

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
THIRD SPECIAL SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
1983

CHAPTER 862

S.P. 931 - L.D. 2489

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

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

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

Whereas, it is vitally necessary that these uncertainties and this 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. 2 MRSA §6-A, sub-§2, as enacted by PL 1983, c. 853, Pt. C, §2, is reallocated to be 2 MRSA §6-A, sub-§1-A.

Sec. 2. 3 MRSA §162-A, first ¶, as amended by PL 1983, c. 853, Pt. A, §3, is further amended to read:

Notwithstanding any other provisions of law, the Legislative Council is authorized to adjust the salaries of the following state officials within the salary ranges indicated in this section. The adjustment may be at the time of appointment of the official and subsequently as provided by law. The salary ranges shall be as provided by law. No other state salary may be paid to these officials. Where salary schedules differ among employee groups or bargaining units, the salary schedule for confidential employees shall be used. The Legislative Council shall adjust the salaries of the Secretary of State, Treasurer of State, State Auditor and Attorney General to the first step of their respective ranges upon their initial appointments to office.

Sec. 3. Effective date. Section 2 shall take effect on December 1, 1984.

Sec. 4. 3 MRSA §162-A, sub-§§3, 4 and 5, as enacted by PL 1983, c. 853, Pt. A, §4, are repealed.

Sec. 5. 3 MRSA §162-B is enacted to read:

§162-B. Salaries of constitutional officers

Notwithstanding any other provisions of law, the salaries of the following state officials shall be at the salary ranges indicated in this section. At the time of initial appointment the salary of the Secretary of State, the State Auditor and the Treasurer of State shall be set at the first step of the official's respective range. At the time of initial appointment, the salary of the Attorney General shall be set at Step E of his salary range. The Legislative Council may adjust the salary of each official by one step for each year of continuous service after the initial appointment to office.

The salary ranges shall be as provided by law for confidential employees who take the salary increase option instead of state payment of retirement contribution. No other state salary may be paid. These officials are not eligible for state payment of employee retirement contributions.

1. Range 87. The salary of the following state officials and employees shall be within salary range 87, but shall not exceed Step G in that range:

A. Secretary of State; and

B. Treasurer of State.

2. Range 88. The salary of the State Auditor shall be within salary range 88, but shall not exceed Step G in that range.

3. Range 90. The salary of the Attorney General shall be within salary range 90, but shall not be less than Step E and shall not exceed Step G in that range.

Sec. 6. Effective date; officials. Section 5 of this Act shall take effect on December 1, 1984. Officials who hold the offices of Secretary of State, Treasurer of State, State Auditor or Attorney General on the effective date of this section shall be placed on that date in their respective statutory pay ranges on that date at the appropriate step for their initial appointment.

Sec. 7. 5 MRSA §711, sub-§1, ¶H, as amended by PL 1983, c. 139; c. 477, Pt. E, sub-pt. 10; and c. 579, §3, is repealed.

Sec. 8. 5 MRSA §711, sub-§2, ¶A, as repealed and replaced by PL 1983, c. 819, §7, and PL 1983, c. 829, §1, is repealed.

Sec. 9. 5 MRSA §711, sub-§2, ¶A, sub-¶(8), as repealed and replaced by PL 1983, c. 807, Pt. K, is repealed.

Sec. 10. 5 MRSA §931, sub-§1, ¶H, as enacted by PL 1983, c. 729, §4, is repealed and the following enacted in its place:

H. Officers and employees of the unorganized territory school system; the teachers, administrators and professional employees of the state vocational-technical institutes and the Governor Baxter School for the Deaf; and the teachers, administrators and professional employees of school systems in other state institutions; and

Sec. 11. 5 MRSA §933, sub-§1, as enacted by PL 1983, c. 729, §4, is amended to read:

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Agriculture, Food and Rural Resources. Notwithstanding any other provision of law, these positions and their successor positions shall be subject to this chapter:

- A. Deputy Commissioner;
- B. Associate Commissioner for Policy Development;
- C. Director, Bureau of Agricultural Productions;
- D. Director, Bureau of Agricultural Marketing;
- E. Director, Bureau of Agriculture and Rural Resources;
- F. Director, Bureau of Public Services; and
- G. Assistant to the Commissioner for Public Information; and
- H. Assistant to the Commissioner for Potato Marketing.

Sec. 12. 5 MRSA §935, sub-§1, ¶B, as enacted by PL 1983, c. 729, §4, is repealed and the following enacted in its place:

B. Deputy Commissioner;

Sec. 13. 5 MRSA §938, sub-§1, ¶¶A and B, as enacted by PL 1983, c. 729, §4, are amended to read:

A. Deputy Commissioner; and .

~~B. Assistant to the Commissioner;~~

Sec. 14. 5 MRSA §942, as enacted by PL 1983, c. 729, §4, is amended to read:

§942. Department of Inland Fisheries and Wildlife

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Inland Fisheries and Wildlife. Notwithstanding any other provision of law, these positions and their successor positions shall be subject to this chapter:

A. Deputy Commissioner;

B. Game Warden Colonel; and

C. Assistant to the Commissioner for Public Information; and .

~~D. Assistant to the Commissioner;~~

Sec. 15. 5 MRSA §943, sub-§1, ¶E, as enacted by PL 1983, c. 729, §4, is amended to read:

E. Assistant to the Commissioner for Public Information Affairs;

Sec. 16. 5 MRSA §12002, sub-§1, as enacted by PL 1983, c. 812, §39, is amended to read:

1. Board. "Board" means any authority, board, commission, committee, council and similar organization, including ~~quasi-independent~~ independent organizations, established or authorized by the Legislature to fulfill specific functions and which does not serve as a full-time state agency. "Board" does not include:

A. Any informal advisory organization established exclusively by a state agency to advise the commissioner or director of that agency on an informal basis;

