selection.

10 **Sec. 30. 30-A MRSA §2526, sub-§5, ¶B,** as amended by PL 1989,
12 c. 104, Pt. C, §§8 and 10, is further amended to read:

14 B. In addition to the method provided by paragraph A and
notwithstanding the provision of any town charter to the
16 contrary, the municipal officers of any town, or the
municipal officers of 2 or more towns acting jointly, may
18 enact an ordinance providing for a single assessor. The
municipal officers shall appoint the assessor for a term not
20 exceeding 5 years.

22 (1) Seven days' notice of the meeting at which the
ordinance is to be proposed shall must be given in the
24 manner provided for town meetings.

26 (2) In towns where the municipal legislative body is
the town meeting, the ordinance is effective
28 immediately after the next ~~regular~~ annual town meeting
if enacted at least 90 days before the meeting. The
30 ordinance stands until revoked by the municipal
legislative body or the municipal officers at a meeting
32 held at least 90 days before the annual town meeting.

34 **Sec. 31. 30-A MRSA §2953,** as amended by PL 1989, c. 104, Pt.
C, §§8 and 10, is further amended to read:

36 **§2953. Neglect of owners; function of fence viewers**

38 If any party neglects or refuses to repair or rebuild any
40 such fence, ~~which~~ that that party is legally required to
maintain, the aggrieved party may complain to 2 or more fence
42 viewers of the town where the land is situated who, after due
notice to the delinquent party, shall proceed to survey it and,
44 if they determine that it is insufficient, they shall signify it
in writing to the delinquent occupant and direct the delinquent
46 occupant to repair or rebuild it within such time as they judge
reasonable not exceeding 30 days. If the fence is not repaired
48 or rebuilt accordingly, the ~~complainant~~ complainant may make or
repair it.

50 **Sec. 32. 30-A MRSA §4403, sub-§6,** as enacted by PL 1989, c.
52 104, Pt. A, §45 and Pt. C, §10, is amended to read:

2 6. **Burden of proof; findings of fact.** In all instances,
4 the burden of proof is upon the person proposing the
6 subdivision. In issuing its decision, the reviewing authority
shall make findings of fact establishing that the proposed
subdivision does or does not meet the criteria described in
subsection-5 section 4404.

8
10 **Sec. 33. 30-A MRSA §4406, sub-§1, ¶E,** as amended by PL 1989,
c. 769, §1 and c. 772, §4, is repealed and the following enacted
in its place:

12 E. Any person who, after receiving approval from the
14 municipal reviewing authority or approval under Title 38,
16 chapter 3, subchapter I, article 6 and recording the plan at
18 the registry of deeds, constructs or develops the
20 subdivision or transfers any lot in a manner other than
22 depicted on the approved plans or amendments or in violation
of any condition imposed by the municipal reviewing
authority or the Department of Environmental Protection,
when applicable, must be penalized in accordance with
section 4452.

24 **Sec. 34. 30-A MRSA §4452, sub-§5, ¶J,** as enacted by PL 1989, c.
26 104, Pt. A, §45 and Pt. C, §10, is amended to read:

28 J. Local ordinances regarding automobile junkyards and
automobile graveyards pursuant to chapter 183, subchapter I;

30 **Sec. 35. 32 MRSA §10604, sub-§1,** as amended by PL 1989, c.
32 542, §50, is further amended to read:

34 1. **Knowing violation.** Any Notwithstanding Title 17-A, a
person who must be fined not more than \$5,000 or imprisoned for
more than 5 years, or both, upon conviction, if that person
36 knowingly violates:

38 A. Any provision of this Act, except section 10204;

40 B. Any rule or order of the administrator under this Act; or

42 C. Section 10204, knowing the statement made ~~to be is~~ false
44 or misleading in any material respect, ~~shall, upon~~
~~conviction, notwithstanding Title 17-A, be fined not more~~
46 ~~than \$5,000 or imprisoned more than 5 years, or both, for~~
~~each violation.~~

48 **Sec. 36. 32 MRSA §13863,** as enacted by PL 1989, c. 878, Pt.
50 D, §11 and c. 895, §19 and as affected by PL 1991, c. 263, §6, is
repealed and the following enacted in its place:

52 §13863. Registration

2 1. Registration. An individual may not engage in
3 procedures of counseling for a fee, monetary or otherwise, unless
4 that individual is licensed pursuant to section 13858 or
5 registers with the department pursuant to this section. Each
6 individual who is not licensed and who engages in procedures of
7 counseling shall register with the department every 2 years.
8 Each individual who registers shall fill out a form designed by
9 the board.