B. Any authority, board, commission, committee, council and similar organization organized or appointed exclusively by a political subdivision of the State to include regional, county and local planning boards, economic development boards or district, or educational, cultural or recreational boards;

C. Any authority, board, commission, committee, council and similar organization organized exclusively pursuant to federal law and which does not require authorization by the State; and

D. Any authority, board, commission, committee, council and similar organization organized or authorized exclusively by Executive Order; and

E. Special study organizations as defined in subsection 4.

Sec. 17. 5 MRSA §12004, sub-§1, ¶A, sub-¶(23), as enacted by PL 1983, c. 812, §39, is amended to read:

(23)	Board of Registration in Medicine	\$1,250/Year- Member \$1,500/Year- Chairman \$1,500/Year- Secretary	32 MRSA §3263
		<u>\$7,500/Year</u>	

Sec. 18. 5 MRSA §12004, sub-§1, ¶A, sub-¶(24-A) is enacted to read:

(24-A)	<u>Board of Occupational Therapy Practice</u>	<u>Expenses Only</u>	<u>32 MRSA §2273</u>
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Sec. 19. 5 MRSA §12004, sub-§1, ¶A, sub-¶(34), as enacted by PL 1983, c. 812, §39, is amended to read:

(34)	State Board of Social Worker Registration	<u>Net Expenses Authorized Only</u>	32 MRSA §7026
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Sec. 20. 5 MRSA §12004, sub-§8, ¶A, sub-¶(1), as enacted by PL 1983, c. 812, §39, is amended to read:

(1)	Agriculture Animal Welfare Board	\$35/Day <u>Leg- islative Per Diem</u>	17 MRSA §1051-A
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Sec. 21. 5 MRSA §12004, sub-§8, ¶A, sub-¶(8), as enacted by PL 1983, c. 812, §39, is repealed.

Sec. 22. 5 MRSA §12004, sub-§10, ¶A, sub-¶(13), as enacted by PL 1983, c. 812, §39, is repealed.

Sec. 23. 5 MRSA §12004, sub-§10, ¶A, sub-¶(33-A) is enacted to read:

(33-A) Human Services: Scientific Expenses 22 MRSA §1693-A
Environmental Advisory Only
Health Panel

Sec. 24. 5 MRSA §12004, sub-§10, ¶A, sub-¶(53), as enacted by PL 1983, c. 812, §39, is repealed.

Sec. 25. 5 MRSA §12004, sub-§10, ¶A, sub-¶(64-A) is enacted to read:

(64-A) Public Advocate Advisory Committee Expenses Resolves,
Office to the Public Only 1983, c. 48
Advocate

Sec. 26. 5 MRSA §12004, sub-§12, ¶A, sub-¶(5), as enacted by PL 1983, c. 812, §39, is amended to read:

(5) Marine Atlantic States Net 12 MRSA §4603
Resources Marine Fisher- Authorized
ies Commission Expenses
only

Sec. 27. 7 MRSA §1008-C, sub-§2 as enacted by PL 1983, c. 829, §9, is amended to read:

2. Daily fair market value. Based on guidelines established in subsection 1, determine a daily fair market value to first handlers for round white potatoes offered F.O.B., Presque Isle, for United States number 1, size A, 2-inch minimum, packed in 50-pound containers. Upon request of the board, the commissioner shall provide to the board and other interested parties a written explanation of the basis for the fair market value as it is determined on any given day; and

Sec. 28. 7 MRSA §1008-C, sub-§4, as repealed by PL 1983, c. 829, §11, is reenacted to read:

4. Rules. After notice and opportunity for hearing in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, establish rules to carry out the purposes of this Article.

Sec. 29. 8 MRSA §152, first ¶, as amended by PL 1983, c. 553, §8, is further amended to read:

The promoter or promoters of all boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the Athletic Commission Fund, a tax of 5% of the gross receipts from the contest or exhibition up to a maximum tax of \$2,500. This section shall apply to all boxing contests or exhibitions which are shown over closed circuit television.

Sec. 30. 10 MRSA §1001, sub-§7, as amended by PL 1983, c. 648, §1, and as repealed and replaced by PL 1983, c. 699, §1, is repealed and the following enacted in its place:

7. Eligible project, subchapters III and IV. "Eligible project," as used in subchapters III and IV means any type of project for which the proceeds of the revenue obligation securities may be expended without causing the interest on the securities to lose its exemption from federal income taxation under the United States Internal Revenue Code, Section 103 and as provided in section 1041, subsection 1 and section 1061, subsection 1, except:

A. Retail stores;

B. Professional office buildings;

C. Office building or space of less than 5,000 square feet and, at the time of application, as determined according to rules adopted by the authority:

(1) Less than 20% of the employees in the existing office building represent new jobs over a 3-year period immediately prior to the time of application;

(2) Less than 20% of the employees who occupy the new office building represent new jobs within the first year following occupation of the new office building; or

(3) That the increase in the number of new jobs in the municipality represented by the occupants in the proposed office building is not expected to be a significant increase, as determined by the authority, and would not make an important contribution to the economy of the municipality for which the project is proposed.

D. Any office building or space proposed by an applicant who, as determined by the authority is able to compete successfully in the normal commercial lending market and to pay the rates which private financial institutions are charging for similar projects; and

E. Any office building or space proposed by an applicant who or which does not meet the requirements prescribed in rules by the authority pertaining to individual net worth, affect of the proposed project on similar, existing projects, affect of the proposed project on the general area in which it is located and any other standards deemed necessary by the authority to determine the potential affect of the proposed project and the ability of the applicant to undertake the project with resources of conventional financing institutions.

No approval may be granted under this chapter for any eligible project whose primary use is the operation of one or more retail stores, unless the application for approval thereof under prior section 864 or under prior section 1043 or 1063 or under prior Title 30, section 5328 was received by the Maine Guarantee Authority prior to October 1, 1981; or except in the case of the reconstruction of an existing building project as defined in subsection 26, and satisfying the criteria set forth in section 1063, subsection 2, paragraph G.

Sec. 31. 10 MRSA §1041, sub-§1, as amended by PL 1983, c. 648, §3 and as repealed and replaced by PL 1983, c. 699, §3, is repealed and the following enacted in its place:

1. Kinds of projects. Acquire, construct, reconstruct, maintain, renew and replace eligible projects within the State, as defined in section 1001, subsection 7, whether or not now in existence, or assist a user to acquire, construct, reconstruct, renew and replace these projects provided that no approval may be granted under this chapter for any project whose primary use is the operation of one or more retail stores, unless the application for approval thereof under prior section 864 or under prior section 1043 or 1063 or under prior Title 30, section 5328 was received by the Maine Guarantee Authority prior to October 1, 1981; or except in the case of the reconstruction of an existing building project as defined in section 1001, subsection 26, and satisfying the criteria set forth in section 1063, subsection 2, paragraph G;

Sec. 32. 10 MRSA §1061, sub-§1, as amended by PL 1983, c. 648, §4 and as repealed and replaced by PL 1983, c. 699, §4, is repealed and the following enacted in its place:

1. Kinds of projects. Acquire, construct, reconstruct, renew and replace or provide financing for, within the corporate limits of the municipality, eligible projects, as defined in section 1001, subsection 7.

A. For the purposes of this subchapter only, a municipality may undertake or provide for the financing of reconstruction of an existing building project as defined in section 1001, subsection 26 and section 1063, subsection 2, paragraph G.

B. No approval may be granted under this chapter for any project whose primary use is the operation of one or more retail stores, unless the application for approval thereof under prior section 864 or under prior section 1043 or 1063 or under prior Title 30, section 5328 was received by the Maine Guarantee Authority prior to October 1, 1981; or except in the case of the reconstruction of an existing building project as defined in section 1001, subsection 26, and satisfying the criteria set forth in section 1063, subsection 2, paragraph G.

Sec. 33. 10 MRSA §2366-A, as enacted by PL 1983, c. 804, §10, is amended to read:

§2366-A. Disputed wood

In case a dispute arises as to whether wood was accurately scaled or measured, the person aggrieved may file a complaint with the state sealer. Any complaint shall be initiated within 15 days of discovery of the alleged grievance. The state sealer shall investigate the complaint. As part of the investigation, the state sealer or deputy state sealer may subpoena such witnesses and documents as may be necessary to determine the matter, and may cause the disputed wood to be impounded and check measured if it may be separately identified. In the event that an aggrieved party fails to file a complaint within 15 days from discovery of the alleged grievance, the aggrieved party is barred from seeking a remedy under section 2368, subsection 1 2.

Sec. 34. 12 MRSA §685-A, sub-§4, as amended by PL 1983, c. 827, §1, is further amended to read:

4. Land use standards considered as minimum requirements. Land use standards shall be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and insure compliance with state plans and policies.

Whenever the requirements of the adopted land use standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreation and historic resources shall govern.

Any portion of a land use district which subsequently becomes an organized municipality or part of an organized municipality or any plantation which adopts planning, zoning and subdivision control as provided in Title 30, section 5621, shall continue to be regulated by the Maine Land Use Regulation Commission pursuant to this chapter until such time as the municipality or plantation of which the regulated district is then a part, shall adopt land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the commission.

Any municipality organized after September 23, 1971, or any plantation which adopts planning, zoning and subdivision control as provided in Title 30, section 5621, may submit to the commission and receive the approval of the commission of the following:

A. A comprehensive land use plan for such plantation or proposed city or town;

B. Standards for determining land use district boundaries and uses permitted within such districts in such plantation or proposed city or town;

C. A land use district boundary map for such plantation or proposed city or town;

D. Such other proposed regulations or standards as the commission deems to be necessary to achieve the purpose, intent and provisions of this chapter; and

E. Upon request of the municipality or plantation, the commission shall prepare such plans, maps, regulations and standards as it may deem necessary to meet minimum planning and zoning standards for its approval thereof.

Upon obtaining the foregoing approval, the plantation, city or town shall thereafter adopt, administer and enforce such approved plans, maps, regulations and standards.

From time to time, the commission may review the administration and enforcement of local land use plans and regulations by plantations and municipalities which have adopted land use plans, maps, regulations and standards approved by the commission. If, following the review, the commission finds that any of the following have ~~accrued~~ occurred, the commission may reestablish its jurisdiction over that plantation or municipality:

A. A plantation or municipality has repealed the land use plan, maps, standards or regulations necessary to satisfy the requirements of this subsection or has substantially modified the land use plan, maps, standards or regulations so that the resources of the plantation or municipality are not reasonably protected;

B. A plantation or municipality has abolished or does not have functioning the administrative bodies and officers necessary to implement the land use program as approved by the commission, normally a planning board, board of appeals and code enforcement officer are included, but this may vary depending on the local program; or

C. A plantation or municipality has not administered or enforced its land use plan, maps, standards or regulations in a manner which reasonably protects the resources in the plantation or municipality involved.

The action by the commission shall conform with the provisions for rulemaking of the Maine Administrative Procedure Act, Title 5, chapter 375.

Action taken by the commission to reestablish its jurisdiction over a plantation or municipality shall be effective immediately, but shall be submitted to the current or next regular session of the Legislature for approval. If the Legislature fails to act, the action shall continue in effect.

Sec. 35. 12 MRSA §1701, first ¶, as amended by PL 1983, c. 812, §78, is repealed.