10 2. Information required. Each individual who registers
11 shall provide the following information on the form designed by
12 the board. The board shall compile this information and make it
13 available to the public upon request and for a fee that covers
14 the cost of making information available. The information that
15 must be provided includes:

16 A. Name, address and telephone number of individuals
17 registering;

18 B. Major fields of training and expertise, including
19 degrees and professional certifications held and from where
20 they were conferred;

21 C. Method of billing and previous experience and policy
22 with regard to 3rd-party payments;

23 D. The fee schedule and provisions for pro bono work or
24 sliding scale modifications of the fee schedule; and

25 E. A description of the individual's practice;

26 3. Client bill of rights; code of ethics. Each individual
27 who registers under this section shall sign, post and make a copy
28 available to each client of:

29 A. The client bill of rights approved by the board;

30 B. The code of professional ethics approved by the board;
31 and

32 C. The name and telephone number of the board's complaint
33 officer and a description of the complaint process.

34 4. Registration fee. Each individual registering under
35 this section shall pay a registration fee, not to exceed \$50
36 biennially, established by the board for the purposes of the
37 administration of this section.

38 5. Registration not allowed. An individual, whose license,
39 certification or registration has been revoked or suspended in
40 this or any other state and in this or any related field, may not
41 register to practice in this State unless the period of
42 the suspension or revocation has expired.

2 revocation or suspension has been completed and the board has
3 conducted a competency review and determined that rehabilitation
4 has taken place.

6 6. Disciplinary action. Any individual who is registered
7 under this section is subject to section 13861.

8 7. Registration not certification. Registration does not
9 imply or certify in any way that the registrant has met any
10 standards or criteria of education or training.

12 8. Effective date. This section takes effect October 1,
13 1992.

14 **Sec. 37.** 36 MRSA §5200-A, sub-§1, ¶G, as amended by PL 1989,
15 c. 880, Pt. G, §5 and Pt. J, §1, is further amended to read:

17 G. For a taxable year ending in 1984, the sum of the
18 following portions of the deductions allowed for that
19 taxable year to the taxpayer under the United States
20 Internal Revenue Code, Section 168:

- 21 (1) 2.5% of the deductions for 3-year property;
22 (2) 7.5% of the deductions for 5-year property;
23 (3) 12.5% of the deductions for 10-year property; and
24 (4) 20% of the deductions for 15-year property; and

25 **Sec. 38.** 36 MRSA §5200-A, sub-§1, ¶H, as enacted by PL 1989,
26 c. 880, Pt. G, §6 and Pt. J, §2, is repealed and the following
27 enacted in its place:

28 H. The absolute value of the amount of any net operating
29 loss arising from tax years beginning on or after January 1,
30 1989 but before January 1, 1990 and that, pursuant to the
31 United States Internal Revenue Code, Section 172, is being
32 carried back for federal income tax purposes to the taxable
33 year by the taxpayer; and

34 **Sec. 39.** 36 MRSA §5200-A, sub-§1, ¶I is enacted to read:

35 I. Interest or dividends on obligations or securities of
36 any state or of a political subdivision or authority, other
37 than this State and its political subdivisions and
38 authorities.

39 **Sec. 40.** 36 MRSA §5200-A, sub-§2, ¶G, as amended by PL 1989,
40 c. 880, Pt. G, §8, is further amended to read:

2 G. Fifty percent of the apportionable dividend income the
3 taxpayer received during the taxable year from an affiliated
4 corporation that is not included with the taxpayer in a
5 Maine combined report, except that this modification must be
6 phased in over 5 years in accordance with the following
7 schedule:

| 8 | Taxable year beginning | Subtractable dividend |
|----|------------------------|-----------------------|
| 9 | in: | income: |
| 10 | 1989 | 10% |
| 11 | 1990 | 20% |
| 12 | 1991 | 30% |
| 13 | 1992 | 40% |
| 14 | 1993 or thereafter | 50%; and |

15 **Sec. 41. 38 MRSA §11, first ¶,** as enacted by PL 1987, c. 412,
16 §§7 and 8, is amended to read:

17 As used in this section subchapter, unless the context
18 otherwise indicates, the following terms have the following
19 meanings.