Sec. 36. 12 MRSA c. 702, as enacted by PL 1983, c. 807, Pt. Q, §1 is repealed.

Sec. 37. 12 MRSA c. 702-A, as enacted by PL 1983, c. 797, §2, is repealed.

Sec. 38. 12 MRSA §7072, sub-§3, as repealed and replaced by PL 1983, c. 819, Pt. A, §23, is amended to read:

3. Agents for the purpose of selling licenses to nonresidents. Agents, other than clerks of towns, for the purpose of selling licenses to nonresidents shall be appointed as follows:

A. The commissioner shall designate as an agent for the purpose of selling nonresident licenses any business which submits a complete application, is credit worthy and has not violated any provision of this Part. A business, the agency of which is revoked, may reapply for an agency for the 2nd year following the last year it held an agency.

B. An applicant for an agency shall submit a nonrefundable \$30 application fee with the application and a \$30 fee each year thereafter for renewal.

C. The commissioner may waive the \$30 fee for an agency selling 50 licenses or less annually, located in a geographical area where no other agency exists and where the commissioner determines that an agency is necessary to serve the needs of nonresident hunters and fishermen.

Sec. 39. 12 MRSA §7108, as enacted by PL 1983, c. 807, Pt. L, §2, is reallocated to be 12 MRSA §7109.

Sec. 40. 12 MRSA §7407, as enacted by PL 1983, c. 807, Pt. L, §3, is amended to read:

§7407. Migratory waterfowl hunting

Migratory waterfowl hunting is governed by the license and permit provisions of sections 7105 and 7108 and 7109.

Sec. 41. 12 MRSA §7901, sub-§7 is enacted to read:

7. Violation of terms or conditions. A violation of section 7776 or a violation of any of the terms or conditions of a permit issued pursuant to section 7777, in addition to being a Class E crime, is a civil violation for which a forfeiture of not less than \$100 nor more than \$10,000 may be adjudged.

Sec. 42. 15 MRSA §224-A, sub-§2, as enacted by PL 1983, c. 843, §11, is amended to read:

2. Funding. The Extradition Account in each prosecutorial district shall be funded by bail forfeited to and recovered by the State pursuant to the Maine Rules of Criminal Procedure, Rule 46D or District Court Criminal Rules, Rule 40. Whenever bail is so forfeited and recovered by the State, the district attorney shall determine whether it or a portion of it shall be deposited in the Extradition Account for his prosecutorial district, but in no event may the account exceed \$10,000. Any bail so forfeited and recovered and not deposited in the Extradition Account shall be deposited in the General Fund. Any unexpended balance in the Extradition Account of a prosecutorial district established by this section shall not lapse but shall be carried forward into the next year.

Sec. 43. 15 MRSA §813, as enacted by PL 1983, c. 795, §1, is repealed and the following enacted in its place:

§813. State's attorney present at certain proceedings

An attorney for the State shall be present in District Court at all proceedings governed by Rule 5, Maine District Court Rules of Criminal Procedure; and Rule 5, Maine Rules of Criminal Procedure, at which bail is being set, except when the offense charged is a Class D or E crime.

Sec. 44. 15 MRSA §814, as enacted by PL 1983, c. 795, §1, is amended to read:

§814. Opportunity for State to present relevant information

A Judge of the District Court or Justice of the Supreme Judicial or Superior Courts or bail commissioner, before making a determination as to whether or not to admit a person accused of murder or a Class A, Class B or Class C crime to bail, shall afford the attorney for the State or a law enforcement officer familiar with the charges to present any evidence information relevant to bail considerations.

Sec. 45. 15 MRSA §851, last ¶, as enacted by PL 1983, c. 795, §2, is amended to read:

Any person who offers real estate as surety for the appearance before a court of a person accused of

murder or a Class A, Class B or Class C crime shall be required to file a bail lien with the register of deeds in the county where the real estate lies. If the accused is to be bailed prior to his appearance in a court for the first time, the person offering ~~that~~ the real estate shall file with that court a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded, on the next business day after which the real estate is so offered. If the accused is bailed after having appeared in court for the first time, the ~~suspect~~ accused shall not be released from custody until the person so offering his real estate has filed with the court, with ~~whom~~ which the bail is posted, a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded. If a ~~suspect~~ an accused is released from custody prior to his first appearance in court upon a person offering real estate as surety and that person fails to file with the court a duly attested copy of the lien required by this section within the prescribed time limits, the ~~suspect~~ accused may be taken into custody without the issuance of further process and shall be held as though the surety had not offered his real estate as surety. The person filing the lien is responsible for a fee to be paid to the register of deeds for receiving, recording and indexing the bail lien and for discharge of the bail lien as provided in Title 33, chapter 11, subchapter IV. A bail lien shall not be required if bail is posted through a non-profit bail assistance project.

Sec. 46. 15 MRSA §942, sub-§1-A, as amended by PL 1983, c. 795, §3, is further amended to read:

1-A. Denial of release on personal recognizance or unsecured bond; statement required. If the accused is not released on his personal recognizance or on execution of an unsecured bond, the justice, judge or bail commissioner admitting the accused to bail, shall state on the record or in writing why release on personal recognizance or on execution of an unsecured bond is not appropriate. If a person accused of murder or a Class A, Class B or Class C crime is released on his personal recognizance or on execution of an unsecured bond, the justice, judge or bail commissioner shall state on the record or in writing why release on personal recognizance or unsecured bond was appropriate.

Sec. 47. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 1983, c. 735, §1, and PL 1983, c. 795, §5, is repealed and the following enacted in its place:

A. Any person who he has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault, criminal threatening, terrorizing or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 301;

(6) Theft as defined in section 357, when the value of the services is \$1,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of his probation when requested by an official of the Division of Probation and Parole; or

(10) Violation of a condition of release in violation of Title 15, section 942, subsection 5; and

Sec. 48. 19 MRSA §214, sub-§4, as enacted by PL 1983, c. 813, §1, is amended to read:

4. Mediation. Prior to a contested hearing under this section where there are minor children of the parties, the court shall refer the parties to mediation; except that, the court, for good cause shown, may hear contested motions on issues of parental rights and responsibilities, child support or possession of the family residence pending a final

order under this section and prior to referring the parties to mediation. Any agreement reached by the parties through mediation on any issues shall be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may refer the parties back to mediation.

Sec. 49. 19 MRSA §581, sub-§4, as enacted by PL 1983, c. 813, §2, is amended to read:

4. Mediation. Prior to a contested hearing under this section where there are minor children of the parties, the court shall refer the parties to mediation; except that, the court, for good cause shown, may hear contested motions on issues of parental rights and responsibilities, child support or possession of the family residence pending a final order under this section and prior to referring the parties to mediation. Any agreement reached by the parties through mediation on any issues shall be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing, if the court finds that either party failed to make a good faith effort to mediate, the court may refer the parties back to mediation.

Sec. 50. 19 MRSA §752, sub-§4, as enacted by PL 1983, c. 813, §5, is amended to read:

4. Mediation. Prior to a contested hearing under this chapter where there are minor children of the parties, the court shall refer the parties to mediation; except that, the court, for good cause shown, may hear contested motions on issues of parental rights and responsibilities, child support or possession of the family residence pending a final order under this chapter and prior to referring the parties to mediation. Any agreement reached by the parties through mediation on any issues shall be reduced to writing, signed by the parties and presented to the court for approval as a court order. When agreement through mediation is not reached on any issue, the court must determine that the parties made a good faith effort to mediate the issue before pro-

ceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may refer the parties back to mediation.

Sec. 51. 20-A MRSA §255, sub-§4, as amended by PL 1983, c. 806, §1, is further amended to read:

4. Maintaining records. The commissioner shall preserve all school reports of this State and of other states which the ~~commission~~ commissioner may receive, the returns from the various municipalities and institutions of learning and books, apparatus, maps, charts, works on education, plans for school buildings, models and other articles of interest to school officers and teachers as may be obtained without expense to the State.

Sec. 52. 20-A MRSA §1001, sub-§11, as repealed by PL 1983, c. 661, §1 and as amended by PL 1983, c. 806, §10 is repealed.

Sec. 53. 20-A MRSA §4204, sub-§3, as amended by PL 1983, c. 806, §43, is further amended to read:

3. Advisory committee. The commissioner shall appoint a committee of professional and lay people to ~~give advice~~ advise the commissioner in the adoption of standards.

Sec. 54. 20-A MRSA §4406, as amended by PL 1983, c. 806, §45, is further amended to read:

§4406. Junior high school defined

A junior high school means a school which maintains a diversified program of studies approved by the commissioner, for a combination of 2 or more consecutive grades 6 to 9, as the commissioner may prescribe, throughout the school year. A junior high school may be maintained in connection with or as a part of an approved or accredited secondary school.

Sec. 55. 20-A MRSA §4601, sub-§6, as amended by PL 1983, c. 806, sub-§46, is further amended to read:

6. Exception. A student who has satisfactorily completed the freshman year in a degree-granting institution may receive a secondary school diploma from the school he the student last attended. These students do not need to meet the graduation requirements in subsection 1, paragraph A and subsection 2.

Sec. 56. 20-A MRSA §5001-A, sub-§3, ¶B, as enacted by PL 1983, c. 806, §49, is amended to read:

B. A person may be excused to attend an alternate program under section 5002 or ~~5051~~ 5104 or an adult education program under section 8605.

Sec. 57. 20-A MRSA §6004, sub-§2, ¶A, as amended by PL 1983, c. 806, §59, is further amended to read:

A. A student residing in the school administrative unit may be considered in attendance on April 1st only if the student:

(1) Attended school at least 75% of the time between October 1st and April 1st, if enrolled by October 1st; or

(2) Attended school at least 75% of the time between the date of the ~~students~~ student's first enrollment and April 1st, if not enrolled by October 1st.

Excused absences and absences due to illness shall not be considered absences under this subsection.

Sec. 58. 20-A MRSA §6101, sub-§3, as amended by PL 1983, c. 806, §60, is further amended to read:

3. Commissioner's review. The commissioner shall have access to any of the records or documents designated as confidential in this section for carrying out the commissioner's duties pursuant to sections 13001 to 13003 and chapter 502.

Sec. 59. 20-A MRSA §6351, sub-§3, as repealed by PL 1983, c. 661, sub-§7 and as amended by PL 1983, c. 806, §61, is repealed.

Sec. 60. 20-A MRSA §7206, sub-§5, ¶A, as amended by PL 1983, c. 806, §66, is further amended to read:

A. May withhold financial aid from the school administrative unit until it complies with the commissioner's order; and

Sec. 61. 20-A MRSA §8462, sub-§2, ¶H, as amended by PL 1983, c. 806, §69, is further amended to read:

H. The secretary of the cooperative board, or, if the secretary is absent, the secretary's designee, shall record accurately all the votes of the meeting.

Sec. 62. 20-A MRSA §9502, as amended by PL 1983, c. 651, §2 and c. 841, §3, is repealed and the following enacted in its place:

§9502. Application form; fee; bond

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this chapter shall be made on forms furnished by the commissioner and shall be accompanied by a fee of \$100, except as provided in section 9505 for schools of barbering and cosmetology, and a surety bond in the penal sum of \$10,000.

A. A license is valid for the calendar year in which it is issued.

B. The bond shall be continuous and shall provide indemnification to any student suffering loss as a result of any fraud or misrepresentation. The bond shall provide for written notification by the surety to the commissioner in the event of cancellation. Cancellation of the bond by the surety shall result in the revocation of the license.