20 **Sec. 42. 38 MRSA §1101, sub-§7,** as affected by PL 1989, c.
21 890, Pt. A, §40 and amended by Pt. B, §212, is further amended to
22 read:

23 **7. Submission.** When the record of the municipality or the
24 record of the joint meeting, where when municipalities are or
25 unorganized territory is involved, has been received by the
26 Commissioner of Environmental Protection and found by the
27 commissioner to be in order, the commissioner shall order the
28 question of the formation of the proposed sanitary district and
29 other questions relating thereto to be submitted to the legal
30 voters residing within the portion of the municipality,
31 municipalities or unorganized territory that falls within the
32 proposed sanitary district. The order must be directed to the
33 municipal officers of the municipality or municipalities that
34 propose to form said sanitary district, and, where when the
35 proposed sanitary district includes or is composed solely of
36 unorganized territory, to the commissioners of the county in
37 which the unorganized territory is located, directing them to
38 forthwith call town meetings, city elections or a meeting of the
39 residents of the unorganized territory within the bounds of the
40 proposed sanitary district, as the case may be, for the purpose
41 of voting in favor of or in opposition to each of the following
42 articles or questions, as they may apply, in substantially the
43 following form:

44 A. To see if the town (or city) of (name of town or city)
45 will vote to incorporate as a sanitary district to be called
46 (name) Sanitary District;
47
48
49
50
51
52

2 B. To see if the residents of the following described
4 section of the town (or city) of (name of town or city) will
6 vote to incorporate as a sanitary district to be called
(name) Sanitary District: (legal description of the bounds
of section to be included);

8 C. To see if the residents of the (following described
10 section of) (name of town or city) (unorganized territory)
12 will vote to join with the residents of the (following
14 described section of) (name of town or city) (unorganized
16 territory) to incorporate as a sanitary district to be
called (name) Sanitary District: (legal description of the
bounds of the proposed sanitary district, except where when
district is to be composed of entire municipalities);

18 D. To see if the inhabitants of the following described
20 section of that unorganized territory known as Township
22 (number), Range (number) will vote to incorporate as a
sanitary district to be called (name) Sanitary District:
(legal description of the bounds of the proposed sanitary
district);

24 E. To see if the residents of (the above described section
26 of) (name of town or city) will vote to approve the total
28 number of trustees and the allocation of representation
among the municipalities (and included section of
unorganized territory) on the board of trustees as
determined by the municipal officers (and the persons
representing the included area of unorganized territory) and
listed as follows: .

32 ~~Total~~ The total number of trustees will be (number) and the
34 residents of (the above described section of) (town or city)
36 are entitled to (number) trustees (and the residents of the
above described section of unorganized territory are
entitled to (number) trustees); and

38 F. To choose (number) trustees to represent the residents
40 of (the above described section) of (town or city)
42 (unorganized territory) on the board of trustees of the
(name) Sanitary District.

44 At any such town meeting, city election or election by the
46 residents of the proposed sanitary district, trustees must be
48 chosen to represent the municipality or the unorganized territory
within the proposed sanitary district in the manner provided in
section 1105.

50 **Sec. 43. 38 MRSA §1101, last ¶, as affected by PL 1989, c. 890,**
52 **Pt. A, §40 and amended by Pt. B, §212, is repealed.**

2 **Sec. 44. 38 MRSA §1319-T**, as affected by PL 1989, c. 890, Pt.
A, §40 and amended by Pt. B, §265, is further amended to read:

4 **§1319-T. Criminal provisions**

6 In addition to being subject to civil penalties as provided
by section 349, subsection 2 and to criminal penalties as
8 provided in section 349, subsection 3, conduct described in
subsections 1 and 2 ~~shall be~~ is subject to criminal penalties as
10 follows.

12 **1. Penalty provisions.** Any person is guilty of a Class C
crime and may be punished accordingly if that person, with
14 respect to any substance or material which that has been
identified as hazardous waste by the board and ~~which-such~~ that
16 the person believes may be harmful to human health or knows or
has reason to know has been so identified, knowingly:

18 A. Transports any such substance or material without, in
20 fact, having a proper license or permit as may be required
under this subchapter;

22 B. Transports any such substance or material to a waste
24 facility knowing or consciously disregarding a risk that
such facility does not have a proper license or permit as
26 may be required under this subchapter;

28 C. Handles any such substance or material without, in fact,
having obtained a proper license or permit to do so as may
30 be required under this subchapter; or

32 D. Handles any such substance or material at any location
knowing or consciously disregarding a risk that such
34 location does not have a proper license or permit as may be
required under this subchapter for such treatment, storage
36 or disposal.

38 Notwithstanding Title 17-A, section 1301, subsection 1, paragraph
A-1, or Title 17-A, section 1301, subsection 3, paragraph D, the
40 fine for such violation shall may not exceed \$50,000 for each day
of such violation. In a prosecution under paragraph B or D, the
42 conscious disregard of the risk, when viewed in light of the
nature and purpose of the person's conduct and the circumstances
44 known to the person, must involve a gross deviation from the
standard of conduct that a reasonable and prudent person would
46 observe in the same situation.

48 **2. Class D crimes.** A person is guilty of a Class D crime
if, with respect to any substance or material which that, in
50 fact, has been identified as hazardous waste by the board and
~~which-such~~ that the person knows or has reason to believe has

2 been so identified or may be harmful to human health, that person
knowingly:

4 A. Establishes, constructs, alters or operates any waste
6 facility for any such substance or material without, in
fact, having obtained a proper license or permit as may be
required under this subchapter;

8 B. Handles or transports any substance or material
10 identified as hazardous waste by the board in any manner
that violates the terms of any condition, order, rule,
12 license, permit, approval or decision of the board or
commissioner with respect to the handling or transporting of
14 that substance or material; or

16 C. Gives custody or possession of any such substance or
material to any other person whom he that person knows or
18 has reason to believe:

20 (1) Does not have a license or permit to transport or
handle such substance or material as may be required
22 under this subchapter; or

24 (2) Will transport or handle such substance or
material in violation of this subchapter or rules
26 adopted under it.

28 A person who violates the provisions of this subsection may be
punished accordingly, except that, notwithstanding Title 17-A,
30 section 1301, subsection 1, paragraph B, or Title 17-A, section
1301, subsection 3, paragraph E, the fine for such violation may
32 not exceed \$25,000 for each day of the violation.

34 **Sec. 45.** PL 1989, c. 600, Pt. A, §22 is amended to read:

36 **Sec. 22. Effective date.** The ~~section~~ sections of this Act that
repeals-and-replaces repeal Public Law 1989, chapter 501, Part L,
38 section 6 and enact Public Law 1989, chapter 501, Part L, section
6-A, shall take effect retroactively to June 30, 1989.

40 **Sec. 46.** PL 1989, c. 631 is repealed.

42 **Sec. 47.** PL 1989, c. 890, Pt. B, §212, first 3 lines are repealed and
44 the following enacted in their place:

46 **Sec. B-212.** 38 MRS §1101, sub-§§1, 3, 4, 6, 7 and last ¶, as
amended by PL 1971, c. 618, §12, are further amended to read:

48 **Sec. 48.** P&SL 1991, c. 14, §6 is repealed and the following
50 enacted in its place:

2 Sections 2 and 3 move language that originally was
improperly blocked to a subsection and that should apply to the
entire section.

4

6 Sections 4 and 5 correct cross-references and make a term
gender neutral.

8 Section 6 amends Title 14, section 3141, subsection 7. That
subsection incorrectly refers to existing statutory sections
10 governing payment of fines as "subsections." Section 6 corrects
the error by using the word "sections" and changes the word "in"
12 to "an" in reference to agreements between debtors and creditors
under Title 14, section 3125. Section 6 deletes the words "of
14 this Title."

16 Section 7 adds a cross-reference for internal consistency.

18 Sections 8 and 9 relocate language from a subsection, which
did not read correctly, to the lead-in paragraph.

20

22 Section 10 relocates a conjunction that was inadvertently
not relocated when a paragraph was repealed.

24 Section 11 corrects a cross-reference where a subsection was
incorrectly referred to as a section.

26

28 Sections 12 and 13 correct the punctuation in 2 paragraphs
setting the presumptive levels for trafficking in and furnishing
LSD. These sections insert commas to make it clear that the
30 paragraphs refer to "compounds" and "mixtures," not "compound
mixtures."