2. Renewal fee. A fee of \$50 shall be charged for the renewal of a license, except as otherwise provided in section 9505 for schools of barbering and cosmetology.

3. General Fund. All fees collected for the issuance or renewal of a license shall be deposited in the State Treasury.

Sec. 63. 20-A MRSA §10301, as amended by PL 1983, c. 812, §108, is repealed.

Sec. 64. 20-A MRSA §10304, sub-§§1 and 5, as amended by PL 1983, c. 812, §109, are repealed.

Sec. 65. 20-A MRSA §10905, as amended by PL 1983, c. 806, §81, is further amended to read:

§10905. Treasurer; compensation

The trustees shall appoint a full-time treasurer of the university. The treasurer shall give bond for the faithful performance of the duties of the office in an amount and with such conditions and sureties as the trustees may determine. The compensation of the treasurer shall be set by the trustees.

Sec. 66. 20-A MRSA §11804, as repealed and replaced by PL 1983, c. 816, §13, is repealed.

Sec. 67. 20-A MRSA §11804-A is enacted to read:
§11804-A. Agreement for contract students after July 1, 1981

1. Agreement. Any state contract student commencing professional education on or after July 1, 1981, shall, as a condition precedent to the commencement of the education, enter into an agreement with the State under which the student shall agree:

A. To pay tuition to the institution; and

B. Upon the conclusion of professional education, including internship, residency and obligated public health service, to pay the State an amount of money equal to the state capitation payment expended by the State in purchasing the state contracted position which the student occupied.

(1) This amount shall be payable at 9% simple annual interest in not more than 10 annual equal installments.

(2) These installment payments shall commence upon conclusion of the state contract student's professional education under rules promulgated by the commissioner.

2. Forgiveness. Any student who, upon the conclusion of his professional education, including, if applicable, internship, residency and obligated public health service, elects to serve as a general, family, pediatric or veterinary practitioner in an underserved rural geographic area in the State shall be forgiven 20% of the indebtedness, as determined in subsection 4, for each of the first 5 years of that service.

3. Determination. The Commissioner of Human Services shall determine underserved rural areas for general, family or pediatric services. The Commissioner of Agriculture, Food and Rural Resources shall determine underserved rural areas for veterinary services.

Sec. 68. 21 MRSA §1571-B, sub-§5, in that part relating to District Number 132, as amended by PL 1983, c. 583, §12, is further amended to read:

District Number 132, consisting of the municipalities of Burlington, Carroll Plantation, Edinburg, Enfield, Greenbush, Howland, Lagrange, Lakeville, Lee, Lowell, Passadumkeag, Springfield, and the unorganized townships of Argyle Township, Summit Township and the unorganized territory of, Grand Falls Plantation, T 3, R 1 and T 5, R 1 in Penobscot County.

Sec. 69. 22 MRSA §1693-A, sub-§1, as enacted by PL 1983, c. 835, §1, is amended to read:

1. Created. The department shall establish a 7-member Scientific Advisory Panel as authorized by Title 5, section 12004, subsection 10 within the Bureau of Health. The commissioner shall appoint members of the panel from academic, medical, industrial or governmental occupations, who shall serve for 3-year terms, except that initially 3 members shall be appointed for 3 years, 2 members for 2 years and 2 members for one year. The commissioner shall consult with the Commissioner of Environmental Protection and may consult with other departments on the selection of panel members. Each member shall have professional expertise in a scientific discipline directly related to the study of health effects of hazardous pollutants, such as: Epidemiology, toxicology, genetic toxicology, biostatistics, oncology, respiratory medicine, industrial hygiene, occupational medicine and atmospheric chemistry. The commissioner shall determine the term of each appointee with the restrictions provided by this section. The commissioner shall appoint the chairman of the panel who shall service for a one-year term.

Panel members shall serve without pay, but shall be compensated for expenses incurred in carrying out their duties according to the provisions of Title 5, chapter 379.

Sec. 70. 22 MRSA §1693-A, sub-§2, as enacted by PL 1983, c. 835, §1, is amended to read:

2. Purpose and duties. The purpose of this section is to establish a Scientific Advisory Panel as authorized by Title 5, section 12004, subsection 10 within the Department of Human Services, Bureau of Health, which provides professional scientific peer review and advice in order to assist the Environmental Health Unit in carrying out its responsibilities in the Hazardous Air Pollution Program and other related duties regarding the public health impact of chemical hazards in the environment.

The panel may review and evaluate potential health risks associated with pollutants other than those in the air. Requests for such a review shall be made to the Director of the Bureau of Health. If the director determines that the request is justified, the request shall be forwarded to the panel. The director may assess any reasonable costs to the party making the request.

Sec. 71. 22 MRSA §4041, sub-§2, ¶C, as repealed and replaced by PL 1983, c. 772, §6, is amended to read:

C. If the department discontinues efforts to return the child to a parent, but does not seek termination of parental rights, then subsection 1, paragraphs A and B paragraph A, subparagraph (1), division (e) and subsection 1, paragraph A, subparagraph (2), shall still apply.

Sec. 72. 22 MRSA §5108, as amended by PL 1983, c. 812, §132, is further amended to read:

§5108. Committee

The Maine Committee on Aging established by Title 5, section 12004, subsection 11, is an independent agency outside of the Department of Human Services and shall consist of 15 members, who shall be appointed by the Governor.

Sec. 73. 25 MRSA §2106-A, as enacted by PL 1983, c. 736, §10, is amended to read:

§2106-A. Penalties

Violation of section 2104-A this chapter or of any rule authorized by this chapter is a Class D crime.