32

34 Section 14 makes a grammatical change and corrects a
cross-reference to a section that was repealed.

36 Section 15 adds a conjunction that was inadvertently omitted
when the language was enacted.

38

40 Section 16 corrects "civil act" to read "civil action."

42 Section 17 corrects a chapter title to reflect the 1989
change of the "Maine Vocational-Technical Institute System" to
the "Maine Technical College System."

44

46 Section 18 corrects grammar and punctuation.

48 Sections 19 and 20 correct a conflict created by 2 public
laws enacting the same section.

50

Section 21 corrects syntax.

2 Sections 22 and 23 correct a reference to the Maine
Residents Property Tax Program. The program was renamed in 1989.

4 Section 24 repeals a provision of the Maine Insurance Code
6 that requires a nonresident agent or broker to place insurance
through a resident licensed agent. Similar requirements were
8 repealed in 1989 in other parts of the Maine Insurance Code.
Title 24-A, section 1618 appears to have been overlooked.

10 Section 25 repeals a provision of the Maine Insurance Code
relating to countersignature of health insurance policies sold by
12 nonresident agents and brokers. Laws relating to
countersignature, which are cross-referenced in Title 24-A,
14 section 1679, were repealed in 1989.

16 Section 26 corrects a cross-reference.

18 Section 27 amends a subchapter title to reflect previous
amendments to the contents of the subchapter.

20 Section 28 makes a change in the definition of wages for
22 purposes of "partial unemployment." This same change was made
earlier in the year for purposes of "total unemployment" and
24 should also apply to "partial unemployment" to maintain
consistency in the definition of wages.

26 Section 29 restores language from former Title 30. Current
28 language inadvertently changed the meaning of a subsection as
part of a recodification.

30 Section 30 changes the effective date of a municipal
32 ordinance providing for a single assessor in towns where the
municipal legislative body is the town meeting.

34 Section 31 corrects a word incorrectly changed in the
36 recodification of Title 30 to Title 30-A.

38 Section 32 corrects a cross-reference.

40 Section 33 consolidates changes in Title 30-A, section 4406,
42 subsection 1, paragraph E that were made in 2 different public
laws.

44 Section 34 amends Title 30-A, section 4452, subsection 5,
46 paragraph J to include the defined terms found in the subchapter
referenced in that paragraph. Title 30-A, section 4452 provides
48 for the enforcement of land use laws and ordinances. Title 30-A,
section 4452, subsection 5 lists some of the laws to which the
section applies. Title 30-A, section 4452, subsection 5,
50 paragraph J refers to ordinances adopted under Title 30-A,
chapter 183, subchapter I. That subchapter is titled "Automobile
52 Junkyards," but the terms defined are "junkyard" and "automobile
graveyard."

54

2 Section 35 reorganizes Title 32, section 10604, subsection 1
into a clearer format.

4 Section 36 repeals Title 32, section 13863 as enacted by 2
different public laws and replaces it with the language enacted
6 in Public Law 1989, chapter 895, section 19. The other language
is no longer necessary because of the relocation of sunset
8 language to the Title 3 general sunset provisions.

10 Sections 37 to 39 correct a conflict created by the
enactment of 2 paragraphs with the same designation and relocate
12 a conjunction.

14 Section 40 adds a conjunction that was inadvertently omitted.

16 Section 41 corrects a reference relating to the application
of Title 38, section 11, where a subchapter was incorrectly
18 referred to as a section.

20 Sections 42 and 43 provide proper blocking format for
language that was intended to apply to a subsection but is
22 currently blocked to apply to the entire section.

24 Section 44 clarifies a cross-reference to Title 17-A, makes
grammatical changes and makes a term gender neutral.

26 Section 45 makes a technical change to correct an improper
28 description of the effect of sections in a previous public law.

30 Section 46 repeals Public Law 1989, chapter 631. Public Law
1989, chapter 631 affected several sections of law but only on
32 the contingency that a bond issue be passed. The public law did
not have an effective date that limited when the bond issue had
34 to take place. Because no bond issue was held last year, this
section repeals the public law to avoid any possible conflicts in
36 the use of the section numbering.

38 Section 47 corrects a history line to incorporate all
language being amended.

40 Section 48 makes a technical correction to the referendum
42 procedure to make changes to the Lubec Water and Electric
District Charter pursuant to Private and Special Law 1991,
44 chapter 14 to clarify the question to which the referendum
applies.

46 Section 49 corrects potential conflicts where several
48 provisions were enacted without proper history lines.