Sec. 74. 26 MRSA §172, as repealed and replaced by PL 1983, c. 812, §156, is amended to read:

§172. Expenses of board members

The ~~4~~ 6 appointed members of the Board of Boiler Rules shall be compensated according to the provisions of Title 5, chapter 379, and not to exceed 20 meetings per year. The chairman of the board shall countersign all vouchers for expenditures under this section.

Sec. 75. 26 MRSA §1191, sub-§2, as amended by PL 1983, c. 13, §3 and PL 1983, c. 305, §2, is repealed and the following enacted in its place:

2. Weekly benefit amount for total unemployment. Each eligible individual establishing a benefit year on and after October 1, 1983, who is totally unemployed in any week shall be paid with respect to that week, benefits equal to 1/22 of the wages, rounded to the nearest lower full dollar amount, paid to him in the high quarter of his base period, but not less than \$12. The maximum weekly benefit amount for claimants requesting insured status determination beginning October 1, 1983, and thereafter from June 1st of a calendar year to May 31st of the next calendar year shall not exceed 52% of the annual average weekly wage, rounded to the nearest lower full dollar amount, paid in the calendar year preceding June 1st of that calendar year.

Sec. 76. 32 MRSA §2273, sub-§1, as enacted by PL 1983, c. 746, §2, is amended to read:

1. Establishment and membership. There is established with the Department of Business Occupational and Professional Regulation, in accordance with Title 5, section 12004, subsection 1, a Board of Occupational Therapy Practice. The board shall consist of 5 members appointed by the Governor. The persons appointed to the board, other than the public member, must have been engaged in rendering occupational therapy services to the public, teaching or research in occupational therapy for at least 2 years immediately preceding their appointments. At least 3 board members shall be occupational therapists. The 4th member shall be either an occupational therapist or an occupational therapy assistant, if available. These members shall at all times be holders of valid licenses for the practice of occupational therapy in the State, except for the members of the first board, all of whom shall fulfill the requirements for licensure of this chapter. The remaining member shall be a representative of the public.

Sec. 77. 32 MRSA §2273, sub-§4, as enacted by PL 1983, c. 746, §2, is repealed and the following enacted to read:

4. Compensation. Members of the board shall be compensated in accordance with the provisions of Title 5, chapter 379.

Sec. 78. 35 MRSA §18, as enacted by PL 1983, c. 229, is reallocated to be 35 MRSA §19.

Sec. 79. 35 MRSA §74, as enacted by PL 1983, c. 771, is amended to read:

§74. Rates to ensure universal telephone service

The Legislature declares and finds that the 50-year effort to bring affordable, universally available telephone service to the public has served the State well; universal telephone service has contributed to the state's economic, social and political integration and development; the public benefits from universal telephone service because each telephone subscriber receives a more valuable service when virtually anyone else in the State can be called; significant rate ~~increase~~ increases may threaten universal service by forcing some Maine people to discontinue their telephone service. It is the policy of the State that telephone service shall continue to be universally available, especially to the poor, at affordable rates.

Sec. 80. 35 MRSA c. 269, first 4 lines, are repealed and the following enacted in their place:

PART 7-A

NUCLEAR POWER PLANTS

CHAPTER 269

NUCLEAR POWER GENERATING FACILITIES

SUBCHAPTER I

EMISSIONS REPORTING

Sec. 81. 35 MRSA c. 301, is amended by inserting before §3366, the following:

SUBCHAPTER IV

SPENT FUEL AND HIGH LEVEL WASTE

Sec. 82. 36 MRSA §584, as amended by PL 1983, c. 812, §270, is repealed.

Sec. 83. 36 MRSA c. 109-A, as enacted by PL 1983, c. 92, Pt. A, §2, is repealed.

Sec. 84. 36 MRSA §1504, sub-§4, ¶B, as enacted by PL 1983, c. 92, Pt. B, §9, is amended to read:

B. Watercraft held by registered retailers as demonstrators ~~of~~ or stock-in-trade;

Sec. 85. 36 MRSA §2711, sub-§1-A, as enacted by PL 1983, c. 855, §9, is amended to read:

1-A. Exemption. Each person owning protected land shall be entitled to an exemption of 500 acres of protected land with regard to each municipality or the unorganized territory where protected land is owned. Cotenants of property, whether joint tenants or tenants in common, shall be treated as one person and shall collectively be entitled to only one exemption.

Sec. 86. 36 MRSA §2711, sub-§2, ¶B, as enacted by PL 1983, c. 855, §10, is amended to read:

B. By ~~September 1st~~, annually ~~Annually~~, the State Tax Assessor shall add the amount appropriated by the Legislature for administration of the forest fire suppression tax to the amount determined under paragraph A and divide the total in half. The resulting amount shall be divided by the number of acres subject to the excise tax, as determined under section 2712, and rounded to the nearest 1/10th of a cent to determine the amount of the tax per acre. The cents per acre tax shall be multiplied by the number of protected nonexempt acres owned by each person to determine the amount of the excise tax to be ~~assessed~~ assessed against each owner.

Sec. 87. 36 MRSA §2906, first ¶, as amended by PL 1983, c. 94, Pt. C, §13, is further amended to read:

Every distributor, importer, or exporter, holding a valid certificate as such, shall on or before the last day of each month render a report to the State Tax Assessor stating the number of gallons of internal combustion engine fuel received, sold and used in the State by him during the preceding calendar month, on forms to be furnished by the State Tax Assessor. Such reports shall contain such further information pertinent thereto as the State Tax Assessor shall prescribe and the State Tax Assessor may make such other reasonable rules and regulations regarding the administration and enforcement of the Gasoline Tax Act as he may deem necessary or expedient, copies of which shall be sent to such certificate holders. He or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of such certificate holders which may show the fuel handled by the certificate holder. At the time of the filing of the report, each distributor and importer shall pay to the State Tax Assessor a tax at the rate set forth in section 2903 upon each gallon so reported as sold, distributed or used. An allowance of not more than 1% from the amount of fuel

received by the distributor, plus 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of his business from one of his places of business to another within the State, may be allowed by the State Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for such losses shall not exceed 2% of the receipts by such distributor and no further deduction shall be allowed unless the State Tax Assessor is satisfied on definite proof submitted to him that a further deduction should be allowed by him for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 88. 36 MRSA §3202, sub-§9, as repealed and replaced by PL 1983, c. 817, §6 and as amended by PL 1983, c. 828, §7, is repealed and the following enacted in its place:

9. User. "User" means any person who is the registered owner of a motor vehicle, registered for 7,000 pounds or over or designed to carry 20 passengers or more for hire, who uses and consumes special fuel within this State in an internal combustion engine for the generation of power to propel vehicles of any kind or character, except recreational vehicles.

If the registered owner of a motor vehicle which uses and consumes special fuel within this State fails to secure a user's license, or report or pay the tax due, any person who operates or causes to be operated that vehicle in this State shall be deemed to be a "user" and shall be required to be licensed, report and pay the tax due.

Sec. 89. 36 MRSA §5206, sub-§3, ¶¶C and D, as amended by PL 1983, c. 855, §23, are repealed.

Sec. 90. 36 MRSA §5206, sub-§3, ¶¶E and F, as enacted by PL 1983, c. 855, §24, are repealed.

Sec. 91. 38 MRSA §1474, as enacted by PL 1983, c. 381, §9, and reallocated by PL 1983, c. 500, §1, is repealed and the following enacted in its place:

§1474. Regional compacts

The Governor may negotiate on behalf of the State, with other states and the Federal Government with respect to the siting, licensing, operation and use of low-level waste disposal facilities within and outside this State. The Governor may recommend re-

gional compacts with states that have identified their annual low-level radioactive waste generation, and identified areas within their state that meet preliminary site criteria.

Any regional compact for low-level waste disposal shall be ratified by Legislative Act.

Sec. 92. PL 1983, c. 632, Pt. B, §7, last sentence, is repealed and the following enacted in its place:

If the Governor has so proclaimed by that date, this Part is repealed.

Sec. 93. PL 1983, c. 766, §3, first sentence is amended to read:

The Maine Potato Commission shall work with the Maine Potato Council, the Maine Potato Sales Association and the Agricultural Bargaining Council to prepare an evaluation of the ~~organization~~ organizations currently representing the potato industry and to make recommendations for consolidating these organizations.

Sec. 94. Resolve 1983, c. 48, §3, first sentence, is amended to read:

That there is established a special advisory committee as authorized by the Revised Statutes, Title 5, section 12004, subsection 10 to advise the Public Advocate in participating as an intervenor in the rate filing.

Sec. 95. Resolve 1983, c. 48, §3, 3rd ¶, is repealed and the following enacted in its place:

The advisory committee shall be compensated in accordance with the provisions of the Revised Statutes, Title 5, chapter 379.

Sec. 96. Resolve 1983, c. 51, that part relating to "Finance", subsection 1, is amended to read:

1. Ensure the availability, accessibility and affordability of equity and long-term credit to agricultural and fisheries enterprises that will contribute positively to the state's agricultural and fisheries economies, that contribute to the development of commodities which meet the criteria defined by this Act resolve and that possess the skills necessary to conduct a sound business operation;

Sec. 97. Resolve 1983, c. 73, §1, 2nd line from the end, is amended to read:

\$1,505,696 \$1,485,032

Sec. 98. Resolve 1983, c. 73, §2, in that part relating to "1050 - Jail - Support of Prisoners" is amended by striking out all of the last line as follows:

Capital Expenditures 5,000

Sec. 99. Resolve 1983, c. 73, §2, that part relating to "2045 - Program Grants" is repealed and the following enacted in its place:

2045 - Program Grants

Contractual Services:

<u>Mental Health Center</u>	75,281
<u>Clerk of Courts</u>	1,900
<u>Crisis and Counseling</u>	10,000
<u>Kennebec Regional Health</u>	26,114
<u>Central Maine Area-Aging</u>	18,237
<u>Diocesan Human Relations-</u>	
<u>Homemaker Services</u>	25,678
<u>Daycare</u>	3,690
<u>Daycare-Southern Kennebec</u>	
<u>Child Development</u>	4,336
<u>Daycare-Community Action</u>	1,000
<u>Court House Accessibility</u>	
<u>Project</u>	52,500

Sec. 100. Resolve 1983, c. 73, §2, 2nd line from the end, is repealed and the following enacted in its place:

TOTAL GENERAL FUND \$1,921,174

Sec. 101. Resolve 1983, c. 73, §4, 6th line, is repealed and the following enacted in its place:

Total Appropriations \$2,071,174

Sec. 102. Resolve 1983, c. 73, §4, last line, is repealed and the following enacted in its place:

Amount to be raised by taxation \$1,485,032

Sec. 103. Repealed. Sections 48, 49 and 50 of this Act are repealed on March 1, 1985, and the statutory provisions amended by these sections shall, on March 1, 1985, read as they read immediately prior to the effective date of this Act.

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

Effective September 19, 1984, unless otherwise indicated.

CHAPTER 863

S.P. 932 - L.D. 2490

AN ACT Making Appropriations and Changing
Certain Provisions of the Law Necessary for the
Proper Operation of State Government for the
Fiscal Year Ending June 30, 1985.

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

Whereas, the 90-day period may not terminate until after certain expenses and liabilities become due; 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:

PART A

Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

APPROPRIATIONS FROM
GENERAL FUND
1984-85

STATE, DEPARTMENT OF

Administration-Secretary of State

All Other

\$125,000

The funds to be
used as follows:
\$5,000 for